



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

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Case #: ZBA 2014-112
Site: 7 & 11 Fairview Terrace
Date of Decision: December 10, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: December 18, 2014

ZBA DECISION

Applicant Name:	Wojciech Szczerba
Applicant Address:	229 Lakeview Avenue, Cambridge, MA
Property Owner Name:	Fairview Terrace Realty Trust
Property Owner Address:	138 Harvard Avenue, Allston, MA
Agent Name:	N/A

Legal Notice: Applicant, Wojciech Szczerba, and Owner, Fairview Terrace Realty Trust, seek a Special Permit with Site Plan Review under SZO §7.2 to construct 2 single-family dwelling units on the lot.

<u>Zoning District/Ward:</u>	RA zone/Ward 4
<u>Zoning Approval Sought:</u>	§7.2
<u>Date of Application:</u>	November 6, 2014
<u>Date(s) of Public Hearing:</u>	December 10, 2014
<u>Date of Decision:</u>	December 10, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-112 was opened before the Zoning Board of Appeals at Somerville City Hall on December 10, 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.



DESCRIPTION:

The proposal is to substantially alter the dwelling unit on the lot and construct two single-family homes. The houses will be 2 ½ stories and have three bedrooms each. There will be a shared driveway that will lead to two parking spaces in a garage in the basement of each building. The entrance to the garage will be on the side of the house. The details of the landscape plan have not yet been submitted but the site will be landscaped around the buildings.

FINDINGS FOR SPECIAL PERMIT (SZO §):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

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 with site plan review.”*

The Applicant is to establish two principle structures which is allowed by Special Permit with Site Plan Review approval by the Special Permit Granting Authority under SZO §7.2.

The parking and dimensional requirements of the proposal are conforming. The three-bedroom units require two spaces each. The landscaping will comprise 54 percent of the site. The zoning data table is located in the application form.

The size of the lot is nonconforming at 9,257 square feet and the requirement is for 10,000 square feet. SZO §4.4.1 allows for the alteration of a nonconforming structure or lot by Special Permit. Portions of the right side of the existing structure will be retained to keep this nonconformity. 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. The existing structure has a nonconforming front yard setback, whereas the single family houses will be conforming in all dimensions except for the lot size on which they sit.

3. Purpose of District: *The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.*

The proposal to construct two single-family homes is consistent with the purpose of the district, which is, “[t]o 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.”

4. Site and Area Compatibility: *The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.*

The surrounding area is mostly comprised of one-, two-, and three-family homes and the proposal will be compatible with the surrounding uses and building massing and placement on the site.

The design complies with the Design Guidelines in SZO §5.2.4. for residence districts.



1. The building is generally the same size and massing as those existing in the neighborhood. There are many 2 ½ story detached homes in the neighborhood. The buildings were designed to be traditional in form and fenestration to the houses in the neighborhood. The overall height of the building has been kept to a minimum to be sensitive to the neighbors who are located at a higher elevation and currently enjoy a view of the City over this property. The gable roof pitch is shallower than is typical to accomplish this goal.
 2. Traditional building materials will be used such as clapboards but the details of the materials will be condition of approval.
 - 3/4. Since there are no proposed additions these guideline do not apply.
 5. The building is oriented toward the street and conforms to the setback requirements with the allowances for stoops to project not more than 5 feet into the setback.
 6. The driveway is kept to a minimal width with the proposed 8 foot shared driveway between two houses on the site.
 7. There is a garage and basement for storage and utilities. There will be typically mechanical equipment on the site for residential use that will be conditioned to be screened.
 8. There are no additional guidelines for the RA district and the site is not in an overlay district.
5. Functional Design: *The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”*

The site will meet the accepted standards and criteria for a functional design in terms of movement of people, cars and bikes.

6. Impact on Public Systems: *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”*

A condition of approval will be that the Applicant must submit drainage and utility plans that meet the City’s standards to ensure that this proposal does not create adverse impacts on public services.

7. Environmental Impacts: *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”*

The proposal will not have any adverse impact beyond a typical residential development.

8. Consistency with Purposes: *“Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”*



The proposal as a whole 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 maintaining the uniquely integrated structure of uses in the City and conserving the value of land and buildings.

9. Preservation of Landform and Open Space: *The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”*

There are no existing land forms to preserve.

10. Relation of Buildings to Environment: *The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”*

See finding 4.

11. Stormwater Drainage: *The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and powered area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”*

A draining plan and report will be required as a condition of approval to ensure that the proposal meets the stormwater management policies.

12. Historic or Architectural Significance: *The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”*

HPC deemed that the building is not preferably preserved. The proposal for two single-family dwellings is compatible with the historic pattern of dwelling units on approximately 4500 square foot lots.

13. Enhancement of Appearance: *The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”*



The landscape plan will be a condition of approval. In this case, for a single family dwelling the buildings themselves do not need to be screened.

14. Lighting: *With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”*

The only additional lighting will be residential in nature and will be conditioned to not spill onto neighboring properties.

15. Emergency Access: *The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”*

Fairview Terrace provides access to both buildings. The Fire Department has been to see the site to review the access and does not have objections to the proposal.

16. Location of Access: *The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”*

There will be a shared driveway to limit the number of curb cuts located on the property. There is currently one curb cut and it will be shifted to the middle of the property.

17. Utility Service: *The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”*

The utility service plans needs to be submitted to Lights and Lines prior to construction and utilities will be conditions to be placed underground.

18. Prevention of Adverse Impacts: *The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development.”*

The site plan and height of the building has been designed to be minimally impactful on the neighborhood.

19. Signage: *The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”*

No residential signage will be posted beyond the address.

20. Screening of Service Facilities: *The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”*

Trash and recycling storage will be in the garage. Air handling compressors will be located on the site and will be conditioned to be screened.

21. Screening of Parking:

The parking will be screened inside of the garage.



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

The house that will be demolished is not a deed restricted affordable unit. The proposal will add one more unit than is currently at the site and will provide a more affordable unit than if just the single family house was redeveloped.

22. 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 complies with SomerVision. In the Plan this area is intended to be conserved and the proposal for two single-family houses that are complimentary to the urban fabric and massing of the neighborhood fits this goal.

<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	1	2
<i>Parking Spaces:</i>	1	4



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino and Josh Safdie with Herbert Foster absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with Site Plan Review. 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 alteration of a structure to construct two single family houses on a lot. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/PIng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>Nov 6, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>11/5/13</td> <td>Modified plans submitted to OSPCD (L1 property layout)</td> </tr> <tr> <td>12/3/14</td> <td>Modified plans submitted to OSPCD (Site1 property layout)</td> </tr> <tr> <td>12/10/14</td> <td>Modified plans submitted to OSPCD (S1.1 Site Plan, A1.1 Plans/Street Elevation, A3.1 Elevations)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	Nov 6, 2014	Initial application submitted to the City Clerk's Office	11/5/13	Modified plans submitted to OSPCD (L1 property layout)	12/3/14	Modified plans submitted to OSPCD (Site1 property layout)	12/10/14	Modified plans submitted to OSPCD (S1.1 Site Plan, A1.1 Plans/Street Elevation, A3.1 Elevations)
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Any changes to the approved site plan and elevations that are not <i>de minimis</i> must receive SPGA approval.														
Pre-Construction														
2	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.											
3	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.											
4	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											



5	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	
6	The Applicant shall conduct a survey of foundations and buildings adjacent to the site prior to construction and shall address concerns about impact to these structures from project construction.	BP	ISD	
Construction Impacts				
7	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.	
8	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	
9	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				
10	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
11	An exterior light and electrical receptacle is required for the first (or all) levels of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
Site				
12	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
13	The Applicant shall supply a landscape plan for Planning Staff review and approval. There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	Start of site work	Plng.	
14	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
15	Applicant will locate mechanical equipment so that it is not visible from the right of way or it is screened.	CO	Plng.	
Miscellaneous				



16	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				
17	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
18	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				
19	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
Richard Rossetti
Danielle Evans
Elaine Severino
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 _____

