



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2017-27**  
**Site: 37 Banks Street**  
**Date of Decision: May 17, 2017**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: May 31, 2017**

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**ZBA DECISION**

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<b>Applicant Name:</b>	William M. Wells & Colleen Gillard
<b>Applicant Address:</b>	82 Magazine Street, Cambridge, MA 02139
<b>Property Owner Name:</b>	William M. Wells & Colleen Gillard
<b>Property Owner Address:</b>	82 Magazine Street, Cambridge, MA 02139
<b>Agent Name:</b>	N/A

Legal Notice: Applicants and Owners, William M. Wells and Colleen Gillard, seek Special Permits for non-conformities in order to increase the FAR and to build a dormer within the left side yard setback.

<u>Zoning District/Ward:</u>	RA zone/Ward*
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	March 21, 2017
<u>Date(s) of Public Hearing:</u>	May 17, 2017
<u>Date of Decision:</u>	May 17, 2017
<u>Vote:</u>	5-0

\*This property is located in Ward 6.

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Appeal #ZBA 2017-27 was opened before the Zoning Board of Appeals at the Somerville High School Auditorium on May 17, 2017. 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.



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[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The Applicants propose to add a dormer within the left side yard setback and increase the FAR from the existing, non-conforming .77 (.768) to .78.

**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 §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.*

**1. Information Supplied:**

- The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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 property is currently non-conforming in several respects. The triggers for the special permit, however, are the increase in FAR and the inclusion of a left elevation dormer within the left yard setback.
- The applicant proposes increasing the non-conforming FAR from .77 (.768) to .78 in a zoning district where .75 is the maximum FAR allowed.
- The RA zoning district requires a minimum side yard setback of eight (8) feet. The left elevation of the building currently rests at 2.1 feet from the property line. The proposed plan calls for the inclusion of a left elevation dormer that begins 3.1 feet from the property line.
- The intensification of these existing non-conformities requires the Applicant to obtain a Special Permit under §4.4.1 of the Somerville Zoning Ordinance (SZO) in order to intensify these non-conforming aspects of the property.

*Section 4.4.1 states that Lawfully 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, the Board finds that the alterations proposed to this two-family residence would not be substantially more detrimental to the neighborhood than those present on the existing structure. The inclusion of this dormer, designed to house a laundry and bathroom, will not have an impact on traffic, noise, odor, on-street parking, and should have minimal effect on shading. The addition of this dormer in the non-conforming portion of the building will change the visual effects of the property by increasing the massing on this portion of the house.



However, the Board finds that, on balance, the size of this dormer set against the size, massing and style of this house, should have limited impact on how this structure is perceived from the public way. The increase in massing caused by this new design element on the left elevation of the building should have minimal to no effect on the neighborhood character given its location on the roof plane.

**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 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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.
- The Board finds that the proposal is consistent with the purposes of the RA district which, as articulated in §6.1.1 of the SZO, 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." Staff finds that the modest proposal to add serviceable square footage to the interior space is consistent with the purposes of the district in which this two-family structure is located.

**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 Board finds that the surrounding neighborhood is dominated by similarly-styled, gable-fronted, two-family homes. The majority of these homes retain the gabled dormers that were part of the original construction. The Board finds no evidence that additional dormers have been added to the main roof planes of these homes. This does not, however, mean that a well-designed, modest dormer cannot be harmonious with both the site and the surrounding neighborhood. The Board finds that the proposed dormer has been designed in a manner that will create minimal impact to the structure to which it will be attached as well as to the surrounding neighborhood. The dormer will be set back a foot from the eave and, at 16' 7 1/2", it is less than 50% of the roof plane to which it is to be attached (the roof plane is 38' 8" in length).

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

- The proposal will not add to the existing stock of 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 proposal will contribute to SomerVision metrics by improving an existing rental unit in the City.



**DECISION:**

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

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to increase the FAR, move the front steps, enclose exterior spaces and build a deck at the rear of the property.	BP/CO	ISD/ Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March, 2017</td> <td>Application filed with City Clerk</td> </tr> <tr> <td>April, 2017</td> <td>Updated plans and zoning dimensional table submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March, 2017	Application filed with City Clerk	April, 2017	Updated plans and zoning dimensional table submitted to OSPCD
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	March, 2017				Application filed with City Clerk					
April, 2017	Updated plans and zoning dimensional table submitted to OSPCD									
Any changes to the approved plans must first be reviewed by the Planning Division to determine if they are <i>de minimis</i> in nature. All changes that are not <i>de minimis</i> in nature must be reviewed and approved by the Special Permit Granting Authority (SPGA).										
<b>Construction Impacts</b>										
2	The Applicants 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							
3	All construction materials and equipment must be stored on site. 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 times will be limited to Monday through Friday from 7:30am to 5:00pm. There shall be no project-related work performed at the site on weekends.	During Construction	ISD							
<b>Design</b>										
5	All materials to be used on the exterior of the structure (including, but not limited to windows, doors, siding, railings, steps, trim, decking, shingles, etc.) shall be submitted to Planning Staff for their review and approval prior to the issuance of a building permit.	BP	ISD/Plng							



6	Any new windows shall be two-over two or two-over-one with grids (muntins) applied to the exterior of the glass (no between-glass muntins shall be allowed). Dark spacers shall be used. No reflective coatings shall be allowed on the windows and windows shall not be tinted.	CO	ISD/Plng	
8	No vinyl shall be used for siding, trim, or any other exterior materials.			
<b>Miscellaneous</b>				
7	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>				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
9	The Applicant shall place the name and contact information for all entities working on the site in a location viewable by the public throughout the duration of the project.	During Construction	ISD	
<b>Final Sign-Off</b>				
10	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*  
Elaine Severino  
Josh Safdie  
Anne Brockelman (Alt.)

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 \_\_\_\_\_

