



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2018-188
Site: 37 Winslow Avenue
Date of Decision: February 20, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: February 27, 2019

ZBA DECISION

Site: 37 Winslow Avenue
Owner/Applicant Name: 35-37 Winslow Development, LLC
Owner/Applicant Address: 31 Willowdale Road, Somerville, MA 02144
Alderman: Lance Davis

Legal Notice: Applicant /Owner, 35-37 Winslow Development, LLC, seeks a special permit per SZO §4.4.1 to alter a nonconforming structure by finishing the basement and reconfiguring the interior floor plans. RA Zone. Ward 6.

<u>Zoning District/Ward:</u>	RA Zone. Ward 6.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	December 13, 2018
<u>Date(s) of Public Hearing:</u>	2/6/ 2/20
<u>Date of Decision:</u>	February 20, 2019
<u>Vote:</u>	4-0

Case # ZBA 2018-188 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall. 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 February 20, 2019 the Zoning Board of Appeals took a vote.



I. PROJECT DESCRIPTION

1. **Subject Property:** The subject property is a 3, 330 square-foot, two-family residential structure in the RA zone. The 2 ¾ - story house resides on a 2, 783 square foot lot.
2. **Proposal:** The Applicant proposes to finish the basement, dividing its use between the two units. The proposed work would add approximately 811 square feet of living space to the structure.
3. **Green Building Practices:** Listed as “N/A” on the application
4. **Comments:**

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 §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 one- and two-family dwellings which are used only as residence, which are non-conforming with respect to dimensional requirements, may be enlarged, expanded, renovated, or altered by special permit granted by the SPGA in accordance with the procedures of Article 5, when any such enlargement, extension, renovation or alteration increases the non-conforming nature of the structure or the Gross Floor Area of the dwelling is increased by more than twenty-five percent (25%)...The SPGA, as a condition of granting a special permit under this Section, must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing non-conforming structure.”

The Applicant’s proposal to finish the basement is the trigger for the Special Permit. The property is currently non-conforming with regard to Floor Area Ratio (FAR) at 1.20 in a zone (RA) where .75 is the maximum FAR allowed. The proposed work will add approximately 811 square feet of living space to the property. This will increase the FAR to 1.49.

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 finish the basement is consistent with the purpose of the RA zoning district which is, as defined under Article 6 of the SZO: "...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."

Finishing the basement to increase the net living area is a reasonable manner by which a property owner can increase the livable space on their property, largely without impacting the exterior of the structure. With the exception of new basement windows and a window well required for emergency egress, the remainder of the alterations to the property for this project within the building itself.

The proposed changes to the property do not alter the property's use type nor the number of dwelling units located on the site. Neither site nor neighborhood density is increased through these changes. Since the number of dwelling units will not change and the bedroom count will remain the same, the Board finds that there should be no impact on vehicular traffic volume, type of pattern.

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."*

Winslow Avenue is replete with similarly sized and styled two-family structures all built roughly during the same period. It is worth noting that under the Proposed Zoning Ordinance, these changes would be by-right. From just looking at these buildings, it is not possible to tell which of these structures possess finished basements. This underscores the Board's earlier contention that the major impact of finishing basements is largely internal to the structure only.

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 will upgrade two existing housing units.

III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, and Danielle Evans. 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 **4-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to finish the basement.	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>December 13, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>January 17, 2019</td> <td>Additional plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	December 13, 2018	Application submitted to City Clerk's office.	January 17, 2019	Additional plans submitted to OSPCD
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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	All final exterior materials shall be reviewed and approved by Planning Staff prior to the issuance of building permit.	BP	Plng.							
Construction Impacts										
3	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							
4	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							
5	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	ISD/Plng.							
Public Safety										
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
7	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD							
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, *Chairman*
Danielle Evans, *Clerk*
Elaine Severino
Richard Rossetti

Attest, by the 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 _____

