



City of Somerville

ZONING BOARD OF APPEALS

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

TO: Zoning Board of Appeals
FROM: Planning & Zoning Staff
DATE: April 8, 2021
RE: 51 Central Street, ZBA 2017-36-R1-02/21

RECOMMENDATION: Approve

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from the Planning & Zoning staff to the Review Board members.

This memo summarizes the development review application submitted for 51 Central Street, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on February 18, 2021 and is scheduled for a public hearing on April 14, 2021. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

LEGAL NOTICE

Applicant, Fresh Start Contracting, proposes to modify the condition list of a previously issued Special Permit (ZBA 2017-36).

SUMMARY OF PROPOSAL

Applicant Fresh Start Contracting seeks to convert the existing 2-bedroom unit to a 3-bedroom unit. As this request contradicts Condition #1 of ZBA 2017-36, the Applicant is requesting modification or removal of that condition. The relevant condition reads as follows:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is for the renovation of the 3-family structure to include 2 3-bedroom units and 1 2-bedroom unit. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 13, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 15, 2017</td> <td>Modified plans submitted to OSPCD (- Cs- Cover Sheet, A0.00 Landscape Plan, A0.01 Gross Area Plans, A0.02 Net Areas And FAR, A0.03 Area Of Work, A1.01 Existing Floor Plans, A1.02 Existing Floor Plans, A1.03 Existing Elevations, A1.04 Existing Elevations, A2.01 New Floor Plans, A2.02 New Floor Plans, A2.03 New Elevations, A2.04 New Elevations, and A2.05 Building Section)</td> </tr> </tbody> </table> <p>Any changes to the approved plans and elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	April 13, 2017	Initial application submitted to the City Clerk's Office	May 15, 2017	Modified plans submitted to OSPCD (- Cs- Cover Sheet, A0.00 Landscape Plan, A0.01 Gross Area Plans, A0.02 Net Areas And FAR, A0.03 Area Of Work, A1.01 Existing Floor Plans, A1.02 Existing Floor Plans, A1.03 Existing Elevations, A1.04 Existing Elevations, A2.01 New Floor Plans, A2.02 New Floor Plans, A2.03 New Elevations, A2.04 New Elevations, and A2.05 Building Section)	BP/CO	ISD/ Planning	
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ADDITIONAL REVIEW NECESSARY

51 Central Street is located in the Neighborhood Residence (NR) zoning district in the Spring Hill neighborhood represented by Ward 3 Councilor Ben Ewen-Campen.

ANALYSIS

In June 2017 the ZBA issued a Special Permit to allow the modification of a nonconforming structure and grant parking relief. Condition #1 of the Special Permit stated that "Approval is for the renovation of the 3-family structure to include 2 3-bedroom units and 1 2-bedroom unit."

On December 12, 2019, the Somerville Zoning Ordinance governing the previously issued Special Permit was repealed and replaced by an entirely new ordinance. When a new zoning ordinance is adopted, all previously issued Special Permits and their permit conditions must be reviewed when additional development is proposed under the new ordinance. Previously issued Special Permits and their conditions remain valid only if the same Special Permit is required by the new version of the zoning ordinance. If a new ordinance does not require a specific type of Special Permit where the same was previously required, the conditions of any of those previously issued Special Permits are absolved as an effect of the Somerville City Council adopting a more permissive ordinance. On the other hand, if a new ordinance maintains a requirement for a specific type of special permit or is more restrictive than the previous ordinance, than those

previously issued Special Permits and their conditions remain in effect unless action is taken by the issuing review board.

The Special Permit required by the zoning in place in 2017 was to alter a nonconforming structure. The new zoning ordinance adopted is even more strict in that it sets specific rules for the modification of a nonconforming building and does not otherwise offer a special permit for modifications outside of those specifically mentioned. It is Planning Staff's understanding that action by the ZBA is required to release applicants from permit conditions tied to Special Permits not offered by the new Ordinance, as is the case here.

Condition #1 of Special Permit ZBA 2017-36 effectively limits the number of bedrooms permitted within each unit by specifically identifying that approval is for two 3-bedroom units and one 2-bedroom unit. The new Somerville Zoning Ordinance does not regulate or restrict the number of bedrooms permitted within a unit. The original permit has effectively been closed since 2018 as the property owner exercised the entitlements of the permit to renovate the building and received final sign off (Condition #22) from Staff which confirmed that the proposal was constructed in accordance with the approved plans.

CONSIDERATIONS & FINDINGS

There are no findings necessary for the modification of a permit condition.

P&Z Staff does not believe that the modification or removal of Condition #1 would contradict any of the findings made previously by the ZBA for the issuance of that permit. The conversion of the 2-bedroom unit into a 3-bedroom unit does not contradict the findings made regarding parking relief in the original decision: in both cases, the proposal would require a total of 6 parking spaces.

PERMIT CONDITIONS

Should the Board approve the *revision to a previously-issued special permit*, Planning & Zoning Staff recommends that Condition #1 of the previously issued Special Permit be removed entirely or amended as follows:

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