



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

**PLANNING DIVISION STAFF**

GEORGE PROAKIS, *DIRECTOR OF PLANNING*  
SARAH LEWIS, *SENIOR PLANNER*  
SARAH WHITE, *PLANNER/PRESERVATION PLANNER*  
ALEX MELLO, *PLANNER*  
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2018-03  
**Date:** March 21, 2018  
**Recommendation:** SP: Conditional Approval  
V: Unable to Recommend

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**PLANNING STAFF REPORT**

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**Site:** 111 Cedar Street

**Applicant / Owner Name:** 111 Cedar Street, LLC  
**Applicant / Owner Address:** 103 Hemenway Street, Suite B2, Boston, MA 02115  
**Agent Name:** Richard G. DiGirolamo, Esq.  
**Agent Address:** 424 Broadway, Somerville, MA 02145  
**Alderman:** Mark Niedergang

Legal Notice: Applicant/Owner, 111 Cedar Street, LLC, seeks a Special Permit under SZO §4.4.1 to alter a nonconforming structure by constructing a three-story rear deck and stairs as well as finishing a portion of the basement. The proposal also requires a Variance under SZO §5.5, §8.5, and §8.6 because it will violate the allowed encroachments into the required rear yards for decks. RB Zone. Ward 5.

Dates of Public Hearing: Zoning Board of Appeals – March 21, 2018

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property consists of one parcel of 2,162 square feet and contains one three-family dwelling. Each unit in the dwelling is located on its own respective floor.
2. Proposal: The proposal is to construct a three-story rear deck and stairs and to finish the basement. The property will undergo interior renovations that will convert the structure from three-families to two-families.
3. Green Building Practices: The application states that the proposal will not exceed the stretch energy code.



#### 4. Comments:

*Ward Alderman:* Alderman Niedergang has been made aware of this proposal and has yet to comment as of the publication of this report.

## **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 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 structure is currently nonconforming with respect to the following dimensional requirements: lot area, lot area per dwelling unit, ground coverage, landscaped area, pervious area, floor area ratio (FAR), front yard setback, left yard setback, right yard setback, street frontage, and the number of parking spaces.

The proposal to finish the basement by adding 921 square feet of net floor area and construct a three-story rear deck will impact the following nonconforming dimensions: FAR, left yard setback, and right yard setback. The current dimension of the FAR will increase from 1.15 to 1.58, where 1.0 is the allowed maximum. The left yard and right yard setbacks are currently 6'-2" and 1'-3" respectively and will remain as such as the proposed deck will be less than the width of the existing structure. The proposed deck will be setback 7'-1" from the left property line and 1'-6" from the right property line.

The proposal will convert the existing three-family into a two-family dwelling and will add landscaping on the site. Such activities will bring the site more towards conformance with the requirement for lot area per dwelling unit. The site currently has 721 s.f of lot area per dwelling unit and removing one unit will give the site 1,081.3 s.f of lot area per dwelling unit. The proposed landscaping requirements will bring the site's landscaping and pervious area percentages from 18% to 41.3%.

These alterations to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that "[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, 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 a special permit under §4.4 of the SZO, Staff finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. The proposed

modifications would allow for the two proposed units to have outdoor access directly from their respective units. The proposal has been designed with setbacks that minimally impact the neighbors.

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 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 encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RB district, which is, *"to establish and preserve medium density neighborhoods of one-, two- and three-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:* The subject parcel is located on Cedar Street between the blocks of Hudson Street and Highland Avenue. The surrounding structures are similar in size, scale, and type.

*Impacts of Proposal (Design and Compatibility):* The rear decks project 6 feet from the rear of the structure and include a spiral stair from the second story to the first that projects an additional 5 feet. Overall, the rear decks will be compatible with the design of the existing structure and the surrounding neighborhood.

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

8. 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.

### III. FINDINGS FOR VARIANCE

Normally the required rear yard in the RB district is 20 feet. However, this is a shallow lot with a depth of 66 feet and the SZO allows a rear yard reduction of 3 inches for every foot that the lot is less than 100 feet deep. Therefore, the lot is allowed a 102 inch (or 8'-6") rear yard reduction that leads to a required rear yard setback of 11'-6". The existing structure currently meets this requirement as it is more than 14' from the rear property line. Decks and stairs are allowed to encroach within a required rear yard up to ¼ of the required setback; however, not any less than 10 feet. A Variance (§5.5) is sought to create a new nonconformity by constructing a three-story rear deck and a spiral stair that, at a minimum, will be within 3.9 from the rear property line. The proposed stairs will be 3.9 feet from the rear property line and the deck will be 8.4' from the rear property line.

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

1. *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.”*

*Applicant’s response:* The proposal is for two (2) residential units. Currently the premises are three (3) residential dwellings. The proposal is to eliminate the third unit so as to have two (2) large units with decks to accommodate more family living spaces. The lot is somewhat sloped in the rear thus making it difficult for larger unit projects.

*Staff’s response:* The lot could be considered shallow relative to other lots in the same RB zoning district surrounding the site. The subject lot has an average depth of approximately 65 feet. The lots directly adjacent to the site have an average depth of 63 feet and 66 feet. Lots within the district along Hudson Street have depths that range from 60 feet to 87 feet. Other nearby lots on Cedar Street within the district are 92 feet deep.

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

*Applicant’s response:* The proposal will not be injurious to the neighborhood, as it will provide larger housing units to the area. This will be an asset to this area of Somerville that has many smaller residential spaces.

*Staff’s response:* It could be considered reasonable relief for units to have access to the outdoors via a six foot deck with a compact viral stair to have access to the ground.

3. *“The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”*

*Applicant’s response:* This is a neighborhood with many two (2) family residences. The proposal is harmonious with the neighborhood as it is an RB zoning district which is a mixed use residential neighborhood. The proposal will make the most efficient use of the lot which is sloped in the back of lot.

*Staff’s response:* Staff finds that rear decks and compact spiral stairs are very common in Somerville and this particular proposal would be in harmony with the general purpose and intent of the SZO and it will not be injurious to the neighborhood or detrimental to the public welfare.

#### **IV. RECOMMENDATION**

##### **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**.

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.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of a three-story rear porch and stair as well as to finish the basement. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>January 3, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 2, 2018</td> <td>Modified plans submitted to OSPCD (A-0, D-1.1, D-1.2, D-2.1, D-2.2, A-1.1, A-1.2, A-2.1, and A-2.2)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	January 3, 2018	Initial application submitted to the City Clerk's Office	March 2, 2018	Modified plans submitted to OSPCD (A-0, D-1.1, D-1.2, D-2.1, D-2.2, A-1.1, A-1.2, A-2.1, and A-2.2)
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Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.										
<b>Pre-Construction</b>										
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng.							
3	If required by the Engineering Department, the proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. If necessary, the seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.							
<b>Construction Impacts</b>										
4	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.							
5	The Applicant shall at their 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							
6	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							
<b>Design</b>										

7	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.	BP	Plng.	
8	An exterior light and electrical receptacle is required for the first (or all) level 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	
<b>Site</b>				
9	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
<b>Miscellaneous</b>				
10	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Plng.	
11	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
12	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	
<b>Public Safety</b>				
13	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
14	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
15	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.	
<b>Final Sign-Off</b>				
16	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.	

