



City of Somerville

ZONING BOARD OF APPEALS

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

2024 OCT 17 P 3:36

DECISION

PROPERTY ADDRESS:	2 Village Terrace	CITY CLERK'S OFFICE SOMERVILLE, MA
CASE NUMBER:	ZP24-000056	
APPLICANTS:	Michael Bell / Village Terrace Condominium Association	
APPLICANT ADDRESS:	2 Village Ter, Units 1-5, Somerville, MA 02143	
OWNER:	Village Terrace Condominium Association	
OWNER ADDRESS:	2 Village Ter, Units 1-5, Somerville, MA 02143	
DECISION:	Denied (Administrative Appeal)	
DATE OF VOTE:	October 16, 2024	
DECISION ISSUED:	October 17, 2024	

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the Administrative Appeal submitted for 2 Village Terrace.

LEGAL NOTICE

Village Terrace Condominium Association seeks an administrative appeal of a code violation notice (File #23-018998) issued by City of Somerville Inspectional Services regarding a chicken coop.

RECORD OF PROCEEDINGS

On October 16, 2024, 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, Ann Fullerton, and Alternate Brian Cook. The Appellants provided an overview of the Administrative Appeal, explaining why they are appealing the violation notice. The subject violation notice (File #23-018998) citing that the location of the chicken coop, being close to property lines and being located on the neighboring lot (35 Dane Street), is in violation of the Somerville Zoning Ordinance. The Appellants argued that the location of the coop is the only available because their property was contaminated by the developer of the neighboring property. Furthermore, they argued that a yard easement allows them to locate the coop on the neighboring lot.

The Chair then opened the floor for public testimony, and multiple individuals spoke both for and against the Administrative Appeal, including the residents of the neighboring property. Following public testimony, the Board asked questions of Inspectional Services Department (ISD) and Preservation, Planning, and Zoning (PPZ) staff regarding their interpretation of the SZO and the rights conferred by the yard easement. The Board deliberated amongst themselves as to whether ISD was correct in issuing the violation.

Following the public testimony period and deliberations, and after reviewing the arguments and making findings, the Board voted against approving the Administrative Appeal.

FINDINGS

ISD was correct in issuing a violation notice, as the location of the chicken coop on the neighboring lot is in violation of SZO §9.2.14.c.ii.d.

DECISION

Following public testimony, review of the submitted documents, and discussion of the statutorily required considerations, Anne Brockelman moved to approve the Administrative Appeal of the Building Official's issuance of a code violation notice (File #23-018998). Brian Cook seconded the motion. The Board voted **0-4** on the motion. **The motion failed and the Administrative Appeal was subsequently denied.**

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Anne Brockelman, *Vice Chair*
Ann Fullerton
Brian Cook, *Alternate*

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.

FOR ADMINISTRATIVE APPEAL(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 _____