



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-13
Site: 7 Reed Court
Date of Decision: April 17, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: April 26, 2019

ZBA DECISION

Site: 7 Reed Court

Applicant Name: North America Development LLC
Applicant Address: 93 Broadway, Somerville, MA 02145
Owner Name: 7 Reed Court LLC
Owner Address: 7 Hume Ave, Medford, MA 02155
City Councilor: Matthew McLaughlin

Legal Notice: Applicant, North America Development LLC, and Owner, 7 Reed Court LLC, seek a Special Permit to enclose an existing porch that is within the rear and side yard setbacks, and to reconfigure the interior layout of the structure. RB district. Ward 1.

<u>Zoning District/Ward:</u>	RB district. Ward 1.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	February 6, 2019
<u>Date(s) of Public Hearing:</u>	April 17, 2019
<u>Date of Decision:</u>	April 17, 2019
<u>Vote:</u>	4-0

Case # ZBA 2019-13 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall on April 17, 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 17, 2019 the Zoning Board of Appeals took a vote.



I. DESCRIPTION:

The proposal is to renovate and reconfigure the interior layout of both units, and to fully enclose the existing first floor porch which sits within the rear and left yard setbacks. The lower unit will remain a 3-bedroom unit, and the upper unit will become a 4-bedroom unit; this change does not impact the parking requirement. The proposal requires zoning relief because it currently fails to comply with the required setbacks.

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 per dwelling unit; street frontage; front, rear, and side yard setbacks; and ground coverage.

The proposal will impact the following nonconforming dimensions: rear and left side yard setbacks. The rear yard setback is currently 4.8’ and the requirement is 20’. The left yard setback is currently 4.8’ and the requirement is 8’. The proposal will extend but not increase both of these nonconforming dimensions. 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 proposed exterior changes will primarily be visible to people using the Capuano School facilities and to the single neighbor on Reed Court. Enclosing the existing porch will provide more privacy to the property’s residents and is not expected to have any negative impacts on the school or other neighbors. The proposal has been designed with setbacks that minimally impact the neighbors and the landscaped and pervious area, and FAR 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 purpose of the RB district, which is, “[t]o 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.”

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 provide for and maintain the uniquely integrated structure of uses in the City; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels; and to preserve and increase the amenities of the municipality.”

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 fronts onto Reed St, a small offshoot of Oliver Street, and the other three sides of the property abut outdoor play areas of the Capuano School. There is only one other property on Reed Court, which appears to also not conform to any of the required setbacks.

Impacts of Proposal (Design and Compatibility): There are no expected impacts of the proposal other than normal construction noise impacts. Once enclosed, the first floor porch is expected to have fewer potential impacts on neighboring residents than the existing open-air porch has.

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, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups.*

III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Drew Kane and Elaine Severino. Upon making the above findings, Danielle Evans made a motion to approve the request for Revision to Special Permit. Elaine Severino 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 for enclosing the rear porch and the interior reconfiguration. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>February 6, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 7, 2019</td> <td>Plans submitted to OSPCD (EX2.1, A2.1, A2.3)</td> </tr> </tbody> </table>				Date	Submission	February 6, 2019	Initial application submitted to the City Clerk's Office	March 7, 2019	Plans submitted to OSPCD (EX2.1, A2.1, A2.3)
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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.							
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 enclose the porch with the same composite siding as is used on the rest of the house. Using vinyl is not permitted.	BP	Plng.							
Miscellaneous										
6	Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng.							
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.							
Public Safety										
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							



9	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
10	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				
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*
Danielle Evans, *Clerk*
Elaine Severino
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 _____

