



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2015-104
Site: 21 Magnus Avenue
Date of Decision: March 16, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 29, 2016

ZBA DECISION

Applicant Name:	David Stefanelli
Applicant Address:	21 Magnus Avenue, Somerville, MA 02143
Property Owner Name:	David Stefanelli
Property Owner Address:	21 Magnus Avenue, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant and Owner, David Stefanelli, seeks a Special Permit per SZO §4.4.1 to alter a non-conforming structure by re-constructing a front porch within the front and left side yard setbacks at 21 Magnus Avenue.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 16, 2016
<u>Date(s) of Public Hearing:</u>	2/17, 3/2 & 3/16/16
<u>Date of Decision:</u>	March 16, 2016
<u>Vote:</u>	4-0

Appeal #ZBA 2015-104 was opened before the Zoning Board of Appeals at Somerville City Hall on February 17, 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 proposal is to remove the enclosed front porches on all three stories and rebuild a covered first-story front porch within the left and front 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."*

- The property has several non-conformities, but the two non-conformities triggering the Special Permit are the front and left side yard setbacks.
- The current left side yard setback is 1.0 foot at its closest point and 5.2 feet to the edge of the main portion of the house. The Applicant proposes that the left edge of the new porch be 7.7 feet from the left side yard lot line.
- The right side yard setback is 2.9 feet at its closest point. The bottom tread on the new set of stairs leading off the right side of the new porch will be 4.7 feet from the right side yard lot line.
- The required front yard setback in the RB zone is 15 feet. The front porches rest on the front lot line, triggering the need for relief. The Applicant proposes setting the new front porch back 1.5 feet from the front lot line.

Section 4.4.1 states that Lawfully 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 the alterations proposed to structure would not be substantially more detrimental to the neighborhood than those present on the existing structure. Many of the other structures in the immediate surrounding area present front porches, both open and enclosed. Moreover, the proposed changes to the property will improve it substantially by removing two stories of front porches that are in poor condition.

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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.
- The proposal is consistent with the purpose 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.”*

- The surrounding neighborhood is a mixture of two and three-family structures with front porches or decks.
- There are few to no impacts from the proposal. The proposed changes are compatible with the use, form, and massing of the residential structures in the immediate area. The proposed changes are reasonable accommodations to make in order to allow for the property owner to make reasonable modifications to their home.

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, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

- The proposal will not contribute to the metrics of SomerVision but will allow the property owner to make some modifications to their home.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Josh Safdie and Anne Brockelman with Richard Rossetti and Elaine Severino absent. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Anne Brockelman seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes																
1	Approval is for the re-construction of a first story, covered front porch with new stairs and no enclosures.	BP/CO	ISD/ Plng.																	
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<p><u>Any changes to the approved plan that are not determined to be <i>de minimis</i> by Planning Staff must receive ZBA approval. Planning Staff will determine whether or not the changes shall be considered <i>de minimis</i>.</u></p>																				



Pre-Construction				
	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
Construction Impacts				
2	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	
3	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	
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./ISD	
Design				
5	The size, form, massing and design of the front porch shall match exactly the plans that are included with this report and that are in the case file for this project. Any changes to these plans must be reviewed and approved by the Planning Staff before they are executed.	ISD	ISD/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	
Miscellaneous				
7	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and property.	Cont.	ISD	
Public Safety				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
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*
Danielle Evans
Josh Safdie
Anne Brockelman (Alt.)

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 _____

