



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-22
Site: 54 Meacham Road
Date of Decision: April 3, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: April 17, 2019

ZBA DECISION

Site: 54 Meacham Road
Applicant Name: Margaret Bruton
Owner Name: Mark Philben
Owner/Applicant Address: 54 Meacham Road, Somerville, MA 02143
City Councilor: Lance Davis

Legal Notice: Applicant, Mark Philben, and Owner, Margaret Bruton, seek Special Permits under §4.4.1 of the SZO to construct stairs within the rear yard setback. RB zone. Ward 6.

<u>Zoning District/Ward:</u>	RB zone. Ward 6.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	February 22, 2019
<u>Date(s) of Public Hearing:</u>	April 3, 2019
<u>Date of Decision:</u>	April 3, 2019
<u>Vote:</u>	5-0

Case # ZBA 2019-22 was opened before the Zoning Board of Appeals at the Visiting Nurse Association 3rd Floor Community Room, 259 Lowell Street, Somerville MA on April 3, 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 April 3, 2019 the Zoning Board of Appeals took a vote.



I. DESCRIPTION:

The proposal is to construct a set of stairs within the non-conforming rear yard setback. The rear yard setback is currently 3.76 feet from the rear property line. The Applicant proposes constructing a set of steps to egress from an existing porch.

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, rear yard setback, street frontage, left side yard setback.

The proposal is to construct stairs existing down from an existing rear deck. The proposed stairs are within the already non-conforming rear yard setback. The existing rear yard setback is 3.76 feet. The stairs will terminate this same distance from the rear property line. 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 or 4.5 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 allows the building occupants to exit from an existing rear to grade below. The proposed stairs will not exacerbate the non-conforming rear yard setback further. Rather, the edge of the stairs will terminate at the edge of the deck, which is already within the non-conforming rear yard setback.

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 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:** There are primarily single- and two-family homes in the immediate area. These are rear steps exiting from an existing deck. Their existence will have no impact on the neighborhood.
- **Impacts of Proposal (Design and Compatibility):** These are rear steps exiting from an existing deck. They will not be visible from the street and will not have an impact on the design of the structure.

5. **Housing Impact:** Will have no impact on the existing housing stock (market rate) or affordable housing stock.

6. **SomerVision Plan:** The proposal has no impact on SomerVision positively or negatively; this is a short set of steps being constructed to exit from an existing deck.

III.DECISION:

Present and sitting were Danielle Evans, Josh Safdie, Anne Brockelman, Elaine Severino, and Drew Kane. Upon making the above findings, Josh Safdie 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 to construct deck steps within the non-conforming rear yard setback.	BP/CO	ISD/Plng.	
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>February 22, 2019</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> </tbody> </table>			
Date	Submission			
February 22, 2019	Initial application submitted to the City Clerk’s Office			
Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.				
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	All construction materials and equipment shall 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	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				
5	Applicant shall provide material samples for stairs/railings and related to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.	
Miscellaneous				
6	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				
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
8	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are <u>NOT</u> permitted on decks or porches.	Perpetual	FP/ISD	
9	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				
10	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:

Danielle Evans, *Acting as Chair*
Josh Safdie, *Acting as Clerk*
Elaine Severino
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 _____

