



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: 241 Willow Avenue, ZP24-000079
POSTED: September 30, 2024

RECOMMENDATION: Approve (Special Permit Finding)

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

This memo summarizes the Special Permit Finding application submitted for 241 Willow Avenue, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on September 26, 2024, and is scheduled for a public hearing on October 16, 2024. 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

Tony and Elizabeth Malandain seek 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

Tony and Elizabeth Malandain are proposing to expand their existing nonconforming rear porch. The proposed modification will extend the existing encroachment into the required rear setback by 2' 6" on the ground level and by 4' 6" on the second floor. The existing rear setback is 17' 4", where 20' is required in the Neighborhood Residence zoning district for a Detached House.

Pursuant to M.G.L Chapter 40A, Section 6, the 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 on a single- or two-family structure, which can only be granted through a Special Permit Finding.

BACKGROUND

241 Willow Avenue is located in the 0.25mi Transit Area in Neighborhood Residence (NR) zoning district in the Ball Square neighborhood represented by Ward 6 Councilor

Lance Davis. If the Board makes 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 NR district.

NEIGHBORHOOD MEETINGS

The first neighborhood meeting was hosted by Ward 6 Councilor Lance Davis and the applicant on September 24, 2024, via the Zoom meeting platform. No comments were made by members of the public.

ANALYSIS

The applicant is proposing to modify the rear porch to expand it on both the ground and second floors. The rear porch will be increased toward the rear lot line by 2' 6" on the ground level and by 4' 6" on the second floor. The structure currently is nonconforming with the rear setback requirement. The applicant has noted that the structure is nonconforming with the left side setback, however, that nonconformity will not change. The proposal will only increase the existing nonconforming rear setback, no new nonconformities will be created.

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 [single or two-family residential] 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 designed 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.