



City of Somerville

# **ZONING BOARD OF APPEALS**

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

25 MAR 20 P 1:04

## **DECISION**

**PROPERTY ADDRESS:** 11 Garfield Avenue  
**CASE NUMBER:** ZP25-000007  
**OWNER:** Duncan Swain  
**OWNER ADDRESS:** 11 Garfield Avenue, Somerville, MA 02145  
**APPLICANT:** Julia Marsh Rabin  
**APPLICANT ADDRESS:** 7 Pickman Road, Beverly, MA 01915  
**DECISION:** Approved with Conditions (HV)  
**DECISION DATE:** March 19, 2025

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 11 Garfield Avenue.

### **LEGAL NOTICE**

Julia Marsh Rabin seeks zoning relief to construct a two-story addition at the rear of the property with a roof deck, add a shed dormer to the existing roofline at the rear of the building, and construct an entry canopy above a rear entry door in an Urban Residence (UR) zoning district, which requires a Hardship Variance.

### **RECORD OF PROCEEDINGS**

On March 19, 2025, 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, Ann Fullerton, Anne Brockelman, and Brian Cook.

The Applicant provided an overview of the project and the requested zoning relief. The Chair opened the public testimony portion of the hearing. An abutter spoke in favor of the project. The Chair closed the public testimony portion of the hearing.

Following the public comment portion of the hearing, the Board discussed the application with the Applicant.

Following discussion, the Board moved to approve the requested Hardship Variance for zoning relief to construct a two-story addition at the rear of the property with a roof deck, add a shed dormer to the existing roofline at the rear of the building, and construct an entry canopy above a rear entry door in an Urban Residence (UR) zoning district.

## PLANS & DOCUMENTS

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

Document	Pages	Prepared By	Date
11 Garfield Avenue - Hardship Variance Narrative	4	Julia Marsh Rabin 7 Pickman Road Beverly, MA 01915	Undated
11 Garfield Avenue – Proposed Additions/Renovations (Arch Plans)	12	JMR Architecture and Design, LLC 7 Pickman Road Beverly, MA 01915	February 11, 2025
11 Garfield Avenue – Certified Plot Plan (Existing Conditions Survey)	1	Hancock Survey Associates, Inc. 185 Centre Street, Danvers, MA 01923	January 26, 2024
11 Garfield Avenue – Building Section – 3 <sup>rd</sup> Floor	1	JMR Architecture and Design, LLC 7 Pickman Road Beverly, MA 01915	February 11, 2024

## HARDSHIP VARIANCE FINDINGS

In accordance with M.G.L. 40A and the Somerville Zoning Ordinance, the Board may grant a hardship variance only upon finding all of the following:

### Hardship Variance Considerations

- 1. Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure but not affecting generally the Urban Residence zoning district in which the land or structure is located;*

The Board finds that special circumstances exist relating to the unusual character of the existing structure that would make a compliant dormer too small to be useful.

- 2. Literal enforcement of the provision of this Ordinance for the district where the subject land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant.*

The Board finds that literal enforcement of the ordinance would create a substantial hardship to the petitioners because they would have to find another residence to accommodate a growing family.

- 3. Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Urban Residence district in this Ordinance or the Ordinance in general.*

The Board finds that desirable relief can be granted without substantial detriment to the public good and without nulling or substantially derogating from the intent and purpose of the Urban Residence zoning district and the Ordinance in general

because the proposed improvements are at the rear of the property and are screened from adjacent neighbors and businesses.

## DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Acting Clerk Brian Cook moved to approve the Hardship Variance for relief to construct a two-story addition at the rear of the property with a roof deck, add a shed dormer to the existing roofline at the rear of the building, and construct an entry canopy above a rear entry door in an Urban Residence (UR) zoning district. Anne Brockelman seconded. The Board voted **4-0** to approve the Hardship Variance subject to the following conditions:

### Validity

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

### Public Record

- Digital copies of all required application materials reflecting any physical changes required by the Board, if applicable, must be submitted to the Planning, Preservation & Zoning Division for the public record. Materials must be submitted in accordance with the document format standards of relevant Submittal Requirements.
- 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*  
Brian Cook, *Acting Clerk*  
Ann Fullerton

**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 \_\_\_\_\_