



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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ALEX MELLO, *PLANNER*  
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2017-120  
**Date:** March 7, 2018  
**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 8-10 Appleton Street

**Applicant / Owner Name:** Trio Enterprises, LLC  
**Applicant / Owner Address:** 60 Highland Avenue, Somerville, MA 02144  
**Agent Name:** Richard G. DiGirolamo  
**Agent Address:** 424 Broadway, Somerville, MA 02145  
**Alderman:** Lance Davis

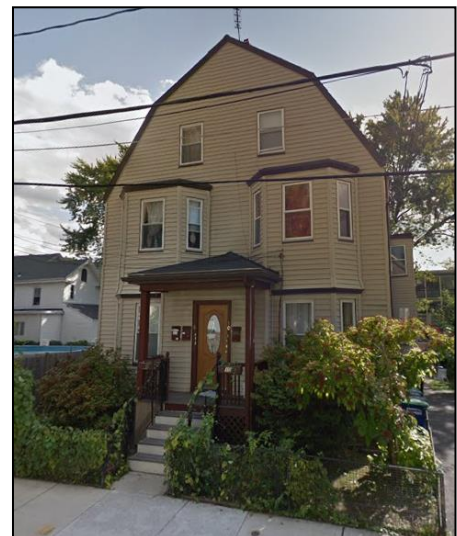
Legal Notice: Applicant and Owner, Trio Enterprises, LLC, seeks a Special Permit under §4.4 to alter a nonconforming structure that had previously been damaged by a fire by modifying porches, windows, landings, and finishing a portion of the basement. RA Zone. Ward 6.

Dates of Public Hearing: Zoning Board of Appeals – February 14, 2018

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property contains one parcel of 5,500 square feet of lot area. The site is currently vacant as it was the scene of a fire in January of 2017 that destroyed the building. Prior to the fire, the building was a 2.5 story three-family dwelling. A building permit has been issued to allow for the reconstruction of the razed building as it were prior to the fire.
  
2. Proposal: The Applicant is requesting changes to the reconstruction of the building that include the following:
  - proposed rear porch off of the third floor;
  - a new side entry, steps, and landing for the first floor unit;
  - enlarged and redesigned front porch, steps, and landing;



- window enlargements and adjustments;
- addition of a skylight; and
- proposed additional net square footage in the basement for a family room and bathroom.

3. Green Building Practices: The application states that the proposal will meet or exceed the stretch energy code.

4. Comments:

*Ward Alderman*: Alderman Davis and the Applicants/Owners conducted a neighborhood meeting on the subject property. Approximately 15 residents appeared and the main topic of discussion was neighborhood impacts during the construction process such as debris on the sidewalk/street, noise, making sure that construction traffic does not block traffic, hours of construction, pre-construction surveys and the location of staging areas. Staff has recommended conditions that address the above concerns.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4):**

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 Staff 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."*

Section 4.4.2 states that *"If a lawful nonconforming building or use shall have been damaged by fire, explosion, catastrophe, or an Act of God, such building may be rebuilt or restored by right and used again subject to the following provisions:*

*a. no lawful nonconformity shall be increased in area or degree of nonconformity beyond the state existing prior to the fire, explosion, catastrophe or Act of God.*

*b. such reconstruction or restoration shall be duly commenced within twenty-four (24) months of the date such damage occurred, and shall be continued in a timely fashion to completion. In the event such reconstruction or restoration is not commenced within twenty-four (24) months, the nonconforming use or structure shall be deemed abandoned and shall not thereafter be returned to said nonconforming use, and any new structure shall be subject to all applicable provisions and standards of this Ordinance."*

Before, the structure was damaged by the fire in January 2017 it was nonconforming with respect to the following dimensional requirements: use, lot size, lot area per dwelling unit, floor area ratio (FAR), front yard setback, left side yard setback, and the number of parking spaces. The proposal to rebuild the structure with the aforementioned alterations will impact the following nonconforming dimensions: FAR, front yard setback, and left side yard setback. These alterations to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

	<b>Existing</b>	<b>Proposed</b>	<b>Required</b>
FAR	0.78 (4,273 n.s.f)	1.01 (5,576 n.s.f)	0.75 (4,125 n.s.f)
Front yard setback	9.6 feet	6.8 feet	15 feet
Left yard setback	5.5 feet	5.5 feet	8 feet

Section 4.4.1 states that “[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.”

In considering a special permit under §4.4 of the SZO, Staff finds that the alterations/use proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. The proposal will allow for the reconstruction of a building that was previously damaged by fire with alterations that enhance the livability of the structure. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for ground coverage, landscaped area, pervious area, height, rear yard setback, right yard setback, and frontage will continue to be conforming to the requirements of the SZO.

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 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 protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RA 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."*

*Surrounding Neighborhood:* The surrounding area is comprised of single, two-, and three-family dwellings.

*Impacts of Proposal (Design and Compatibility):* The proposed alterations are in keeping with the existing size and scale of the previous structure as well as the surrounding neighborhood.

5. Housing Impact: Will not create adverse impacts on the stock of 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, and encourage a 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.*

**III. RECOMMENDATION**

**Special Permit under §4.4**

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

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 alterations to the reconstruction of the previously razed structure. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 26, 2017</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>October 11, 2017</td> <td>Modified plans submitted to OSPCD (T1.1, T1.2, Z1.1, Z1.2, Z1.3, A0.1, A1.0, A1.1, A1.2, A1.3, A1.4, A2.1, BP2.1, A2.2, BP2.2, A2.3, BP2.3, A2.4, and BP2.4)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 26, 2017	Initial application submitted to the City Clerk’s Office	October 11, 2017	Modified plans submitted to OSPCD (T1.1, T1.2, Z1.1, Z1.2, Z1.3, A0.1, A1.0, A1.1, A1.2, A1.3, A1.4, A2.1, BP2.1, A2.2, BP2.2, A2.3, BP2.3, A2.4, and BP2.4)
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Any changes to the approved site plan elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
<b>Pre-Construction</b>										
2	If required by the Engineering Department, the proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. If necessary, the seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.							
3	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng							

4	The Applicant shall conduct a survey of foundations and buildings adjacent to the site prior to construction and shall address impacts to such structures caused by construction of the project.	BP	Plng. / ISD	
<b>Construction Impacts</b>				
5	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.	During Construction	Plng.	
6	The Applicant shall at their 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	
7	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	
8	Construction vehicles shall not block any public way.	During Construction	T&P	
9	Construction debris, equipment, and staging areas shall be kept on the subject property and shall be kept clean.	During Construction	ISD	
<b>Design</b>				
10	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.	BP	Plng.	
11	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspecto r	
<b>Site</b>				
12	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
13	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
<b>Miscellaneous</b>				
14	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	ISD	

15	Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Png.	
16	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Png.	
17	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.	Ongoing	ISD / Png.	
18	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	
<b>Public Safety</b>				
19	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
20	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
21	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	Png.	
<b>Final Sign-Off</b>				
22	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	Png.	

