



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

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Case #: ZBA 2015-47
Site: 9-11 Dresden Circle
Date of Decision: August 5, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 18, 2015

ZBA DECISION

Applicant Name:	NEWR, LLC
Applicant Address:	22 Huntington Road, Arlington, MA 02474
Property Owner Name:	NEWR, LLC
Property Owner Address:	22 Huntington Road, Arlington, MA 02474
Agent Name:	Joseph P. Hanley, Esq., McDermott, Quilty & Miller
Agent Address:	131 Oliver Street, 5 th floor, Boston, MA 02110

Legal Notice: Owner/Applicant, Newr, LLC, seeks a Special Permit to alter a nonconforming 2-family structure to increase the FAR and add a rear addition, rear deck, dormer, windows and doors.

<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Date of Application:</u>	July 1, 2015
<u>Date(s) of Public Hearing:</u>	August 5, 2015
<u>Date of Decision:</u>	August 5, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-47 was opened before the Zoning Board of Appeals at Somerville City Hall on August 5, 2015. 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 proposal is to completely renovate and add living space to the structure. The work includes adding 754 square feet of living space to the basement, adding a window well in the left side setback to create an egress window to the basement, adding a shed dormer to the left side of the house that is 50% of the length of the roof, adding a second floor to the rear one-story portion of the house and a deck on the roof of this structure, building a two-story rear porch and stairs and creating new window and door openings. Both units will contain three bedrooms.

FINDINGS FOR SPECIAL PERMIT:

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 structure is currently nonconforming with respect to the following dimensional requirements: lot size, lot area per dwelling unit, floor area ratio, front and side yard setbacks.

The proposal will impact the following nonconforming dimensions: side yard setbacks and floor area ratio. The current left side yard setback is 3.9 feet. The proposed window well will be just less than a foot from the side lot line. The requirement in the district is 8 feet. The dormer and rear porch and stair will also be in this nonconforming side yard. The nonconforming right side yard setback is 5.7 feet. The rear second floor addition and roof deck will be within this side yard. The floor area ratio is currently 1.15 and the maximum allowed is 1.0. The increase in floor area will make the FAR 1.51. These alterations to a nonconforming 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 or 4.5 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal has been designed with setbacks that minimally impact the neighbors and the landscaping and pervious area will continue to be conforming to the requirements of the SZO.

The parking requirement is nonconforming because there are no on-site parking spaces. The parking requirement will not change 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 providing for and maintain the uniquely integrated structure of uses in the City.



The proposal to renovate a two-family house is consistent with the purpose of the RB district, which is, “[t]o 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.”

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 renovations and additions proposed do not substantially alter the form or use of the two-family house. The window well distance of less than a foot to the side lot line is not ideal; however, the City owned park is the abutter on this side and there is a fence that would prevent people on the neighborhood lot from getting close to the well.

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

The units will be more expensive with a renovation and additions to the structure. The units are not restricted as affordable units and even without the expansion of the building the owner could increase the cost of the units.

7. 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. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

The proposal will allow for increased living space and outdoor amenity space which is not counter to the goals of SomerVision for this lot in the area of the City marked to be preserved.

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	3	3



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Josh Safdie and Anne Brockelman with Danielle Evans 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 **5-0** 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 dormer, rear addition and deck, rear porch and stairs, increase in net sf, a window well, and window and door alterations. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 1, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 26, 2015</td> <td>Plans submitted to OSPCD (plot plan)</td> </tr> <tr> <td>July 1, 2015</td> <td>Modified plans submitted to OSPCD (site plan)</td> </tr> <tr> <td>July 21, 2015</td> <td>Modified plans submitted to OSPCD (Z1-Z2 – zoning compliance, Z3 Existing floor plans, A1 Proposed floor plans, A2-A3 Proposed floor plans)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 1, 2015	Initial application submitted to the City Clerk's Office	June 26, 2015	Plans submitted to OSPCD (plot plan)	July 1, 2015	Modified plans submitted to OSPCD (site plan)	July 21, 2015	Modified plans submitted to OSPCD (Z1-Z2 – zoning compliance, Z3 Existing floor plans, A1 Proposed floor plans, A2-A3 Proposed floor plans)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.														
2	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											
3	An exterior light and electrical receptacle is required for all levels of the porch that have access to the ground and an electrical receptacle is required for the third floor deck.	Final sign off	Wiring Inspector											
4	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP											
Final Sign-Off														



5	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.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Elaine Severino
Josh Safdie
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 _____

