



**TOWN OF ARLINGTON**  
DEPARTMENT OF PLANNING and  
COMMUNITY DEVELOPMENT

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**MEMORANDUM**

To: Zoning Board of Appeals  
From: Jennifer Raitt, Director, Dept. of Planning and Community Development  
Marisa Lau, Senior Planner  
Date: 5/12/2022  
RE: Docket 3698 – 39 Tufts Street; Special Permit under Zoning Bylaw Section 8.1.3(B)  
(Nonconforming Single-Family or Two-Family Dwellings)

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The applicants, Zachary Heath Trustees and KRS Contracting, seek a Special Permit in accordance with Section 8.1.3(B) (Nonconforming Single-Family or Two-Family Dwellings) of the Zoning Bylaw. The applicant seeks to construct an addition of two dormers and replace the roof of a two-family structure, increasing the height to 34.33 feet. The proposal would add 409 square feet of living area in the attic bedroom. The project would increase the total square footage from 3,716 SF to 4,234 SF (+518 SF).

The structure is in the R1 Zoning District and is nonconforming with the Zoning Bylaw's lot size; frontage; front and right side yard; and usable open space requirements. The applicant is not increasing the footprint of the existing structure. The project would increase the nonconforming nature of the usable open space percentage from 22% to 20% (under the minimum requirement of 30%).

Per the definition of a half story in Section 2 (Definitions) of the Zoning Bylaw, "less than one half of the floor area measured from the underside of the roof framing to the finished floor below has a clear height of 7 feet 0 inches or more." The applicant may have incorrectly calculated the half story based on the area of the second floor. It is unclear based on the applicant materials whether the addition meets the definition of a half story. Depending on the dimensions of the finished floor area of the attic, the proposal may create a new nonconformity.

The following is an application of the Special Permit criteria (Zoning Bylaw Section 3.3.3):

Criterion #1: Requested Use

The requested use is permitted in the R1 Zoning District through the granting of a Special Permit pending confirmation that the proposal complies with the definition of a half story.

Criterion #2: Public Convenience/Welfare

This proposal would provide additional living space to the upper unit. Staff note the applicant did not describe why the additional space is needed or whether the unit is occupied.

Criterion #3: Undue Traffic Congestion/Impairment of Public Safety

There would not be an increase in traffic congestion or an impairment of public safety.

Criterion #4: Undue Burden on Municipal Systems

There would not be an undue burden on municipal systems.

Criterion #5: Special regulations

This proposal would not result in the need for special regulations.

Criterion #6: Integrity/Character of District; Detrimental to Health, Morals, Welfare

Most structures in the immediate area are single-family structures with a height of 2.5 stories. There are two nonconforming two-family structures and several single-family single-story dwellings in the vicinity as well. Dormers are not a prevalent feature in the surrounding neighborhood, but are most common on single-story structures.

The proposal includes a new roof that will increase the height of the building and add a gable dormer and a shed dormer to the structure. The front façade will be renovated with an enlarged stoop, separate entries for each unit, and windows in a new alignment. The exposed brick on the façade will be covered with paneling. The applicant also proposes to change the window pattern on the side and rear façades and reconstruct the two-story enclosed rear porch.

The increase in building height and change in roof lines will increase the structure's massing and its appearance beyond two stories from the streetview. Additionally, the appearance will change from what currently presents as a single-family structure to clearly a two-family duplex. The applicant is encouraged to explore the potential for minor adjustments to the location of the dormer windows to better align them with the proposed window pattern on lower levels. The covered entry way adds architectural interest to the front façade although other designs should be considered that may help reduce the appearance of height of the renovated structure.<sup>1</sup> Overall, the proposal would not detrimentally impact the neighborhood character of the district or adjoining districts, nor will it be detrimental to the health, morals, or welfare of the neighbors of the property.

Criterion #7: Detrimental Excess in Particular Use

This proposal would not cause any detrimental excesses.

Below are aerial and street-view photos of the current building:

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<sup>1</sup> Residential Design Guidelines, Principle B-1 (pg. 26) and Principle C-1, pg 36.  
<https://www.arlingtonma.gov/home/showpublisheddocument?id=54518>







Recommendation:

The Department of Planning and Community Development (DPCD) recommends that:

- The Zoning Board of Appeals (ZBA) requests that the applicant clarify the area of the half story using the definition in the Zoning Bylaw to determine if the application would create an additional nonconformity

If the proposal is compliant with the definition of a half story, DPCD maintains that the proposal is consistent with the Special Permit criteria and therefore recommends that the Zoning Board of Appeals approve this application.

Related dockets:

- #3666: 14-16 Egerton Rd – Applicant sought a special permit to construct a half-story addition by expanding their existing attic with a shed dormer and to add a second driveway on a two-family structure on a nonconforming lot in the R2 Zoning District. Approved 10/12/2021.
- #3655: 34 Marathon St – Applicant sought to construct an addition of two shed dormers on the third level of a two-family structure on a nonconforming lot in the R2 Zoning District. Approved with conditions on 5/25/2021.
- #3652: 41-43 Fairmont St – Applicant sought a special permit to create an addition via a shed dormer on a two-family structure on a nonconforming lot in the R2 Zoning District. Approved with conditions on 4/13/2021.