



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

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Case #: ZBA 2018-101
Site: 11 Bay State Avenue
Date of Decision: October 3, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 9, 2018

ZBA DECISION

Applicant Name: Derek Snare
Applicant Address: 158 Central Street, Somerville, MA 02145
Property Owner Name: Mirza Yasser
Property Owner Address: 11 Bay State Avenue, Somerville, MA 02144
Alderman: Lance Davis

Legal Notice: Applicant, Derick Snare, and Owner, Mirza Yasser, seek Special Permits under §4.4.1 of the SZO to increase the non-conforming FAR, and for the linear extension of the non-conforming right side yard setback by constructing a two-story* rear addition and adding a rear deck.**

**One-story rear addition.

**RA zone. Ward 6.

<u>Zoning District/Ward:</u>	RA Zone. Ward 6.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 30, 2018
<u>Date(s) of Public Hearing:</u>	October 3, 2018
<u>Date of Decision:</u>	October 3, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-101 was opened before the Zoning Board of Appeals at the Visiting Nurse Association (VNA) on Lowell Street. 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. On October 3, 2018, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION: The Applicant proposes a 4' x 8' one-story rear addition within the right side yard setback and a 10' x 16' rear deck, also within the right side yard setback. The trigger for the special permit is as follows:

Right side yard setback:

In the RA zone, the minimum required right side yard setback is eight (8) feet. The existing right side yard setback at the rear of the structure is 1.7 feet. The proposed rear addition would be flush with the right rear façade of the existing structure. The proposed rear deck will be stepped in from the right rear façade of the existing structure by one foot, making that setback 2.7 feet from the property line

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

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." Further, Section 4.4.1 of the SZO 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."*

Section 4.4.1 of the SZO allows for legally-existing, non-conforming one- and two-family residences to be enlarged by Special Permit as long as the proposed changes do not create a situation that is more detrimental to the site or surrounding neighborhood than current conditions.

The non-conformity in question that triggers the need for a special permit for this project is the right side yard setback. The proposed rear, one-story addition would terminate flush with the right rear façade of the existing structure. The proposed deck would terminate one foot in from the right rear façade, making the setback 2.7 feet in the deck location.

In considering a special permit under §4.4.1 of the SZO, Staff generally finds that the one-story addition and rear deck will not be any more detrimental to the site than current conditions on the property and will provide some outdoor living space for the residents of the structure. The rear addition will not extend into the rear yard any further than an existing one-story bump-out with which it will merge.

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 Board finds that the proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The Board also finds that the proposal is consistent with the purpose of the RA 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 characteristics of the built and unbuilt surrounding area, including land uses."*

Surrounding Neighborhood: Bay State Avenue contains numerous similarly-styled residential structures containing one or more units along with gambrel-roofed residential structures. Most properties have elevated open or covered rear porches. One other structure contains an open rear deck.

Impacts of Proposal (Design and Compatibility): The property most impacted by the proposal is the right side abutter. The deck and addition will also be visible from the rear abutting property located on Liberty Avenue.

6. Housing Impact: Will not create affordable housing units.

DECISION:

Present and sitting were Members Orsola, Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, and Anne Brockelman. 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 to construct a single-story rear addition and a 10' x 16'-foot rear deck.	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 30, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>September 24, 2018</td> <td>Revised plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 30, 2018	Initial application submitted to the City Clerk's Office	August 2018	Updated plans submitted to OSPCD	September 24, 2018	Revised plans submitted to OSPCD
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.												
Construction Impacts												
2	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 on Bay State Avenue.	During Construction	ISD									
3	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									
4	Construction shall occur from 7:30am – 5:00pm Monday-Friday <u>ONLY</u> . There shall be no construction or construction-related work allowed on the weekends or holidays.	During Construction	ISD									
Design												
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit. The building shall be re-sided and vinyl siding will not be permitted.	BP	Plng./ISD									
Miscellaneous												
6	Granting of the applied for use or alteration does <u>not</u> include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Perpetual	ISD / Plng.									
Public Safety												
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
8	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches. The same shall not be permitted in the sunroom.	Perpetual	FP/ISD									



Final Sign-Off				
9	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, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Anne Brockelman (Alt.)

*** Need all board signatures if registered land (check deed) ***

Attest, by the Administrative Assistant:

Monique Baldwin

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 _____

