



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

GEORGE J. PROAKIS
EXECUTIVE DIRECTOR

PLANNING DIVISION
ZONING BOARD OF APPEALS MEMBERS

ORSOLA SUSAN FONTANO, CHAIRMAN
DANIELLE EVANS, *CLERK*
DREW KANE, (ALT.)
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN

Case #: ZBA 2019-18
Site: 241 Summer Street
Date of Decision: June 5, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 21, 2019

ZBA DECISION

Site: 241 Summer Street
Applicant/Owner Name: Gary Lopresti
Applicant/Owner Address: Mary Ann Rapoza
City Councilor: Mark Niedergang

Legal Notice: Applicant, Gary J. Lopresti, and Owner, MaryAnn Rapoza, see Special Permits under §4.4.1 of the SZO to enclose a first floor rear porch within the left and rear yard setbacks. RB zone. Ward 5.

<u>Zoning District/Ward:</u>	RB zone, Ward 5.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	February 14, 2019
<u>Date(s) of Public Hearing:</u>	6/5, 6/19, 7/17, 8/7
<u>Date of Decision:</u>	August 7, 2019
<u>Vote:</u>	4-0

Case # ZBA 2019-18 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.



I. PROJECT DESCRIPTION

1. Subject Property: The locus presents a two-family residential structure with 4,144 square feet of living space. The structure rests on a 3,073 square-foot lot in the RB zoning district. The second-story porch is currently enclosed; the first-story ground-level rear porch is currently open. The existing porches rest within the left and rear yard setbacks. The left side yard setback is 4.9 feet in a zone where 8 feet is required. The rear yard setback is 11.5 feet. The property is also non-conforming with regard to FAR. The existing FAR is 1.3 in a zone where 1.0 is the maximum allowed.

2. Proposal: The applicant proposes enclosed the currently-open first floor rear porch. As noted above, the second-story rear deck is already enclosed. Enclosing the first-story rear deck would increase the square footage of the property by roughly 152 square feet. The triggers for special permitting are below:

Left side yard setback

The enclosed second-story deck rests 4.9 feet from the left side yard. The open, first floor porch below it rests the same distance from the property line. Enclosing the porch would not create further encroachment into the left side yard.

Rear yard setback

A 20-foot rear yard setback is required in the RB zone. Even with a 3-inch per foot allowance for every foot by which the property is less than 100 feet in length, at 11.9 feet, the rear yard setback is still non-conforming. The non-conformity here will remain at 11.9 feet as the first floor porch is being enclosed, not extended.

FAR

The FAR in the RB district is limited to 1.0. With an existing FAR of 1.3, the property is already non-conforming in this regard. Enclosing the first floor rear porch would increase the living area of the property by approximately 152 square feet.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & Article 9):

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:

Staff finds that the information provided by the Applicant conforms to the requirements of §4.4.1 of the SZO.

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 of the SZO

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.”

While the enclosure of the first story porch will create more massing, it will be at the ground floor level. The more evident massing is the second-story enclosed porch. This porch was enclosed several years ago.

Summer Street presents an eclectic selection of residential housing design. The project location is found three houses in from the corner of Linden Street, on the downhill portion of Summer Street as it progresses in the direction of West Somerville. This portion of Summer Street includes mostly gable-fronted, 2 ½-story residential structures.

The enclosed first-story porch will be visible from the left, right, and rear-abutting properties. The Board does not find that the proposal will have a negative impact on the site or neighborhood.

There is not expected to be an impact to on-street parking as a result of this project. Abutters can expect typical noises and odors associated with the construction phase of a project, but the enclosure of a rear deck will not, in itself, add to noises and odors in the neighborhood.

As the property is remaining a single-family, the Board does not anticipate any change in traffic volume or congestion as a result of this project.

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 Board finds that the proposal is consistent with the purposes of the RB zone which are “[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.”

There is no part of this proposal that the Board finds to be inconsistent with the purposes of the RB district. The proposal allows for the residents of the first floor unit to gain another 152 square feet of interior living space.

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."*

The Board has addressed the question of site and area compatibility in a previous section.



As a point of note, the Board has not conditioned this report to require a full re-landscaping of the property nor the removal of the cement driveway to be replaced with pavers, nor of the re-siding of the house. Though these are typical conditions that are added to other, larger projects, the Board does not find that they are merited here. Conditions placed on a project should meet the test of “rough proportionality.” The Board finds that other requirements that we have grown accustomed to adding on other, larger projects, would be out-of-proportion with the relief request put forward in the case of 241 Summer Street.

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 proposal to enclose a first-story open rear porch will have no impacts on SomerVision goals.

III. DECISION

Present and sitting were Members Orsola Susan Fontano, Drew Kane, Danielle Evans, and Brockelman. Upon making the above findings, Danielle Evans made a motion to approve the request for a 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 to enclose a first floor porch within the left and rear yard setbacks and increase the non-conforming FAR.	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>February 14, 2019</td> <td>Application submitted to City Clerk’s office.</td> </tr> <tr> <td>March 26, 2019</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>April 2, 2019</td> <td>Interior layout submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	February 14, 2019	Application submitted to City Clerk’s office.	March 26, 2019	Updated plans submitted to OSPCD	April 2, 2019	Interior layout submitted to OSPCD
	Date (Stamp Date)				Submission							
	February 14, 2019				Application submitted to City Clerk’s office.							
March 26, 2019	Updated plans submitted to OSPCD											
April 2, 2019	Interior layout submitted to OSPCD											
<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>												
Engineering												



2	The Applicant must comply with the “Policy for new connections to and modifications to existing connections to the municipal sewer and drainage system stormwater management and infiltration/inflow mitigation.” The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.	BP	Engineering/ISD	
Design				
3	All materials, including, but not limited to windows, exterior finishes, siding, and similar shall be submitted to, reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/Plng	
Construction Impacts				
4	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	
5	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/ISD	
6	<u>The name(s)and contact information of all entities working on the site shall be posted in an area easily-visible from the public way for the passing public to read.</u>	During Construction	ISD	
7	<u>Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.</u>	During Construction	ISD	
Public Safety				
8	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
9	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.			
10	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches.	CO/Perpetual	ISD/PlngFP	
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	ISD/Plng.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Anne Brockelman
Drew Kane

Attest, by the Planner: _____

Sarah White

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 _____

