



City of Somerville

ZONING BOARD OF APPEALS

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02148 P 5: 48

DECISION

CITY CLERK'S OFFICE
SOMERVILLE, MA

PROPERTY ADDRESS: 34 St. James Avenue
CASE NUMBER: ZBA 2013-39-R1-9/20
OWNER: Mona Kotecha and Nikhil Shanbhag
OWNER ADDRESS: 34 St. James Avenue, Somerville MA 02144
DECISION: Approved
DECISION DATE: October 14, 2020

CITY CLERK'S OFFICE
SOMERVILLE, MA

2020 OCT 27 P 5: 48

This decision summarizes the findings made by the Zoning Board of Appeals regarding the petition submitted for 34 St. James Avenue to remove a condition of Special Permit ZBA 2013-39.

LEGAL NOTICE

Applicants and Owners, Mona Kotecha and Nikhil Shanbhag, request the removal of condition #10 from the previously granted special permit ZBA 2013-39.

RECORD OF PROCEEDINGS

On October 14, 2020 the Zoning Board of Appeals held a public hearing advertised in accordance with MGL 40A and the Somerville Zoning Ordinance. Present and sitting were ZBA members Orsola Susan Fontano, Danielle Evans, Josh Safdie, Elaine Severino, and Anne Brockelman.

Applicants Mona Kotecha and Nikhil Shanbhag provided a summary of the previously issued Special Permit, which authorized the modification of an existing nonconforming principal structure. The development proposal authorized was constructed in accordance with the plans and information submitted and the conditions of the previous approval. However, condition #10 is perpetual and continues to regulate the scope of use of the basement reading:

"The basement shall not be used for bedrooms or sleeping quarters and only 46 net square feet may be allowed as additional finished space."

The Applicant testified that Condition #10 was imposed to ensure ongoing compliance with the floor area ratio standard of the Somerville Zoning Ordinance in effect in 2013, but that the new Somerville Zoning Ordinance adopted on December 12, 2019 does not

regulate interior finished space. This results in condition #10 inhibiting full use of the basement as entitled by the new zoning ordinance.

DECISION

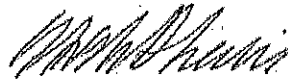
Following public testimony, review of the of the previously issued special permit, and discussion of the new zoning ordinance adopted on December 12, 2019, Danielle Evans moved to amend the previously issued Special Permit (ZBA 2013-39) to remove Condition #10. Elaine Severino seconded.

The Board voted **5-0** to approve the request.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Anne Brockelman
Elaine Severino
Josh Safdie

Attest, by the Planning Director:



Sarah Lewis

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.

Signed _____ City Clerk Date _____