



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

ZONING BOARD OF APPEALS MEMBERS

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JOSH SAFDIE (ALT.)

Case #: ZBA 2014-119
Site: 9 Montgomery Avenue
Date of Decision: March 4, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 13, 2015

ZBA DECISION

Applicant Name:	The Montgomery Avenue Trust, Amy Brennan, Trustee
Applicant Address:	8 Purlington Lane, Hampton, NH 03842
Property Owner Name:	The Montgomery Avenue Trust, Amy Brennan, Trustee
Property Owner Address:	8 Purlington Lane, Hampton, NH 03842
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner, The Montgomery Avenue Trust, seeks a Special Permit to construct a dormer/cross gable. RB Zone. Ward 1.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Date of Application:</u>	November 24, 2014
<u>Date(s) of Public Hearing:</u>	March 4, 2015
<u>Date of Decision:</u>	March 4, 2015
<u>Vote:</u>	4-0

Appeal #ZBA 2014-119 was opened before the Zoning Board of Appeals at Somerville City Hall on March 4, 2015. 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 for a 15' shed dormer to be located on the right side elevation. The Applicants are legalizing an existing second dwelling unit and will meet the parking requirement due to the three-bay garage at the rear of the parcel. Only relief for the dormer is required.

FINDINGS FOR SPECIAL PERMIT

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 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."*

Under the existing zoning code, alterations to a non-conformity requires approval for a Special Permit. The existing dwelling is non-conforming with regard to right side yard setback and therefore requires a Special Permit to construct a dormer and increase the non-conformity.

Under the proposed code, dormers are considered building components and are allowed so long as they meet the dimensional requirements. The dormer is less than 50% of the length of the roofline and less than 24' in length (whichever is greater); however, this dormer does not meet the 50% glazing, the 4:12 roof pitch, nor the 1' ridgeline setback requirement. Therefore, these three items have been conditioned to comply with the proposed zoning code. Approving this dormer with the conditions noted above will meet the findings of the new ordinance in that that the dormer will be contextual with the existing neighborhood and meet the occupant needs.

In considering a special permit under both the existing and proposed zoning ordinances, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

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 secure safety from fire, panic and other dangers; to provide adequate light and air; and to encourage housing for persons of all income levels.

The proposal is consistent with the purpose of the district, which is, "To 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."

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 surround Winter Hill neighborhood is a mix of one-, two-, and three-family homes in close proximity to the good and services offered along Broadway.



There are no impacts to the proposal except those associated with residential uses.

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

The proposal will legalize a second pre-existing dwelling unit to this site as of right, but will not have an impact on existing affordable housing.

6. 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.*

The proposal does not make a noticable contribution to the SomerVision target numbers, but the proposal is contextual to the neighborhood with regard to form and massing and is conditioned to comply with the new code.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. 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 with Josh Safdie abstained. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for a Special Permit to construct a dormer/cross gable. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(November 24, 2014)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 5, 2015</td> <td>Plans submitted to OSPCD (A-1, A-2, A-3, A-4, A-5, A-6)</td> </tr> <tr> <td>October 10, 2014</td> <td>Plot/Landscape plan submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(November 24, 2014)	Initial application submitted to the City Clerk's Office	February 5, 2015	Plans submitted to OSPCD (A-1, A-2, A-3, A-4, A-5, A-6)	October 10, 2014	Plot/Landscape plan submitted to OSPCD
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Any changes to the approved elevation 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.	BP	Eng.									
Construction Impacts												
3	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									
Design												
4	The Applicant shall submit updated plans prior to receiving a building permit to comply with the 50% glazing, 4:12 roof pitch, and 1' ridgeline and 1'-16" sidewall setback requirements for the dormer.	BP	Plng.									
Site												
5	Any additional pavement added to the site shall be pervious.	Perpetual	Plng. / ISD									
Public Safety												
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
Final Sign-Off												



7	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:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
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 _____

