



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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ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2015-60
Site: 227A Summer Street
Date of Decision: September 16, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 30, 2015

ZBA DECISION

Applicant Name:	Dante Muzzioli
Applicant Address:	22 Hough Road, Belmont, MA 02478
Property Owner Name:	Dante Muzzioli
Property Owner Address:	22 Hough Road, Belmont, MA 02478
Agent Name:	N/A

Legal Notice: Applicant, Dante Muzzioli, seeks a Special Permit per SZO §4.4.1 to expand a deck on a non-conforming structure. RB zone. Ward 3.

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 11, 2015
<u>Date(s) of Public Hearing:</u>	September 16, 2015
<u>Date of Decision:</u>	September 16, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-60 was opened before the Zoning Board of Appeals at Somerville City Hall on September 16, 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 applicant proposes to expand the length of the existing decks located on the rear of the structure. The existing covered decks are 13' 10" in length. The applicant proposes to increase the length of these covered decks by 6' 1". After the increase, the total length of each of the covered decks will be 19' 11". Existing deck railings and balusters will be replaced as part of this project.

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 §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.

1. Information Supplied:

- The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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 non-conforming with respect to lot size and rear yard setback. The RB zoning district requires a minimum lot size of 7,500sq. feet and a rear yard setback of 20 feet. The structure in question rests on a non-conforming lot of 3,489sq. feet with a rear yard setback of 18.3 feet.
- The applicant proposes to expand the length of the existing decks located on the rear of the structure. The existing covered decks are 13' 10" in length. The applicant proposes to increase the length of these covered decks by 6' 1". After the increase, the total length of each of the covered decks will be 19' 11". Existing deck railings and balusters will be replaced as part of this project.
- Intensifying this existing non-conformity requires the Applicant to obtain a special permit under §4.4.1 of the Somerville Zoning Ordinance (SZO). Staff finds that the proposed extension of the existing decks does not further intrude into the rear or, for that matter, side yard setbacks, and does not extend beyond the left or right sides of the building envelope. Staff finds that the application represents a reasonable request to increase the outside space for each of the three floors in the structure.

Section 4.4.1 states that "[I]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 those currently extant on the structure.

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 promoting the health, safety, and welfare of the inhabitants of the City of



Somerville; to secure safety from fire, panic and other dangers; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.

- The proposal is consistent with the purpose of the **RB district**, which is, “To 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.”

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 surrounding neighborhood is a mix of residential uses.
- There are few to no impacts from the proposal.

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

- The proposal will not impact the existing stock of 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, 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.*

- The proposal will not contribute to the metrics of SomerVision but allows the property owner to make some modifications to their home.



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 to finish the basement. 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>August 11, 2015</td> <td>Initial application submitted to City Clerk's office</td> </tr> <tr> <td>August 23, 2015</td> <td>Modified plans submitted to OSPCD</td> </tr> <tr> <td>August 25, 2015</td> <td>Final plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 11, 2015	Initial application submitted to City Clerk's office	August 23, 2015	Modified plans submitted to OSPCD	August 25, 2015	Final plans submitted to OSPCD
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Any changes to the approved plan that are not <i>de minimis</i> must receive SPGA approval.												
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
Final Sign-Off												
3	The Applicant shall contact Planning Staff at least five (5) 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 _____

