



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
DATE: June 8, 2021
RE: 27 Loring Street, P&Z 21-004

RECOMMENDATION: Deny

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 Hardship Variance request(s) submitted for 27 Loring 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. The application was deemed complete on May 11, 2021, and is scheduled for a public hearing on June 23, 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

Applicants Kyle and Jovie Conroy propose adding a half story to a Cottage building type which requires two Hardship Variances.

SUMMARY OF PROPOSAL

Kyle and Jovie Conroy are proposing to modify a Cottage building type by building a nonconforming half story which requires two Hardship Variances:

- Exceeding the maximum number of stories permitted for a Cottage building type: the maximum permitted is two (2) stories while the proposal is for two and a half (2.5) stories.
- Violating the standards of a half-story: the roof rafters of half stories must intersect with the wall no more than two (2) feet above the finished floor of the half story, but the proposed roof rafters exceed this maximum height and result in a knee wall taller than what is permitted.

ADDITIONAL REVIEW NECESSARY

27 Loring St is located in the Neighborhood Residence (NR) zoning district in the Spring Hill neighborhood represented by Ward 2 Councilor JT Scott. The ZBA is the decision-making authority for all administrative and discretionary permits in the NR district.

ANALYSIS

27 Loring Street is a two-story building and has a pitched roof with no living space under it. The current proposal is to create additional living space in the building by raising the roof and creating habitable space directly under the pitched roof. This requires Hardship Variances for violating the maximum number of stories and for violating the standards of a half story. The Applicant has provided an argument for why Hardship Variances should be granted in this case. The Applicant describes the requested Hardship Variance(s) differently than Staff does, but Staff believes these differences are minor and do not affect the Board's ability to review the request.

Staff does not believe that there are any special circumstances related to the soil conditions, shape, or topography of 27 Loring Street. The existing parcel is conforming with respect to lot width (40ft compared to the minimum requirement of 34ft) and lot depth (approximately 70ft which is the minimum required) for a Cottage, and the lot is rectangular and reasonably flat. The lot does not meet the minimum lot width and depth requirements for any other building type permitted in the NR district, but that is not unique for lots that contain Cottages. No evidence has been provided to suggest that there are any unique soil conditions that would prevent conforming changes to the building. Overall, the parcel appears to be fairly typical for Cottages in the NR district and does not appear to have any special circumstances related to the parcel.

Staff also does not believe that there are any special circumstances related to the unusual character of the existing Cottage building type. The purpose of the NR district states that Cottages are "[] ideal for smaller households[.]" Therefore, it is understandable and not unusual that a growing household in a Cottage may feel that the existing structure is too small to meet their needs. However, the existing structure actually slightly exceeds the maximum permitted width and depth for the main massing of a Cottage: the maximum permitted is 26ft by 32ft, and the existing structure is approximately 27ft by 33ft.

The structure is located within the front and right-side setback areas, but that is not unusual for structures in the NR district, or in many other districts in the city. Staff notes that, as the overall height of Cottages is not regulated, 27 Loring St cannot be not non-conforming with respect to building height. Overall, there do not appear to be any unusual or special circumstances related to the existing Cottage structure.

While Cottages are intended for smaller households, the Ordinance does allow modifications to Cottages that can increase the amount of living space through the addition of building components (e.g., side wings or rear additions), the finishing of interior spaces (e.g., basements), or other conforming means of expanding the structure. The Applicant's narrative does not address why a conforming method of increasing the habitable area of the building is not possible, rather than simply not preferred. While it is not required that the Applicant address this question, it may provide an opportunity for the Applicant to explain to the Board how the first and second Hardship Variance criteria are being met. That said, Planning & Zoning Staff is generally unable to provide analysis or recommendations concerning the existence of actual

hardship, financial or otherwise, in relation to the Applicant for the second review criteria.

The only comment Staff has regarding the Applicant's argument for second criteria is a factual clarification of the distinction between Green Score and Lot Coverage requirements. The Green Score requirement is more than simply a matter of how much of the property may be covered by structures or impermeable surfaces (that is the Lot Coverage standard) but is rather a performance metric that accounts for both the amount and type of landscaping in order to encourage more environmentally sustainable landscaping. Due to that fact, a compliant Green Score can be achieved even on lots where the Lot Coverage is greater than 60% (the maximum lot permitted Lot Coverage for Cottages) through, for example, the use of vegetated walls and green roofs. That said, Staff have not evaluated the proposal's compliance with Green Score requirements both because it is outside the scope of the Applicant's request to the Board, and because the information required to confirm it has not been provided.

Upon analysis of the material submitted by the Applicant, Planning & Zoning Staff believe that the granting of the requested hardship variances would cause a substantial detriment to the public good or nullify or substantially derogate from the intent and purpose of the Neighborhood Residence district, copied here:

Intent

- To implement the objectives of the comprehensive plan of the City of Somerville.
- To conserve already established areas of detached and semi-detached residential buildings.

Purpose

- To permit the development of one-, two-, and three-unit detached and semi-detached residential buildings on individual lots.
- To permit contextual modifications to existing detached and semi-detached residential buildings.
- To permit the adaptive reuse of certain existing nonconforming buildings for arts & creative enterprise and retail uses compatible with residential areas.
- To create dwelling unit types, sizes, and bedroom counts ideal for larger households in houses, semi-attached houses, duplexes, and triple deckers.
- To create dwelling unit types, sizes, and bedroom counts ideal for smaller households in cottages and backyard cottages.

Additionally, Planning & Zoning Staff do not believe that granting the requested hardship variances would support the broader intent of the Somerville Zoning Ordinance, including, but not limited to, the following:

- To provide a range of housing types, unit sizes, and price points to accommodate the diverse household sizes and life stages of Somerville residents at all income levels.
- To preserve and enhance the existing character of Somerville's traditional housing and respect existing built form and development patterns.

Massachusetts courts have stated that variances will naturally deviate from the intent and purpose of a zoning ordinance to some degree and that the discretionary approval of a variance is defensible if the deviation is not substantial or significant in comparison to the intent and purpose for the district in appraising the effect of the proposal on the entire neighborhood, including future impacts and other development approved or denied in the general vicinity of the development site.

CONSIDERATIONS & FINDINGS

In accordance with the Somerville Zoning Ordinance, the Zoning Board of Appeals may grant a Hardship Variance only upon deliberating and finding all of the following at the public hearing for each requested variance:

Hardship Variance Considerations

1. Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of the existing Cottage but not affecting generally the NR district where the structure is located;
2. Literal enforcement of the provision of this Ordinance for the district where the subject land or structure is located would involve substantial hardship, financial or otherwise, to the applicants, Kyle and Jovie Conroy, due to said special circumstances; and
3. Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the NR district or the Ordinance in general.

PERMIT CONDITIONS

Should the Board approve one or both of the required Hardship Variances for *adding a half story to a Cottage* and for *constructing a nonconforming half story*, recommended conditions should be discussed at the public hearing.