ZBA DECISION

Site: 5B Evergreen Avenue

Applicant Name: Our House Contracting
Applicant Address: 59 High Street, Reading, MA 01867
Owner Name: Luce Petringa and Davis Yanolis
Owner Address: 5B Evergreen Avenue, Somerville, MA 02145
City Councilor: Jesse Clingan

Legal Notice: Applicant, Our House Contracting, and Owners, Luce Petringa and Davis Yanolis, seek a special permit under SZO §4.4.1 to alter a nonconforming structure by increasing the floor area ratio (FAR) by finishing the attic. RA Zone. Ward 4.

Zoning District/Ward: RA Zone. Ward 4
Zoning Approval Sought: SZO §4.4.1
Date of Application: June 20, 2019
Date(s) of Public Hearing: August 7, 2019
Date of Decision: August 7, 2019
Vote: 4-0

Case number ZBA 2019-70 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall. 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 August 7, 2019, the Zoning Board of Appeals took a vote.
I. PROJECT DESCRIPTION

The proposal is to finish the attic of unit 5B to add a bathroom.

II. 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, lot area per dwelling unit, floor area ratio (FAR), front, rear, and side yard setbacks, and street frontage.

The proposal will impact the nonconforming dimension of the FAR. The current dimension is 1.35, the proposal is to add 466 square feet of net floor area in the attic will increase the FAR to 1.46, and the requirement in the district is 1.0. 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 allows for the expansion of a dwelling unit without altering the exterior of the structure.

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 promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect
health; to secure safety from fire, panic and other dangers; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RA district, which 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.” The three-family dwelling has existed on this site and has been a part of the neighborhood for quite some time.

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 subject property is located on the north side of Evergreen Avenue on the block between School Street and Marshall Street. This is a residential neighborhood surrounded by single, two-, and three-family dwellings.

**Impacts of Proposal (Design and Compatibility):** There will be no impact to the exterior of the structure.

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.

**III. DECISION:**

Present and sitting were, Susan Fontano, Danielle Evans, Anne Brockelman, and Drew Kane (alt.). Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Anne Brockelman seconded the motion. The Zoning Board of Appeals voted 4-0 to APPROVE the request WITH CONDITIONS. The following conditions were attached:

<table>
<thead>
<tr>
<th>#</th>
<th>Condition</th>
<th>Timeframe for Compliance</th>
<th>Verified (initial)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Approval is for the finishing of the attic. This approval is based upon the following application materials and the plans submitted by the Applicant:</td>
<td>BP/CO</td>
<td></td>
<td>ISD/Plng.</td>
</tr>
<tr>
<td></td>
<td><strong>Date (Stamp Date)</strong></td>
<td><strong>Submission</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>June 20, 2019</td>
<td>Initial application submitted to the City Clerk’s Office</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>May 30, 2019</td>
<td>Plans submitted to OSPCD (A1, A2, and A3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>July 17, 2019</td>
<td>Net floor area calculations</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Any changes to the approved plans that are not de minimis must receive SPGA approval.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Construction Impacts**
<table>
<thead>
<tr>
<th></th>
<th>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.</th>
<th>During Construction</th>
<th>Plng.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>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.</td>
<td>During Construction</td>
<td>T&amp;P</td>
</tr>
<tr>
<td>4</td>
<td>For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays.</td>
<td>During Construction</td>
<td>ISD</td>
</tr>
</tbody>
</table>

**Site**

|   | Landscaping shall be installed and maintained in compliance with the American Nurserymen’s Association Standards; | Perpetual | Plng. / ISD |

**Miscellaneous**

|   | 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. |
|   | 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**

|   | The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements. | CO | FP |

**Final Sign-Off**

|   | 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:

Susan Fontano, Chair
Danielle Evans, Clerk
Anne Brockelman
Drew Kane (Alt.)

Attest, by Planner:

Alexander 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. 40A, 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. 40A, 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 ________________________