



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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DREW KANE, (*ALT.*)

Case #: ZBA 2018-149
Site: 39 Tennyson
Date of Decision: June 19, 2019
Decision: *Approved with Conditions*
Date Filed with City Clerk: June 28, 2019

ZBA DECISION

Site: 39 Tennyson Street
Applicant Name: Derick Snare
Applicant Address: 158 Central Street
Owner Name: Eddie and Dulce Giron
Owner Address: 50 Wood Fall Road, Belmont, MA 02478
City Councilor: Jesse Clingan

Legal Notice: Applicant, Derick Snare, and Owner, Eddie and Dulce Giron, seek a special permit under SZO §4.4.1 to alter a nonconforming structure to alter the roof with a rear gable and dormers and constructing decks in the right side yard. RB Zone. Ward 4.

<u>Zoning District/Ward:</u>	RB Zone. Ward 4.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	October 23, 2018
<u>Date(s) of Public Hearing:</u>	5/15, 6/5, 6/19
<u>Date of Decision:</u>	June 19, 2019
<u>Vote:</u>	5-0

Case number # **ZBA 2018-149** was opened before the Zoning Board of Appeals at the Visiting Nurse Association 3rd Floor Community Room, 259 Lowell Street. 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 June 19, 2019, the Zoning Board of Appeals took a vote.



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I. PROJECT DESCRIPTION

The proposal is to expand the rear gable including dormers on both side and to remove a fire escape and replace it with a three-story deck on the right side of the house.

II. 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 §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 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."*

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, lot area per dwelling unit, and front yard setback.

	<i>Required</i>	<i>Existing</i>	<i>Proposed</i>	<i>Notes</i>
Minimum Lot Size (sf)	10,000	6,159	6,159	pre-existing non-conformity
Minimum Lot Area per Dwelling (1-9 units)	2,250	2,053	2,053	pre-existing non-conformity
Maximum Ground Coverage	50%	33%	33%	
Minimum Landscaped Area	25%	44%	44%	
Floor area ratio (F.A.R.)	0.75	0.48	0.52	
Maximum Height (ft)	35'	32'	32'	
Maximum Height (stories)	2.5	2.5	2.5	
Minimum front yard (ft)	15'	6	6	pre-existing non-conformity
Minimum side yards (ft): Left	8'	17.1'	17.1'	
Minimum side yards (ft): Right	8'	16.3'	6'	Deck is allowed to project two feet into a required setback.
Minimum rear yards (ft)	20'	38'	38'	
Minimum frontage (ft)	50'	65.38'	65.38'	
Minimum Pervious Area	35%	44%	44%	

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. 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 proposal will **not** impact any of the nonconforming dimensions. Since this is a nonconforming three-family structure these alterations to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for ground coverage, landscape area, pervious area, floor area ratio (FAR), height, stories, side yards, and the rear yard will continue to be conforming to the requirements of the SZO.

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 proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RA district, which is, "to establish and preserve quiet neighborhoods of one- and two-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."*

Surrounding Neighborhood: The subject property is located on the east side of Tennyson Street on the block between Medford Street and Forster Street. This particular block contains single and two-family structures.

Impacts of Proposal (Design and Compatibility): The proposed roof alterations would not be visible to the public way and will allow for the homeowner to make improve the living space on the 3rd level without drastically altering the character of the building. Also the side decks and stairs are an aesthetic and life safety improvement compared to the existing fire escape stairs. The plans have been updated to include a three-story porch with stairs that switch back rather than running along the majority of the southwest elevation.

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

6. 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.



III.DECISION:

Present and sitting were, Susan Fontano, Danielle Evans, Josh Safdie, Anne Brockelman, Elaine Severino, and Drew Kane. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of a dormer. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 23, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>April 30, 2019</td> <td>Plans submitted to OSPCD (plan of land and p. 1-11)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 23, 2019	Initial application submitted to the City Clerk's Office	April 30, 2019	Plans submitted to OSPCD (plan of land and p. 1-11)
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										
1	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.							
2	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							
3	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays.	During Construction	ISD							
Design										
4	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.							
Miscellaneous										
5	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							
Public Safety										



6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
7	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:

Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Josh Safdie
Elaine Severino
Anne Brockelman
Drew Kane (Alt.)

Attest, by Administrative Assistant: _____
Monique Baldwin

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 _____

