



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-29
Site: 30 Berkeley St
Date of Decision: May 1, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 15, 2019

ZBA DECISION

Site: 30 Berkeley Street

Owner/Applicant Name: Elizabeth R. Adams
Owner/Applicant Address: 30 Berkeley Street, Somerville, MA 02143

Legal Notice: Applicant and Owner, Elizabeth R. Adams, seeks a Special Permit under §4.4.1 of the SZO to increase the non-conforming FAR by finishing portions of the attic, creating a bathroom and office/studio. RA zone. Ward 3.

<u>Zoning District/Ward:</u>	RA zone. Ward 3.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	March 12, 2019
<u>Date(s) of Public Hearing:</u>	May 1, 2019
<u>Date of Decision:</u>	May 1, 2019
<u>Vote:</u>	5-0

Case # ZBA 2019-29 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on May 1, 2019. 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 May 1, 2019, the Zoning Board of Appeals took a vote.



I. DESCRIPTION:

The Applicant proposes finishing a portion of the attic space to construct a full bathroom and a studio/study area. There is one existing bedroom in the attic at present.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & Article 9):

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 Applicant has provided a mortgage inspection plan instead of a certified plot plan. The mortgage inspection plan was performed by a surveying and engineering firm, Boston Survey, and is wet-stamped. Should the ZBA determine that a certified plot plan is needed for this interior project, then the ZBA can require this of the Applicant. Given that the property is so grossly out of FAR compliance already for this zone, the ZBA should determine if the information regarding land area provided on the mortgage inspection plan is sufficient to make their determination in this case.

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 4.4.1 of the 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."

FAR

As noted in the "Proposal" section of this report, this property is already significantly over the FAR for the RA zone. The RA zone limits the FAR to .75 and the existing conditions on this property present an FAR of .93 . Given the modest nature of the proposal – to add a home office/studio and full bath – compared to the benefit in livability the project would provide, the increase in FAR is a reasonable request for relief. In addition, all of the changes associated with this proposal are on the interior of the structure and thus will have no visual impact on the site or surrounding neighborhood.

There is not expected to be an impact to on-street parking as a result of this project. Abutters can expect typical noises and odors associated with the construction phase of a project. However, as all of the work will be on the interior of the structure therefore the construction noises will be minimal compared to exterior renovation work. The existence of the new bathroom and home office/studio will not add noise/odor to the neighborhood.

Because this project will need to be reviewed by the Engineering Department prior to the granting of a building permit, they will determine if any measures need to be taken by the Applicant to address any impacts on the water/sewer system. Lastly, as the property is remaining a two-family, the Board does not anticipate any change in traffic volume or congestion as a result of this project.

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 purposes of the RA zone which are “[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.”

There is no part of this proposal that the Board finds to be inconsistent with the purposes of the RA district. This proposal allows the Applicant to finish attic space to provide a full bath and home office/studio room without creating a visual impact on the exterior of the house.

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 has addressed the question of site and area compatibility in a previous section. As a point of note, the Board had not conditioned this report to require a full re-landscaping of the property. Though these are typical conditions that are added to other, larger projects, the Board does not find that they are merited here. Conditions placed on a project should meet the test of “rough proportionality.” The Board finds that other requirements that we have grown accustomed to adding on other, larger projects, would be out-of-proportion with the relief request put forward in the case of 30 Berkeley Street. That said, the Board finds that a modest clean-up of the overgrowth in the front yard is reasonable request to make as further enhancement to this property. This has been added as a condition of approval.

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:

The proposal will have no impacts on SomerVision goals.

III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Drew Kane and Anne Brockelman. Upon making the above findings, Susan Fontano made a motion to approve the request for Special Permits. Josh Safdie seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is to increase the non-conforming FAR by finishing attic space to add a full bath and home office/studio.	BP/CO	ISD/PIng.	
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 12, 2019</td> <td>Application submitted to City Clerk's office.</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.</p>			
Date (Stamp Date)	Submission			
March 12, 2019	Application submitted to City Clerk's office.			
Engineering				
2	<p>The Applicant must comply with the "Policy for new connections to and modifications to existing connections to the municipal sewer and drainage system stormwater management and infiltration/inflow mitigation."</p> <p>The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.</p>	BP	Engineering/ISD	
Design				
3	All venting and piping needed as a result of this project shall be painted or wrapped to match the color of the portion of the house from which they protrude.	CO	ISD/PIng	
Construction Impacts				
4	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 shall be constructed to DPW standards.	CO	DPW	
5	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. Note that dumpsters require a permit from the City.	During Construction	T&P/ISD	
6	The name(s) and contact information of all entities working on the site shall be posted in an area easily-visible from the public way for the passing public to read.	During Construction	ISD	
7	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.	During Construction	ISD	
Public Safety				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	



Site				
9	Recent viewings of the front yard, specifically the left portion of the front yard, show that it is overgrown with invasive species of trees and their suckers and generally unkempt. The right portion of the front yard is also untended, overgrown and has two bushes/trees in need of pruning. While the trees can remain, the Applicant shall have them pruned away from power lines and for overgrowth, remove the overgrown undergrowth, suckers, and generally neaten up this front portion of the property.	CO	ISD/Plng	
Final Sign-Off				
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	ISD/Plng.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Josh Safdie
Anne Brockelman
Drew Kane (Alt.)

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 _____

