



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2017-44
Site: 33 Walnut Street
Date of Decision: June 21, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: June 30, 2017

ZBA DECISION

Applicant Name:	Kevin Kee
Applicant Address:	33 Walnut Street, Somerville, MA 02143
Property Owner Name:	Kevin Kee
Property Owner Address:	33 Walnut Street, Somerville, MA 02143
Agent Name:	Andrea Morton
Agent Address:	561 Windsor Street, Suite A404, Somerville, MA 02143

Legal Notice: Applicant / Owner Name, Kevin Kee, seeks a Special Permit under Section 4.4.1 of the Somerville Zoning Ordinance (SZO) to alter a nonconforming structure by constructing a three-story open deck off the rear of the structure.

<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 4, 2017
<u>Date(s) of Public Hearing:</u>	June 21, 2017
<u>Date of Decision:</u>	June 21, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2017-44 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on June 21, 2017. 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 proposal is to construct a three-story open porch in the rear of the structure.

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 requirement: lot area, lot area per dwelling unit, front yard setback, right and left side yard side back, and street frontage.

The proposal will impact the nonconforming dimensions of the left and right side yard setback requirements. The current dimensions are 5.3 feet and 3.2 feet respectively where ten feet is required for a three story building in the RA zoning district. The proposed three-story porch will decrease the left side yard setback to 4.7 and will maintain a 3.2 feet right side yard. 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 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/use. The proposed three-story porch will not become any wider than the existing structure. The decrease in the left side yard setback is because of the geometry of the lot. The width of the lot decreases towards the rear because the left property line is at an irregular angle. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for lot coverage, landscaped area, pervious area, building height, and rear yard setback 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 provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and



other dangers; to provide adequate light and air; 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 RA district, which is, “to 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."*

Surrounding Neighborhood: The locus is located on the east side of Walnut Street toward the southern end near Union Square. The surrounding neighborhood is comprised of residential dwellings that range from single to multi-family dwellings.

Impacts of Proposal (Design and Compatibility): The proposed three-story porch will form an “L” shape. The long part of the “L” will be three stories and the shorter end will only be one story and provide a step down to grade. The proposed deck will be painted/stained wood.

6. Housing Impact: The proposal will not create adverse impacts on the stock of existing affordable housing.

7. SomerVision Plan: Complies with the applicable goals, policies and actions of the SomerVision plan as this proposal will preserve and enhance the character of the neighborhood.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. 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 a three-story rear porch. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Png.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May 4, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 4, 2017</td> <td>Plans submitted to OSPCD (PH1.1, PH1.2, PH1.3, EX1.1, A0.1, and A1.1)</td> </tr> <tr> <td>April 28, 2017</td> <td>Proposed plot plan submitted to OSPCD (1)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 4, 2017	Initial application submitted to the City Clerk's Office	May 4, 2017	Plans submitted to OSPCD (PH1.1, PH1.2, PH1.3, EX1.1, A0.1, and A1.1)	April 28, 2017	Proposed plot plan submitted to OSPCD (1)
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April 28, 2017	Proposed plot plan submitted to OSPCD (1)											
Any changes to the approved site plan or elevations 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	Png.									
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									
Design												
4	Applicant shall provide final deck colors and material samples to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Png.									
5	The Applicant shall meet the Wiring Inspector's requirements for exterior lights and electrical receptacles for the all levels of the porch.	Final sign off	Wiring Inspector									
Site												
6	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Png. / ISD									
Miscellaneous												



7	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	
8	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.	Cont.	ISD	
Public Safety				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
10	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 _____

