



**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 2019-32**  
**Site: 56-58 Upland Road**  
**Date of Decision:** May 15, 2019  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** May 23, 2019.

---

**ZBA DECISION**

---

**Site:** 56-58 Upland Road

**Applicant / Owner Name:** Brian Salerno  
**Applicant / Owner Address:** 73 Field Pond Road, Milford, MA 01757  
**City Councilor:** Katjana Ballantyne

Legal Notice: Applicant and Owner, Brian Salerno, seeks a special permit under SZO §4.4.1 to alter a nonconforming structure by constructing a dormer, finishing the basement, and altering the porches. RB Zone. Ward 7.

<u>Zoning District/Ward:</u>	RB Zone. Ward 7.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	March 4, 2019
<u>Date(s) of Public Hearing:</u>	May 1, 2019 and May 15, 2019
<u>Date of Decision:</u>	May 15, 2019
<u>Vote:</u>	5-0

---

Case # ZBA 2019-32 was opened before the Zoning Board of Appeals in the City Council Chambers at Somerville City Hall on May 1, 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 May 15, 2019, the Zoning Board of Appeals took a vote.



**I. DESCRIPTION:**

The proposal is to construct dormers on the left side of the roof (if looking at the structure from Upland Road), which is being considered the rear yard setback. The proposal also includes rearranging the floor plan of the units to town-house style units. Other aspects of the project include finishing the basement and altering the porches.

**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, front yard setback, and rear yard setback.

The proposal will impact the following nonconforming dimension of the rear yard setback by constructing two dormers on the left side of the roof (if looking at the structure from Upland Road), which is being considered the rear yard setback. The current dimension is 7'-6" and the proposal will not change that. The requirement in the district is 20 feet. 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 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."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal will allow for the renovation of the structure with setbacks that minimally impact the neighbors and the requirements for lot area per dwelling unit, ground coverage, landscaped area, pervious area, floor area ratio (FAR), building height, left side yard setback (Upland Road side) and right side yard setback (garage side) 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 protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; 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 property is a corner lot at the intersection of Upland Road and Hillside Road. This is a residential neighborhood with mostly two- and three-family dwellings.

*Impacts of Proposal (Design and Compatibility)*: The proposal will adjust the floor plans so that each unit is laid out townhouse style. The plan is to demolish the existing enclosed front porch on Upland Road to create a more open and inviting front porch for one of the units. The plan also includes removing an existing rear two-story deck and constructing a single story porch off the rear of the house.

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, Josh Safdie, 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 **5-0** 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 construction of dormers, finishing the basement, and altering porches. 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>March 4, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>April 29, 2019</td> <td>Plans submitted to OSPCD (G01, L1.0, Z1.1, AX1.1, AX1.2, AX2.1, A1.1, A1.2, and A2.2)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 4, 2019	Initial application submitted to the City Clerk's Office	April 29, 2019	Plans submitted to OSPCD (G01, L1.0, Z1.1, AX1.1, AX1.2, AX2.1, A1.1, A1.2, and A2.2)
	Date (Stamp Date)				Submission					
March 4, 2019	Initial application submitted to the City Clerk's Office									
April 29, 2019	Plans submitted to OSPCD (G01, L1.0, Z1.1, AX1.1, AX1.2, AX2.1, A1.1, A1.2, and A2.2)									
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	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. 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							
7	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							



<b>Design</b>				
8	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.	
<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	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.	
11	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	
12	An updated basement plan must be submitted to show that there will be no window wells to exit from the basement as it will not be finished.	BP	Plng.	
<b>Public Safety</b>				
13	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
14	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>				
15	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*  
Josh Safdie  
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 \_\_\_\_\_

