



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2017-33
Site: 22 Linden Avenue
Date of Decision: June 21, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: June 30, 2017

ZBA DECISION

Applicant Name:	Domicile, LLC
Applicant Address:	830 Massachusetts Avenue, Cambridge, MA 02139
Property Owner Name:	Domicile, LLC
Property Owner Address:	830 Massachusetts Avenue, Cambridge, MA 02139
Agent Name:	Adam Dash, Esq.
Agent Address:	48 Grove Street, Suite 304, Somerville, MA 02144

Legal Notice: Applicant and Owner, Domicile, LLC, seeks Special Permits under Section 4.4.1 of the SZO to increase the FAR* and raise the building height by 2.5 feet, thereby creating an upward extension of the non-conforming rear and right setbacks. Parking relief is sought under Section 9.13** of the SZO.

<u>Zoning District/Ward:</u>	RB zone. Ward 5.
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.13
<u>Date of Application:</u>	April 12, 2017
<u>Date(s) of Public Hearing:</u>	6/7 & 6/21/17
<u>Date of Decision:</u>	June 21, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2017-33 was opened before the Zoning Board of Appeals at Somerville City Hall on June 7, 2017. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The Applicant proposes to remove the existing “hodge-podge” rear additions to the original building and replace it with a 2.5 story extension that blends with the Greek Revival style of the original structure. The property will remain two units, but the unit layout will be re-configured. One unit will consist of three bedrooms and the other, two bedrooms. This reduces the overall bedroom count by one on the property. The Applicant proposes adding one additional parking space. In order to accommodate the renovation of the property, the Applicant proposes raising the overall height of the building by 2.5 feet. The building height will be raised from 25’7” to 28’1”.

The original proposal included three parking spaces on the Linden Street side of this corner lot. At their June 7, 2017 hearing, the ZBA noted that they were not in support of three parking spaces, only two. The ZBA further noted that they wished to see additional landscaping on the lot rather than have the lot taken up with (pervious) hardscape for parking. The ZBA continued their decision on the 22 Linden Street proposal and requested updated landscaping plans showing the previously-proposed third parking space abutting the sidewalk along Gilson Terrace converted to landscaped area. The reduction in parking spaces does not trigger the need for parking relief.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & SZO §8.5, SZO §9.13):

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 Board finds that the information provided by the Applicants 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.

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."**A. Under SZO §4.4.1**

The existing structure is non-conforming in a few regards including front yard setback, right yard setback and minimum lot size. The proposed height increase of the building triggers the request for a Special Permit. This creates an upward extension of the non-conforming front yard setback and the non-conforming right side yard setback.

Section 4.4.1 states that “[l]awfully 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.”

The Board finds that the Applicant’s proposal to increase the building height, thereby intensifying the non-conforming right and front yard setbacks will not be substantially more detrimental to the neighborhood than the existing, non-conforming building. The upward extension will allow the Applicant to more efficiently use the space within the existing structure. The 2.5-foot height increase will be minimally noticeable from the public way or abutting properties. The proposed changes maintain a well-proportioned façade facing Linden Ave. The height increase will also be reflected in the new addition which will present a well-proportioned, well-articulated façade on the left elevation of the property.



The Board finds that, since the Applicant is maintaining the two-family use and is providing an additional parking space on the lot, that there will be no additional impact on the traffic volume, congestion or on-street parking.

In addition, the proposed changes to this property will open convert square footage on the lot that is currently paved over to pervious and landscaped area.

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 Applicant's proposal is consistent with the purposes 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."

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."*

Linden Avenue consists of numerous building forms, from gable-fronted two-and three family structures to wood-framed multi-unit residences. The proposed changes to 22 Linden Avenue are consistent with the existing style of the original main house on the property and will not detract from the eclectic nature of the surrounding neighborhood.

The conversion of the (initially-proposed) third parking space into landscaped area will increase the amount of landscaped area on the property, provide a barrier between the public sidewalk and 22 Linden and provide an attractive buffer to the vehicles parked in the parking area on the parcel.

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

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

8. 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 proposal complies with the goals of SomerVision in that it preserves and enhances the character of this Linden Avenue neighborhood by improving the conditions of an existing two-family structure.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti 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 to add an addition and to raise the height of the building by 2.5 feet.	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 12, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 10, 2017</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>June 8, 2017</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 12, 2017	Initial application submitted to the City Clerk's Office	May 10, 2017	Updated plans submitted to OSPCD	June 8, 2017	Updated plans submitted to OSPCD
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<p style="color: red;">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.</p>												
Pre-Construction												
1	The Applicant will be required to demonstrate that the project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage report and plans stamped by a registered PE in Massachusetts must be submitted to the Engineering Department for review and approval.	BP	Eng.									
2	The Applicant shall submit a proposed drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.									
3	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD									



4	New sanitary connection flows over 2,000 GPD require a 4:1 removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment to the City based on the cost per gallon of I/I to be removed from the sewer system. The Applicant shall work with Engineering to meet this condition before a certificate of occupancy is issued.	CO	Eng.	
Design				
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. No vinyl shall be used on this property.	BP	Plng.	
6	Columns used on the front porch of the original Greek Revival-style structure shall be reviewed and approved by Planning Staff to ensure that they are in the Greek Revival style.			
Construction Impacts				
7	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	
8	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.	
9	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application form signed
10	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	
Site				
11	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	
12	All landscaping materials, screening materials and materials used for parking/driveway areas shall first be reviewed and approved by Planning Staff prior to their installation.	BP/CO	Plng/ISD	



13	Per the June 21, 2017 ZBA hearing, the ZBA has required that the Applicant further reduce the parking area by shaving off several feet of length so that tandem parking cannot occur on the site. The Applicant shall present updated site plans to Planning Staff for their review and approval of the rendered changes prior to Building Permit being issued	BP	Plng	
14	Fencing around the perimeter of the lot that is within 20 feet of the corner of Linden and Gilson Terrace shall be no taller than 3.5 feet.	CO	ISD	
Public Safety				
15	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
16	All exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
17	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
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
Elaine Severino
Josh Safdie

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 _____

