



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2017-72
Site: 51 Curtis Street
Date of Decision: September 6, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 20, 2017

ZBA DECISION

Applicant Name:	Matthew Giunta
Applicant Address:	51 Curtis Street, Somerville, MA 02144
Property Owner Name:	Matthew Giunta
Property Owner Address:	51 Curtis Street, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant and Owner, Matthew Giunta, seeks a Special Permit under §4.4.1 of the Somerville Zoning Ordinance (SZO) to rebuild an existing deck, relocate the stairs, add a new pergola structure over the deck, and landscape the rear yard.

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 11, 2017
<u>Date(s) of Public Hearing:</u>	September 6, 2017
<u>Date of Decision:</u>	September 6, 2017
<u>Vote:</u>	4-0

Appeal #ZBA 2017-72 was opened before the Zoning Board of Appeals at East Somerville Community School Auditorium on September 6, 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.



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DESCRIPTION:

This proposal is a replacement of the existing deck that was built according to plans and permits approved in 2000. The new deck is slightly smaller and the stair will be relocated to the side of the deck (instead of the rear). A trellis, or open pergola, will also be added over the deck and the landscaping redesigned to accommodate the new access point. The existing tree at the driveway on Ossipee Road will remain.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1):

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."*

Nature of Application: Residence A (RA)

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."

The structure is currently nonconforming with respect to the following dimensional requirements:

	Required	Existing	Proposed	Notes
Minimum Lot Size (sf)	10,000	3,417	3,417	pre-existing non-conformity
Minimum Lot Area per Dwelling (sf)	2,250	3,417	3,417	pre-existing non-conformity
Maximum Ground Coverage	50%	28%	28%	
Minimum Landscaped Area	25%	53%	58%	
Floor area ratio (F.A.R.)	0.8	0.73	0.73	
Maximum Height (ft)	35'	32'	32'	
Maximum Height (stories)	2.5	2.5	2.5	
Minimum front yard (ft)	15'	+/-10.4'	+/-10.4'	pre-existing non-conformity
Minimum side yards (ft): Left	8'	2.1'	2.1'	pre-existing non-conformity
Minimum side yards (ft): Right	17'	8.9'	8.9'	pre-existing non-conformity
Minimum rear yards (ft)	20'	25.9'	23.8'	
Minimum frontage (ft)	50'	40'	40'	pre-existing non-conformity
Minimum Pervious Area	35%	18%	14%	pre-existing non-conformity

Given that the size of the deck is not considerably different than the existing and there is no change to the primary structure, the impact to the adjacent properties and neighborhood is minimal. In considering a special permit under



§4.4 or 4.5 of the SZO, the Board find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

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 adequate light and air; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the 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."*

Surrounding Neighborhood: The surrounding neighborhood consists of 2-1/2 story single-family and two-family houses and the property is approximately 1/8th of a mile north of Teele Square's restaurants and shops.

Impacts of Proposal (Design and Compatibility): This proposal is well-designed and will have very little, if any, impact on the neighborhood. All the work will occur in the rear yard and the proposed deck is confined to the footprint of the existing deck. The landscape will be improved as the amount of parking area (although currently pervious pavers) will be slightly reduced – providing more root area to the existing mature tree. A condition will be added to ensure that the bluestone walkway, shown on the landscape plan, will be set in a sand or gravel bed (not in cement or mortar) to all rainwater to percolate between the pavers.

5. Adverse environmental impacts: *The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.*

Impacts of Proposal (Environmental): This proposal will have no adverse environmental effects.

6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

Impacts of Proposal (Circulation): This proposal will have no impact on vehicular or pedestrian circulation.

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

Impacts of Proposal (Housing): This proposal will have no impact on the stock of affordable housing.



7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including to preserve and enhance the character of Somerville’s neighborhoods. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

<i><u>SomerVision Summary</u></i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	1	1
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	0	0
<i>Estimated Employment:</i>	0	0
<i>Parking Spaces:</i>	2	2
<i>Publicly Accessible Open Space:</i>	0	0



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Josh Safdie and Pooja Phaltankar with Danielle Evans and Anne Brockelman 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 for the rebuild of an existing deck with the relocation of the stairs, addition of a new pergola structure, and landscaping the rear yard. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 11th, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 8th, 2017</td> <td>Modified plans submitted to OSPCD (L-1 Landscape Plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 11 th , 2017	Initial application submitted to the City Clerk's Office	August 8 th , 2017	Modified plans submitted to OSPCD (L-1 Landscape Plan)
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Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.										
Pre-Construction										
2	The Applicant shall complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City's Stormwater Management Policy.	BP	Eng.							
3	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng							
4	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD							
Construction Impacts										
5	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.							
6	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application form signed						



7	The Applicant shall at their expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
8	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	
Design				
9	Applicant shall provide final material samples for decking, siding, and trim to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.	
10	An exterior light and electrical receptacle is required for the deck.	Final sign off	Wiring Inspector	
Site				
11	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards and in accordance with SZO §10.2.2 and §10.6.2;	Perpetual	Plng. / ISD	
12	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	Perpetual	Plng. / ISD	
13	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
14	Bluestone pavers, or similar, as shown on Sheet L-1 Landscape Plan, must be set on a compacted gravel or sand bed. Concrete, cement, or mortar shall not be permitted.	BP	Plng.	
15	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Plng.	
Miscellaneous				
16	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	ISD	

17	Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng.	
18	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Plng.	
19	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				
20	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
21	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
22	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits &CO		
23	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
Final Sign-Off				
24	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
Pooja Phaltankar (Alt.)

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

