



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

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Case #: ZBA 2015-04
Site: 13 Roberts Street
Date of Decision: September 16, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 30, 2015

ZBA DECISION

Applicant Name: Oak Hill Park, LLC/Fred Starikov, Manager
Applicant Address: 370 Chester Hill Avenue, Brighton, MA 02135
Property Owner Name: Oak Hill Park, LLC/Fred Starikov, Manager
Property Owner Address: 370 Chester Hill Avenue, Brighton, MA 02135
Agent Name: Richard G. DiGirolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner, Oak Hill Park, LLC - Fred Starikov, seek a Special Permit to alter a nonconforming three-family structure by adding an approx 1800 sf addition and to not provide 1 of the required parking spaces*.

Zoning District/Ward: RB zone/Ward 5
Date of Application: December 29, 2014
Date(s) of Public Hearing: 6/24, 7/15, 8/5, 8/19, 9/2 & 9/16/15
Date of Decision: September 16, 2015
Vote: 5-0

* The special permit for the parking space is not required. The site was determined to be nonconforming with parking and 3 parking spaces will be provided, which meets the requirement.

**The site plan was update to address concerns regarding the driveway location which was raised by abutters at the neighborhood meeting and staff concerns about the amount of area devoted to cars.

Appeal #ZBA 2015-04 was opened before the Zoning Board of Appeals at the Somerville High School Auditorium on June 24, 2015. Notice of the Public Hearing was given to persons affected and was published and posted, all as



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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 add a 1,827 square foot addition to the three-family house. The addition will create a wing to the triple decker. On the front of the new portion of the house will be a three-story porch. There are also 8 by 7 foot decks proposed on the rear one-story portion of the building. The windows on the left side of the houses are proposed to be relocated and the number increased; however, that may not be possible per building code. Each unit will have three bedrooms. There will be a curb cut off of Charles E. Ryan Road and three on-site parking spaces.

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 §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 size, front yard setback, rear yard setback, left side yard setback, and number of parking spaces. The proposal will not increase or alter the nonconforming dimensions.

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 as conditioned. The addition has been designed with setbacks that meet the requirements of the SZO and the ground coverage, landscaped area, pervious coverage and floor area ratio will continue to be conforming.

The existing parking requirement is 4.5 which rounds up to 5. There is a curb cut on Charles E Ryan Road but there is a broken fence across the "driveway" making the existing parking situation unclear; however, it does appear that there is currently no parking onsite. The parking requirement due to the increase in the number of bedrooms is 6. Per SZO §9.4, when the floor area of a structure that has nonconforming parking is expanded, the parking required by the new floor area shall be provided. The increase in floor area and number of bedroom increases the parking requirement by 1 and 3 spaces will be provided to meet the parking requirements for the addition.

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 is consistent with the purpose of the 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.”

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."*

A side wing on a triple decker is not a typical condition in Somerville; however, this proposal has the potential to improve the existing property that has not been maintained for quite some time. The proposal will create 3-bedroom units to help satisfy the desire for more family-size units in the city. The proposal will have open front porches to create interaction with the street. There will be parking onsite for each unit to have one space. The parking spaces will be pervious pavers so that the proposal meets the pervious surface requirement and the space can act as a patio if not needed for a car. The appearance of the structure and yard will be improved and made safe from the current conditions. As part of this proposal to achieve this finding, a condition of approval is that the area between the property and Charles E Ryan Road shall be improved as well as the pedestrian path from Roberts Street to Charles E Ryan Road.

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

The units are not restricted as affordable units and even without the expansion of the building the owner could increase the cost of the units.

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.*

This area is designated as an area to conserve. The addition will maintain the 3-family use of the property and the dimensions of the addition conform to the SZO.

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	3	3
<i>Parking Spaces:</i>	0	3



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. 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 the addition to the 3-family structure with 3 parking spaces. 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>December 29, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 27, 2015</td> <td>Plans submitted to OSPCD (T-1 cover, Z-1-2 zoning compliance, A-1 first floor/site plan, A-2 proposed 2nd & 3rd fl plan, A-3-A-5 proposed elevations, E-1 existing floor plans, E-2-E-3 existing elevations)</td> </tr> <tr> <td>October 16, 2014</td> <td>Plans submitted to OSPCD (plot plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	December 29, 2014	Initial application submitted to the City Clerk's Office	August 27, 2015	Plans submitted to OSPCD (T-1 cover, Z-1-2 zoning compliance, A-1 first floor/site plan, A-2 proposed 2 nd & 3 rd fl plan, A-3-A-5 proposed elevations, E-1 existing floor plans, E-2-E-3 existing elevations)	October 16, 2014	Plans submitted to OSPCD (plot plan)
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October 16, 2014	Plans submitted to OSPCD (plot plan)											
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 plans must be submitted to the Engineering Department for review and approval.	BP	Eng.									
3	A licensed asbestos removal contractor is required to appropriately handle the material as required by the Heath Division of Inspectional Services with notification to this Division.	BP	ISD									
Construction Impacts												
4	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.									



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	The façade materials of the existing and proposed portions of the structure shall be wood and fiber cement as is referenced on sheet A-3 of the plans.	BP	Plng.	
8	The porches must never be enclosed.	Perpetual	Plng/ISD	
9	The Architect must prove to Inspectional Services that the Building Code allows for the proposed window alterations on the left side of the house.	BP	ISD	
10	An exterior light and electrical receptacle is required for the first level of the porch and an electrical receptacle is required for the upper levels of the porches.	Final sign off	Wiring Inspector	
Site				
11	A landscape plan for the site shall be submitted to Planning Staff for review and approval. The landscape plan shall a minimum of two trees of at least a 3 inch caliper as is required under SZO §10.3 & 10.6.	BP	Plng.	
12	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
13	A landscape plan to improve the land between the subject property and Charles E Ryan Road and improve the condition of the pedestrian path from Roberts Street to Charles E Ryan Road shall be submitted to Planning Staff for review and approval. Once approved, the applicant shall conduct this work. If the abutters to the private ways do not approve of the work, the Applicant shall provide proof of this to Planning Staff and the condition as it relates to that street will be void.	CO	Plng.	
14	The parking spaces must be made of pavers with spacing that allows them to be pervious.	CO	Plng.	
Miscellaneous				
15	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	



16	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.	BP	Eng.	
Public Safety				
17	The units must have hardwired smoke detectors. A sprinkler system may be required.	CO	FP	
Final Sign-Off				
18	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
Josh Safdie

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 _____

