



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2015-36
Site: 56 Line Street
Date of Decision: September 16, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 30, 2015

ZBA DECISION

Applicant Name:	Eamon Fee
Applicant Address:	6 Richardson Street, Winchester, MA 01890
Property Owner Name:	Eamon Fee
Property Owner Address:	6 Richardson Street, Winchester, MA 01890
Agent Name:	Richard G. DiGirolamo, Esq
Agents Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant & Owner, Eamon Fee, seeks a Special Permit under SZO §4.4.1 to substantially alter a nonconforming single-family house to construct a 3-family structure and an approximately 2,000 sf addition and parking relief for 2 spaces under §9.13.

<u>Zoning District/Ward:</u>	RB zone. Ward 2.
<u>Date of Application:</u>	June 11, 2015
<u>Date(s) of Public Hearing:</u>	7/15, 8/5, 8/19, 9/2 & 9/16/15
<u>Date of Decision:</u>	September 16, 2015
<u>Vote:</u>	4-0

Appeal #ZBA 2015-36 was opened before the Zoning Board of Appeals at Somerville City Hall on July 15, 2015 and re-advertised for August 5. 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to substantially demolish the structure and build a three-family triple decker on the lot. Each unit would have 3-bedrooms. There would be a driveway to three parking spaces in the backyard. The form is typical of a triple-decker. There is a front bay and side bays. In the rear there is a three-floor porch. The Somerville Historic Preservation Commission (SHPC) reviewed the proposal on account of the demolition and the parties signed a memorandum of agreement that includes design specifications.

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."*

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, pervious area, left side yard setback, and street frontage.

The front and side setbacks will be retained to keep the nonconforming aspects of the building. The proposal will impact the following nonconforming dimensions: side yard setback. The current dimension is 2.3 feet and the proposal is to have a bay on the side of the house that is 2.3 feet to the side lot line. The rest of the structure will be setback 7 feet. The requirement in the district is 10 feet for a three-story structure. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that "[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

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 triple decker will be taller than the existing 1 ½ story house along the nonconforming side yard, however, it will be pulled back 7 feet from the property line for the majority of the structure with only a 8 foot wide bay remaining at 2.3 feet. The bay will have false windows due to building code requirements but this detail will prevent the bay from being a blank wall. The northern neighbor has a building that is close to the adjoining property line and will feel the most impact by a change at this site. The proposal has been designed to help alleviate the close proximity of these buildings by pulling a significant portion of the building back from the existing setback. The pervious area will become conforming as a result of the proposal and the property will continue to be conforming to the requirements of the SZO except for the side yard setback.



The existing property is nonconforming to parking requirements because it has a single driveway for a house with one or more bedrooms. The addition of two dwelling units on the site requires 4 additional parking spaces and 2 additional parking spaces will be provided for a total of 3. Relief for 1 parking space is required.

SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is less than six. 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.

Each unit would have one parking space with sufficient maneuvering space to the street. Adding excessive parking spaces from what the demand for parking has been in other projects in walkable areas with public transit would have negative impacts such as increasing traffic and decreasing pedestrian safety.

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 maintaining the uniquely integrated structure of uses in the City and conserving the value of land and buildings.

The proposal to construct a three family house is consistent with the purpose of the RB district, which is, "[t]o establish and preserve medium density neighborhoods of one-, two- and three-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. The proposal to reduce the required parking by one space will not be counter to the purposes of this section. The parking spaces will be located behind the building so that they will not be visible, the headlights will not project into the neighboring structures and pervious material will be used for some of the driveway and the parking area to allow for a conforming permeability of the site.

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 project has been designed to be compatible with the surrounding area. The building form is typical for a triple decker and there are several triple deckers in the neighborhood. The Historic Preservation Commission has recommended design changes that should be incorporated into the building and are conditions of this approval.

The proposal will result in the property to the left experiencing a taller building within close proximity to it. The proposed design tries to respect this house by keeping the front yard setback of the building on the subject property the same as the existing building. This neighboring building is close to the street and the existing building on the subject property is setback giving the neighboring property direct light into the house on three sides for the front portion of the building. The proposal will not change this condition. Also, the new building will be setback 7 feet for the majority of the structure and only a bay will remain at the 2 foot setback to retain the buildings nonconforming status. The Applicant has made other alterations to the proposal to try to address the abutters' concerns. The bay was moved as far as is possible to retain a portion of the



nonconforming structure, the entrance basement on the left side of the house is removed, the building height was lowered by 4.5 feet, the roof deck was removed, and the driveway was made a ribbon drive with Belgium pavers.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

The existing unit is not restricted as an affordable unit and even without the expansion of the building the owner could increase the cost of the unit. The proposal will increase the supply of housing by two units. On a larger scale increasing supply to meet demand will decrease the cost of housing in the City.

7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

<i><u>SomerVision Summary</u></i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	1	3
<i>Parking Spaces:</i>	1	3



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie recused. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes	
1	Approval is for the construction of a 3-unit triple decker with 3 parking spaces. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.		
	Date (Stamp Date)				Submission
	June 11, 2015				Initial application submitted to the City Clerk’s Office
	August 27, 2015				Plans submitted to OSPCD (plot plan)
	(September 10, 2015)				Plans submitted to OSPCD (perspective drawing)
	June 10, 2015				Plans submitted to OSPCD (illustrative landscape plan – as modified by revised site plan)
	Sept 9, 2015				Plans submitted to OSPCD (C1 zoning info)
	Sept 9, 2015				Plans submitted to OSPCD (A1&3 Elevations, A5-6 Floor Plans)
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.					
Pre-Construction					
2	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage report and plans stamped by a registered PE in Massachusetts must be submitted to the Engineering Department for review and approval.	BP	Eng.		



3	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
4	New sanitary connection flows over 2,000 GPD require a 4:1 removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment to the City based on the cost per gallon of I/I to be removed from the sewer system. The Applicant shall work with Engineering to meet this condition before a certificate of occupancy is issued.	CO	Eng.	
Construction Impacts				
5	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	
6	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	
Design				
7	An exterior light and electrical receptacle is required for the levels of the porch that have access to the ground and an electrical receptacle is required for the levels that do not have access to the ground.	Final sign off	Wiring Inspector	
8	The design shall be altered in the construction documents to reflect that the following changes found in the MOA with the SHPC: the stair hall windows should be centered over the front entry, both stair hall windows and the two other double-hung window sashes on the main façade shall be set the same distance from the edges of the wall plane, and the oval window shall be centered midway between the edge of the porch posts and the edge of the bay and directly below the windows above.	BP	Plng.	
Site				
9	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
10	There shall be a minimum of two trees as required under SZO §10.3.	CO	Plng.	



11	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
12	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
13	The owner of 56 Line Street will make best efforts to grant an easement to the owner of 52 Line Street to allow for access to the abutters side yard provided the applicant's mortgagee consents thereto and provided that no appeals are filed by the abutter.	Cont.	Plng.	
14	There shall not be a fence installed along the northwestern property line except a fence may be installed for the portion of this lot line that abuts the rear yard.	Cont.	Plng.	
Public Safety				
15	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
16	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
Final Sign-Off				
17	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, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino

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 _____

