



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2012-06

Date: February 9, 2012

Recommendation:

Unable to recommend variance / conditional approval of special permits, variance for side yard

PLANNING STAFF REPORT

Site: 123 Morrison Ave

Applicant Name: Margaret Morrissey

Applicant Address: 123 Morrison Ave, Somerville MA

Property Owner Name: Margaret Morrissey

Property Owner Address: 123 Morrison Ave, Somerville MA

Alderman: Rebekah Gewirtz

Legal Notice: Applicant/Owner, Margaret Morrissey, seeks Special Permit approval (SZO §4.4.1) to rebuild a single-story, one-family dwelling into a two-and-a-half-story, two-family dwelling. The Applicant is also seeking variances from the minimum side yard and lot area per dwelling unit requirements (SZO 8.5).

Zoning District/Ward: RA / 6

Zoning Approval Sought: Special Permit §4.4.1, 5.1

Date of Application: Jan 17, 2012

Dates of Public Hearing: Zoning Board of Appeals Feb 15, 2012

I. PROJECT DESCRIPTION

1. Subject Property: The subject property consists of a one-story, single-family, wood-frame dwelling on an approximately 3950 square foot lot located on Morrison Avenue, 42 feet east of Newberne Street.

The Applicant applied for Special Permits and Variances for the same proposal in 2007. The Zoning Board of Appeals granted approval of the project; however, it was never constructed and the permits have



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since expired. The decision is attached to this report. The following staff report is consistent with the staff report from 2007.

2. Proposal: The Applicant is proposing to reconstruct and expand the house to create a 2.5-story, two-family, wood-frame dwelling. The reconstruction would be a contemporary rendition of a standard house type in Somerville, incorporating two-story oriel windows, a gable roof, and massing comparable to that of neighboring homes. Contemporary features include modern window and door types, a cantilevered front porch covering, and a roofline that changes from a gable to an upward-sloping, fully glazed rear dormer at the rear of the home.

Landscaping on the property appears to meet the minimum 25% landscaping requirement. There are small plants and bushes in the front and right yards, while the left side and rear yards are paved with asphalt; there is a small area at the rear of the lot, which is bordered in stone and has some bushes that do not appear to be in good condition. The Applicant is proposing to retain existing front and side landscaping, and to replace the rear landscaping with a comparable amount at the right-rear (northeast) corner, where there is currently patchy asphalt. This would accommodate a third parking space without negatively impacting the landscaping. New paving is proposed for the driveway, and the Applicant proposes to replace the asphalt in the rear parking area with gravel.



123 Morrison Ave: (left) front, (left, bottom) rear yard, (right, bottom) neighborhood context



3. Nature of Application: The applicant seeks a special permit under §4.4.1 of the Somerville Zoning Ordinance (SZO), which provides for the alteration, addition, and extension of an existing

nonconforming structure. The structure is nonconforming with respect to its situation on a substandard lot (3950 square feet existing; 10,000 square feet required) with substandard street frontage (39.5 feet existing; 50 feet required). The redevelopment would also create two new nonconformities, for which variances are requested.

The site currently meets all setback requirements; however, when the structure increases from one story to 2.5 stories, the minimum side setback increases from 5'2" to 7'2"; the existing and proposed right side setback is 6'6". Similarly, the required combined side yard setbacks for the side increase from 13'2" to 16'2"; the existing and proposed combined setbacks would equal 15'1". These proposals would require a variance from the provisions of SZO §8.5.H, which establishes minimum side yard setbacks. These requirements reflect reduced side yard setback requirements for narrow lots.

In addition, under §8.5.B of the SZO, the minimum lot area/dwelling unit is 2,250 square feet for one- or two-family dwellings. The subject property is 3950 square feet, but would require 4500 square feet in order to create an additional dwelling unit.

The parking requirements will be met with the three proposed parking spaces in the rear. The single-family currently has one parking space in the driveway. The new three-bedroom unit will require two parking spaces. Therefore, a total of three parking spaces is required, which will be satisfied by the parking in the rear of the structure.

4. Surrounding Neighborhood: The neighborhood characterized by primarily 2.5-story structures of similar massing to the proposed development. These include a variety of traditional styles, including gable and mansard roofs. The existing structure on the subject property is notably out of character with its neighbors, with respect to both style and massing. While the proposed structure is more modern in style, the proposed massing (and certain design elements) is more compatible with the surrounding area than the existing structure.

5. Impacts of Proposal: The reconstruction is not anticipated to create negative impacts; however, some aspects of the design do not appear particularly compatible with the design of nearby properties. The roofline at the rear of the house, together with the extensive asymmetrical glazing in that rear third of the house, is out of character with the surrounding neighborhood, and seemingly with the rest of the house itself. While the Planning Staff applauds the building's potentially improved relationship to the street, this feature is not seen as an appropriate way for the structure to relate to its neighbors on the other three sides. The Planning Staff therefore would recommend modification of the design to incorporate roof and window types that are more harmonious with the remainder of the structure and with neighboring structures.

When the Planning Board reviewed the application in 2007, they found that the reconstruction was not anticipated to create negative impacts. The Planning Board applauded the proposed structure's improved relationship to the street, and the fact that the more unusual design features are at the rear of the structure.

6. Green Building Practices: None listed on the application form.

7. Comments:

Fire Prevention: A code compliant fire alarm system will be required. A new Certificate of Compliance will be required.

Engineering: If the building footprint or the amount of impervious surface will increase as a result of the proposal, a drainage analysis will be required.

The plan currently retains the existing footprint of the structure and will not increase the impervious surface as much of the rear parking area is currently paved.

Wiring Inspector: If the structure will be largely demolished, the utilities for the new structure will need to go in underground.

Historic Preservation: The Assessor's data shows that the building was built in 1960. When the application was submitted in 2006, the building did not require review to be substantially demolished because it was not greater than 50 years old. Now that the structure is greater than 50 years old, it will require review by the Historic Preservation Commission before demolition occurs. It will likely not be deemed significant. The Applicant will need to apply for a demolition permit to start this process.

Ward Alderman: Alderman Gewirtz is an abutter within 300 feet of the property and therefore will not be commenting in her official role.

II. 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 Staff 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 Applicant requires a special permit under §4.4.1 of the SZO. Under §4.4.1, "The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building ... the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

In considering the requested special permit, the Planning Staff finds that the proposed reconstruction would not be substantially more detrimental to the neighborhood than the existing conditions. While the proposed style differs from that of nearby structures, the scale and proportions of the proposed dwelling would be much more consistent with the area than the existing structure, which is notably out of place both in terms of style and scale. Staff recommends changes to the roofline and fenestration at the rear third of the house, but otherwise finds the proposal to be a significant improvement over existing conditions.

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 project site is located within an RA zoning district, which seeks to "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." The proposed changes would be compatible with these goals. The footprint of the building would not increase, and the increased height would not be atypical of this area.

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 proposed massing and proportions will be more compatible with the surrounding area than the existing structure. With the recommended changes to the rear roof and fenestration, the proposed design will also be more in harmony with that of the surrounding area.

III. FINDINGS FOR VARIANCES (Minimum Lot Area per Dwelling Unit & Side Yard Setback, SZO §8.5)

In order to grant a variance the Zoning Board of Appeals must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. The Applicant must show that there are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."

Regarding the proposed variance for side yard setbacks, the existing structure is unique among its neighbors in its style, size, and proportions, in a manner that is incompatible with its surroundings. This is apparently the result of a redevelopment of the site in the past half-century, as the structure is of more recent vintage than its neighbors. Thus, while the existing structure is largely compliant with the dimensional requirements of the SZO, it does not satisfy the SZO's broader goals of creating visually harmonious neighborhoods. While neighboring structures enjoy protection for their nonconforming dimensions, the strictures of the SZO prevent the subject property from being redeveloped in a manner that is harmonious with its context, unless substantial relief is granted, in the form of a variance.

The physical and financial hardship presented by the site is that the foundation is fixed and the proposed setbacks cannot be altered without significant expense to the owner and disruption to the neighborhood. As previously noted, the setback is currently compliant, but greater setbacks are required for 2.5-story structures than for one-story structures. The Planning Staff finds that the redevelopment of the site as proposed is beneficial to the surrounding area as well as to the owner, but that requiring a new setback-compliant foundation *creates an undue hardship* for the owner and makes this redevelopment unlikely, particularly for redevelopment as a single-family home, should the two-family proposal not receive approval.

The Applicant stated, "The existing building at the Premises is being replaced on the existing lot with a structure which will fit into the neighborhood and complete the streetscape. The existing ranch-style home does not fit into the neighborhood at all. Due to the location of the existing foundation on the right side, which is being re-used, the right side set-back cannot move without extreme hardship and waste. To make the structure look like the rest of the neighborhood requires bringing the right side up to the height of a 2 ½ story building. As such, the Applicant cannot meet the right side setback requirement and still practically and economically develop the property while matching the look of the neighborhood. This is a unique structure in a neighborhood where the other houses mostly look the same.

It should be noted that the Premises has the benefit of an easement on the left side across the neighboring property at 125 Morrison Avenue which, while it cannot be counted toward the side setback totals, is land which is used by the Premises. While irregular in shape, the easement is about 163 square feet in area. Therefore, the total of the setbacks is really closer to the total requirement than it seems.

The Applicant is making the best of the existing foundation and economic circumstances, which exist through no fault of the Applicant, to make the Premises fit into and improve the neighborhood.”

Regarding the requested variance from lot area per dwelling unit requirements, the proposed two-family dwelling is not seen as detrimental to the neighborhood, but the Planning Staff is *not* aware of special circumstances constituting a hardship that would justify a variance from the minimum requirements for lot area per dwelling unit.

The Applicant stated, “The existing building at the Premises is being replaced on the existing lot with a structure which will fit into the neighborhood and complete the streetscape. The existing ranch-style home does not fit into the neighborhood at all. Due to the increased size of the building necessary to make it look like the rest of the neighborhood (3,163 square feet), the building would not be economically viable as such a large single-family home and, therefore, needs to be made into a two-family home, which is an allowed use in an RA district. As such, Applicant cannot meet the minimum lot area per dwelling unit requirement to practically and economically develop the property while matching the look of the neighborhood. This is a unique structure in a neighborhood where the other houses mostly look the same.

It should be noted that the Premises has the benefit of an easement across the neighboring property at 125 Morrison Avenue which, while it cannot be counted toward the lot area per dwelling unit, is land which is used by the Premises. While irregular in shape, the easement is about 163 square feet in area. Therefore, the Premises is really closer to the requirement than it seems.

The Applicant is making the best of the existing lot and economic circumstances, which exist through no fault of the Applicant, to make the Premises fit into and improve the neighborhood.”

2. The Zoning Board must find that the variance is “the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

Regarding the proposed variance for side yard setbacks, the Planning Staff finds that this is the minimum relief necessary to allow a reasonable redevelopment of the site that is in harmony with the neighborhood.

The Applicant stated, “The variance being sought is minimal, as it is only relief for a small distance. Since the lot is narrow, since the right side wall will be in the same place as it is now, and since the Applicant could not reasonably comply with the side setback requirements, allowing the variance is reasonable, necessary and minimal.

Without the variance, neither the Applicant, nor anybody else, will be able to reasonably develop the Premises while also preserving the streetscape.”

Regarding the requested variance from lot area per dwelling unit requirements, the subject property lacks the 4,500 square feet required to create a second dwelling on the site, being short by 550 square feet; as there is no way to meet this requirement by acquiring additional land, nor by reducing the size of the structure, this variance would be the minimum needed to add a second dwelling. However, for the single-family dwelling to remain as such would still enable the Applicant to retain reasonable use of the land. Therefore, the Planning Staff does not find that this criterion is met.

The Applicant stated, “The variance being sought is minimal, as it is only relief for 1 unit. Two-family residential uses are allowed by right in an RA district. Since the Applicant could not reasonably use or sell a 3,163 square foot single-family home, making it a two-family home is the next best, least intrusive marketable alternative.

Without the variance, neither the Applicant, nor anybody else, will be able to reasonably develop the Premises while also preserving the streetscape.”

3. The Zoning Board must find that the proposed conversion “will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare... considering the character and use of the nearby buildings...shall take into account the number of persons residing or working in such buildings or upon such land, and the present and probable future traffic conditions.”

Regarding both requested variances, the Planning Staff finds that the proposal would be in harmony with the surrounding neighborhood and would be less detrimental than the existing structure.

Regarding the proposed variance for side yard setbacks, the Applicant stated, “As stated above, the purpose and the intent of the SZO, as stated in SZO §1.2, is, in part, to conserve the value of land and buildings, and encourage the most appropriate use of land throughout the City. This project does that by removing a house which does not fit into the neighborhood with a house which does.

As the houses on the street are fairly close together, the side yard setback variance merely makes the Project match the other houses. The structure will be no closer on the right side than it is now. The importance of fixing the streetscape is beneficial to the neighborhood. In essence, this Project seeks to replace the missing tooth in the smile that is the streetscape. Therefore, the variance for minimum lot area per dwelling unit should be allowed.”

Regarding the requested variance from lot area per dwelling unit requirements, the Applicant stated, “As stated above, the purpose and the intent of the SZO, as stated in SZO §1.2, is, in part, to conserve the value of land and buildings, and encourage the most appropriate use of land throughout the City. This project does that by removing a house which does not fit into the neighborhood with a house which does.

As there will be the required off-street parking on site, there will be little or no traffic impact on the neighborhood from the 1 additional unit. The importance of fixing the streetscape is beneficial to the neighborhood. In essence, this Project seeks to replace the missing tooth in the smile that is the streetscape. Therefore, the variance for minimum lot area per dwelling unit should be allowed.”

IV. RECOMMENDATION

Planning staff are in favor of the redevelopment of the site but are unable to recommend approval of the variance for the lot area per dwelling unit, not having found that the criteria were met for that variance. Planning staff did find that the project met the criteria for the side yard variance and for the special permit. In general, the existing structure is inappropriate for the neighborhood, the proposed structure is an improvement, and the proposed use as a two-family structure is consistent with the pattern of the development in the neighborhood.

The Applicant's submission contends that the variance is needed in order to redevelop the site, and that the criteria are met for granting the variance.

Special Permit under §4.4.1

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

Variance for Side Yard Setback, §8.5.H

Based upon the application materials, Planning Staff site visits, submitted information and the above findings, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **VARIANCE**. The Staff finds that the variance is necessary to allow a reasonable redevelopment of the structure, which would be in greater harmony with the surrounding area than the existing structure.

Variance for Minimum Lot Area per Dwelling Unit, §8.5.B

Based upon the application materials, Planning Staff site visits, submitted information and the above findings, the Planning Staff is **UNABLE TO RECOMMEND APPROVAL** of the requested **VARIANCE**. The Staff finds that the creation of a second dwelling unit would not be substantially more detrimental than the existing structure, but does not meet two of the requirements for a variance as set forth under §5.5.3 of the SZO.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

The Planning Staff recommends the following conditions be attached to the special permit and variance for side yard setback:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is for the alteration to a nonconforming structure to create a 2 ½ story, single-family structure. 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>Jan 17, 2012</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(Apr 18, 2007)</td> <td>Plans submitted to OSPCD (A0.0 cover pg- 3/13/07, SP.1 plot plan- 12/18/06, SP.2 site plan- 12/22/06, D1.1-1.3, D2.1-2.4 demo plan- 12/18/06, A1.0-1.4 floor plan- 12/22/06, A2.1 Sections- 3/13/07, A3.1-3.4 elevations- 12/22/06, A3.5 building section- 3/13/07) The interior floor plans must be modified to allow redevelopment as a single-family home, without requiring subsequent review.</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	Jan 17, 2012	Initial application submitted to the City Clerk's Office	(Apr 18, 2007)	Plans submitted to OSPCD (A0.0 cover pg- 3/13/07, SP.1 plot plan- 12/18/06, SP.2 site plan- 12/22/06, D1.1-1.3, D2.1-2.4 demo plan- 12/18/06, A1.0-1.4 floor plan- 12/22/06, A2.1 Sections- 3/13/07, A3.1-3.4 elevations- 12/22/06, A3.5 building section- 3/13/07) The interior floor plans must be modified to allow redevelopment as a single-family home, without requiring subsequent review.	BP/CO	ISD/Plng.	
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2	The fire alarm system must be updated to current code. A new Certificate of Compliance will be required.	CO	Fire Prevention							
3	If the building footprint or the amount of impervious surface will increase as a result of this proposal, a drainage analysis will be required.	BP	Engineering							
4	If the structure will be largely demolished, the utilities for the new structure will need to go in underground.	Installation	Wiring Inspector							
5	The Applicant is advised that no additional dwelling units may be created without receiving the appropriate permits and zoning relief.	Perpetual	ISD							

6	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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Should the Zoning Board of Appeals decide to approve the requested variance for lot area per dwelling unit, the approval will also include the conversion from a one- to a two-family structure. The interior floor plans will not need to be modified to allow for the redevelopment as a single-family home.

