



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA # 2013-15
Site: 9-11 Irvington Road
Date of Decision: April 3, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: April 9, 2013

ZBA DECISION

Applicant Name:	Lourenco Carminati
Applicant Address:	441 Medford St. Malden, MA 02148
Property Owner Name:	Pei Chi Li & Andrew Kennedy
Property Owner Address:	9 Irvington Road Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant, Lourenco Carminati and Owners, Pei Chi Li and Andrew Kennedy seek a Special Permit under SZO §4.4.1 to construct new dormer to a non-conforming 2 family dwelling and SZO §9.13 parking relief because of the addition of 1 bedroom.

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.13
<u>Date of Application:</u>	March 4, 2013
<u>Date(s) of Public Hearing:</u>	April 3, 2013
<u>Date of Decision:</u>	April 3, 2013
<u>Vote:</u>	5-0

Appeal #ZBA 2013-15 was opened before the Zoning Board of Appeals at Somerville City Hall on April 3, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



DESCRIPTION:

The proposal is to alter a nonconforming structure by adding a dormer on the right side of the roof. With the addition of a by-right dormer on the left side of the roof, the applicant proposes to finish the 3rd level with a bedroom, bathroom, and office. The construction will add 508 net square feet to the third story. Because of the additional bedroom, they have applied for parking relief for one vehicle.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1. & §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 proposal to create the dormer and finish the third floor will fit in the neighborhood. The dormer is less than 50% of the length of the sloping roof to which it is attached and is pulled back from the main wall of the house.

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 parking relief is typical for the addition of one bedroom but not additional dwelling units will be added. Not providing an additional parking space is not anticipated to negatively impact the neighborhood as the users of the two versus three bedroom unit are not anticipated to change greatly.

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 promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City.

The proposal is consistent with the purpose of the Residential A district §6.1.1, which is, "To establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts."



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. By providing relief of one parking space, adjoining lots will be protected from the nuisances of glare and heat from parking lots and the lack of visual relief from expanses of paving.

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 proposal to expand square footage by building out the third floor will not be detrimental to the structure. The dormer is compatible with the design of the existing structure. The dormer will incorporate one additional window toward the right side of the property which will overlook the neighbor's driveway.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Josh Safdie. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 construction of a new dormer to a non-conforming 2 family dwelling and parking relief because of the addition of 1 bedroom. 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 3, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>November 12, 2012 (March 20, 2013)</td> <td>Modified plans submitted to OSPCD (Cover, D1- Demolition Floor and Roof Plans, A Specifications, A1 Attic and Roof Plans, A2 Attic and Roof Framing Plans, A3 Attic Building Sections, A4 Partial Exterior Elevations and Part Plans)</td> </tr> <tr> <td>March 20, 2013</td> <td>Modified plans submitted to OSPCD (Fire Protection Plan – Level 2, Fire Protection Plan – Level 3)</td> </tr> </tbody> </table> <p>Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	March 3, 2013	Initial application submitted to the City Clerk's Office	November 12, 2012 (March 20, 2013)	Modified plans submitted to OSPCD (Cover, D1- Demolition Floor and Roof Plans, A Specifications, A1 Attic and Roof Plans, A2 Attic and Roof Framing Plans, A3 Attic Building Sections, A4 Partial Exterior Elevations and Part Plans)	March 20, 2013	Modified plans submitted to OSPCD (Fire Protection Plan – Level 2, Fire Protection Plan – Level 3)	BP/CO	ISD/PIng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									



3	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.	
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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Josh Safdie (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 _____

