



City of Somerville

ZONING BOARD OF APPEALS

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

DECISION

PROPERTY ADDRESS: 241 Willow Avenue
CASE NUMBER: ZP24-000079
OWNER: Tony and Elizabeth Malandain
OWNER ADDRESS: 241 Willow Avenue #2, Somerville, MA 02144
APPLICANT: Same as above
APPLICANT ADDRESS: Same as above
DECISION: Approved with Conditions (Special Permit Finding)
DATE OF VOTE: November 6, 2024
DECISION ISSUED: November 13, 2024

2024 NOV 13 P 2:26

CITY CLERK'S OFFICE
SOMERVILLE, MA

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the development review application submitted for 241 Willow Avenue.

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.

RECORD OF PROCEEDINGS

On November 6, 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 Vice-Chair Brockelman, Ann Fullerton, Zachary Zaremba, Alternate Brian Cook, and Alternate Sisa Daglian. The applicant's attorney provided an overview of the applicant's deck expansion project, which would extend into an existing nonconforming rear setback condition. After the presentation by the applicant, Vice-Chair Brockelman opened up the public testimony portion of the public hearing. No public testimony was given. After public testimony was closed, the Board discussed that the deck expansion is only slightly expanding into the existing nonconforming rear setback condition. After a brief discussion, the Board 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
241 Willow Avenue Development Narrative	4	Adam Dash,	July 29, 2024	n/a

241 Willow Avenue Renovation Plans	18	Beth Malandain Design, 241 Willow Avenue, Somerville, MA 02144	March 30, 2024	n/a
241 Willow Avenue Site Plan and Floor Plans	2	C&G Survey Company, 37 Jackson Road, Scituate, MA 02066 and SFG Studios, 72 Minot Street, Reading, MA 01867	September 18, 2013	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 expansion of the rear porch into the existing nonconforming rear setback is minimal and is not substantially more detrimental than the existing nonconformity to the neighborhood.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Member Cook moved to approve the Special Permit Finding under M.G.L. Chapter 40A, Section 6 to further extend the existing nonconformity for the required rear setback with the conditions included in the staff memo. Member Zaremba seconded. The Board voted **5-0** to approve the permit, subject to the following conditions:

Perpetual

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

Prior to Building Permit

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.

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 _____