



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2015-91
Site: 31 Dane Avenue
Date of Decision: March 2, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 10, 2016

ZBA DECISION

Applicant Name:	Fava, LLC
Applicant Address:	54 Royal Street, Randolph, MA 02368
Property Owner Name:	Marie Bates
Property Owner Address:	31 Dane Avenue, Somerville, MA 02143
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant Anthony Fava, seeks a Special Permit per SZO §4.4.1 to substantially alter a non-conforming structure on an undersized lot. The applicant also seeks relief for two parking spaces under SZO §9.1.3.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.1.3
<u>Date of Application:</u>	September 24, 2015
<u>Date(s) of Public Hearing:</u>	March 2, 2016
<u>Date of Decision:</u>	March 2, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2015-91 was opened before the Zoning Board of Appeals at Somerville City Hall on March 2, 2016. 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 consists of constructing a 2 ½-story addition at the rear of the building with decks on each level and a spiral stair for egress; adding a second story to a front bay, adding three dormers, increasing the massing of the right elevation bump-out by building an upward extension with a gabled roof. A/C condensers will be installed in the right side yard. The Applicant is increasing the FAR from .53 to .94.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §9.1.3):

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 and §9.1.3 in detail.

1. Information Supplied:Regarding SZO §4.4.1:

- 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.

Regarding SZO §9.1.3:

- The Board finds that the information provided by the Applicant conforms to the requirements of §9.1.3 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."*Regarding SZO §4.4.1:

- As regards this project, the property is non-conforming in lot size (a 7,500 square foot lot is required in the RB zone and this parcel has only 3,920 sq. ft.).
- This structure is located in the RB zone where a 3-story structure is allowed. The addition of the dormers to this structure qualifies as a 3rd story under the Somerville Zoning Ordinance.
- The bump-out/bay on the right elevation also triggers a special permit. An existing non-conformity is being extended by the increased massing caused by the upward extension of this building element.

Regarding SZO §9.1.3:

The project required a total of 4 parking spaces (each condo unit has three bedrooms which has a requirement of 2 parking spaces per 3+ bedroom unit). Though the Applicant indicates four spaces on the submitted plan set, the spaces are tandem which is not allowed. Therefore, the Applicant seeks relief from providing 2 parking spaces for the units.

Section 4.4.1 states that Lawfully existing non-conforming 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.

Regarding SZO §4.4.1:

- In considering a Special Permit under §4.4 of the SZO, the Board finds that the alterations proposed to this legal two-family residence would not be substantially more detrimental to the neighborhood than those present on the existing structure.
- The upward extension of the front bay and of the roofline of the right side bump-out will provide a small amount of additional room to this unit. Though the lot overall is undersized, the rear of the lot is deep and provides the optimal location for an addition to the structure. The addition of the dormers constitutes an allowable 3rd story in this RB zone.

Regarding SZO §9.1.3:

- In considering a Special Permit under §9.1.3 of the SZO, the Board finds that the proposal for four parking spaces, two-by-two in tandem is not consistent with the SZO and relief for two parking spaces is required.

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."*

Regarding SZO §4.4.1:

- 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 proposal is consistent with the purpose of the RB district which is “..to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

Regarding SZO §9.1.3:

- The proposal is consistent with the general purposes of the parking ordinance. As the property is remaining a two-family dwelling, handling multiple vehicles, the Board finds that providing relief for two spaces will not increase traffic volumes, traffic congestion or queuing of vehicles nor will it change the type of traffic, traffic patterns or access to the site nor cause unsafe conflict of motor vehicle and pedestrian traffic.

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."*

- On-the-whole, the street is a mixture of worker's cottages, one and two-family dwellings with a diversity of styles and massing. There are few to no impacts from the proposal. In this particular section of Dane Avenue, several houses look directly onto the solid, lengthy back of a light commercial building.



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

- The proposal will not add to the 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 areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large-scale change.*

- The proposal will not contribute to the metrics of SomerVision.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Josh Safdie and Anne Brockelman with Elaine Severino absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Josh Safdie 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 provide an upward extension to the front bay, increase the massing of the right side bump-out by creating an peak-roof upward extension, add a 2.5 story rear addition with decks and add three dormers to the building, effectively creating a third story.	BP/CO	ISD/ PIng.																									
	<table border="1"> <thead> <tr> <th data-bbox="248 478 566 516">Date (Stamp Date)</th> <th data-bbox="566 478 885 516">Submission</th> </tr> </thead> <tbody> <tr> <td data-bbox="248 516 566 617">September 16, 2015</td> <td data-bbox="566 516 885 617">Initial submission to City Clerk</td> </tr> <tr> <td data-bbox="248 617 566 718">October 21, 2015</td> <td data-bbox="566 617 885 718">Existing Survey Plan submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 718 566 819">November 5, 2015</td> <td data-bbox="566 718 885 819">Revised plans submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 819 566 919">November 25, 2015</td> <td data-bbox="566 819 885 919">Revised plans submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 919 566 1020">December 9, 2015</td> <td data-bbox="566 919 885 1020">Revised plans submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 1020 566 1121">January 6, 2016</td> <td data-bbox="566 1020 885 1121">Revised plans submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 1121 566 1222">January 27, 2016</td> <td data-bbox="566 1121 885 1222">Revised plans submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 1222 566 1323">February 11, 2016</td> <td data-bbox="566 1222 885 1323">Final proposal submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 1323 566 1423">February 11, 2016</td> <td data-bbox="566 1323 885 1423">Updated zoning data sheet submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 1423 566 1524">February 25, 2016</td> <td data-bbox="566 1423 885 1524">Final updates to plans submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 1524 566 1625"></td> <td data-bbox="566 1524 885 1625"></td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	September 16, 2015	Initial submission to City Clerk	October 21, 2015	Existing Survey Plan submitted to OSPCD	November 5, 2015	Revised plans submitted to OSPCD	November 25, 2015	Revised plans submitted to OSPCD	December 9, 2015	Revised plans submitted to OSPCD	January 6, 2016	Revised plans submitted to OSPCD	January 27, 2016	Revised plans submitted to OSPCD	February 11, 2016	Final proposal submitted to OSPCD	February 11, 2016	Updated zoning data sheet submitted to OSPCD	February 25, 2016	Final updates to plans submitted to OSPCD		
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<p><u>Any changes to the approved plan that are not determined to be <i>de minimis</i> by Planning Staff must receive ZBA approval.</u></p>																												



Pre-Construction				
2	The Applicant must petition the Somerville Condo Review Board for permission to convert this property into two condos prior to obtaining any building permits and prior to the start of construction.	BP	BP/ISD/ Plng/ CondoReview Board	
3	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.	
4	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's storm water policy.	BP	Eng.	
5	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	
Construction Impacts				
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	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.	
8	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				
9	The size, form, massing and design of additions, dormers, decks and all other alterations shall be exactly as approved by the ZBA. ANY changes to the approved plans MUST be submitted to Planning Staff for review and approval <u>prior</u> to executing them on site.	ISD	ISD/Plng	
10	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 Inspector	
Site				
11	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	



12	Pervious pavers shall be used for the driveway and parking areas	Perpetual	Plng. / ISD	
13	Garbage and recycling areas shall be screened with a cedar enclosure as shown on the approved plans.	Perpetual	Plng. / ISD	
14	Vehicles shall not be parked in tandem	Perpetual	Plng. / ISD	
Miscellaneous				
15	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and property.	Cont.	ISD	
Public Safety				
16	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
17	All smoke detectors shall be hard-wired.	CO	FP	
Final Sign-Off				
18	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*
 Danielle Evans
 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 _____

