



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2016-155
Site: 22 Wesley Park
Date of Decision: February 15, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: February 23, 2017

ZBA DECISION

Applicant Name:	Esmond Kane
Applicant Address:	22 Wesley Park, Somerville, MA 02143
Property Owner Name:	Rosemary McDonough
Property Owner Address:	22 Wesley Park, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant, Esmond Kane, and Owner, Rosemary McDonough, seek a Special Permit under §4.4.1 to alter a non-conforming property by constructing dormers in the side yard setbacks.

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	December 5, 2016
<u>Date(s) of Public Hearing:</u>	2/1 & 2/15/17
<u>Date of Decision:</u>	February 15, 2017
<u>Vote:</u>	4-0

Appeal #ZBA 2016-155 was opened before the Zoning Board of Appeals at Somerville City Hall on February 1, 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.



DESCRIPTION:

The Applicant proposes to add two shed dormers, one on the right elevation and the other on the left elevation of the structure. The proposed dormers are 50% of the roof plane to which they are to be attached.

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 §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 Applicant 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."*

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 Applicant proposes two shed dormers, one on each side of the main portion of the structure and each within a side yard setback. Each dormer is proposed at 50% of the roof plane to which it is attached.

The Board finds that the dormer proposed for the right elevation would not be substantially more detrimental to the site or to the surrounding neighborhood. Though the dormer would be located within the setback, Staff finds there to be sufficient space to accommodate this addition. While Staff is pressed to find other houses on the street with any sizable dormers, adding shed dormers – particularly on gabled roofs - in order to gain additional living space is a common practice throughout the City.

The Board finds that, since the dormer has been reduced substantially in length since the original plan set, the Board finds that this proposed dormer would not be substantially more detrimental to the neighborhood than the existing conditions.

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 proposal to construct the right elevation dormer is not inconsistent with the purpose of the district which is to "...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.” Conversely, Staff finds that the proposal to construct the left elevation dormer is not “compatible with and convenient to the residents of such districts”, particularly with regard to the residential structure to the left of 22 Wesley Park.

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."*

In considering a special permit under §4.4.1 of the SZO, the Board finds that, as noted earlier in this report, the inclusion of the right elevation dormer would not be substantially more detrimental to the site and area than the existing conditions, despite there appearing to be no other dormers of this size on the other gable-fronted houses on the street. As noted earlier, the Board does not find the left elevation dormer to be compatible with the site or the surrounding area, particularly with regard to the left abutting property.

5. 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.

6. SomerVision:

The proposal does not have an impact on SomerVision.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Anne Brockelman with Danielle Evans, Josh Safdie and Pooja Phaltankar absent. 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 **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for the construction of a right elevation dormer	BP/CO	ISD/Plng.	
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>December 5, 2016</td> <td>Application submitted to City Clerk's office.</td> </tr> </tbody> </table>			
Date (Stamp Date)	Submission			
December 5, 2016	Application submitted to City Clerk's office.			
	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.			
Design				
2	The dormer shall be clad in the same material as the rest of the siding on the house.	CO	Planning Staff / ISD	
3	Windows installed on the left dormer CANNOT be operable when three feet or less from the property line. The Applicant is required to work with ISD to determine	BP with recheck at CO	Planning Staff / ISD	
4	Any changes to the design, style, massing, form, elements, and materials of the shed dormers shall be submitted to and approved by Planning Staff (or, as necessary, the ZBA) prior to their execution on the building.	CO	Planning Staff / ISD	



Construction Impacts				
5	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	
6	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	
Public Safety				
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
8	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
Final Sign-Off				
9	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*
Elaine Severino
Anne Brockelman (Alt.)

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 _____

