



City of Somerville

ZONING BOARD OF APPEALS

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

TO: Zoning Board of Appeals
FROM: Planning & Zoning Staff
SUBJECT: 27 Loring St, P&Z 21-116
POSTED: September 22, 2021

RECOMMENDATION: None (AA)

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 memo summarizes the administrative appeal submitted for 27 Loring St and provides analysis or feedback as necessary. The application was deemed complete on August 2, 2021, and is scheduled for a public hearing on October 6, 2021. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available prior to any public comment at the scheduled public hearing.

LEGAL NOTICE

Jovie and Kyle Conroy seek an administrative appeal of the Building Official's determination of the building type for the principal building at 27 Loring Street.

SUMMARY OF PROPOSAL

Kyle and Jovie Conroy are appealing the Building Official's determination that the existing principal building at 27 Loring Street is a Cottage building type, and request that the Board determine that the existing building is instead a Detached House building type. Both building types are permitted in the Neighborhood Residence district.

ADDITIONAL REVIEW NECESSARY

27 Loring Street is located in the Neighborhood Residence (NR) zoning district in the Spring Hill neighborhood represented by Ward 2 Councilor JT Scott. An Administrative Appeal is a petition to rectify a failure to act, denial of a permit, decision made, or enforcement action taken by the Building Official or Director of Planning & Zoning when an alleged error or misinterpretation has been made in the enforcement or application of the provisions of this Ordinance. The Zoning Board of Appeals is the decision-making authority for all administrative appeals.

BACKGROUND

The Somerville Zoning Ordinance regulates structures as either principal buildings, accessory buildings, or accessory structures. Principal buildings and accessory

buildings are further classified as various ‘building types’ that are permitted in each zoning district. Building types are defined by their combined disposition, configuration, and function and are differentiated from each other by dimensional standards customized for each type. Each building type permitted within a zoning district is presented across a multi-page spread that includes the name of each building type; a written description; example photos; dimensional standards including standards for lots, building placement, massing & height, and uses & features; followed by housing and development benefit requirements, if applicable.

To properly administer a building type-based zoning ordinance, the Superintendent of Inspectional Services (‘Building Official’) must determine which building type to classify each existing structure in Somerville. All of the building type descriptions, standards, dimensions and other related provisions are taken into consideration in addition to the purpose of the zoning district when classifying an existing building type. Similarly, the Building Official must also classify existing uses as falling within either one of the permitted categories of uses or the specific existing use is determined to be a nonconforming existing use. The classification of existing uses is common to the administration of all zoning ordinances. The classification of existing structures is necessary for any ordinance that differentiates the class of kind of structures it regulates, such as Somerville’s.

Prior to the adoption of the new ordinance on December 12, 2019, the Somerville City Council requested that all the city’s existing buildings be classified. As a result, staff from the Inspectional Services Department and the Planning & Zoning Division of OSPCD conducted three passes over the database of over 10,000 existing structures and classified each existing structure as its best fit building type based on all the building type descriptions, standards, dimensions, and other related provisions of the ordinance. This classification was then accepted as the official building type designation for all existing structures.

ANALYSIS

** Unless otherwise noted, information about existing conditions was taken from the plans and other documents submitted by the Applicant as part of a separate application for this property (P&Z 21-004) that is also currently before the Board.*

District Intent & Building Type Description

The general character of the Cottage and Detached House building types are described as follows:

A Cottage is “[a] small floor plate, detached, principal building type with one (1) dwelling unit. The cottage is the smallest type of detached principal building in Somerville. Two variants exist, one with a half-story under pitched roof and another with a full height second story and a shallow pitched roof or a flat roof.”

A Detached House is “[a] moderate floor plate, detached, principal building type with one (1) to three (3) vertically stacked dwelling units, where each unit

typically has its own front door. The house is the most prevalent building type in Somerville. [...]”

The existing structure appears to more closely match the description of a Cottage than the description of a Detached House as it is a two-story building with one dwelling unit.

As the requirements for a Detached House often entirely encompass the requirements for a Cottage, it is expected that Cottages may appear to also satisfy some of the requirements for a Detached House. However, the Ordinance explicitly states that Cottages and Detached Houses serve different household sizes, and that the NR district should provide units that both types. To interpret every building that meets some of the requirements of both the Cottage and the Detached House building types as a Detached House could effectively result in the complete elimination of the Cottage building type and thus of many buildings “ideal for smaller households.”

Dimensional Standards

If an entirely new principal building was proposed for 27 Loring Street, the only possible type permitted by the ordinance would be a Cottage. This is because the lot is nonconforming to the minimum lot dimensions required for any other building type permitted in the NR district. This is an important distinction to consider because minimum lot size standards exist in zoning only due to the idea that lots have an inherent carrying capacity due to their size and that a minimum is necessary to facilitate development that is within the public interest. Minimum lot width, minimum lot depth, minimum lot frontage, minimum lot area, and minimum lot coverage are all predicated on this same regulatory concept fundamental to zoning practice across the United States. Without the concept of carrying capacity these dimensions are unnecessary. Setbacks alone can control how far away structures are built from one another, but the purpose of minimum lot dimensions is to control overdevelopment of buildings compared to the available land. In fact, the required minimum lot depth in the Somerville Zoning Ordinance is always greater than the combined front setback, maximum building depth, and minimum rear setback for every building type in the ordinance regulated by those dimensions specifically to address lot carrying capacity. For these reasons, the importance of a lot depth standard is elevated simply by its inclusion in a zoning ordinance. Without it, every permitted building type would be considered appropriate for every lot regardless of their size. In the case of 27 Loring Street, the existing lot is nonconforming to the minimum lot depth of eighty (80) feet required for every building type except the Cottage.

The table at the top of the following page identifies existing conditions for 27 Loring Street and the dimensional standards for the Cottage and Detached House building types. Noncompliant dimensions are shown in red.

	27 Loring St	Cottage		Detached House	
		Required	Compliance	Required	Compliance
a. Lot Dimensions					
Lot Width (min)	40'	34'	17.7% above the minimum	34'	17.7% above the minimum
Lot Depth (min)	Approx. 70.95' ¹	70'	1.36% above the minimum	80'	11.3% below the minimum
a. Lot Development					
Lot Coverage (max)	Approx. 41% ²	60%	31.66% below the maximum	60%	31.66% below the maximum
c. Massing & Height					
Width (min/max)	21.229'	22' / 26'	3.5% below the minimum 18.4% below the maximum	22' / 28'	3.5% below the minimum 24.2% below the maximum
Depth (min/max)	33.125'	24' / 32'	38% above the minimum 3.5% above the maximum	28' / 48'	18.3% above the minimum 31% below the maximum
Number of Stories (max)	2	2		2.5	
d. Use & Occupancy					
Dwelling Units (max)	1	1		3	

When compared to the permitted dimensions of the Cottage and Detached House building types, the existing principal building at 27 Loring Street is equally nonconforming to the minimum building width standards while nonconforming to the maximum building depth for a Cottage and the minimum Lot Depth for a Detached House. The building is only 1.125' over the maximum permitted building depth for a Cottage, but otherwise underbuilt to the building width and depth dimensions permitted for either building type.

The Applicants argument that 27 Loring St exceeds what is permitted for a Cottage and is compliant with what is permitted for a Detached House is directly countered by the lot depth is less than what is required for a Detached House and is compliant with what is required for a Cottage. An argument that the existing structure is more compliant to the minimum and maximum building dimensions of a Detached House and deserving of such a classification, while factually accurate, is based solely on the obvious fact that a smaller building can fit into the dimensions permitted for a larger building, but requires anyone classifying the building to completely ignore the required minimum lot size

¹ The Applicant indicates in their narrative that the lot is 73' deep, but this is incorrect. The plot plan for this property indicates that the right-side lot line is 72.7' and the left side lot line is 69.2'.

The definition of lot depth is "The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line of a lot or to the most distant point on any other lot line where there is no rear lot line." Lot depth must be measured between the midpoint of the front lot line to the midpoint of the rear lot line, which is 70.95'.

² This estimate is based on page A-005 of the drawings submitted as part of P&Z 21-004. The Applicant indicates that the Green Score of the property is 0.41 (or 41%) but based on the associated site plan that number refers to the lot coverage, as defined by the Ordinance, rather than the Green Score.

dimension and the principal of carry capacity present in the zoning ordinance by the mere existence of such a minimum lot depth dimension.

Lastly, only the characteristics of 27 Loring Street can be considered for the classification of its existing principal building. Determinations made by the Building Official for the classification of other properties is not considered here and any errors of classification need be addressed for each individual property if errors are made.

After reviewing the available information regarding the existing lot and principal building at 27 Loring Street, Staff believes that property best meets the characteristics of the Cottage building type and that the Building Official's determination should be upheld. Staff has not provided a formal recommendation regarding whether the Board should uphold or overturn ISD's determination because this specific classification could be viewed as a balancing act between different degrees of nonconformity without much guidance in the ordinance itself to inform such a decision. However, Staff believes that the purpose of a minimum lot depth dimension in zoning cannot be ignored when classifying existing properties and that such a minimum dimension is intentionally impacting the development capacity of smaller lots across the city. Furthermore, if the Building Official were to classify every smaller building that is located on a smaller lot as a Detached House simply due to minimal building size nonconformities it could effectively result in the complete elimination of the Cottage building type across the city and directly undermine one of the purposes of the Neighborhood Residence district: "to create dwelling unit types, sizes, and bedroom counts ideal for smaller households in cottages."

CONSIDERATIONS & FINDINGS

If the Board finds that the existing conditions at 27 Loring Street more closely resembles a Cottage building type, the Board should deny the Administrative Appeal and uphold ISD's determination.

If the Board finds that the existing conditions at 27 Loring Street more closely resembles a Detached House building type, the Board should approve the Administrative Appeal and overturn ISD's determination.