



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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POOJA PHALTANKAR, (ALT.)

Case #: ZBA 2017-94
Site: 14 Columbus Avenue
Date of Decision: September 27, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 29, 2017

ZBA DECISION

Applicant / Owner Name:	Delia Kong
Applicant / Owner Address:	14 Columbus Avenue, Somerville, MA 02143
Agent Name:	Richard G. Di Girolamo
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner, Delia Kong, seek a Special Permit under SZO §4.4.1 to increase the nonconforming floor area ratio (FAR) by finishing the basement. A Special Permit under §9.13 for parking relief is also being sought.

*The legal advertisement erroneously stated that parking relief was required. However, after further analysis the existing and proposed parking requirement will remain the same and no special permit for parking relief is required.

<u>Zoning District/Ward:</u>	RA zone. Ward 3.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 17, 2017
<u>Date(s) of Public Hearing:</u>	September 27, 2017
<u>Date of Decision:</u>	September 27, 2017
<u>Vote:</u>	4-0

Appeal #ZBA 2017-87 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on September 27, 2017. 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. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

DESCRIPTION:

The proposal is to legalize the previously finished basement and convert the finished area from storage spaces to two bedrooms and a living room.

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."**Article 4: Nonconforming Uses and Structures.*

The structure is currently nonconforming with respect to the following dimensional requirements: lot size, lot area per dwelling unit, FAR, ground coverage landscaped area, height, front, left side, and right side setbacks, and the number of off-street parking spaces.

The proposal will impact the nonconforming dimension of FAR. The exercise space and bedroom has since been removed and the space is currently used as storage, which does not count toward the current FAR. The current dimension is 1.08 (2,886 net square feet), the proposal is to use the basement as living area with two bedrooms and a living room that will bring the FAR to 1.46 (3,869 net square feet), and the requirement in the district is 0.75 (2,657 net square feet). This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 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."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for permeable area, rear yard setback, and frontage will continue to be conforming to the requirements of the SZO.

Article 9: Off-Street Parking and Loading.

	<i>Existing</i>		<i>Proposed</i>	
Unit #1	2 BRs	1.5 spaces	4 BRs	2 spaces
Unit #2	3 BR	2 spaces	3 BR	2 spaces
Total	3.5 spaces round up to 4		4 spaces	



The legal advertisement erroneously stated that parking relief was required. However, after further analysis the existing and proposed parking requirement will remain the same at 4 spaces and no special permit for parking relief is required.

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 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 protect health; to secure safety from fire, panic and other dangers; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RA district, which is, "to establish and preserve quiet neighborhoods of one- and two-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."*

Since the basement is already finished, converting the space from storage into bedrooms will not have an impact on the characteristics of the built and unbuilt surrounding area.

6. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.

7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.*

This project complies with the SomerVision Plan by allowing homeowners to make improvements to their property.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, and Josh Safdie with Danielle Evans, Anne Brockelman, and Pooja Phaltankar absent. 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 **4-0** to **APPROVE** the request. In addition the following conditions were attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to finish the basement. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>August 17, 2017</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>August 10, 2017</td><td>Plans submitted to OSPCD(A-000, A-010, EX-100, EX-101, EX-300, EX-301, and A-100)</td></tr><tr><td>April 24, 2014</td><td>Plot Plan</td></tr></table>				Date (Stamp Date)	Submission	August 17, 2017	Initial application submitted to the City Clerk's Office	August 10, 2017	Plans submitted to OSPCD(A-000, A-010, EX-100, EX-101, EX-300, EX-301, and A-100)	April 24, 2014	Plot Plan
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April 24, 2014	Plot Plan											
Any changes to the approved site plan or use 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.	During Construction	Plng.									
Site												
3	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD									
Miscellaneous												
4	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.									
Public Safety												
5	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
6	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD									
7	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.									
Final Sign-Off												
8	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*
Elaine Severino
Josh Safdie

Attest, by the case City Planner: _____

Alexander C. Mello

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.

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 _____

