



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2013-71
Site: 104 Holland Street
Date of Decision: December 11, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: December 13, 2013

ZBA DECISION

Applicant Name:	R&R Capital Investments, LLC
Applicant Address:	8 Museum Way, #608, Cambridge, MA 02141
Property Owner Name:	R&R Capital Investments, LLC
Property Owner Address:	8 Museum Way, #608, Cambridge, MA 02141
Agent Name:	N/A

Legal Notice: Applicant/Owner R+R Capital Investments, LLC seek a Special Permit under SZO § 4.4.1 to alter a nonconforming structure by adding roof decks, changing rear doors to windows, and adding a front door for 2 of the 3 residential units on Jay St.*

<u>Zoning District/Ward:</u>	RC zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 8, 2013
<u>Date(s) of Public Hearing:</u>	11/6, 11/20, 12/11/13
<u>Date of Decision:</u>	December 11, 2013
<u>Vote:</u>	5-0

* The plans changed during the public hearing process and no long include a roof deck.

Appeal #ZBA 2013-71 was opened before the Zoning Board of Appeals at Somerville City Hall on November 6, 2013. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After three hearings of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

DESCRIPTION:

The proposal is to make alterations to the structure keeping its use as a three-family dwelling. The roof decks that were originally proposed have been removed from the plans. The rear decks will be removed from the structure and a smaller 146 square foot deck will be constructed in the rear only at the second story. The rear yard will remain as a parking area but the pavement will be changed from bituminous concrete to pervious pavers. The front porches will remain; however, the front door on Holland Street will only provide access to the first floor unit. A new entrance with a flat-roofed canopy above it will be installed on the Jay Street side of the building to provide a front door to units two and three, which will be two-story units. The canopy will be made of pressure treated lumber with a rubber membrane roof protection and the exterior finish will be PVC trim. Some of the windows on the sides of the building will be filled-in and the rear doors on the first and third floors will become windows. The siding will be replaced with cement fiber clapboard and the bays will have cement fiber panels between the windows. The top band of the building will be clad with fiber cement shingles.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

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 site will become more conforming in terms of parking and pervious surface area. The canopy projection for the new entrance on Jay Street is allowed to project into the side yard setback.

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 is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to providing for and maintain the uniquely integrated structure of uses in the City and conserving the value of land and buildings. The proposal is also consistent with the purpose of the RC zoning district as the alterations will preserve the use of triple-decker as a three-family house.

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 change in front door location for two of the units to the side of the house is not ideal as it can cause confusion as to where to enter. To address this concern, the Applicant has indicated that the unit numbers will be clearly marked on the front and side doors, the walkway location to the new entrance will be changed so that it meets the sidewalk instead of the parking area, and the entrance will be marked with a canopy.

Closing up some of the windows is unfortunate; however, the Applicant finds it necessary to make the new unit layout functional. The building will continue to have a large number of windows. Removing one of the front doors from the Holland Street side of the building will leave a blank wall along the first floor of the front porch. The



architect will show a window or some other design element to break up this wall and it will be a condition of approval.

The siding on the house has been removed and will be replaced with clapboards, smooth boards, and shingles in a quality cementitious material. With the removal of the roof decks from the plans and the addition of a rear deck on the second floor, each of the three units will have access to some private outdoor space without the impacts of roof decks that the Board voiced at prior hearings.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Josh Safdie and Brandy Brooks with Herbert Foster and Danielle Evans absent. 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 alteration to the 3-family house to add a new side entrance, a second story rear porch and alter other fenestration. 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>Oct 8, 2013</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>Sept 27, 2013</td> <td>Plans submitted to OSPCD (A001 – site plan, code and zoning diagrams, A101 – lower duplex plans, A102 – upper duplex plans (as amended by 12/4 2nd level plan), A200- existing elevations, D100 – demolition plans)</td> </tr> <tr> <td>Aug 8, 2013</td> <td>Plans submitted to OSPCD (existing site plan)</td> </tr> <tr> <td>Dec 4, 2013</td> <td>Plans submitted to OSPCD (proposed 2nd level rear porch and elevations)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Oct 8, 2013	Initial application submitted to the City Clerk’s Office	Sept 27, 2013	Plans submitted to OSPCD (A001 – site plan, code and zoning diagrams, A101 – lower duplex plans, A102 – upper duplex plans (as amended by 12/4 2 nd level plan), A200- existing elevations, D100 – demolition plans)	Aug 8, 2013	Plans submitted to OSPCD (existing site plan)	Dec 4, 2013	Plans submitted to OSPCD (proposed 2 nd level rear porch and elevations)	BP/CO	ISD/ Plng.	
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2	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW											
3	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P											



#	Condition	Timeframe for Compliance	Verified (initial)	Notes
4	Applicant shall clearly mark the unit numbers on or near the front doors to all three units.	CO	Plng.	
5	The walkway to the Jay Street entrance shall be a path from the sidewalk to the front door.	CO	Plng.	
6	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, lighting, and parking areas, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
8	A window or some other design element to break up the wall on the first floor to the right of the front door on Holland Street will be installed.	BP	Plng.	
9	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 Chairman*
Richard Rossetti, *Acting Clerk*
Elaine Severino
Josh Safdie (Alt.)
Brandy Brooks (Alt.)

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

