



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2014-48
Site: 22 Beacon Place
Date of Decision: June 18, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: June 25, 2014

ZBA DECISION

Applicant Name:	Irene Mizrahi
Applicant Address:	2 Forest Street, Cambridge, MA 02140
Property Owner Name:	Irene Mizrahi
Property Owner Address:	2 Forest Street, Cambridge, MA 02140
Agent Name:	N/A

Legal Notice: Applicant and Owner Irene Mizrahi, seeks a special permit under §4.4.1 to reconstruct a nonconforming 2-family home previously damaged in a fire with modifications including dormers on nonconforming sideyards and window and door alterations. RB Zone. Ward 2.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 14, 2014
<u>Date(s) of Public Hearing:</u>	June 18, 2014
<u>Date of Decision:</u>	June 18, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-48 was opened before the Zoning Board of Appeals at Argenziano School Cafeteria on June 18, 2014. 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.



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DESCRIPTION:

The proposal is to essentially rebuild the structure with a more unified design and more conforming setbacks. The rear of the home will be rebuilt 3' from the rear lot line at the most narrow point. To make up for lost floor area, there will be living space added in the basement and dormers added to both sides of the home. This property will be considered a 3 story because of the dormers. The front porch, currently enclosed, will be rebuilt to be open next to the front bay. The site will remain a 2-family with 3 bedroom units. There will also be landscape improvements to the site including planting beds and a rear yard.

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."*

Per SZO §4.4.2, "a lawful nonconforming building damaged by fire, explosion, catastrophe, or Act of God such building may rebuild or restore by-right..." The ordinance goes on to list exceptions to by-right construction including increasing any non-conformity or structural change. Therefore, the Applicant is seeking relief under SZO §4.4.1 to alter a nonconforming structure by reconstructing a 3-story building with changes to the setbacks.

The house has nonconforming setbacks (all sides) and FAR. The new design is held off the rear lot line and the egress stairs are removed from the narrow lot line which will make the building more conforming in some aspects but it will not comply with the SZO. The front and right sideyard setbacks will remain the same. The rear setback will increase from 0' to 3'-0" at the narrowest point. The FAR will decrease from 1.2 to 1.17. Since this is a new structure, the window and door locations have changed.

There is no parking relief associated with the application. There was 1 parking space that was associated with the building prior to the fire; that space is being maintained.

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.

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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to secure safety from fire, panic and other dangers; to provide adequate light and air; and to prevent the overcrowding of land.



The proposal is consistent with the purpose of the district, which is, “To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

There is a significant tree on the back corner of the property that was partially burned in the fire. To maintain safety for residents of 22 Beacon Place and surrounding properties, a condition of this report is that a certified arborist evaluates the health of the tree. Based on their recommendation, the tree will be trimmed or taken down. If the later, a new tree will be planted on site.

An abutter expressed concern about the current pass-thru gate in the fence between 23-25 Calvin and 22 Beacon Place. This is a parking area for 19 and 22 Beacon Place and even though it’s treated, can be snowy and icy in the winter. A condition of this report is that any fence erected between the properties not include a gate. Specifications of the fence should be submitted to Planning Staff for review and approval.

5. 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."*

The surrounding neighborhood is densely developed, comprised of two- and three-family homes. The majority of homes in the area are triple-deckers with flat roofs although Beacon Place is primarily 2 ½ story homes. The neighborhood is in an accessible, walkable, and bikeable location to Beacon Avenue, Harvard University, and Union Square.

The proposed building will be compatible with the neighborhood in design and residential use. The design is more consistent with the neighborhood than the existing structure which has a large addition. Currently, vinyl siding is proposed to finish the façade. A condition of approval is that the finish materials are submitted to Planning Staff review and approval. Vinyl siding does not meet the quality standards of the district. In addition, the eaves of gable shall remain intact and the dormer shall be visibly separated from the two stories below. This will be a similar design to other dormers permitted.

There are few impacts to this proposal. The fire in the Summer of 2013 destroyed two properties and damaged 6 others. The two parcels that have experienced a total loss are fenced and have approval to rebuild (ZBA 2013-86 & ZBA 2013-64) as well as 24 Beacon Place (ZBA 2014-02). The remaining two properties are in various stages of renovation. Although the construction may be a nuisance to the neighborhood, it’s the only way to help return the neighborhood to its’ condition prior to the fire.

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

Currently the two units on site are not habitable; an approval would increase the amount of housing in Somerville.

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, Transform key opportunity areas, Preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.*

SomerVision calls for neighborhoods such as these to be preserved. Allowing rebuilding of the structure damaged by a fire with minor alterations will preserve and enhance the character of Somerville’s neighborhoods.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Josh Safdie with Danielle Evans and Brandy Brooks absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for a special permit under §4.4.1 to reconstruct a nonconforming 2-family home previously damaged in a fire with modifications including dormers on nonconforming sideyards and window and door alterations. 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>May 14, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>April 9, 2014</td> <td>Modified plans submitted to OSPCD (Existing Plot Plan)</td> </tr> <tr> <td>May 24, 2014</td> <td>Modified plans submitted to OSPCD (Proposed Plot Plan, Existing – First Fl. Plan, Second Fl. Plan, Attic Fl. Plan, Proposed – First Fl. Plan, Second Fl. Plan, Attic Fl. Plan, Lower Level, Elevation, Left Elev., Right Elev., Landscape Plan, Rendering)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 14, 2014	Initial application submitted to the City Clerk's Office	April 9, 2014	Modified plans submitted to OSPCD (Existing Plot Plan)	May 24, 2014	Modified plans submitted to OSPCD (Proposed Plot Plan, Existing – First Fl. Plan, Second Fl. Plan, Attic Fl. Plan, Proposed – First Fl. Plan, Second Fl. Plan, Attic Fl. Plan, Lower Level, Elevation, Left Elev., Right Elev., Landscape Plan, Rendering)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
Pre-Construction												
2	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans and reports must be submitted to the Engineering Department for review and approval.	BP	Eng.									
3	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD									



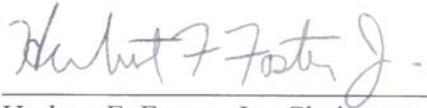
3	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng	
Construction Impacts				
4	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	
5	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	
Design				
6	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
7	The existing slope of the roofline will be maintained. The eaves of gable shall remain intact and the dormer shall be visibly separated from the two stories below.	BP	Plng.	
Site				
8	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
9	Applicant shall provide a more developed landscape plan including species for Planning Staff review and approval.	CO	Plng	
10	A certified arborist shall evaluate the health of the tree. Based on their recommendation, the tree will be trimmed or taken down. If the later, a new tree will be planted on site.	CO	Plng	
11	A condition of this report is that any fence erected between the properties not include a gate. Specifications of the fence should be submitted to Planning Staff for review and approval.	CO	Plng	
Miscellaneous				
12	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				
13	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
14	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
Final Sign-Off				



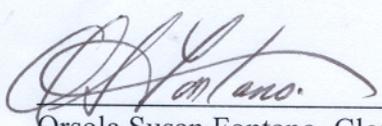
15	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	PIng.	
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Attest, by the Zoning Board of Appeals:



Herbert F. Foster, Jr., Chairman



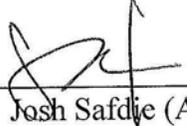
Orsola Susan Fontano, Clerk



Richard Rossetti



Elaine Severino, (Alt.)



Josh Safdie (Alt.)

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 _____

