



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2013-90
Site: 50-52 Whitman Street
Date of Decision: June 4, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: June 10, 2014

ZBA DECISION

Applicant Name:	Deborah Flaschen
Applicant Address:	180 Clyde Street, Brookline, MA 02467
Property Owner Name:	Deborah Flaschen
Property Owner Address:	180 Clyde Street, Brookline, MA 02467
Agent Name:	N/A

Legal Notice: Applicant and Owner, Deborah Flaschen, seek a Special Permit per SZO §4.4.1 to expand a nonconforming FAR by finishing the basement. RA Zone. Ward 7.

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	December 12, 2013
<u>Date(s) of Public Hearing:</u>	1/22, 2/5, 2/19, 3/19, 4/2, 4/16, 5/7, 5/21 & 6/4/14
<u>Date of Decision:</u>	June 4, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2013-90 was opened before the Zoning Board of Appeals at Somerville City Hall on January 22, 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 four hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to expand the living area/net square footage of the home by finishing the basement. The basement will have 3 bedrooms, a bathroom, and laundry area. There have been by-right renovations already completed at the property.

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 Applicant is seeking a Special Permit under SZO §4.4.1 to expand the living area in the basement. The existing net floor area is 3,598 square feet which makes the Floor Area Ratio 1.0. An FAR of .75 is the maximum in the district. To make the basement livable space will increase the net floor area to 4,530 square feet and increase the FAR to 1.25, essentially expanding the nonconformity.

There is no parking relief associated with this application. Per SZO §9.4 when the previous and new use require the same number of parking spaces, then no additional parking spaces are required.

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; to provide for and maintain the uniquely integrated structure of uses in the City; to encourage housing for persons of all income levels; and to preserve and increase the amenities of the municipality."

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."

Whitman Street runs parallel with Broadway and Powderhouse Boulevard. The area is a mix of one-, two-, and three-family dwellings of similar style. The area is just south of Tufts University and is a mix of rental properties and owner-occupied homes/condos.

There are little to no impacts associated with the proposal. The expansion of square footage is kept within the existing footprint.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie 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 a Special Permit per SZO §4.4.1 to expand a nonconforming FAR by finishing the basement. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Plng.		
	Date (Stamp Date)				Submission
	December 12, 2013				Initial application submitted to the City Clerk's Office
	January 10, 2014				Modified plans submitted to OSPCD (AG002-Project Information, AF101-Code Review, AG102-Code Review, AE100-Basement Plan)
Any changes to the approved plan 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		
Miscellaneous					
4	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		
5	The Applicant will have an offsite learning center secured by the time 50-52 Whitman has 7 residents or 12 months from when the first resident occupies the building, whichever comes first.	Cont.	Plng.		



6	The structure shall have no more than 12 residents.	Cont.	PIng.	
7	The structure cannot be subdivided into more than the existing 2 units.	Cont.	PIng.	
Traffic & Parking				
8	The Applicant will provide MBTA Monthly LinkPass passes to all residents.	Cont.	PIng.	
9	The Applicant will provide four (4) MBTA Monthly LinkPass passes to staff working at the residence.	Cont.	PIng.	
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.	
12	No more than 2 medical permits (associated with 3L Place) are allowed to park on the street at any given time. 3L Place shall only use 4 visitor parking passes as well as the 2 driveway spots currently being planned for use.	<u>Cont.</u>	<u>PIng.</u>	
13	If 3L place terminates the use of 50-52 Whitman Street as a group home, they shall return it to its previous status as a 2-family home.	<u>Cont.</u>	<u>PIng.</u>	

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 _____

