



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-72
Site: 17 Wheeler St
Date of Decision: July 18, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 23, 2018

ZBA DECISION

Applicant / Owner Name: Benjamin Lee
Applicant / Owner Address: 2 Earhart St. #512, Cambridge, MA 02141
Agent Name: Keith Miller
Agent Address: 52 Statler Road, Belmont, MA 02478
Alderman: Matthew McLaughlin

Legal Notice: Applicant and Owner, Benjamin Lee, seeks a Special Permit under §4.4.1 of the SZO to alter a 3-family structure by replacing existing decks within the non-conforming rear-yard setback. RB zone. Ward 1.

Zoning District/Ward: RB Zone. Ward 1.
Zoning Approval Sought: §4.4.1
Date of Application: May 16, 2018
Date(s) of Public Hearing: July 18, 2018
Date of Decision: July 18, 2018
Vote: 5-0

Appeal #ZBA 2018-72 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, Somerville City Hall, 93 Highland Ave, Somerville. 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



DESCRIPTION:

The proposal is to replace the rear decks on all three floors and add an exterior staircase to provide a second egress for upper floors. Also, the Applicant proposes to renovate the third floor, including the infill and creation of new windows on the right, left, and rear faces of the structure.

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 §4.4.1 of the SZO. This section of the report goes through §4.4.1 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."*

Regarding section §4.4.1 of the 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."

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, lot area per dwelling unit, percentage of landscaped area, front yard setback, rear yard setback, left side yard setback, and street frontage.

The proposal will impact the following nonconforming dimensions: rear yard setbacks. The current dimension is 2.5 feet and will not change; the requirement in the district is 20 feet. The new decks and staircase are within the rear yard setback, but will not expand the nonconformity. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

In considering a special permit under §4.4 of the SZO, the Board find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal would provide a second egress for the units on the second and third floors. The exterior changes caused by the interior third floor renovation will have minimal impact on the abutting properties. The proposal has been designed with setbacks that minimally impact the neighbors and the ground coverage, net floor area, FAR, building height, and right side yard setback will continue to be conforming to the requirements of the SZO.



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 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 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 surrounding neighborhood is comprised of mostly three unit flat roofed triple deckers.

Impacts of Proposal (Design and Compatibility): The requested special permit will have minimal impact on the surrounding neighborhood. The rear porches are not anticipated to have a negative impact on the design and compatibility of the structure.

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

The proposal will not add to the existing stock of affordable housing.

6. 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.*

DECISION:

Special Permit under §4.4.1

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Josh Safdie, Anne Brockelman, and Pooja Phaltankar. Upon making the above findings, Richard Rossetti made a motion to approve the request for a **Special Permit**. Elaine Severino seconded the motion. 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 for the rear deck and staircase. 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>May 16, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> </tbody> </table>			
Date (Stamp Date)	Submission			
May 16, 2018	Initial application submitted to the City Clerk's Office			
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.	During Construction	Plng.	
3	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	
4	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	
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.	BP	Plng.	
6	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	
Site				
7	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
Miscellaneous				
8	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.	



9	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	
Public Safety				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
11	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
12	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.	
Final Sign-Off				
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:

Orsola Susan Fontano, *Chairman*
Richard Rossetti
Danielle Evans
Elaine Severino
Josh Safdie
Anne Brockelman (*Alt.*)
Pooja Phaltankar (*Alt.*)

Attest, by City Planner: _____
Alexander C. Mello

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 _____

