



City of Somerville

ZONING BOARD OF APPEALS

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

DECISION

2023 AUG -2 P 4: 28

PROPERTY ADDRESS: 118 Rogers Ave
CASE NUMBER: P&Z 23-036
OWNER/APPLICANT: Valerie Humblet
OWNER ADDRESS: 118 Rogers Ave., Apt. 2, Somerville, MA 02144
DECISION: Approved with Conditions (Special Permit Finding)
DATE OF VOTE: July 19, 2023
DECISION ISSUED: August 2, 2023

CITY CLERK'S OFFICE
SOMERVILLE, MA

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the Special Permit Finding application submitted for 118 Rogers Avenue.

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.

RECORD OF PROCEEDINGS

On July 19, 2023, the Zoning Board of Appeals held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Vice-Chair Anne Brockelman, Clerk Katherine Garavaglia, Zachary Zaremba, Alternate Brian Cook, and Alternate Sisia Daglian. The Applicant described their request, and PPZ Staff reviewed the requirement for a Special Permit. One member of the public spoke in support of the application. Following public testimony, the Board discussed the application and moved to vote on the matter.

PLANS & DOCUMENTS

Application plans, documents, and supporting materials submitted and incorporated are identified below.

Document	Pages	Prepared By	Date	Revision Date
Narrative for PZ 23-036 – Rogers Ave 118	1	Valerie Humblet 118 Rogers Ave., Apt. 2, Somerville, MA 02144	Undated, submitted May 23, 2023	n/a
Plan Set 118 Rogers Ave	3	Joe The Architect, LLC 343 Medford Street, Suite 4C Somerville, MA 02145	March 29, 2023	n/a
Presentation 118 Rogers Ave	6	Joe The Architect, LLC 343 Medford Street, Suite 4C Somerville, MA 02145	May 11, 2023	n/a

SPECIAL PERMIT FINDING

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:

- 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*".

The Zoning Board of Appeals finds that the proposed extension is not substantially more detrimental than the existing nonconforming structure to the neighborhood.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Clerk Garavaglia moved to approve the **Special Permit Finding** to further extend the existing nonconformity for the required rear setback with the conditions included in the subject Staff Memo for the application dated July 11, 2023. Zaremba seconded. The Board voted **5-0** to approve the permit, subject to the following conditions:

Prior to Building Permit

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

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Anne Brockelman, *Vice-Chair*
Katherine Garavaglia, *Clerk*
Zachary Zaremba
Brian Cook, *Alternate*


Sarah Lewis, Director of Planning, Preservation, & Zoning
Office of Strategic Planning & Community Development

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. 15.5.3.

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.

FOR SITE PLAN APPROVAL(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 _____