



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS
ORSOLA SUSAN FONTANO, CHAIRMAN

Case #: ZBA 2018-110

RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)

Site: 15-17 Illinois Avenue
Date of Decision: October 3, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 9, 2018

ZBA DECISION

Applicant Name: Nelson Oliveira/Nelson Group Companies
Applicant Address: 264 Salem Street, Medford, MA 02155
Owner Name: 3 West Street, LLC
Owner Address: 264 Salem Street, Medford, MA 02155
Alderman: Matthew McLaughlin

Legal Notice: Applicant, Nelson Oliveira/Nelson Group Companies, and Owner, 3 West Street, LLC, seek special permits to construct a dormer within the left side yard setback under §4.4.1 of the SZO. RA zone. Ward 1.

<u>Zoning District/Ward:</u>	RA Zone. Ward 1.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 2, 2018
<u>Date(s) of Public Hearing:</u>	October 3, 2018
<u>Date of Decision:</u>	October 3, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-110 was opened before the Zoning Board of Appeals at the Visiting Nurse Association (VNA) on Lowell Street. 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. On October 3, 2018, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

DESCRIPTION: The Applicant proposes a gut renovation of the property, partial finishing of the basement in order to construct a family room, the construction of a left elevation dormer that is 50% or less of the roof plane to which it is being attached, and re-landscaping of the site. The FAR will increase from .67 to .75, the maximum allowed for the RA zone. The trigger for special permitting is as follows:

Left side yard setback:

In the RA zone, the minimum side yard setback is 8 feet. The front left façade of the structure terminates 4.4 feet from the property line according to the certified site plan. The landscaping plan (Sheet A0.1) shows this setback reducing to 4.0 feet three-quarters of the way down the length of the building. It appears to the Board that, given the location of the proposed dormer, it will be constructed 4.4 feet from the property line. As this is less than the required 8-foot minimum setback, a special permit is needed for its construction.

II. 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." Further, Section 4.4.1 of the SZO states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."*

Section 4.4.1 of the SZO allows for legally-existing, non-conforming one- and two-family residences to be enlarged by Special Permit as long as the proposed changes do not create a situation that is more detrimental to the site or surrounding neighborhood than current conditions.

The non-conformity impacted by the Applicant's proposal is the left side yard setback. That setback is non-conforming at 4.4 feet in a zoning district (RA) where a minimum of eight (8) feet is required. The Applicant proposes a dormer on left side roof plane of the main gabled roof. As proposed, the bottom edge of the dormer will be flush with the right façade of the house. The existing eave will remain. The proposal retains the non-conforming 4.4-foot right left yard setback but the dormer adds more massing to this portion of the building.

In considering a special permit under §4.4.1 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the site or neighborhood than the existing structure. The proposal is a reasonable request in order to allow the residents of the second/third floor unit to modestly increase their living space. The proposed dormer is less than 50% of the length of the roof plan to which it will be attached.



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."*

Board finds that the proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote 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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The Board also finds that the proposal is consistent with the purpose of the RA district, which is, "[t]o 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." The proposed alteration does not change the existing use of the building which is 2-family and consistent with what is allowed in the RA zone.

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."*

Surrounding Neighborhood: 15-17 Illinois Avenue contains numerous 2 ½ -story gable-fronted houses along both sides of the street. In addition, there are several structures that appear to be a modified form of the American Four Square style. All of the houses on this street present first- and second-story porches, some of which are enclosed but the majority of which are open, therefore allowing for interaction between public and private spaces.

Impacts of Proposal (Design and Compatibility): Only two structures on the street present shed dormers. 24 Illinois and 28 Illinois both present small, shallow shed dormers on their right elevations. The proposed dormer at 15-17 Illinois Avenue, though less than 50% of the length of the roof plane to which it will be attached, will be the only shed dormer of this size on the street. The proposed dormer does provide for additional living space to be added to the ½ story in that it allows for the incorporation of two full bathrooms.

5. Housing Impact: Will not create affordable housing units.

6. SomerVision Plan: Generally 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. This property is in need of an exterior upgrade as regards the structure and landscaping. This project will provide such an upgrade, as conditioned.

DECISION:



Present and sitting were Members Orsola, Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, and Anne Brockelman. 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 **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to construct a dormer within the left side yard setback.	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August 2, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 27, 2018</td> <td>Updated renderings and zoning data sheet submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 2, 2018	Initial application submitted to the City Clerk's Office	September 27, 2018	Updated renderings and zoning data sheet submitted to OSPCD
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										
2	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 on Illinois Ave.	During Construction	ISD							
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							
4	Construction shall occur from 7:30am – 5:00pm Monday-Friday <u>ONLY</u> . There shall be no construction or construction-related work allowed on the weekends or holidays.	During Construction	ISD							
Design										
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit. The building shall be re-sided and vinyl siding will not be permitted.	BP	Plng./ISD							
Site										
6	The property shall be re-landscaped. All landscaping materials including those used for plantings, hardscape and fencing shall first be submitted to and approved by Planning Staff prior to ordering or installation.	Prior to ordering/installation / CO	Plng./ISD							
7	All bituminous material and/or cement shall be removed from the site and be replaced with pervious pavers, pea stone or similar. All materials to be used shall be submitted to Planning Staff for their review and approval prior to ordering/installation.	Prior to ordering/installation / CO	Plng./ISD							
Miscellaneous										



8	Granting of the applied for use or alteration does <u>not</u> include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Perpetual	ISD / Plng.	
Public Safety				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
10	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
11	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.	
Final Sign-Off				
12	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
Anne Brockelman (Alt.)

*** Need all board signatures if registered land (check deed) ***

Attest, by the Administrative Assistant:

Monique Baldwin

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 _____

