



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-155
Site: 134-136 Oxford Street
Date of Decision: November 28, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 4, 2018

ZBA DECISION

Applicant / Owner Name: Oxford Real Estate Group, LLC
Applicant / Owner Address: 25 Edge Hill Road, Chestnut Hill, MA 02467
Agent Name: Sarah Like Rhatigan, Esq.
Agent Address: Trilogy Law LLC, 12 Marshall Street, Boston, MA 02108
Alderman: J.T. Scott

Legal Notice: Applicant / Owner, Oxford Real Estate Group, LLC, seeks a special permit per SZO §4.4.1 to alter a nonconforming structure by enclosing rear porches. BA Zone. Ward 2.

<u>Zoning District/Ward:</u>	BA Zone. Ward 2.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 23, 2018
<u>Date(s) of Public Hearing:</u>	November 28, 2018
<u>Date of Decision:</u>	November 28, 2018
<u>Vote:</u>	4-0

Appeal #ZBA 2018-155 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on November 28, 2018. 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 November 28, 2018 the Zoning Board of Appeals took a vote.



DESCRIPTION:

The proposal is to enclose the rear porches.

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 dimensional requirement for lot area per dwelling unit, which will be impacted by the proposal. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO) because it is a three-family structure.

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 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 has been designed with setbacks that minimally impact the neighbors and the requirements for lot area, ground coverage, landscaped area, pervious area, floor area ratio (FAR), building height, front yard setback, left, and right side yard setbacks will continue to be conforming to the requirements of the SZO.

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 conserve the value of land and buildings; to adequately protect the natural environment; 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 BA district, which is, “to establish and preserve business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic.”

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: The building fronts Oxford Street in Cambridge. The neighborhood contains a mix of residential and commercial uses.

Impacts of Proposal (Design and Compatibility): The top portion of the structure’s rear elevation is partly visible from Beacon Street. The proposal is not anticipated to have a negative impact on the built or unbuilt surroundings of the area.

5. Housing Impact: *Will not create adverse impacts on the stock of existing 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.*

DECISION:

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

#	Condition	Timeframe for Compliance	Verified (initial)	Notes	
1	Approval is for the enclosure of rear porches. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.		
	Date (Stamp Date)				Submission
	October 23, 2018				Initial application submitted to the City Clerk’s Office
	October 15, 2018				Plans submitted to OSPCD
	August 24, 2018				Plot Plan
Any changes to the approved plans 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.		



Design				
3	The materials of the enclosed porch must match those of the existing structure. Final exterior materials and windows shall be reviewed and approved by Planning Staff.	BP	Plng.	
Miscellaneous				
4	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				
5	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
6	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
Final Sign-Off				
7	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

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 _____

