



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-112
Date: November 20, 2019
Recommendation: Unable to recommend

PLANNING STAFF REPORT

Site: 3 Dartmouth Street

Applicant / Owner Name: Justin Kelly

Applicant / Owner Address: 3 Dartmouth Street, Somerville, MA 02145

City Councilor: Jesse Clingan

Legal Notice: Applicant and Owner, Justin Kelly, seeks a Variance under SZO §5.5 and §8.5 to violate the maximum allowed floor area ratio (FAR) by finishing the basement. A special permit under SZO §9.13 for parking relief is also being sought. RB Zone. Ward 4.

**Since the advertising of this case, Staff determined that there is no increase in the number of required parking spaces and parking relief is not necessary.*

Dates of Public Hearing: Zoning Board of Appeals – November 20, 2019

I. PROJECT DESCRIPTION

1. Subject Property: The subject property consists of one parcel of 2,224 square feet and contains a three-family dwelling in a 2.5 story detached house with a gable roof.
2. Proposal: The request is to seek retroactive approval to violate the floor area ratio (FAR) from finishing the basement. The existing FAR was 0.79 and finishing the basement increased the FAR to 1.11
3. Green Building Practices: The application states that the project includes solar energy.
4. Comments:



City Councilor: Councilor Clingan has been informed of this proposal and has yet to comment as of the publication of this report.

II. FINDINGS FOR VARIANCE

A Variance (§5.5) is sought to seek retroactive approval to violate the floor area ratio (FAR) from finishing the basement. The existing FAR was 0.79 and finishing the basement increased the FAR to 1.11. The requirement in the RB zoning district is 1.0.

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are “special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”*

Applicant’s response: The increase in FAR does not affect any of the exterior work of the existing building. The basement floor was lowered in order to allow for a more comfortable height in the space.

Staff’s response: The lot is small; however, such a condition is not atypical. There was a unique circumstance that the Applicant encountered where he was allegedly told by a building inspector to finish the basement and label it as finished storage space. Since the basement was finished the Applicant is requesting to legalize the space that was already finished and intends to use it as a family room, den, and bathroom.

2. *“The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”*

Applicant’s response: The increase of finished basement space, in the owner occupied unit, will be used as a family room and den/office space. The increase creates more usable space within the unit.

Staff’s response: A finished basement is reasonable.

3. *“The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”*

Applicant’s response: The increase of the FAR will not affect the neighborhood because it is inside the existing footprint of the house. No additional exterior work is required.

Staff’s response: Finished basements are common throughout Somerville and granting the Variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposal will be in harmony with the general purpose and intent of this Ordinance.

III. RECOMMENDATION

Variance under §5.5 and §8.5

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff is **UNABLE TO RECOMMEND** the requested **VARIANCE**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes	
1	Approval is for the increase in FAR to finish 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
	October 3, 2019				Initial application submitted to the City Clerk's Office
	November 4, 2019				Sq. footage diagrams
	October 20, 2019				Site diagram, existing exterior elevations, and proposed exterior elevations)
Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.					
Miscellaneous					
2	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	BP	Plng.		
3	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					
4	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP		
Final Sign-Off					
5	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.		

