



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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ALEX MELLO, *PLANNER*

**Case #:** ZBA 2018-95  
**Date:** September 17, 2018  
**Recommendation:** Conditional approval

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**PLANNING STAFF REPORT**

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**Site:** 76-78 Rogers Avenue

**Applicant / Owner Name:** Colin & Jessica Macdonald

**Applicant / Owner Address:** 76-78 Rogers Avenue, Somerville, MA 02144

**Agent Name:** Bruce Draper

**Agent Address:** 27 Shandel Drive, Tewksbury, MA 01876

**Alderman:** Mark Niedergang



**Legal Notice:** Applicants and Owners, Colin & Jessica Macdonald, seek Special Permits under §4.4.1 of the SZO for the following: upward and linear extension of the non-conforming right side yard setback by adding a second-story rear deck; the enlargement of an existing, non-conforming right elevation dormer within the right side yard setback, the enclosure of a non-conforming second-story front porch\* within front and right side yard setbacks, and increase the non-conforming FAR. RA zone. Ward 5.

**Dates of Public Hearing:** Zoning Board of Appeals – September 17, 2018

\*Since the publication of this legal notice, the proposal to enclose the second-story front porch has been removed from the scope of the project.

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**I. PROJECT DESCRIPTION**

1. **Subject Property:** The locus presents a two-family residential structure situated on a 3,360 square foot lot in the RA zoning district. The structure contains 3,130 square feet of living area. The locus is non-conforming in terms of lot area, lot area per dwelling unit (d.u.), Floor Area Ratio (FAR), right side yard setback, frontage, and parking.

2. **Proposal:** In addition to interior reconfiguration and the addition of a single dormer on the left elevation, the Applicant's proposal includes the reconstruction and extension of a dormer along the main roof plane on the right elevation, and a second-story, partially-covered deck. The triggers for zoning relief are as follows:

Right side yard setback

The existing right side yard setback is non-conforming at 2.9 feet in a zone where a minimum setback of eight (8) feet is required.

Existing conditions present a right elevation dormer that also terminates 2.9 feet from the property line. The Applicants propose re-building the existing dormer and extending it such that its length is no greater than 50% of the length of the roof plane to which it is to be attached. As this dormer resides within the setback, a special permit is needed for its reconstruction and extension.

The Applicants further propose constructing a second-story, partially-covered rear deck within the right side yard setback. Though the proposed deck will slightly step in from the right façade of the main house, the right side of the deck will still rest within the right side yard setback. The proposed second-story deck results in the linear (from the rear façade of the house toward the rear yard) and upward extension of the non-conforming right side yard setback. Extending these non-conformities also require zoning relief in the form of special permits under §4.4.1 of the SZO.

FAR

The FAR of the existing structure is 1.25 in a zone where .75 is the maximum FAR allowed. Through interior reconfiguration, the reconstruction/lengthening of the right elevation dormer, combined with the creation of a single left elevation dormer, the FAR will increase to 1.32.

3. **Green Building Practices:** The application states the following “*new roof insulated, energy efficient windows, low flow fixtures and energy efficient lighting, PV ready*”.

4. **Comments:**

*Ward Alderman:* Alderman Niedergang was informed of this project.

*City Planner:* This is the Applicants first experience with the Somerville zoning relief / special permitting process which can be challenging to navigate, especially for the first time. The Applicants have worked extensively with the assigned City Planner to modify the project proposal such that it can be supported by the Planner as meeting special permitting criteria.

## **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 Staff 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." 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."***

Section 4.4.1 of the SZO allows for legally-existing, non-conforming one- and two-family residences to be enlarged by Special Permit as long as the proposed changes do not create a situation that is more detrimental to the site or surrounding neighborhood than current conditions.

As noted earlier in this report, the trigger for special permitting is the work being done within the non-conforming right side yard setback (see "Proposal" above) and the increase in the non-conforming FAR.

*Right side yard setback*

***Dormer*** The existing right elevation dormer is 17' 7" in length. The applicant proposes re-building this dormer such that its pitch is 4/12 and the length is increased to 23' 3" or, a total increase in length of 5' 6". At 23' 3", the proposed dormer is no greater than 50% of the roof plan to which it will be attached (46' 6 1/2"). The increase in pitch will provide the Applicants with greater ceiling height in this portion of the 1/2-story while the increased dormer length will allow for the opening of eave space for the inclusion of a new bathroom.

Increasing the pitch and dormer length will bring additional bulk/massing to this portion of the structure that is 2.9 feet from the property line. However, similarly designed and situated residential structures which are replete on both sides of Rogers Avenue, present lengthy shed dormers on the 1/2-story elevation that is closest to the property line.<sup>1</sup> While less massing is always preferred in such circumstances, Staff finds that the proposed increase in dormer length is minimal and will allow the Applicants to make some interior changes that will improve the livability of the interior space.

***Second story rear deck*** As noted earlier in this report, the existing right side yard setback is 2.9 feet in a zone where a minimum 8-foot setback is required. The Applicants propose a linear and upward extension of the non-conforming right side yard setback through the construction of a second-story, partially-covered deck. The right line of the proposed deck appears to terminate further away from the right property line than 2.9 feet, but still within the side yard setback, thus requiring zoning relief.

Aerial views of Rogers Avenue along with Josephine Avenue and Highland Road, two streets immediately running parallel to Rogers, reveal a multitude of second-story open and covered decks resting in close proximity to property lines. The construction of the proposed second-story deck will allow for one or more individuals to congregate in an elevated location that is in close proximity to the right property line. The proposal does, however, allow for the Applicants to gain additional seasonal outdoor living space on a small lot.

***FAR*** The existing structure is already significantly over the FAR limit for the RA zone (1.25 in a .75 zone). The enlarged right elevation shed dormer and left elevation single dormer are the exterior changes that make the proposed increase in FAR "noticeable" to the rest of the neighborhood. The remainder of the FAR increases stem from interior reconfiguration. As a result of all of the proposed changes, the FAR

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<sup>1</sup> Such examples include 75, 69, 74, 79-81, 82 Rogers Avenue, among others. Unfortunately, some of the other similarly designed and situated structures along this street have shed dormers that exceed 50% of the roof plane to which they are attached. However, such dormers were constructed prior to the existence of the 50% dormer length regulation.

will increase to 1.32. The total increase in usable space created by the FAR increase is 245 square feet. Staff finds the proposed increase to be a very modest request that will result a more efficient use of interior space. Staff finds that the enlargement and creation of dormers to be consistent with similarly situated properties in the surrounding neighborhood.

**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 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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; 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.

Staff also finds that the proposal is consistent with the purpose of the RA district, which is, "[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."***

Staff has discussed these findings above in "Compliance with Standards" and reiterates them here.

**5. Housing Impact: Will not add to the City's stock of affordable housing.**

**6. SomerVision: The proposal conforms to the purposes of SomerVision in that the proposed improvements to the property will allow for a resident family to have a better and more convenient use of interior and exterior space to the benefit of their household.**

### **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 PERMIT**.

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 reconstruct and lengthen a right elevation dormer within the right side yard setback, increase the FAR from 1.25 to 1.32, construct a left elevation single dormer, and construct a second story rear deck resulting in the upward and linear extension of the non-conforming right side yard setback.	BP/CO	ISD/PIng.															
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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>																		
2	All exterior materials, including, but not limited to windows, doors, siding, roofing, trim, and the like, shall be submitted to Planning Staff for their review and approval prior to the issuance of a building permit. Vinyl siding, railings, balusters and similar shall not be approved.	BP	Planning Staff / ISD															
<b>Construction Impacts</b>																		
3	The Applicants shall, at their 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															
4	The applicants 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	PIng/ISD															

5	All construction materials and equipment shall be stored onsite. If occupancy of the street layout is required, such occupancy shall 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	
6	The Applicants must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November to April and there is a list of streets that have additional opening restrictions.	BP (only if opening the street is needed)	Eng	
7	The Applicants shall ensure that all food waste is removed from the project site on a daily basis.	During construction	ISD	
8	Construction and construction-related work shall occur between <b><u>7:30am and 5:00pm Monday through Friday only</u></b> . No construction or construction-related work shall occur on the weekends or holidays.	During construction	ISD	
9	Rodent baiting/control shall be undertaken as-needed.	During construction	ISD	
<b>Site</b>				
10	All mechanical equipment shall be screened from the view of the street and from abutting properties.	CO & Perpetual	Plng. / ISD	
11	All venting shall be painted or wrapped to match the color of the portion of the house from which it protrudes.	CO & Perpetual	Plng. / ISD	
12	All garbage and recycling shall be screened from the view of the street and abutting properties.	CO & Perpetual	Plng. / ISD	
<b>Public Safety</b>				
13	The Applicants shall meet the Fire Prevention Bureau's requirements.	CO	FP	
14	As per City regulations, there shall be no grills or similar cooking/heating equipment allowed on any decks or porches at any time.	Perpetual	FP/ISD	
15	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
16	All exterior lighting shall be downcast and shall not cast illumination toward or onto abutting properties in any way.	CO	ISD	
<b>Final Sign-Off</b>				
17	The Applicants 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.	