



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2013-20
Site: 239 Highland Ave
Date of Decision: May 1, 2013
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 2, 2013

ZBA DECISION

Site:	239 Highland Avenue
Applicant Name:	Patricia L. Hess
Applicant Address:	12 Old Planters Road, Beverly, MA 01915
Property Owner Name:	PLH Invest, LLC
Property Owner Address:	12 Old Planters Road, Beverly, MA 01915
Agent Name:	Aura Leticia De Leon
Agent Address:	12 Old Planters Road, Beverly, MA 01915

Legal Notice: Applicant, Patricia L. Hess, and Owner, PLH Invest LLC, seek a Special Permit under SZO §4.4.1 to add a small addition to the rear of the structure and a Special Permit to not provide one parking space that is required to convert the structure from a two- to a three-family structure.

<u>Zoning District/Ward:</u>	RC / 5
<u>Zoning Approval Sought:</u>	Special Permit §4.4.1, §5.1 & §9.13.a
<u>Date of Application:</u>	March 14, 2013
<u>Date(s) of Public Hearing:</u>	4/18/13 & 5/1/13
<u>Date of Decision:</u>	5/1/13
<u>Vote:</u>	5-0

Appeal #ZBA 2013-20 was opened before the Zoning Board of Appeals at Somerville City Hall on April 17, 2013. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L.



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c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to convert the two-family house into a three-family house. In order to make the conversion the rear egress stair needs to be slightly widened to meet building code and extended upward to the third unit. The stair enclosure would bump out 1 foot $\frac{3}{4}$ inches in the rear on the second and third floor beyond where the house ends today. The roof the staircase enclosure would be change from a shed to a gable and its slope would match that of the house. The new roof would be lower in height than the main house. There would be two 2-bedroom units and a 1-bedroom unit. The only other change to the exterior would be adding a skylight on the left (west) side of the house.

The site plan submitted includes paving the backyard for three parking spaces; however, the spaces do not have sufficient maneuvering space and are no longer part of the proposal. No additional parking beyond the existing driveway will be provided.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, 5.1 & 9.13):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.
2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The alteration to the rear egress stair would not increase the nonconforming nature of the house. The structure along the nonconforming side yard would only increase in height by one story and increase in length towards the back of the property by just over one foot.

In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The Applicant submitted a memo from a traffic engineer that states that based on the multiple public transportation options that would serve to reduce parking demand in this area, and the significant number of available on-street parking spaces in the area, it is expected that the existing on-street parking supply will be more than sufficient to support the conversion of the property from a 2-unit residential building to a 3-unit residential building. The Traffic and Parking Department stated that the lack of providing all the required off-street parking spaces will result in a minor increase to vehicle queues and delays and a minor decrease in pedestrian safety in this area. To mitigate the impact of a lack of a required parking space, decrease in pedestrian safety and increase in vehicle congestion and



queuing a condition of approval is for the Applicant to purchase and deliver to Traffic and Parking a Pedestrian Impact Recovery System (in crosswalk pedestrian sign).

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The proposal to alter the rear stairway enclosure and not provide an additional parking space is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to conserving the value of land and buildings and encouraging the most appropriate use of land throughout the City.

The proposal is consistent with the Residence C zoning district as the special permits will allow the house to become a three-family dwelling which is allowed in the district.

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The memo from the traffic engineer supports the request to not add an additional parking space on site. The purpose of §9.1 is met in utilizing on-street curbside parking, reducing hazards to pedestrians with the condition for an in cross walk sign, and reducing the impact of additional pavement in the City.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."

The small addition to the rear stairway enclosure is compatible with the design of the house and will not be visible from the public right of way. The roof will have the same slope and it will be lower and subordinate to the main house.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Serverino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Josh Safdie seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is for the small addition to the rear of the structure and to not provide one parking space that is required to convert the structure from a two- to a three-family structure. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 14, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Feb 25, 2013</td> <td>Plans submitted to OSPCD (Site Plan*)</td> </tr> <tr> <td>Feb 21, 2013</td> <td>Plans submitted to OSPCD (Site Plan C1.1, Proposed Floor Plans A1.1-1.2, Proposed Elevations A2.1, Sections A3.1, Framing Plan S1.1, Existing Floor Plan X1.1-1.2, Existing elevation X2.1)</td> </tr> </tbody> </table> <p>Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	March 14, 2013	Initial application submitted to the City Clerk's Office	Feb 25, 2013	Plans submitted to OSPCD (Site Plan*)	Feb 21, 2013	Plans submitted to OSPCD (Site Plan C1.1, Proposed Floor Plans A1.1-1.2, Proposed Elevations A2.1, Sections A3.1, Framing Plan S1.1, Existing Floor Plan X1.1-1.2, Existing elevation X2.1)	BP/CO	ISD/Plng.	
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2	The "proposed parking" noted on the Site Plan dated will not be implemented. <u>The rear yard shall not be used for parking and shall be landscaped.</u>	Perpetual	Plng/ISD									
3	The Owner shall install a code compliant fire alarm and sprinkler system	CO	FP									
4	The Owner shall purchase and deliver to Traffic and Parking a Pedestrian Impact Recovery System (in cross walk sign).	CO	T&P									
5	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.									



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chair*
Richard Rossetti, *Acting Clerk*
Danielle Evans
Elaine Severino
Josh Safdie (Alt.)

Attest, by the Senior Planner:

Lori Massa

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

