



**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.)

**Case #: ZBA 2018-132**  
**Site: 2 Village Terrace Unit #5**  
**Date of Decision:** November 7, 2018  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** November 15, 2018

---

**ZBA DECISION**

---

**Applicant & Owner Name:** Michael Bell  
**Applicant & Owner Address:** 2 Village Terrace, Unit #5, Somerville, MA 02143  
**Alderman:** J.T. Scott

Legal Notice: Applicant and Owner, Michael Bell, seeks a Special Permit under SZO §4.4.1 to alter a nonconforming building by adding a rear balcony and staircase to the second floor. RC zone. Ward 2.

<u>Zoning District/Ward:</u>	2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 3, 2018
<u>Date(s) of Public Hearing:</u>	11/7
<u>Date of Decision:</u>	November 7, 2018
<u>Vote:</u>	5-0

---

Appeal #ZBA 2018-132 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on November 7, 2018. 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 November 7, 2018 the Zoning Board of Appeals took a vote.



**DESCRIPTION:**

The Applicant proposes to add a balcony to the second floor at the rear of the structure, as well as stairs connecting the proposed balcony to the ground. The materials for the balcony and staircase will match the existing Juliet balconies on the right side of the house, as well as the front deck for Unit #1.

**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: minimum lot size and street frontage.

The district requires a 20’ rear yard setback. The existing structure is setback 20.2’ from the rear lot line, and the proposed deck would be setback 16.3’ from the rear lot line. SZO §8.6.14 allows balconies to project into the rear yard up to one-fourth of the required setback. The proposed balcony is more than 15’ from the rear lot line, and so complies with this requirement.

The site plan and elevations for the property were originally approved in 2012. Because this application constitutes a change to the previously approved plans, the Applicant is required to obtain a special permit under §4.4.1 of the Somerville Zoning Ordinance (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.”

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 deck will provide an outdoor area for the private use of Unit #5. The rear of the property abuts a railroad track, and the proposal is not expected to negatively impact that use. The proposal has been designed with setbacks that minimally impact the neighbors and the front and side yard setbacks, landscaped area, and pervious area 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 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.

The proposal is consistent with the purpose of the RC district, which 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. “

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*: Village Terrace lies between Village St and MBTA commuter line railroad tracks, parallel to Dane Street. The rear of the subject property directly abuts the railroad tracks. The surrounding neighborhood is primarily one-, two-, and multi-family residential structures. The residential structures are a mixture of two and three stories. Commercial buildings lie on the other side of the railroad tracks.

*Impacts of Proposal (Design and Compatibility)*: The addition of a balcony and staircase at the rear of the structure is not expected to have adverse impacts on the neighborhood. The proposed deck will not be visible from Village Street, and will not be visible from most of Dane St. The commercial buildings across the railroad tracks do not have windows facing the subject property, and so the deck will also not be visible to them.

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.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with Site Plan Review and Variance. Elaine Severino seconded the motion. 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 rear balcony and staircase. 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 (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 3, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>October 23, 2018</td> <td>Modified plans submitted to OSPCD (A-1.01)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 3, 2018	Initial application submitted to the City Clerk's Office	October 23, 2018	Modified plans submitted to OSPCD (A-1.01)
	Date (Stamp Date)				Submission					
October 3, 2018	Initial application submitted to the City Clerk's Office									
October 23, 2018	Modified plans submitted to OSPCD (A-1.01)									
Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.										
<b>Construction Impacts</b>										
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							
<b>Design</b>										
4	Applicant must use decking and stair materials that match the existing appearance of decking and stair materials on site.	BP	Plng.							
<b>Site</b>										
5	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD							
<b>Miscellaneous</b>										
6	The balcony shall never become enclosed nor shall a roof ever be added.	Perpetual	ISD/Plng.							
7	Granting of the applied for 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							
<b>Public Safety</b>										
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.	
<b>Final Sign-Off</b>				
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:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino  
Anne Brockelman

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 \_\_\_\_\_

