



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2012-68
Site: 77-83 North Street
Date of Decision: March 6, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 19, 2013

ZBA DECISION

| | |
|--------------------------------|---|
| Applicant Name: | Peter Stefanou |
| Applicant Address: | 19 Conwell Avenue, Somerville, MA 02144 |
| Property Owner Name: | Peter Stefanou |
| Property Owner Address: | 19 Conwell Avenue, Somerville, MA 02144 |
| Agent Name: | Richard G. DiGirolamo, Esq. |
| Agent Address: | 424 Broadway, Somerville, MA 02145 |

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|----------------------|---|
| <u>Legal Notice:</u> | Applicant and Owner Peter Stefanou seeks a special permit to greatly alter a nonconforming commercial structure under SZO §4.4.1 to construct two, three-story, semi-detached townhouses and associated parking. RB zone. Ward 7. |
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|-----------------------------------|-------------------------------|
| <u>Zoning District/Ward:</u> | RB zone/Ward 7 |
| <u>Zoning Approval Sought:</u> | §4.4.1 |
| <u>Date of Application:</u> | July 23, 2012 |
| <u>Date(s) of Public Hearing:</u> | 1/9, 1/23, 2/6, 2/20 & 3/6/13 |
| <u>Date of Decision:</u> | March 6, 2013 |
| <u>Vote:</u> | 5-0 |

Appeal #ZBA 2012-68 was opened before the Zoning Board of Appeals at Somerville City Hall on January 9, 2013. 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The proposal is to demolish most of the structure and build a semidetached townhouse with a total net square footage of 3,004 sf. The two units will be mirror images of each other. There will be a living room, kitchen/dining room, three bedrooms, three bathrooms and a basement for mechanical equipment. Each unit will have an approximately 200 sf balcony on the third story in the front of the townhouse overlooking North Street. The materials will be Hardie plank with different exposures for the first and second floors and Hardie panels on the third floor.

The site will include landscaping and parking spaces. There will be four parking spaces located at the corner of North Street and Conwell Avenue. There will be a prefabricated black metal fence around the parking area. A new tree will be planted in the landscape area along Conwell Avenue. There will be a curb cut on North Street which will require moving a street tree in order to locate the curb cut in an effective location.

The Applicant made the following changes in the plan since the set dated October 22, 2013. The revised set is dated February 12, 2013. The revised plans were shown at a community meeting on February 21, 2013.

- Building moved back 3 feet
- Front entrances moved to street elevation
- Rear entry moved to the side elevations
- Rear entry porches reduced to a single landing
- 24 inch Segmental wall added at the rear and parts of the side elevations to allow for the grade level to slope up toward the back of the property
- 4 Parking spaces pervious pavement area reduced to "compact" size although spaces are typically the standard size (9 feet by 18 feet) with the space where the front end of the car and open car doors overhang is landscaping
- 4 Parking spaces changed to pervious paving
- Shrubs added around parking area
- Landscape plan added

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §5.1):

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."

In considering a special permit under §4.4, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The existing structure is dilapidated and potentially dangerous structure and will be removed and replaced with a building with more height but with a smaller footprint and greater side yard setbacks.

A negative impact is the loss of a small market in a dense residential neighborhood where residences would have convenient access to a locally serving store or business. This location and many of these commercial nodes in the City have been rezoned to be residential districts, making it difficult for businesses to establish themselves. The



business at this location has been vacant for several years and therefore a redevelopment of the parcel despite the loss of a commercial space, is beneficial.

A portion of the driveway in addition to the parking areas should be made up of a pervious surface so that the site meets the pervious surface requirement of 35%.

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 and providing for and maintaining the uniquely integrated structure of uses in the City.

The proposal to construct two townhouses is also consistent with the purpose of the district which is to establish one-, two-, and three-family homes.

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 proposal is designed to be compatible with the surrounding buildings and will become a conforming use as a residential property. The massing and design of the townhouses are generally compatible with the surrounding area. Although townhouses are not common in immediate area, the massing is similar to neighboring homes. There are several triple deckers in the area that are three stories with flat roofs, as is proposed for the subject property. The design is contemporary but includes elements such as a front porch, bays, and porticos that relate to older homes surrounding it. The varying siding for each story of the townhouse gives it visual interest and reduces its massing. The visual interest along with large front windows and lattice element are important because since the building will not be setback from the sidewalk, the façade needs to be pedestrian friendly. Moving the entrances to the front of the building greatly improves the way that the building relates to the street.

The new building will continue to be close to its neighbors but will be pulled back from the side lot lines to provide more separation between buildings. The separation is needed because the building will be three stories and have windows and views into the new residences. Also, the portion of the building at the corner of the lot will be removed, which will allow the neighboring house on Conwell Avenue to have more light.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Evans, Elaine Severino, Josh Safdie with Richard Rossetti absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Danielle Evans 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 for the construction of two residential units in a semidetached townhouse with 4 parking spaces. 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>Jul 23, 2012</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Nov 7, 2011</td> <td>Plans (Plot Plan)</td> </tr> <tr> <td>Feb 12, 2013</td> <td>Modified plans submitted to OSPCD (A-000 Cover Sheet, Z-001 Zoning Plan, A-100 Basement & First Floor Plans, A-101 Second & Third Floor Plans, A-300 Building Elevations, A-400 Building Perspectives)</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 | Jul 23, 2012 | Initial application submitted to the City Clerk's Office | Nov 7, 2011 | Plans (Plot Plan) | Feb 12, 2013 | Modified plans submitted to OSPCD (A-000 Cover Sheet, Z-001 Zoning Plan, A-100 Basement & First Floor Plans, A-101 Second & Third Floor Plans, A-300 Building Elevations, A-400 Building Perspectives) | BP/CO | ISD/Png. | |
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| 2 | Landscaping: The fence around the parking area shall be wrought iron. The landscaped strip between the parking area and residential neighbor shall be densely planted to limit light from cars' headlight from shining into the abutting home. The landscaped strip along Conwell Ave and North St shall accommodate vehicles overhanging into this space. A revised landscape plan is required to reflect this condition subject to the review and approval of Planning Staff. | CO | Png. | | | | | | | | | |
| 3 | Access to the side and rear yards shall remain open. No fences or walls shall be constructed to block access around the building. | CO | Fire Prevention | | | | | | | | | |
| 4 | A code compliant fire alarm system shall be installed. | CO | Fire Prevention | | | | | | | | | |
| 5 | 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 | | | | | | | | | |



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|----|---|---------------------------------|-------------|--|
| 6 | An additional 4% of the site shall be a pervious surface to meet the 35% pervious surface requirement. | CO | Plng. | |
| 7 | In order to relocate the street tree, a public hearing at DPW will be required. | Prior to removal of street tree | Highway | |
| 8 | Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards. | Perpetual | Plng. / ISD | |
| 9 | 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 | |
| 10 | 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 | |
| 11 | 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. | |
| 12 | 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 | |
| 13 | 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:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Danielle Evans
Elaine Severino (Alt.)
Josh Safdie (Alt.)

Attest, by the Senior Planner:

Lori Massa, AICP

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 _____

