



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

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Case #: ZBA 2014-31
Site: 206 Summer Street
Date of Decision: August 6, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 19, 2014

ZBA DECISION

Applicant Name:	Mark Silva
Applicant Address:	206 Holland Street, Somerville, MA 02144
Property Owner Name:	Silva Realty, LLC
Property Owner Address:	206 Holland Street, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant, Mark Silva, and Owner, Silva Realty, LLC, seek a Special Permit under SZO §4.4.1 to alter a nonconforming three-family structure by expanding and adding a dormer, adding a rear deck and altering window and door locations. RB zone. Ward 3.

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	April 17, 2014
<u>Date(s) of Public Hearing:</u>	5/7, 5/21, 6/4, 6/18, 7/16 & 8/6/14
<u>Date of Decision:</u>	August 6, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-31 was opened before the Zoning Board of Appeals at Somerville City Hall on May 7, 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The proposal includes several renovations to the three-family structure. Included in the proposal is adding a dormer on the right side of the property to allow for sufficient headroom for the stair to the third floor. The rear deck that sits on the two-story portion of the structure is proposed to be expanded to the edge of the structure and a door and dormer in the rear of the property to access the deck was replaced with a larger dormer and door. The dormer the form and materials of the existing dormers on the left side and front of the building. Other changes include the two-story portion of the house below the deck increased in height, a door at the rear property line became a window, the door on the second floor that is along the side three-story porch was altered but will be relocated back to its original position and a basement sash window became a double hung window. Finally, the basement will be finished to supply space for a family room, bathroom, and study. There will be two units with 2-bedrooms and a study and one 1-bedroom unit in the house. The existing conditions plans show that the house used to have two 2-bedroom units and one 1-bedroom unit. The exact number of bedrooms for prior occupants is not known as the building has been vacant for quite some time and there are no closets shown on the plans. It is unclear if closets existed.

The Applicants received a building permit to renovate the three kitchens and bathrooms in the dwelling and continued to do work outside of the scope of the project. There was also some confusion as to if the dormers required Special Permits and they have already been constructed. In addition the rear deck, window and door alterations and basement work is complete.

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 alteration to the nonconforming structure requires a Special Permit under SZO §4.4.1. 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 structure is nonconforming in terms of lot size, lot area per dwelling unit, landscaped area, pervious surface, floor area ratio, side and rear yard setback and street frontage.

The proposal impacts the nonconforming side and rear yard setbacks and the floor area ratio. The side yard setbacks are 3.5 on the left and 6 feet on the right and the required setbacks are 8 feet. The side dormer, window and door alterations and rear deck are within the side yard setbacks. The rear deck is closer to the rear property line than it was previously and is being constructed at the edge of the building which has a 0.8 foot setback and the requirement is 20 feet. Finishing the basement will increase the floor area ratio from 1.09 (as is listed in the Assessor's database) to 1.34 and the maximum allowed is 1.0.

The Applicants provided a landscape plan to improve the landscaped area and increase the amount of pervious surface of the lot.

There is no parking onsite and the parking requirements do not change with the proposed number of bedrooms.

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 also consistent with the purpose of the Residence B district in making improvements to a three-family dwelling.

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 building has been vacant and in disrepair for quite some time and overall the renovation and occupancy of the building will be an improvement for the neighborhood. The dormers and rear door projection on the third floor have been designed to match the existing dormers on the house and are appropriate in size. The window and door alterations do not seem to be intrusive to the abutters in their location. The increase in floor area with the basement refinishing will add activity to the building that is already large for its small lot. The additional floor area in the basement should not be used as bedroom space, which would exacerbate the impacts of increasing the floor area in the building. Conditions of approval will address changes that are needed to recent alterations to the structure to ensure that it meets the building code.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Elaine Severino 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 alteration of a nonconforming structure to change window and door locations, add a side and rear dormer, rear deck and finish the basement as living area. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 16, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 25, 2014</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>July 10, 2014</td> <td>Modified plans submitted to OSPCD (A.01-A.02 Proposed Floor Plan and Details, A.03-A.04 Proposed Elevations A.05 Existing Floor Plans, A.06-A.07 Existing Elevations)</td> </tr> <tr> <td>July 10, 2014</td> <td>Modified plans submitted to OSPCD (Landscape Plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 16, 2014	Initial application submitted to the City Clerk's Office	March 25, 2014	Modified plans submitted to OSPCD (Plot Plan)	July 10, 2014	Modified plans submitted to OSPCD (A.01-A.02 Proposed Floor Plan and Details, A.03-A.04 Proposed Elevations A.05 Existing Floor Plans, A.06-A.07 Existing Elevations)	July 10, 2014	Modified plans submitted to OSPCD (Landscape Plan)
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.														
Pre-Construction														
2	The Applicant shall install the landscaping on the site as shown on the landscape plan and additionally a minimum of one tree in accordance with SZO §10.2.2 and §10.6.2. The amount of pervious surface shall be maximized.	BP	Planning											
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											



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 / Use				
5	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
6	The basement shall not be used as sleeping quarters.	Perpetual	ISD	
Site				
7	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
Public Safety				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
9	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.	
10	The basement windows along the rear property line shall be 1-hour rated exterior assembly with fixed windows.	Final sign off	Plng. / ISD	
11	The door that was moved on the second floor to the rear deck must be relocated to its original location away from the rear property line.	Final sign off	Plng. / ISD	
12	The new basement window on the right side of the building close to the rear property line shall be removed.	Final sign off	Plng. / ISD	
Final Sign-Off				
13	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:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
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 _____

