



City of Somerville

ZONING BOARD OF APPEALS

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

DECISION

2024 NOV -7 P 10:56

PROPERTY ADDRESS: 44 Josephine Ave, Apt. 2
CASE NUMBER: ZP24-000086
OWNER/APPLICANT: Whitney Larsen and Philip Shafnacker
OWNER ADDRESS: 44 Josephine Ave, Apt. 2, Somerville, MA 02144
DECISION: Approved with Conditions (Special Permit Finding)
DATE OF VOTE: November 6, 2024
DECISION ISSUED: November 7, 2024

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 44 Josephine Ave, Apt. 2.

LEGAL NOTICE

Whitney Larsen and Philip Shafnacker seek to extend an existing nonconforming projecting porch in the Neighborhood Residence (NR) zoning district, which requires a Special Permit Finding.

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, and Alternate Brian Cook. The Board continued the public hearing without presentation or discussion.

On November 6, 2024, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Vice-Chair Anne Brockelman, Ann Fullerton, Zachary Zaremba, Alternate Brian Cook, and Alternate Sisia Daglian. The Applicant reviewed their request and the proposed development. Vice-Chair Brockelman then opened the public comment portion of the hearing. No one spoke for or against the application, and Vice-Chair Brockelman closed the public comment portion of the hearing. The Board then discussed the application and moved to approve the Special Permit Finding.

PLANS & DOCUMENTS

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

| Document | Pages | Prepared By | Date | Revision Date |
|--|-------|---|------------------------------------|---------------|
| Narrative for 44 Josephine Ave, Apt 2 | 1 | Whitney Larsen & Phillip Shafnacker 44 Josephine Ave, Apt. 2 Somerville, MA 02144 | None, submitted August 19, 2024 | n/a |
| Site Plan for 44 Josephine Ave, Apt 2 | 1 | Evan L. Hankin Registered Professional Engineer | None, submitted August 19, 2024 | n/a |
| Certified Plot Plan 44 Josephine Ave | 1 | Medford Engineering & Survey 15 Hall Street Medford, MA 02155 | May 4, 2023 | July 31, 2024 |

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 a 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 to the existing nonconforming projecting porch is not substantially more detrimental to the neighborhood than the existing nonconforming projecting porch.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Brian Cook moved to approve the **Special Permit Finding** to extend an existing nonconforming projecting porch in the Neighborhood Residence (NR) zoning district, with the conditions included in the staff memo dated September 26, 2024. Sisia Daglian seconded. The Board voted **4-0** to approve the permit, subject to the following conditions:

Prior to Building Permit

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

Anne Brockelman, *Vice-Chair*
Zachary Zaremba
Brian Cook, *Alternate*
Sisia Daglian, *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.

Signed _____ City Clerk Date _____