



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-71
Site: 45-47 Pennsylvania Avenue
Date of Decision: August 7, 2019
Decision: *Approved with Conditions*
Date Filed with City Clerk: August 12, 2019

ZBA DECISION

Site: 45-47 Pennsylvania Avenue*

**The address was incorrectly listed on the legal advertisement as 43-47 Pennsylvania Avenue. The correct address is 45-47 Pennsylvania Avenue.*

Applicant / Owner Name: Brian Tamm

Applicant / Owner Address: 45 Pennsylvania Avenue, Somerville, MA 02145

City Councilor: Matthew McLaughlin

Legal Notice: Applicant and Owner, Brian Tamm, seeks a special permit under SZO §4.4.1 to alter a nonconforming structure to enclose a second story rear porch. RA Zone. Ward 1.

<u>Zoning District/Ward:</u>	RA Zone. Ward 1
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	June 18, 2019
<u>Date(s) of Public Hearing:</u>	August 7, 2019
<u>Date of Decision:</u>	August 7, 2019
<u>Vote:</u>	4-0

Case number ZBA 2019-71 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall. 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 August 7, 2019, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
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I.PROJECT DESCRIPTION

The proposal is to rebuild the two-story porch in the rear but enclose the second story, which is within the required right side yard setback. The enclosed area will be used for a pantry.

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, lot area per dwelling unit, front yard setback, right side yard setback, and street frontage.

The Applicant has the option to rebuild the two-story open deck as-of-right since it was demolished due to a fire. However, the proposal to enclose the second story of the porch requires a special permit because it is within the required right side yard setback. The proposal will impact the nonconforming dimension of the right side yard setback. The current dimension is 4 feet, the proposal to enclose the second story of the rear porch will occur within 5.76 feet of the right property line. The requirement in the district is 8 feet. 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 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 number of units, ground coverage, landscaped area, pervious area, building height, rear yard setback, and left side yard setback 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 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 RA district, which is, “to 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."*

Surrounding Neighborhood: The subject property is located on the northwest side of Pennsylvania Avenue on the block between Broadway and Maine Avenue.

Impacts of Proposal (Design and Compatibility): The enclosed portion of the porch will be clad in cementitious lap siding. The proposal will occur in the rear of the building and will not have an impact on the structure’s compatibility with the built and unbuilt surrounding 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.

III. DECISION:

Present and sitting were, Susan Fontano, Danielle Evans, Anne Brockelman, and Drew Kane (alt.). 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**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to enclose the second story rear porch. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Pln g.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>June 18, 2019</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>July 17, 2019</td> <td>Plans submitted to OSPCD (A000, C001, A001, A030, A040, A045, A111-A113, A122, A131, A132, A200, A210, and A431)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	June 18, 2019	Initial application submitted to the City Clerk’s Office	July 17, 2019	Plans submitted to OSPCD (A000, C001, A001, A030, A040, A045, A111-A113, A122, A131, A132, A200, A210, and A431)
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Any changes to the approved site plan or elevations/use 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 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	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 final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.	
Site				
6	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
Miscellaneous				
7	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
8	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				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
10	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
11	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				
12	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:

Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Anne Brockelman
Drew Kane (Alt.)

Attest, by Planner:

Alexander Mello

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 _____

