



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2016-38
Site: 44 Florence Street
Date of Decision: May 4, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 12, 2016

ZBA DECISION

Applicant Name:	Robert H. Johnson
Applicant Address:	73 Prentiss Street, Cambridge, MA 02140
Property Owner Name:	Robert H. Johnson
Property Owner Address:	73 Prentiss Street, Cambridge, MA 02140
Agent Name:	N/A

Legal Notice: 44 Florence Street. Applicant and Owner, Robert H. Johnson, seeks a Special Permit per SZO §4.4.1 to substantially alter an existing three-story, three-family residential structure by combining two units and building a roof deck within the side yard setbacks.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	March 10, 2016
<u>Date(s) of Public Hearing:</u>	May 4, 2016
<u>Date of Decision:</u>	May 4, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2016-38 was opened before the Zoning Board of Appeals at Somerville City Hall on May 4, 2016. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The Applicant proposes to combine the units on the second and third stories into one unit, effectively converting the property into a two-family structure. The trigger for the Special Permit is the construction of the roof deck within the side yard setbacks.

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 §4.4.1 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."

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 §4.4.1 of the SZO the Board finds that ensuring that two units exist in the building rather than the three allowed is in keeping with the general purposes of the RB district. By combining the top two units and re-arranging the living spaces of all three floors, the proposed plan reduces the bedroom count from the five currently existing to four.

The Board also finds that the addition of the roof deck at the rear of the property will allow the occupants of the second unit an easier means of access to outdoor space than they are afforded currently. Very few properties on Florence Street have outdoor living (deck or porch) space at the front of their property. The Applicant's proposed changes are in keeping with the general area of having resident outdoor space confined to the rear of properties.

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 purposes of the RB district, which is, "[t]o 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."



As noted previously, in considering a special permit under §4.4.1 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The neighborhood is a mix of two- and three-family residences with rear yard outdoor space.

6. 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.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore 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 to substantially alter an existing three-family structure into a two-unit residence and construct a roof deck at the rear of the property within the left and right side yard setbacks.	BP/CO	ISD/PIng.	
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 16, 2016</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> </tbody> </table>			
Date (Stamp Date)	Submission			
March 16, 2016	Initial application submitted to the 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.				
Pre-Construction				
2	New sanitary connection flows over 2,000 GPD require a 4:1 removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment to the City based on the cost per gallon of I/I to be removed from the sewer system. The Applicant shall work with Engineering to meet this condition before a certificate of occupancy is issued.	CO	Eng.	
Design				
3	The Applicant shall adhere to all of the designs including style, scale, form, massing and materials as indicated on the plans approved by the ZBA.	CO	Planning Staff / ISD	
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	
Public Safety				
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
7	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.	
8	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
Final Sign-Off				
9	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, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

