



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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ELAINE SEVERINO
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Case #: ZBA 2018-173
Site: 16 Whipple Street
Date of Decision: September 18, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 1, 2019

ZBA DECISION

Site: 16 Whipple Street

Applicant Name: David Feeney
Applicant Address: 16 Whipple Street, Somerville, MA
Owner Name: same as applicant
Owner Address: same as applicant

City Councilor: Lance Davis

Legal Notice: Applicant and Owner, David Feeney, seeks a Special Permit under §4.4.1 to construct a dormer within the left side yard setback. RC zone. Ward 6.

<u>Zoning District/Ward:</u>	RC zone, Ward 6.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	November 30, 2018
<u>Date(s) of Public Hearing:</u>	4/3, 4/17, 5/1, 5/15, 6/5, 6/19, 7/17, 8/7, 9/4, 9/18
<u>Date of Decision:</u>	September 18, 2019
<u>Vote:</u>	5-0



Case # ZBA 2018-173 was opened before the Zoning Board of Appeals in the 3rd Floor Community Room, Visting Nurses Association (VNA), 259 Lowell Street, Somerville, MA. 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 September 18, 2019 the Zoning Board of Appeals took a vote during their meeting in Council Chambers, 3rd Floor City Hall, 93 Highland Avenue, Somerville, MA.

I. PROJECT DESCRIPTION

1. **Subject Property:** The locus presents a two-family, 2 ½-story residential structure located in the RC zone. The structure is sited on a 1,585 square-foot lot. The property is non-conforming in terms of front yard setback, lot size, lot area per dwelling unit, left side yard setback, right side yard setback, street frontage, and rear yard setback.
2. **Proposal:** The non-conformity impacted by the proposal is the left side yard setback which is 2.1 feet. The Applicant proposes constructing a single, gable-roofed dormer on the left elevation this same distance from the property line.
3. **Green Building Practices:** None listed on application.

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 proposal is to construct a single, gabled dormer within the left side yard setback. This dormer will reside 2.1 feet from the left property line. The required left side yard setback is eight (8.0) feet. This alteration to a non-conforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."

In considering a special permit under §4.4.1 of the SZO, the Board finds that, in general, the construction of a single dormer is a reasonable request for an Applicant to make in order to gain additional head



height. In general, this alteration would not be substantially more detrimental to the neighborhood than the existing structure. This property is severely non-conforming in nearly all respects as noted at the outset of this report. The Board finds that granting this small measure of relief to be reasonable.

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 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 RC district, which is, "[t]o establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."

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:** Whipple Street is a one-way street with residential structures on one side. The abutting property to the left is a multi-unit that underwent recent renovations. The remaining residential structures on the street are gable-fronted two- and three-family buildings. Directly across the street from 16 Whipple is a large property with a substation/warehouse owned by Boston Edison/NSTAR Electric & Gas Company.
- **Impacts of Proposal (Design and Compatibility):** The impacts of the proposal on the streetscape will be minimal providing that the dormer is well-executed.

5. Housing Impact:

Will have no impact on the existing housing stock (market rate) or affordable housing stock.

6. SomerVision Plan:

This proposal is for a single dormer and has minimal impact, if any, on SomerVision.

III. DECISION

Present and sitting were Members Orsola Susan Fontano, Drew Kane (*Alt*), Danielle Evans, Elaine Severino, and Anne Brockelman. Josh Safdie was absent and Drew Kane was voting in his place. 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 to construct a single, gabled dormer within the left side yard setback.	BP/CO	ISD/Plng.													
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>November 30, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 10, 2018</td> <td>Deed submitted to OSPCD</td> </tr> <tr> <td>February 22, 2019</td> <td>Plot plan submitted to OSPCD</td> </tr> <tr> <td>February 25, 2019</td> <td>Drawings submitted to OSPCD</td> </tr> <tr> <td>September 5, 2019</td> <td>Updated drawings submitted to OSPCD</td> </tr> </tbody> </table>				Date	Submission	November 30, 2018	Initial application submitted to the City Clerk's Office	December 10, 2018	Deed submitted to OSPCD	February 22, 2019	Plot plan submitted to OSPCD	February 25, 2019	Drawings submitted to OSPCD	September 5, 2019	Updated drawings submitted to OSPCD
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.																
Construction Impacts																
2	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.													
3	All construction materials and equipment shall 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													
4	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. This includes deliveries.	During Construction	ISD													
Design																
5	Applicant shall provide material samples trim, windows, skylight and siding to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.													
Miscellaneous																
6	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				
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
8	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, *Chair*
 Danielle Evans, *Clerk*
 Drew Kane (*Alt*)
 Anne Brockelman
 Elaine Severino

Attest, by the Planner: _____
 Sarah White

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 _____

