



City of Somerville

ZONING BOARD OF APPEALS

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

TO: Zoning Board of Appeals
FROM: Planning, Preservation, & Zoning (PPZ) Staff
SUBJECT: 118 Rogers Avenue, P&Z 23-036
POSTED: July 11, 2023

RECOMMENDATION: None

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from PPZ staff to the Review Board members.

This memo summarizes the Special Permit Finding request submitted for 118 Rogers Avenue, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance (SZO), and provides related analysis or feedback as necessary. The application was deemed complete on June 20, 2023, and is scheduled for a public hearing on July 19, 2023. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

LEGAL NOTICE

Valerie Humblet seeks to further extend the existing nonconformity for the required rear setback in the Neighborhood Residence (NR) district, which requires a Special Permit Finding.

SUMMARY OF PROPOSAL

Valerie Humblet is proposing to further extend the existing nonconformity for the required rear setback from approximately three (3) feet to an additional five (5) feet to modify the existing deck. Pursuant to M.G.L. Chapter 40A, Section 6, Inspectional Services Department (ISD) has determined that this application does not qualify for a Hardship Variance because the request is for further extension of the existing nonconformity, which can only be granted through a Special Permit Finding.

BACKGROUND

118 Rogers Avenue is located in the 0.25mi Transit Area in the Neighborhood Residence (NR) zoning district in the Ball Square neighborhood represented by Ward 5 Councilor Beatriz Gomez Mouakad. Following the Board's decision regarding the Special Permit Finding, the proposal will be by-right. The Zoning Board of Appeals is the decision-making authority for all discretionary or administrative permits required for the Neighborhood Residence (NR) district.

ANALYSIS

The Applicant is proposing to modify the existing deck in their detached house that is encroaching 3'-4" into the rear setback. The proposed modification will further extend the rear setback nonconformity with the addition of 5'-5", totaling to 8'-9" encroachment onto the required 20 feet rear setback outlined by the SZO Article 3.1.8.b.d. The Applicant is proposing to reduce the lot coverage from the existing 67% to 48% as a part of this proposal, which will bring the existing nonconforming lot coverage into compliance. Pursuant to the SZO Article 3.1.8.a.c., the maximum lot coverage permitted is 60%.

Upon analysis of the material submitted by the Applicant, PPZ Staff does not believe that the granting of the requested Special Permit Finding would cause a substantial detriment to the public good or nullify or substantially derogate from the intent and purpose of the Neighborhood Residence (NR) district, copied here:

Intent

- To implement the objectives of the comprehensive plan of the City of Somerville.
- To conserve already established areas of detached and semi-detached residential buildings.

Purpose

- To permit the development of one-, two-, and three-unit detached and semi-detached residential buildings on individual lots.
- To permit contextual modifications to existing detached and semi-detached residential buildings.
- To permit the adaptive reuse of certain existing nonconforming buildings for arts & creative enterprise and retail uses compatible with residential areas.
- To create dwelling unit types, sizes, and bedroom counts ideal for larger households in houses, semi-attached houses, duplexes, and triple-deckers.
- To create dwelling unit types, sizes, and bedroom counts ideal for smaller households in cottages and backyard cottages.

CONSIDERATIONS & FINDINGS

In accordance with the Somerville Zoning Ordinance and M.G.L. Chapter 40A, Section 6, the Zoning Board of Appeals may grant a Special Permit Finding only upon deliberating and finding the following at the public hearing:

Special Permit Finding Consideration

- Pursuant to **M.G.L. Chapter 40A, Section 6**, "pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change extension or alteration *shall not be substantially more detrimental than the existing nonconforming use to the neighborhood*".

PERMIT CONDITIONS

Should the Board approve the required Special Permit Finding to further extend the existing nonconformity for the required rear setback PPZ Staff recommends the following conditions:

Validity

1. This Decision must be recorded with the Middlesex South Registry of Deeds.

Public Record

2. A digital copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation, & Zoning Division for the public record.