



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-60
Site: 12 Flint Avenue
Date of Decision: December 11, 2019
Decision: Petition Approved with Conditions
Date Filed with City Clerk: December 17, 2019

ZBA DECISION

Applicant Name: Derick Snare
Applicant Address: 158 Snare Street, Somerville, MA
Owner Name: Fiorello Melades
Owner Address: 12 Flint Avenue, Somerville, MA

Legal Notice: Applicant, Derick Snare, and Owner, Fiorillo Melades, seek special permits under §4.4.1 of the SZO to alter a non-conforming property. Special permits including but not limited to the upward and linear extension of a non-conforming left side yard setback, constructing rear decks within the right side yard setback. RB zone. Ward 1.

Zoning District/Ward: RB Ward 1

Zoning Approval Sought: SP §4.4.1

Date of Application: June 13, 2019

Date(s) of Public Hearing: September 18, 2019, October 2, 2019, October 16, 2019, November 6, 2019, December 11, 2019

Date of Decision: December 11, 2019

Vote: 5-0

Appeal #ZBA 2019-60 was opened before the Zoning Board of Appeals at Somerville City Hall on September 18, 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 December 11, 2019, the Zoning Board of Appeals took a vote.



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DESCRIPTION: The locus presents a pre-existing single-family, 2 ½-story structure in the RB zoning district. The property is one of a series of similarly designed, 2 ½-story gable-fronted structures along Flint Avenue. This structure resides on a 1,343 square-foot lot and is near the terminus of this dead-end street.

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 §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.

1. Information Supplied:

The information provided by the Applicant generally conforms to the requirements of §4.4.1 of the SZO.

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, will not be substantially more detrimental, the SPGA may consider, upon the following: traffic volumes, traffic congestion, adequacy of municipal water and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and character."

Right side yard setback

The RB zone requires a right side yard setback of 8 feet. The existing right side yard setback ranges from 2.6 feet at the front of the property and 1.6 feet at the rear. This upward extension will be noticed from the public way, rear abutters and, particularly by the right-abutting property.

Rear decks will also be constructed, partly within the right side yard setback. Three stories of rear egress stairs will be installed. The proposed spiral stairs are out of the setback although might not be necessary for building code. The amount of massing created by the egress stairs and the proximity of rear decks to the right property line, along with the added height, are an improvement but will not be insignificant to the streetscape.

Front yard setback

The RB zone requires a front yard setback of 15 feet with allowances for bays and front steps. The proposed setback will remain the same as the existing at 3.6 feet. However, this non-conforming setback will be exacerbated due to the upward extension of the entire building, including the front façade. This will be noticeable from the public way, by right and left abutting properties and by several properties on the opposite side of the street.



Additional findings

Additional shading from the overall height increase on the structure may occur to the left-and-right-abutting properties in particular. A shadow study would show if there is any impact and to what degree.

There is not expected to be an impact to on-street parking as the total bedroom count on the property will remain the same and the property will remain a single-family residence. Abutters can expect typical noises and odors associated with the construction phase of a project.

In terms of scale, give the context of the existing building fabric on Flint Avenue – mostly 2 ½-story, gable-fronted structures save for an box-form multi-unit across the street from the subject property - the revised design, though significantly improved from the first submission, appears out-of-scale from the rest of the street. This incongruity is seen in the increased height and additional massing created by the left elevation addition.

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 public sewer or water supply. Lastly, as the property is remaining a single-family, a change in traffic volume or congestion is not anticipated as a result of this project. The Board finds this in compliance with standards.

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 generally consistent with the purposes of the RB zone which are “[t]o 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.” The subject property is, and will remain, a single-family structure which is allowed in the RB zoning 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.”*

The Board has addressed the question of site and area compatibility in the “Additional findings” segment above.

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

The Board finds that the proposal will not add to the existing stock of affordable housing.

6. SomerVision:

The Board finds that this property complies with standards by allowing home owners to make modest modifications to their properties.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Anne Brockelman, Elaine Severino, and Drew Kane. Josh Safdie was absent. 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 upward extension of the non-conforming right and front yard setbacks.	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 19, 2019</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>December 2, 2019</td> <td>Updated plan set submitted to OSPCD (Site Plan, First Floor Plan, Second Floor Plan, Third Floor Plan, Front Elevation, Left Side Elevation, Right Side Elevation, Back Elevation)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 19, 2019	Application submitted to City Clerk's office.	December 2, 2019	Updated plan set submitted to OSPCD (Site Plan, First Floor Plan, Second Floor Plan, Third Floor Plan, Front Elevation, Left Side Elevation, Right Side Elevation, Back Elevation)
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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.										
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							
3	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.							
Design										
4	All materials, including, but not limited to windows, exterior finishes, siding, and similar shall be submitted to, reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/Plng							
Construction Impacts										



5	The Applicant shall, at his 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	
6	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/ISD	
7	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	
8	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.	During Construction	ISD	
9	The Applicant shall, at his 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	ISD/DPW	
Public Safety				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
11	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.			
12	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches.	CO/Perpetua l	ISD/PlngF P	
Site				
13	The front CBS and metal wall shall be removed. Fencing with a maximum height of 4 feet above grade shall be installed. CBS or similar types of walls/fences will not be allowed. The Applicant shall submit an updated landscaping plan to Planning Staff through the Zoning Review Planner for review and approval prior to the issuance of a building permit. The Applicant shall submit a materials board and design spec for the fencing to Planning Staff through the Zoning Review Planner for staff review and approval prior to the issuance of a building permit. Vinyl fencing will not be approved.	BP – updated plan & materials board CO - installation	Plng/ISD	



14	The existing fence on the front right elevation of the property shall be removed. A fence shall be installed to a maximum height of 4 feet in this location to allow for improved visibility for the right-abutting neighbor to enter/exit their driveway. Additional fencing beyond this point along the right yard property line shall be no greater than 6 feet in height. The Applicant shall submit an updated landscaping plan to Planning Staff through the Zoning Review Planner for review and approval prior to the issuance of a building permit. The Applicant shall submit a materials board and design spec for the fencing to Planning Staff through the Zoning Review Planner for staff review and approval prior to the issuance of a building permit. Vinyl fencing will not be approved.	BP – updated plan & materials board CO - installation	Plng/ISD	
15	All bituminous material shall be removed from the property. The driveway, parking area and any walkways/sidewalks on the property shall be constructed of permeable material. All materials for hardscaping shall be submitted to Planning Staff, through the Zoning Review Planner, for their review and approval prior to the issuance of a building permit.	CO	Plng/ISD	
16	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
17	Trash and recycling shall be stored behind the house and shall be screened with a cedar enclosure. The enclosure shall present a cedar roof as well. Latched doors shall secure the enclosure.	CO	Plng. / ISD	
18	All mechanicals shall be screened from view from the public way. All screening materials shall be reviewed and approved by Planning Staff prior to installation. Material submission through the Zoning Review Planner. The landscaping plan shall be updated to include the locations of these mechanicals.	BP – updated plan & materials board CO - installation	Plng/ISD	
Miscellaneous				
19	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.	Perpetual	ISD / Plng.	
20	All exterior lighting shall be confined to the subject property, case light downward and must not intrude, interfere, or spill onto neighboring properties.	Perpetual	ISD	
21	Utility meters shall not be installed on the Flint Avenue façade of the structure. Under all circumstances, utility meters shall be screened with evergreen vegetative screening. All screening shall first be reviewed and approved by Planning Staff. Proposal shall be submitted through the Zoning Review Planner	BP – updated plan & materials board CO - installation	Plng/ISD	
22	No vents shall exit on the Flint Avenue façade of the structure. All venting, pipes, conduits and the like shall be painted the same color as the exterior of the structure from which they protrude.	CO	Plng/ISd	



Final Sign-Off				
23	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*
 Anne Brockelman
 Elaine Severino
 Josh Safdie
 Drew Kane, *Alternate*

*** Need all board signatures if registered land (check deed) ***

Attest, by the Administrative Assistant:

 Karen Reynolds

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 _____

