



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

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Case #: ZBA # 2012-59
Site: 70 Concord Avenue
Date of Decision: September 19, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: September 25, 2012

ZBA DECISION

Applicant Name:	Antonio & Erma Miranda
Applicant Address:	70 Concord Avenue, Somerville, MA 02143
Property Owner Name:	Antonio & Erma Miranda
Property Owner Address:	70 Concord Avenue, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicants and Owners Antonio and Erma Miranda, seek a Special Permit to alter a nonconforming structure under SZO §4.4.1 to alter the structure's third floor to create additional living space, including new window openings, and a Special Permit under SZO §9.13.a for relief from one parking space at an existing two-family residence.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§.4.1 & §9.13.a
<u>Date of Application:</u>	June 25, 2012
<u>Date(s) of Public Hearing:</u>	8/1, 8/15, 9/5 & 9/19/12
<u>Date of Decision:</u>	September 19, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2012-59 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on September 19, 2012. 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 Applicant/Owner would like to expand the amount of usable space on the third floor of the existing two-family dwelling. The first floor of the building is a one bedroom unit and the second and third floors of the building make up the second unit, a two bedroom. The second floor of the structure contains the living room, dining room, kitchen, and a full bathroom for the upstairs dwelling unit. The third floor contains two bedrooms for the upstairs dwelling unit, but the centralized internal stairway from the second to the third floor makes the existing layout of the third floor very awkward. The internal stairway brings one directly into the master bedroom (Bedroom #2) on the third floor. The Applicant/Owner would like to relocate the centralized internal stairway to allow for there to be more livable area on the third floor to add one additional bedroom and one additional full bathroom. Currently, the only bathroom for the upstairs dwelling unit is on the second floor of the building. In order to increase the living area on the third floor the Applicant/Owner is proposing to alter the existing roof style from a gable roof to a mansard roof. The stairs to the third floor would be relocated from the center of the dwelling unit to the right front. The three bedrooms would be laid out from front to back with the master bedroom being located at the back of the structure. The new full bathroom with a stand up shower would be centrally located at the top of the stairs between Bedroom # 1 and Bedroom # 2. On the exterior of the structure the third floor window on the front façade would be replaced with two windows, side by side. The right side of the third floor would have its shed dormer replaced by one full size window and on the left side of the structure two new windows would be added to the third floor. The height of the building to its ridgeline would increase from approximately 30 feet 4 inches to 32 feet. It should be noted here that no Special Permit sign was posted at the property because the Planning Office did not have any signs available when the Applicant came to pick one up.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §9.13.a):

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."

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. Although the proposed changes to the structure will increase the height of the buildings ridgeline by 1 foot 8 inches, the changes will have minimal impacts, if any, on the views or sunlight on the surrounding properties. Additionally, the requested parking relief from one required off-street parking space for this proposal should only have a minimal impact to abutters and the surrounding neighborhood. While the property currently only has two legal off-street parking spaces according to the Somerville Zoning Ordinance, the existing driveway and garage at the site can accommodate for up to six cars when parked in a tandem fashion. Six off-street parking spaces would exceed the requirements for the proposal when completed and the Board is therefore anticipating minimal, if any, impacts to the on-street parking situation in the surrounding neighborhood as a result of the proposal.

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 protect health; to provide adequate light and air;



to prevent the overcrowding of land; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.”

The proposal is also consistent with the purpose of the district in which the residential building is located, (6.1.2. RB - Residence Districts), 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.”

In considering a Special Permit under §9.13.a of the SZO the SPGA may grant such a Special Permit only when consistent with the purposes set forth in Section 9.1 which establishes standards ensuring the availability and safe use of parking areas within the City and this proposal is also consistent with these purposes.

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.”

The alterations to the roof style and the interior third floor plan have been designed to be compatible with the built and unbuilt surrounding area. The alteration of the design of the roof style from a gable roof to a mansard roof will still be in keeping with roof styles of other structures in the surrounding neighborhood. The mansard roof and dormered windows help to give the building the appearance that it is still a 2½ story structure from the outside. While the proposed changes will alter the appearance of the structure from a gable roofed structure to a mansard roofed structure, the view and experience along the Concord Avenue streetscape will not be greatly impacted. The structure will remain a two-family dwelling used for residential purposes which is consistent with the surrounding area.

5. Vehicular and Pedestrian Circulation: The circulation patterns for motor vehicles and pedestrians which would result from relief of one parking space for the subject property does not suggest a change in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

The requested relief from the one additional required off-street parking space for this proposal should only have a minimal impact to abutters and the surrounding neighborhood. While the property currently only has two legal off-street parking spaces according to the Somerville Zoning Ordinance, the existing driveway and garage at the site can accommodate for up to six cars when parked in a tandem fashion. Six parking spaces would exceed the requirements for the proposal when completed and the Board is therefore anticipating minimal, if any, impacts to the on-street parking situation in the surrounding neighborhood because of this proposal. A Parking Memorandum that discusses the parking impacts of providing one off-street parking space of relief for this proposal on the surrounding neighborhood parking situation has been requested by the Somerville Traffic and Parking Department. The Applicant/Owner has chosen to move forward with the application without providing the requested Parking Memorandum. Traffic and Parking is still requesting this memorandum from the Applicant/Owner and has therefore not commented on the project at this time.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Josh Safdie with Scott Darling 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	<p>Approval is to alter the nonconforming structure's third floor to create additional living space, including new window openings, under SZO §4.4.1 and for relief from one off-street parking space under SZO §9.13.a at an existing two-family residence. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(June 25, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 23, 2011 (September 12, 2012)</td> <td>Plot Plan</td> </tr> <tr> <td>September 10, 2012 (September 12, 2012)</td> <td>Attic Plans (REV A – 1.1)</td> </tr> <tr> <td>September 16, 2012 (September 17, 2012)</td> <td>Elevation Drawings (REV. A – 1.2.1 and REV. A – 1.3.1)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(June 25, 2012)	Initial application submitted to the City Clerk's Office	September 23, 2011 (September 12, 2012)	Plot Plan	September 10, 2012 (September 12, 2012)	Attic Plans (REV A – 1.1)	September 16, 2012 (September 17, 2012)	Elevation Drawings (REV. A – 1.2.1 and REV. A – 1.3.1)	BP/CO	ISD/PIng.	
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2	The Applicant/Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP											
3	The Applicant/Owner shall install a code compliant fire alarm system.	CO	FP											
4	The Applicant/Owner 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, including dumpsters, 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	
6	New siding type and color, roofing, trim, and materials of the addition shall match or be complimentary to the rest of the existing structure.	CO	Plng.	
7	The Applicant/Owner 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:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Josh Safdie (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 _____

