



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

Case #: ZBA 2018-104
Site: 5 Greene Street
Date of Decision: September 17, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 26, 2018

ZBA DECISION

Applicant Name: Shelly Ziegelman, SWZ Architects LLC
Applicant Address: 3780 Mystic Valley Pkwy. #466, Medford, MA 02155
Owner Name: Stefan McDonough
Owner Address: 5 Greene Street, Somerville, MA 02143
Alderman: J.T Scott

Legal Notice: Applicant, Shelly Ziegelman, SWZ Architects LLC, and Owner, Stefan McDonough, seek a Special Permit under SZO §4.4.1 to alter nonconforming rear decks that were previously approved by the ZBA in November 2013 (ZBA 2013-70) by renovating the railing types and adding a pergola. RB Zone. Ward 2.

<u>Zoning District/Ward:</u>	RB Zone. Ward 2.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 1, 2018
<u>Date(s) of Public Hearing:</u>	9/5/18 and 9/17/18
<u>Date of Decision:</u>	September 17, 2018
<u>Vote:</u>	4-0

Appeal #ZBA 2018-104 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, Somerville City Hall, 93 Highland Ave, Somerville, MA. 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 September 17, 2018, 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

I. DESCRIPTION:

The proposal is to renovate the existing 3rd floor deck structure, replace the deck railings on all levels, and install a pergola atop the 3rd level.

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."*

The structure is nonconforming with respect to dimensional requirements that include minimum lot size, parking, and the right side yard setback.

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 proposal is to alter the structure by changing the deck structure and construct a pergola within the required right side yard setback. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

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 lot area per dwelling unit, landscaped area, pervious area, floor area ratio (FAR), building height, front yard setback, rear yard setback, and left side yard setback will continue to be conforming to the requirements of the SZO.

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 “promoting 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 provide adequate light and air; to avoid



undue concentration of population; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; to encourage housing for persons of all income levels; and to preserve and increase the amenities of the municipality.”

The proposal is consistent with the purpose of the Residence B district, §6.1.2, which is, “To 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: The subject property is located in a Residential B district between Summer Street and Somerville Avenue, west of Union Square. The surrounding residential neighborhood is comprised of a mix of single, two-, three-, and multi-family dwellings.

Impacts of Proposal (Design and Compatibility): The design of the proposed decks will not have any effect on the compatibility of the structure with the built and unbuilt surrounding area.

Changes to the plans include:

- Proposing vertical railings rather than horizontal railings
- Removed the bay on the left hand side (facing from the rear)
- The deck footprint aligns with the sun porch walls below except for the rail on the right hand side (facing from the rear), which is approximately 7”+/- from the sun porch wall below in order to connect back to the house without obstructing the existing French egress door from the master bedroom
- Change the polystyrene roof cover to retractable and removable fabric

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

6. 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.

III. DECISION:

Special Permit under §4.4.1

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Anne Brockelman, and Josh Safdie. Upon making the above findings, Josh Safdie made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. 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 renovation of rear decks and a pergola. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> <tr> <td>August 1, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 11, 2018</td> <td>Plans submitted to OSPCD (A1.0, A1.1, and A2.1)</td> </tr> </table>				Date (Stamp Date)	Submission	August 1, 2018	Initial application submitted to the City Clerk's Office	September 11, 2018	Plans submitted to OSPCD (A1.0, A1.1, and A2.1)
	Date (Stamp Date)				Submission					
	August 1, 2018				Initial application submitted to the City Clerk's Office					
September 11, 2018	Plans submitted to OSPCD (A1.0, A1.1, and A2.1)									
Any changes to the approved plans 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.							
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							
Design										
4	Applicant shall provide final material samples for decking to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.							
Site										
5	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD							
Miscellaneous										
6	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.							
7	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD							
Public Safety										
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
9	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD							
10	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										



11	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*
Anne Brockelman, *Alt.*
Elaine Severino
Josh Safdie

Attest, by 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 _____

