



City of Somerville

ZONING BOARD OF APPEALS

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

TO: Somerville Zoning Board of Appeals
FROM: Planning & Zoning Staff
SUBJECT: 0 Fremont Street
POSTED: March 31, 2021

RECOMMENDATION: None at this time

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 specific memo summarizes the application submitted for 0 Fremont 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. Staff analysis has indicated that applications for further relief is necessary and the application is complete. It is scheduled for a public hearing on 31 March 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

Freemont Street LLC proposes to construct a duplex in the NR district on a steep slope which requires a Special Permit.

SUMMARY OF PROPOSAL

Freemont Street LLC is proposing to construct an otherwise by-right duplex principal building type on a lot that has a steep slope.

ADDITIONAL REVIEW NECESSARY

0 Fremont Street is located in the Neighborhood Residence (NR) zoning district represented by Ward 4 Councilor Jesse Clingan. A Duplex is permitted by right in the NR district, but development on a steep slope requires a Special Permit.

BACKGROUND

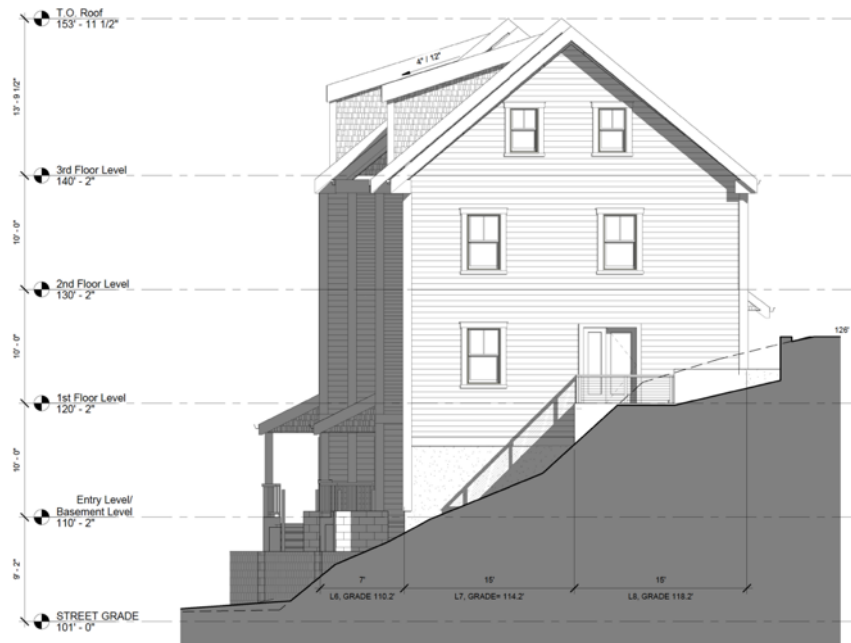
The 0 Fremont Street lot was established prior to the adoption of Somerville's first zoning ordinance in 1925 and has remained undeveloped since. M.G.L. ch.40A §6 exempts development from increases to specific zoning dimensional standards for one- and two-unit structures on lots recorded or endorsed prior to the adoption of a zoning ordinance that made the lot nonconforming. M.G.L. ch.40A §6 reads as follows (text in brackets has been provided by staff to add clarity):

“Any increase in [lot] area, [lot] frontage, [lot] width, yard, or [lot] depth requirements of a zoning ordinance or by-law shall not apply to a lot for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage.”

As a result of this State Law, development on 0 Fremont is exempt from the lot width; lot depth; and front, side, and rear setbacks of the Somerville Zoning Ordinance.

ANALYSIS

The 0 Fremont Street lot has a 20-foot change in elevation from the back of the lot to the front of the lot over thirty-three (33) feet, which is slope of over thirty (30) degrees. The Somerville Zoning Ordinance defines a steep slope as “any change in elevation of twenty-five percent (25%) or greater over a horizontal distance of thirty (30) feet or greater. The Somerville Zoning Ordinance intends for



discretion to be used in the permitting of development on steep slopes to minimize stormwater run-off and soil erosion, maintain the natural topography and drainage patterns of land; and help protect real property at the base of a steep slope from damage caused by erosion, mudslides, rockslides, falling trees, and other harms.

In May of 2020, after the adoption of the new Somerville Zoning Ordinance, the City also passed a comprehensive stormwater, sewers, & erosion control ordinance that began requiring a new Site Construction Permit for all construction, clearing, grading, paving, or excavation that could potentially increase runoff or introduce pollutants to the city’s storm drainage system. The City Engineer’s rules for approving a Site Construction Permit establish stormwater management standards for final site conditions to minimize adverse impacts and requires the stormwater management controls necessary for development to comply with all local, State, and Federal laws. It is the opinion of Staff that the Site Construction Permit approval process will address stormwater run-off, soil erosion, and drainage concerns for the site, if otherwise granted the steep slope Special Permit.

CONSIDERATIONS & FINDINGS

The Zoning Board of Appeals is required by the Somerville Zoning Ordinance to deliberate each of the following considerations at the public hearing. The Board must discuss and draw conclusions for each consideration, but may make additional findings beyond this minimum statutory requirement.

Special Permit Considerations

Information relative to the required considerations is provided below:

1. *The comprehensive plan and existing policy plans and standards established by the City.*

The proposal will help achieve the goal to 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 set by SomerVision 2030, the comprehensive Master Plan for the City of Somerville.

2. *The intent of the zoning district where the property is located.*

The proposal will meet the intent of the NR zoning district which is, in part: “To conserve already established areas of detached and semi-detached residential buildings.”

Special Permit Considerations Specific to a Steep Slope

Information relative to the required considerations is provided below:

3. *Consistency of site disturbance with the intent and purpose of Section 10.10 Steep Slopes*
 - a. *To minimize storm water runoff and soil erosion problems incurred by the grading of steep slopes.*
 - b. *To maintain the natural topography and drainage patterns of land.*
 - c. *To help protect real property at the base of a steep slope from damage caused by erosion, mudslides, rock slides, falling trees, and other harms.*

The proposal shows the building functioning as a retaining wall with the rear of the ground story (entry level on East Albion Street) of both units dug into the grade of the slope. There are multiple additional retaining walls across the site, including a 4' high wall at the lower elevation along East Albion Street. This makes stairs necessary to achieve the proposal which, therefore, does not maintain the natural topography and alters the drainage patterns. However, the proposal will maintain much of the existing topography of the western side of the lot where the majority of landscaped area and existing rock ledge is concentrated. A front retaining wall is proposed facing East Albion Street to mitigate potential damage caused by erosion, mudslides, rockslides, falling trees, and other harms from the newly disturbed landscape areas of the eastern (left side) portions.

4. Geo-technical, structural engineering, and arboreal best practices for successfully and safely stabilizing steep slopes.

While there is limited information provided regarding geo-technical conditions or structural engineering calculations in the submitted materials, the landscape plan labels locations of existing ledge and indicates “erosion control/slope stabilization seed mix” in the right-side yard and protection measures for existing trees. Additional information from the applicant to identify the extent of best practices being utilized may be valuable testimony that can be gathered at the upcoming public hearing.