



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2018-179
Site: 65 Albion Street
Date of Decision: February 20, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 6, 2019

ZBA DECISION

Site: 65 Albion Street
Applicant/Owner Name: Wendy Derjue-Holzer & Matt Holzer
Applicant/Owner Address: 65 Albion Street, Somerville, MA 02144
City Councilor: Mark Niedergang

Legal Notice: Applicant and Owner, Wendy Derjue-Holzer & Matt Holzer, seek special permits to alter a non-conforming property, including extending the non-conforming left side yard setback by extending the basement area. RA zone, Ward 5.

<u>Zoning District/Ward:</u>	RA zone, Ward 5.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	December 5, 2018
<u>Date(s) of Public Hearing:</u>	2/6, 2/20
<u>Date of Decision:</u>	February 20, 2019
<u>Vote:</u>	4-0

Case # ZBA 2018-179 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall. 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 February 20, 2019 the Zoning Board of Appeals took a vote.



I. PROJECT DESCRIPTION

At the left rear corner of the house, the Applicant proposes creating a small extension to the basement in order to accommodate an outside entry to the basement and provide sufficient support for a new bathroom above. The project increases the net floor area by eight (8) square feet. The location of this extension is within the left side yard setback, thus triggering the need for a special permit.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & Article 9):

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 §4.4.1 of the SZO.

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."

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."

Left side yard setback

The RA zone requires a left side yard setback of 8 feet. The existing setback in the proposed dormer location is three (3) feet. The Applicant proposes retaining this three-foot setback to construct the basement entry and support the new bathroom above.

Albion Street, particularly this immediate area, presents numerous modestly-sized, two-story Mansard houses.

The addition will be visible from the left-abutting property. Given that this proposal is merely providing foundational support under an existing portion of the house, there is no additional shading or negative visual effects anticipated that would adversely impact the neighborhood character.



There is not expected to be an impact to on-street parking as the bedroom count will not be increasing. Abutters can expect typical noises and odors associated with the construction phase of a project, but the existence of this rear basement entry will not in itself add to noises and odors in the neighborhood.

Some might argue that the inclusion of another bathroom could put an additional burden on the city sewer system or water supply. Because this project will need to be reviewed by the Engineering Department prior to the granting of a building permit, they will determine if any measures need to be taken by the Applicant to address any impacts. Lastly, as the property is remaining a single-family, the Board does not anticipate any change in traffic volume or congestion as a result of this project.

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 purposes of the RA zone which are “[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.”

There is no part of this proposal that the Board finds to be inconsistent with the purposes of the RA district. This proposal allows a family to have important access to their basement from the rear yard and to provide much-needed structural support to the new bathroom above.

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."*

The Board has addressed the question of site and area compatibility in a previous section. As a point of note, the Board has not conditioned this report to require a full re-landscaping of the property nor the removal of the cement driveway to be replaced with pavers. Though these are typical conditions that are added to other, larger projects, the Board does not find that they are merited here. Conditions placed on a project should meet the test of “rough proportionality.” The Board finds that other requirements that we have grown accustomed to adding on other, larger projects, would be out-of-proportion with the relief request put forward in the case of 65 Albion Street.

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:

The proposal to extend the foundation will have no impacts on SomerVision goals.



III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, and Elaine Severino. Upon making the above findings, Danielle Evans 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 **WITH CONDITIONS**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	Approval is for the linear extension of the foundation and creation of rear yard basement access within the left side yard setback.	BP/CO	ISD/PIng.					
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>December 6, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	December 6, 2018	Application submitted to City Clerk's office.
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December 6, 2018	Application submitted to City Clerk's office.							
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.								
Engineering								
2	<p>The Applicant must comply with the "Policy for new connections to and modifications to existing connections to the municipal sewer and drainage system stormwater management and infiltration/inflow mitigation."</p> <p>The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.</p>	BP	Engineering/ISD					
Design								
3	All materials, including, but not limited to windows, exterior finishes, siding, and similar shall be submitted to, reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/PIng					
Construction Impacts								
4	The Applicant shall, at his 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					
5	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/ISD					



6	The name(s)and contact information of all entities working on the site shall be posted in an area easily-visible from the public way for the passing public to read.	During Construction	ISD	
7	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.	During Construction	ISD	
Public Safety				
8	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
9	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.			
10	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches.	CO/Perpetua l	ISD/PlngF P	
Final Sign-Off				
11	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	ISD/Pln g.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Elaine Severino
Richard Rossetti

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 _____

