



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

ORSOLA SUSAN FONTANO, CHAIRMAN
RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)
POOJA PHALTANKAR, (ALT.)

Case #: ZBA 2016-111
Site: 113 Prospect Street
Date of Decision: November 16, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 30, 2016

ZBA DECISION

Applicant Name:	Lieba Savitt
Applicant Address:	113 Prospect Street, Somerville, MA 02143
Property Owner Name:	Lieba Savitt
Property Owner Address:	113 Prospect Street, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant and Owner, Lieba Savitt, seeks a Special Permit under SZO §4.4.1 to construct a rear addition and to construct a dormer within the side yard setback.

<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 14, 2016
<u>Date(s) of Public Hearing:</u>	November 16, 2016
<u>Date of Decision:</u>	November 16, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2016-111 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on November 16, 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.



DESCRIPTION:

The Applicant proposes to add a 10' 4" shed dormer within the right side yard setback (which is less than 50% of the length of the roof plane to which it is attached), and a rear, third floor, flat-roofed addition.

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."*

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 §4.4.1 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposed shed dormer is within the right side yard setback but is only slightly more than 10 feet in width, far less than the 50% length of the window plane to which it will be attached.

Because the dormer will be situated less than three feet from the lot line, per building code, any new windows or enlarged windows must be inoperable, minute fire-rated windows or made of glass block. Proof of fire rating must be provided to the Fire Prevention team and Inspectional Services Division (ISD). Should the applicant decide not to install a window on the dormer façade, then a blind window shall be installed.

As seen in the photographs provided, the existing two-story rear portion of the house already presents a flat roof. The smaller, third floor, flat-roofed addition that is proposed is not dissimilar to type of roof already present on the property. The Board finds that the flat-roofed addition will be minimally-visible from the street and would not be substantially more detrimental to the property or neighborhood than the conditions currently extant.

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 purpose of the RC district is “to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.” Staff finds that the retention and expansion of the two-family use is consistent with the purposes of this RC district.

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."*

In considering a special permit under §4.4.1 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than those current on the existing structure. The addition of the dormer and the rear addition is a reasonable accommodation to provide the owners in order for them to achieve some additional living space in 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:

The project will not add any new units to Somerville’s housing inventory.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie with Anne Brockelman and Pooja Phaltankar absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for the construction of one shed dormer and a third-story flat-roofed addition in the rear.	BP/CO	ISD/PIng.	
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>September 14, 2016</td> <td>Application and supporting documents submitted to City Clerk's office.</td> </tr> </tbody> </table> <p>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>			
Date (Stamp Date)	Submission			
September 14, 2016	Application and supporting documents submitted to City Clerk's office.			
Design				
2	The dormer and the addition shall each be clapboarded in the same material as currently extant on the rest of the structure.	CO	Planning Staff / ISD	
3	All windows shall be one-over-one as rendered.	CO	Planning Staff / ISD	
4	Any changes to the design, style, massing, form, elements, and materials of the shed dormers shall be submitted to and approved by Planning Staff (or, as necessary, the ZBA) prior to their execution on the building.	CO	Planning Staff / ISD	
5	In-the-field changes are not permitted without the prior approval of Planning Staff or the ZBA, as-required.			
Construction Impacts				
6	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	
7	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	
Public Safety				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	



9	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
10	All new windows or enlarged window openings three feet or less from the property line shall be inoperable, fire-rated windows. If such windows are not to be installed, blind windows shall be used, a design for which will first be submitted to Planning Staff for review and approval.	CO	Fire Prevention / ISD/Planning	
Final Sign-Off				
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.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

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 _____

