



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #:** ZBA 2018-113  
**Date:** November 7, 2018

**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 26 Ossipee Road (Unit #2)

**Applicant Name:** Todd Billet  
**Applicant Address:** 24-26 Ossipee Road, #2,  
Somerville, MA 02144  
**Owner Name:** Todd Billet  
**Owner Address:** 24-26 Ossipee Road, #2, Somerville,  
MA 02144  
**Alderman:** Katjana Ballantyne



**Legal Notice:** Applicant and Owner, Todd Billet, sees Special Permits under §4.4.1 of the SZO to alter a non-conforming property by constructing a roof deck on top of a single-story garage on the property line. RA zone. Ward 7.

**Dates of Public Hearing(s):** November 7, 2018 – ZBA

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**I. PROJECT DESCRIPTION**

**1. Subject Property:** The locus presents a two-family residential structure sited in the RA zoning district. Unit #2, located on the second and third floors, currently presents an open rear deck that rests upon the roof of the single-story garage. Through this physical connection, the garage and residential structure are considered a single structure. Staff has confirmed with the Inspectional Services Department (ISD) that the rear deck was connected to the single-story garage since prior to the renovation of this property in 2013-2014. Therefore, because of this physical connection, the zoning relief requested by the Applicant to connect a new rooftop deck above the garage is a Special Permit rather than a Variance.

**2. Proposal:** The Applicant proposes creating additional outdoor living space for the second-third floor unit (Unit #2) by constructing a deck on the roof of the single-story garage. As noted above, the garage and house are already connected through the rear, second story deck.

The triggers for special permitting are as follows:

Rear yard setback

The existing rear yard setback is 3.0 feet from the property line at its shortest point. The Applicant proposes constructing a deck whose rear boundaries will be a minimum of 5' from the property line.

Left side yard setback

The existing left side yard setback is 3.0 feet from the property line. The Applicant proposes improving this non-conforming setback by setting the deck a minimum of 5.0 feet from the property line.

**3. Green Building Practices:**

The application states that this is not applicable.

**4. Comments:**

Ward Alderman: Alderman Ballantyne has been involved with this project for the last few months.

Staff Planner: The Applicant and Architect for this project have coordinated extensively with the project Planner, abutting property owners, and Alderman regarding this proposal. The Applicant and Architect have been consistently responsive to Planner inquiries, requests for changes, and suggestions.

Decks proposed above garages present particular challenges for planning review. Garages and other similar accessory structures are typically closer to side and rear property lines than a principal residential structure on a property. A roof deck placed atop such structures, therefore, increases the proximity of people and associated noise and activity closer to abutting properties and on a larger, elevated plane.

In response to these and other concerns from the Planner regarding this project, the Applicant and Architect have made the following changes to their plans from their initial proposal:

- deck setback increased from 3'-0" min. to 5'-0" min.
- deck perimeter reduced from 230 sf (15'-2"x15'-2") to 174 sf (13'-2"x13'-2")
- propose new sod on site
- propose additional plantings on the proposed deck
- proposed additional plantings around the garage to soften the appearance of the façade
- included fire-rated decking with a mahogany finish
- changed deck railings from wood to aluminum with a bronze finish to complement mahogany decking and harmonize with greenery and other natural wood trims

- simplified screening to remove initially-proposed lattice in favor of planter boxes and a trellis frame for vine / greenery screening at the corners
- added planter boxes outside deck railing to further soften and shade garage roof
- added planter boxes at garage driveway elevation

Given the changes made to the proposal, Staff is now able to be supportive of the application for zoning relief.

## **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:**

Staff 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."*

### **Regarding §4.4.1**

*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."*

#### Rear yard setback

In the RA zone, a minimum rear yard setback of 20 feet is required. The connected structure at 26 Ossipee Road is already non-conforming with a rear yard setback of 3'0. The Applicant proposes increasing the rear yard setback to a minimum of five (5.0) feet from the property line. The proposal improves the non-conformity by 2.0 feet.

The rear of the property at 26 Ossipee Road is buttressed by a retaining wall topped by a vine-covered wood fence. The parcel abutting 26 Ossipee to the rear is further elevated due to a change in grade.

#### Left side yard setback

In the RA zone, a minimum left side yard setback of 8.0 feet is required. The existing left side yard setback varies from none to perhaps a foot at the rear of the garage structure. The Applicant proposes improving the left side yard setback to 5.0 feet. Views of the left abutting property from the proposed roof deck will be shielded via screening material.

**Additional Determinations**

In addition to the considerations discussed above, Staff does not anticipate that this proposal will increase noises or odors in this neighborhood. Regular construction-related noise can be expected on this site as the project is underway. However, this uptick in noises will be temporary in nature. Staff anticipates that any odors associated with this project will be construction-related and, post-construction, will be in keeping with those typically experienced by residents living in close proximity to each other. Abutters should expect normal noises associated with regular outdoor social activity.

There are no additional impacts on the municipal water supply expected 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."***

Staff 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."

**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 area surrounding this Ossipee Road parcel contains other properties with exterior decks built atop single-story garage structures. While one of these decks is known to have been constructed through the special permitting process, it appears that others may not have been legally built. This being said, there is evidence that at least one garage rooftop deck in the general vicinity was legally permitted in 2008.

The ZBA must decide each proposal before it on its own merits, however, and not in comparison to past approvals or denials. The establishment of a rooftop deck through special permit in 2008 does not set a precedent for the ZBA to approve such a proposal in the future. Similarly, a denial of other rooftop decks does not set a precedent for the ZBA to deny such a proposal on other properties. The merits of each proposal presented to the ZBA should be considered individually for approval or not.

**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 would provide the residents of the second-and-third-floor unit with additional outdoor living space.

**III. RECOMMENDATION**

**Special Permit under §4.4.1**

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMITS** with the conditions that follow.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to construct a roof deck atop a connected, single-story garage structure and within the left and rear yard setbacks.	BP/CO	ISD/PIng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August 15, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>October 30, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 15, 2018	Application submitted to City Clerk's office.	October 30, 2018	Updated plans submitted to OSPCD
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<p style="color: red;">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.</p>										
<b>Design</b>										
1	All materials to be used on the garage roof deck project shall be submitted to, reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/PIng							
<b>Construction Impacts</b>										
2	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							
3	All construction materials and equipment must be stored <u>on the project site</u> . 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							
4	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 see.	During Construction	ISD							

5	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend/holiday construction or construction-related work shall occur.	During Construction	ISD	
<b>Public Safety</b>				
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
7	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
8	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO	ISD/Plng.	
9	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches. These requirements shall be written into any rental agreements or condo documents. Proof of the inclusion of this language shall be shown to Planning Staff prior to the issuance of a CO.	CO/Perpetua l	ISD/PlngF P	
<b>Site</b>				
10	The Applicant shall install additional plantings and screening materials as indicated on their ZBA plan set reviewed by the SPGA on November 7, 2018.	CO	ISD/Plng	
<b>Final Sign-Off</b>				
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	Plng.	