



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS
ORSOLA SUSAN FONTANO, CHAIRMAN

Case #: ZBA 2018-123

RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)

Site: 41-3 Elmoor Street
Date of Decision: October 3, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 9, 2018

ZBA DECISION

Applicant Name: Brady Sunrooms
Applicant Address: 160 Southbridge Street, Auburn, MA 01501
Owner Name: Jeffrey Altbush
Owner Address: 41-3 Elmwood Street, Somerville, MA
Alderman: Katjana Ballantyne

Legal Notice: Applicant, Brady Sunrooms, and Owner, Jeffrey Altbush*, see special permits under §4.4.1 of the SZO to alter a non-conforming structure enclosing a second-story inset porch to create a sunroom.
*Altbush

<u>Zoning District/Ward:</u>	RB Zone. Ward 7.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 10, 2018
<u>Date(s) of Public Hearing:</u>	October 3, 2018
<u>Date of Decision:</u>	October 3, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-123 was opened before the Zoning Board of Appeals at the Visiting Nurse Association (VNA) on Lowell Street. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. On October 3, 2018, the Zoning Board of Appeals took a vote.



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DESCRIPTION: The two condominium buildings present inset porches in the roof of each unit. The Applicant proposes a glass installation to enclose their inset porch in order to create a sunroom. The proposed location of this sunroom is within the non-conforming rear yard setback, thus triggering the need for a special permit. The Applicant has received a letter of approval for the sunroom installation from their condominium association.

Rear yard setback:

In the RB zone where this property is located, the minimum required rear yard setback is 20 feet. The rear façade of this condo unit terminates 5.5 feet from the rear property line. The proposed sunroom would rest 15.5 feet from the rear property line.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit." Further, Section 4.4.1 of the SZO states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."*

Section 4.4.1 of the SZO allows for legally-existing, non-conforming one- and two-family residences to be enlarged by Special Permit as long as the proposed changes do not create a situation that is more detrimental to the site or surrounding neighborhood than current conditions.

The non-conformity in question that triggers the need for a special permit for this project is the rear yard setback. The proposed sunroom would terminate 15.5 feet from the rear property line. The Board notes that there is an existing, inset porch in this area of the roof that already violates the required rear yard setback.

In considering a special permit under §4.4.1 of the SZO, the Board generally finds that the inclusion of this sunroom will not be more detrimental to the site or neighborhood than the existing conditions on the site. The proposed sunroom will be located on a unit at the rear of the property. The Applicant's condo board has submitted a letter of approval for the sunroom as well.

3. Consistency with Purposes: *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."*



The Board finds that the proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The Board also finds that the proposal is consistent with the purpose of the RB district, which is, “[t]o establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

Surrounding Neighborhood: This parcel is the anomaly on Elmwood Street. The street is lined with mostly gable-fronted one- and two-family residential structures with an occasional flat-roofed or multi-family structure found. 41 Elmwood presents three large condo buildings containing a total of 9 residential units. The proposed sunroom will be mostly visible from the other condo units on the parcel and from rear abutting properties. The proposed might be visible from Elmwood, but minimally so due to its location on the last unit in the building and to the tall, sharply-peaked gable of the abutting unit.

Impacts of Proposal (Design and Compatibility): The proposal disrupts the uniformity of the rooflines of the two main condo buildings, both of which present inset roof-level porches. The proposal will essentially create the look of a glass dormer along this roofline.

5. Housing Impact: Will not create affordable housing units.

DECISION:

Present and sitting were Members Orsola, Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is to construct a sunroom within the rear yard setback.	BP/CO	ISD/Plng.					
	<table border="1"> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> <tr> <td>September 10, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> </table>				Date (Stamp Date)	Submission	September 10, 2018	Initial application submitted to the City Clerk's Office
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.								
Construction Impacts								
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by on Illinois Ave.	During Construction	ISD					
3	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P					
4	Construction shall occur from 7:30am – 5:00pm Monday-Friday <u>ONLY</u> . There shall be no construction or construction-related work allowed on the weekends or holidays.	During Construction	ISD					
Design								
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit. The building shall be re-sided and vinyl siding will not be permitted.	BP	Plng./ISD					
Miscellaneous								
6	Granting of the applied for use or alteration does <u>not</u> include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Perpetual	ISD / Plng.					
Public Safety								
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP					
8	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches. The same shall not be permitted in the sunroom.	Perpetual	FP/ISD					
Final Sign-Off								
9	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.					

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Anne Brockelman (Alt.)

*** Need all board signatures if registered land (check deed) ***

Attest, by the Administrative Assistant:

Monique Baldwin

Copies of this decision are filed in the Somerville City Clerk's office. Copies of all plans referred to in this decision and a detailed record of the SPGA proceedings are filed in the Somerville Planning Dept.
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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. 3.2.10.

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 _____

