



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

GEORGE J. PROAKIS
EXECUTIVE DIRECTOR

Planning Division
ZONING BOARD OF APPEALS MEMBERS
ORSOLA SUSAN FONTANO, *CHAIR*
DANIELLE EVANS, *CLERK*
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN
DREW KANE (ALT.)

Case #: ZBA 2019-48
Site: 44-46 Prescott Street
Date of Decision: June 5, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 19, 2019

ZBA DECISION

Site: 44-46 Prescott Street

Applicant Name: Mitrano Erasmo G & Lisa Trustees
Owner Name: Mitrano Realty Trust
Applicant /Owner Address: 40 Washington Terrace, Somerville MA
City Councilor: Ben Ewen-Campen

Legal Notice: Applicant, Mitrano Erasmo G & Lisa Trustees, and Owner, Mitrano Realty Trust, seek a special permit under SZO §4.4.1 to alter a nonconforming structure by constructing a ground-level vestibule in the rear. RA Zone. Ward 3.

<u>Zoning District/Ward:</u>	RA Zone. Ward 6.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	May 2, 2019
<u>Date(s) of Public Hearing:</u>	June 5, 2019
<u>Date of Decision:</u>	June 5, 2019
<u>Vote:</u>	4-0

Case # ZBA 2019-48 was opened before the Zoning Board of Appeals in the 3rd Floor Community Room at the VNA located at 259 Lowell Street on June 5, 2019. 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 June 5, 2019, the Zoning Board of Appeals took a vote.



I. DESCRIPTION:

The proposal is for the reconstruction of existing stairs including the addition of a ground-level vestibule in the rear of the building.

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."*

The structure is currently nonconforming with respect to the following dimensional requirements: Lot area, lot area per dwelling unit, pervious area, FAR, building height, front yard setback, and both side yard setbacks.

The proposal will impact the conforming dimension of the rear yard setback. The current dimension is 43.6 feet from the edge of the house to the property line. The proposal is to construct a ground level-vestibule with a rear yard setback of 34 feet. The rear yard setback requirement is 20 feet in the RA district. This alteration 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, the Board is able to find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The existing house is already 43.6 feet from the rear property line and the Board is supportive of the proposed ground level vestibule and new rear yard setback of 34 feet.

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 protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; and to conserve the value of land and buildings.

The proposal is consistent with the purpose of the RA 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.”

Surrounding Neighborhood: The subject property is located off of Summer Street and Highland Avenue. It is a residential street made up of primarily 2.5 story structures and the Cummings School building next door.

Impacts of Proposal (Design and Compatibility): The proposed ground level vestibule is of a traditional style. Its proximity to the property line as proposed will be 34 feet from the rear property line. It will not be visible from the public way.

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

III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Drew Kane and Anne Brockelman. Upon making the above findings, Susan Fontano made a motion to approve the request for Special Permits. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **4-0** to **CONDITIONALLY APPROVE** the request for **SPECAIL PERMIT**. The following conditions are attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for the extension of a rear deck. 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 2, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> </tbody> </table> <p><i>Any changes to the approved site plan that are not de minimis must receive SPGA approval.</i></p>			
Date (Stamp Date)	Submission			
May 2, 2019	Initial application submitted to the City Clerk's Office			
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	
5	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays.	During Construction	ISD	
Design				
6	Applicant shall provide final material samples for decking and railings to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.	
Site				
7	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
8	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				



9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
10	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
11	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				
12	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*
Elaine Severino, *Acting as Clerk*
Anne Brockelman
Drew Kane (Alt.)

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 _____

