



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-63
Site: 285-291 Beacon Street
Date of Decision: June 20, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: June 27, 2018

ZBA DECISION

Applicant / Owner Name: David and Julian Lewis
Applicant / Owner Address: 402A Highland Avenue, Somerville, MA 02144
Alderman: J.T Scott

Legal Notice: Applicants/Owners, David Lewis and Julian Lewis, seek a special permit under SZO §4.4.1 to alter a nonconforming structure by constructing a new dormer, extending an existing dormer, and constructing a second story deck. RC Zone. Ward 2.

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|-----------------------------------|------------------|
| <u>Zoning District/Ward:</u> | RC Zone. Ward 2. |
| <u>Zoning Approval Sought:</u> | §4.4.1 |
| <u>Date of Application:</u> | May 3, 2018 |
| <u>Date(s) of Public Hearing:</u> | June 20, 2018 |
| <u>Date of Decision:</u> | June 20, 2018 |
| <u>Vote:</u> | 5-0 |

Appeal #ZBA 2018-56 was opened before the Zoning Board of Appeals in the Visiting Nurses Association, 3rd floor Community Room, 259 Lowell Street, Somerville. 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 construct a new dormer on the left side of the eastern gable, extend the existing dormer on the right side of the east gable, and enlarge an existing second-story deck on the eastern side of the building. The proposal also includes adding a window to the existing right side of the west dormer.

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."*

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, ground coverage, landscaped area, pervious area, front, rear, left, and right yard setbacks.

The proposal will impact the nonconforming front and right side yard dimensions. The building is currently built to the front lot line along Beacon Street and to the right side lot line on Sacramento Street; therefore, the existing dimension is zero for those respective setbacks. The existing dormer on the east side of the structure is setback 7 feet from the right side property line at its closest point along Sacramento Street and the extension of said dormer will be 7'-11" from the front property line along Beacon Street. The proposed new dormer and extension of the existing dormer will stay within the footprint of the gabled roof portion of the existing structure. The second level deck is currently 8 feet wide and the proposal is to keep it that width but enlarge out more toward the front of the building. The deck will be 7'-11" from the front property line along Beacon Street. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

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, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal would meet the requirements for lot area per dwelling unit, floor area ratio, and building height 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 provide for and maintain the uniquely integrated structure of uses in the City; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposed use would be consistent with the purpose of the RC district, since the use is not changing, which is, "to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."

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 locus is located on the northern side of Beacon Street in a neighborhood with a mix of residential structures, mixed use structure with ground floor retail, and a supermarket. Building height varies in the neighborhood from one story to seven stories; however, two and three story buildings are the most common building height.

Impacts of Proposal (Design and Compatibility): The proposed dormer is greater than 50% of the length of the sloping roof to which it is attached and is therefore considered a third story. Three stories are allowed in the RC zoning district. The Board finds that the massing of the proposed dormers is compatible with the character of the existing gable. Overall, the visual aesthetic of the proposed dormers is acceptable to the Board.

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.

DECISION:

Special Permit under §4.4.1

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Danielle Evans, Josh Safdie, and Pooja Phaltankar. Upon making the above findings, Danielle Evans 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 for the extension of an existing dormer and second level roof deck and for the construction of a new dormer. 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>May 3, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 14, 2018</td> <td>Modified plans submitted to OSPCD</td> </tr> </tbody> </table> | | | | Date (Stamp Date) | Submission | May 3, 2018 | Initial application submitted to the City Clerk's Office | June 14, 2018 | Modified plans submitted to OSPCD |
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| June 14, 2018 | Modified plans submitted to OSPCD | | | | | | | | | |
| 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. | During Construction | Plng. | | | | | | | |
| 3 | 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 | | | | | | | |
| 4 | 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 | | | | | | | | | | |
| 5 | Applicant shall provide final material samples for siding, trim, windows, and doors (to the Design Review Committee for review and comment and) to Planning Staff for review and approval prior to the issuance of a building permit. | BP | Plng. | | | | | | | |
| Miscellaneous | | | | | | | | | | |
| 6 | 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 / Plng. | | | | | | | |
| 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 | | | | | | | |
| Public Safety | | | | | | | | | | |
| 8 | The Applicant or Owner shall meet the Fire Prevention Bureau's requirements. | CO | FP | | | | | | | |



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|-----------------------|---|----------------|--------|--|
| 9 | Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches. | Perpetual | FP/ISD | |
| 10 | 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 | | | | |
| 11 | 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*
Danielle Evans
Elaine Severino
Josh Safdie
Pooja Phaltankar (*Alt.*)

Attest, by City Planner: _____
Alexander C. Mello

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 _____

