



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2014-73
Site: 171-175 Walnut Street
Date of Decision: October 15, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 24, 2014

ZBA DECISION

Applicant Name:	Seckel Street Realty Trust
Applicant Address:	138 Harvard Avenue, Allston, MA 02134
Property Owner Name:	Seckel Street Realty Trust
Property Owner Address:	138 Harvard Avenue, Allston, MA 02134
Agent Name:	Joshua Krefetz, Esq., Krefetz, Seed & Chan
Agent Address:	244 Brighton Avenue, Suite 105, Allston, MA 02134

Legal Notice: Applicant and Owner, Seckel Street Realty Trust, seek a Special Permit §4.4.1 to add a second story addition on a nonconforming side yard and a Special Permit per SZO §4.5.3 to expand a nonconforming use by adding living area to an existing unit.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1 & §4.5.3
<u>Date of Application:</u>	July 31, 2014
<u>Date(s) of Public Hearing:</u>	9/3, 9/17 & 10/15/14
<u>Date of Decision:</u>	October 15, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-73 was opened before the Zoning Board of Appeals at Somerville City Hall on September 3, 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to renovate the interior of the building and add a second story addition to the structure. The building will have living area on the first floor and bedrooms on the second floor. The exterior of the building will be modified to be more typical to other converted storefronts in the city. The original windows, that are currently blocked in, will be either opened with windows or infill panels. The second story will be modern in form and fit on the existing footprint of the unit. There will be a rear deck with access to the ground. The current parking spaces both in the garage and on the lot will be maintained.

FINDINGS FOR SPECIAL PERMIT (SZO §):

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."*

According to SZO §4.4.1 lawfully existing nonconforming structures may be enlarged, extended, renovated or altered only by Special Permit. In addition, expansion, alteration, enlargement or extension of a lawfully existing nonconforming use shall be permitted only by Special Permit. The second floor addition and window alterations require a Special Permit. Although the site is an established 7 unit parcel, the expansion of living area for a nonconforming unit count also requires review.

In considering a special permit under §4.4 and 4.5 of the SZO, the Board finds that the alterations and use proposed would not be substantially more detrimental to the neighborhood than the existing structure and use.

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 provide for and maintain the uniquely integrated structure of uses in the City; to secure safety from fire, panic and other dangers; and to provide adequate light and air.

The proposal is achieving more consistency 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." The form of the building after renovations will be more in context with the residential character of the neighborhood. The initial condition of the Board from the 1997 decision is more reflected in this proposal. However, a condition of the report is that the Applicant supply a landscape plan from a licensed landscape architect to maximize the landscaping on 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 surrounding neighborhood is a mix of uses. The subject property serves as a transition from the Broadway Commercial Corridor to the residential fabric of Walnut Street. The immediate abutter is the Sunoco gas station on Broadway. The addition increases the FAR of the site to .99. A condition of this report is that the net square footage of the site remains the same and that the basement of the unit cannot be finished nor the rear deck enclosed.

There are little to no impacts of the proposal. The design will make the structure more residential in form and will provide a transition from Broadway to Walnut Street.

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

The proposal will substantially renovate 1 unit that, most likely, was in poor condition. At the time of the fire, there was an illegal bedroom in the basement. It can be assumed it was more affordable than the proposed unit. A renovated unit has benefits including that it will comply with building code.

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.*

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	7	7
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	0	0
<i>Estimated Employment:</i>	0	0
<i>Parking Spaces:</i>	10	10
<i>Publicly Accessible Open Space:</i>	0	0



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Brandy Brooks absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 a Special Permit §4.4.1 to add a second story addition on a nonconforming sideyard and a Special Permit per SZO §4.5.3 to expand a nonconforming use by adding living area to an existing unit. 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>July 31, 2014</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>July 30, 2014</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>August 11, 2014</td> <td>Modified plans submitted to OSPCD (Site Plan, Basement, Ground Floor, Second Floor, Roof Plan, West Elevation, North Elevation, East Elevation, South Elevation, Massing Studies Sheets 1-4)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 31, 2014	Initial application submitted to the City Clerk’s Office	July 30, 2014	Modified plans submitted to OSPCD (Plot Plan)	August 11, 2014	Modified plans submitted to OSPCD (Site Plan, Basement, Ground Floor, Second Floor, Roof Plan, West Elevation, North Elevation, East Elevation, South Elevation, Massing Studies Sheets 1-4)
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Any changes to the approved plans/elevations and use that are not <i>de minimis</i> must receive SPGA approval.												
Construction Impacts												
2	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									
3	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												
4	There shall be no increase in net floor area of the site beyond the proposal including but not limited to finishing the basement or enclosing the rear deck.	BP	PIng.									



Site				
5	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
6	The Applicant shall supply a landscaping plan by a certified landscape architect maximizing the landscaping on the site to Planning Staff for review and approval.	BP	Plng.	
7	Applicant will supply 5 bicycle parking spaces, which can be satisfied with a U-Shaped bicycle rack.	CO	Plng.	
Miscellaneous				
8	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				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
10	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 _____

