



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

ZONING BOARD OF APPEALS MEMBERS

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ELAINE SEVERINO
JOSH SAFDIE (ALT.)

Case #: ZBA 2015-07
Site: 12 Berkeley Street
Date of Decision: March 18, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 24, 2015

ZBA DECISION

Applicant Name:	Brent Hardenbergh
Applicant Address:	47 Cedar Street, #5, Somerville, MA 02143
Property Owner Name:	Brent Hardenbergh
Property Owner Address:	47 Cedar Street, #5, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant & Owner, Brent Hardenbergh, seeks a Special Permit to alter a nonconforming structure to construct a dormer.

<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Date of Application:</u>	January 23, 2015
<u>Date(s) of Public Hearing:</u>	March 18, 2015
<u>Date of Decision:</u>	March 18, 2015
<u>Vote:</u>	4-0

Appeal #ZBA 2015-07 was opened before the Zoning Board of Appeals at Somerville City Hall on March 18, 2015. 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.



DESCRIPTION:

The proposal is to add a dormer on the narrow sideyard side of the home. There are other alterations being made, including a dormer on the conforming side of the home that are by-right.

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."*

Per the SZO, alterations to nonconforming structures require a special permit. Since the sideyard is only about 4', the dormer on the right side of the house requires a special permit.

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

OSPCD has submitted a new zoning ordinance for adoption. The public hearing was opened on March 5, 2015. Dormers are considered components of buildings and must comply with the dimensional requirements. In the proposed ordinance, the dormers proposed are by-right.

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 and to preserve the historical and architectural resources of the City.

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 a mix of one and two family homes mostly with gable roofs. The neighborhood has good connection via a short walk, bike, or car trip to Somerville Avenue and Union Square.

There are little to no impacts of the proposal except those associated with residential uses.

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

There are no impacts to existing affordable housing.



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.*

The project does not contribute directly to the SomerVision goals but will allow a homeowner to make modest alterations to a home in the conserve area.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino with Josh Safdie absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is to alter a nonconforming structure to add a dormer. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>January 23, 2015</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>(March 12, 2015)</td> <td>Modified plans submitted to OSPCD (Mortgage Inspection Plan, Cover Sheet, Existing Plans: Basement and First Floor, Second & Third Floor, Elev, Proposed Plans: Basement & First Floor, Second & Third Floor, Elevations)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	January 23, 2015	Initial application submitted to the City Clerk’s Office	(March 12, 2015)	Modified plans submitted to OSPCD (Mortgage Inspection Plan, Cover Sheet, Existing Plans: Basement and First Floor, Second & Third Floor, Elev, Proposed Plans: Basement & First Floor, Second & Third Floor, Elevations)	BP/CO	ISD/ Plng.	
Date (Stamp Date)	Submission									
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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	The dormers shall match or be complementary to the existing finish of the home.	BP	PIng.	
Miscellaneous				
5	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				
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
7	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:

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

