



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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ELAINE SEVERINO
JOSH SAFDIE (ALT.)

Case #: **ZBA 2015-08**
Site: **10 Landers Street**
Date of Decision: **March 4, 2015**
Decision: Petition Approved with Conditions
Date Filed with City Clerk: **March 17, 2015**

ZBA DECISION

Applicant Name:	Elaine & Chris Kakambouras
Applicant Address:	176 West Wyoming Avnue, Melrose, MA 02176
Property Owner Name:	Elaine & Chris Kakambouras
Property Owner Address:	176 West Wyoming Avnue, Melrose, MA 02176
Agent Name:	N/A

Legal Notice: Applicant and Owner, Elaine and Chris Kakambouras, seek a Special Permit to alter a nonconforming structure to enclose a portion of a rear porch.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Date of Application:</u>	January 23, 2015
<u>Date(s) of Public Hearing:</u>	March 4, 2015
<u>Date of Decision:</u>	March 4, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-08 was opened before the Zoning Board of Appeals at Somerville City Hall on March 4, 2015. 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 enclose the second floor rear porch to make a space for a 73.5 square foot study with a closet. The study would be connected to an existing bedroom.

FINDINGS FOR SPECIAL PERMIT:

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 dimensional requirements, including the minimum side yard setbacks, lot area, lot area per dwelling unit, ground coverage, landscaped area, building height, and floor area ratio.

The proposal will alter the house along the nonconforming left side yard. The left side yard is 5.8 feet and the requirement for a 3-story structure is 10 feet. The proposal will also increase the nonconforming floor area ratio from 1.06 to 1.09 and the requirement is a maximum of 0.75. 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 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. Enclosure of porches is generally not encouraged because in the rear of houses porches provide an outdoor amenity space and the design of the enclosure can create an awkward addition that does not match the form of a typical addition. In this case the rear porches are engaged, only comprising less than half of the width of the house and therefore the impact is minimal. Also, there is a rear yard for use of the occupants of the unit and only one of the three floors is proposed to be enclosed.

The Mayor's Office of Strategic Planning and Community Development has submitted an ordinance to the Board of Alderman to overhaul the current zoning ordinance. The re-advertised date of the legal notice was February 17. Massachusetts General Law 40a, Section 6 states that a zoning ordinance shall apply to a special permit issued after the first notice of the public hearing for such an ordinance. Therefore, staff and boards should evaluate all applications based on the current and proposed ordinances so that there are no issues posed under either ordinance.

Under the proposed zoning ordinance, the house is a triple decker building type. The proposed dimensions of the enclosure meet the requirements for this building type. The outdoor amenity space requirement would continue to be met with the existing front porch. Therefore, the proposal would be allowed.

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 maintaining the uniquely integrated structure of uses in the City.

The proposal is consistent with the purpose of the Residence A 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.” The proposal is an existing three-family triple decker and alters the structure for the occupants of the dwelling to use the space for a study.

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."*

Many of the surrounding properties have similar porches that are not enclosed. The proposal includes constructing two windows in the study. This will help to keep some transparency to this corner of the building, provide natural light to the interior space and not create an unattractive blank wall for the enclosure. The windows on the house have original casings and the windows on the enclosure will be conditioned to complement this detail. One of the windows on the plan is labeled as a relocated window so the casing should be relocated if at all possible.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

The alteration to the triple decker will not significantly impact the affordability of it.

7. 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, transform key opportunity areas, 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; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

This property is marked as an area to conserve and the proposal meets this goal.

<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	3	3



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 enclosure of the second floor of the rear porch. 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>Jan 23, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Sept 14, 2005</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>Jan 20, 2015 (Jan 23, 2015)</td> <td>Modified plans submitted to OSPCD (A100-Second Fl Plan, A200-Rear Elevation, Second Fl Plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	Jan 23, 2015	Initial application submitted to the City Clerk's Office	Sept 14, 2005	Modified plans submitted to OSPCD (Plot Plan)	Jan 20, 2015 (Jan 23, 2015)	Modified plans submitted to OSPCD (A100-Second Fl Plan, A200-Rear Elevation, Second Fl Plan)
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	New siding and windows shall match the type and color of the casings, trim, and materials shall match or be complimentary to the rest of the existing structure.	BP	Plng.									
3	There shall be a window on the side and rear of the enclosure.	BP	Plng.									
Final Sign-Off												
4	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 (Alt.)

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 _____

