



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

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Case #: ZBA 2014-08
Site: 37-39 Morrison Avenue
Date of Decision: March 19, 2014
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 21, 2014

ZBA DECISION

| | |
|--------------------------------|--|
| Applicant Name: | Kimberly J. Mathai |
| Applicant Address: | 3216 11 th Avenue W., Seattle, WA 98119 |
| Property Owner Name: | Kimberly J. Mathai |
| Property Owner Address: | 3216 11 th Avenue W., Seattle, WA 98119 |
| Agent Name: | N/A |

Legal Notice: Applicant and Owner, Kimberly Mathai, seek a Special Permit per SZO §4.4.1 to alter a nonconforming structure by extending an existing dormer, adding a 3rd floor rear deck, and window and door alterations.

| | |
|-----------------------------------|-------------------|
| <u>Zoning District/Ward:</u> | RA zone/Ward 5 |
| <u>Zoning Approval Sought:</u> | §4.4.1 |
| <u>Date of Application:</u> | February 13, 2014 |
| <u>Date(s) of Public Hearing:</u> | March 19, 2014 |
| <u>Date of Decision:</u> | March 19, 2014 |
| <u>Vote:</u> | 5-0 |

Appeal #ZBA 2014-08 was opened before the Zoning Board of Appeals at Somerville City Hall on March 19, 2014. 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.



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DESCRIPTION:

The proposal is to extend an existing dormer on the right side of the home from 11'-9" to 17'2" and create a 3rd floor rear deck. There are also by-right layout changes being made to the interior of the third floor unit. Within the third floor unit, an awkward storage area will be eliminated and both bedrooms will increase in size. The window layout on the second floor will also be altered to allow for a kitchen renovation.

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."

Per SZO §4.4.1, a Special Permit is required to alter a non conforming structure. The dormer and window alterations are on a nonconforming side of the building at 3.2'. There is an 8' setback required. There are other by-right interior renovations being done to the home. The bedroom count will remain the same. The structure will still be considered a 2 ½ story post renovation since the dormer is less than 50% of the length of the roofline.

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.

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.

The proposal is consistent with the purpose of the district, 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.

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 neighborhood is residential in character, with many two- and three-family homes. The Somerville Community Path is nearby.

There are little to no impacts to this proposal. To improve the design of the dormer, a condition that of this report is to add a third window into the dormer, as evenly placed as possible. In addition, there is an added condition that the Applicant may resubmit a side elevation to better align the second floor windows, if possible.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Evans, Josh Safdie and Brandy Brooks with Elaine Severino absent and Richard Rossetti recused. Upon making the above findings, Susan Fontano 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 | Approval is for a Special Permit per SZO §4.4.1 to alter a nonconforming structure by extending an existing dormer, adding a 3 rd floor rear deck, and window and door alterations. 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>February 13, 2014</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>February 12, 2014</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>January 10, 2014</td> <td>Modified plans submitted to OSPCD (Cover, A.01 Existing and Proposed Third Floor Plan, A.02 Front & Right Elevation, A.03 Rear & Left Elevation)</td> </tr> </tbody> </table> | | | | Date (Stamp Date) | Submission | February 13, 2014 | Initial application submitted to the City Clerk’s Office | February 12, 2014 | Modified plans submitted to OSPCD (Plot Plan) | January 10, 2014 | Modified plans submitted to OSPCD (Cover, A.01 Existing and Proposed Third Floor Plan, A.02 Front & Right Elevation, A.03 Rear & Left Elevation) |
| | Date (Stamp Date) | | | | Submission | | | | | | | |
| | February 13, 2014 | | | | Initial application submitted to the City Clerk’s Office | | | | | | | |
| February 12, 2014 | Modified plans submitted to OSPCD (Plot Plan) | | | | | | | | | | | |
| January 10, 2014 | Modified plans submitted to OSPCD (Cover, A.01 Existing and Proposed Third Floor Plan, A.02 Front & Right Elevation, A.03 Rear & Left Elevation) | | | | | | | | | | | |
| Any changes to the approved 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 plans/reports must be submitted to the Engineering Department for review and approval. | 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 | | | | | | | | | |



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|-----------------------|--|---------------------|------------------|--|
| 4 | 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 | | | | |
| 5 | New siding type and color, trim, and materials of the dormer shall match or be complimentary to the existing structure. | CO | PIng. | |
| 6 | Applicant will submit a revised elevation showing a third window in the dormer spaced as evenly as possible for review and approval by Planning Staff. The second floor windows should align if possible. | BP | PIng. | |
| 7 | The third story deck should match in material and finish to the existing rear decks. | CO | PIng. | |
| 8 | An exterior light and electrical receptacle is required for the deck (if there is no access to the ground). | Final sign off | Wiring Inspector | |
| Miscellaneous | | | | |
| 9 | 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 | |
| Public Safety | | | | |
| 10 | The Applicant or Owner shall meet the Fire Prevention Bureau's requirements. | CO | FP | |
| Final Sign-Off | | | | |
| 11 | 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 | PIng. | |



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Danielle Evans
Josh Safdie
Brandy Brooks

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 _____

