



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

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POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2018-52**  
**Site: 60-62 Hall Ave**  
**Date of Decision:** June 6, 2018  
**Decision:** Petition Approved with Conditions  
**Date Filed with City Clerk:** June 13, 2018

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**ZBA DECISION**

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**Applicant / Owner Name:** Lois C. Russell  
**Applicant / Owner Address:** 381 Belmont Street, Belmont, MA 02478  
**Alderman:** Lance Davis

Legal Notice: Applicant and Owner, Lois C. Russell, seeks Special Permits under §4.4.1 of the SZO to alter a non-conforming property by modifying the front and rear porches and adding a small side porch. RA zone. Ward 6.

<u>Zoning District/Ward:</u>	RA Zone. Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	April 13, 2018
<u>Date(s) of Public Hearing:</u>	June 6, 2018
<u>Date of Decision:</u>	June 6, 2018
<u>Vote:</u>	5-0

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Appeal #ZBA 2018-52 was opened before the Zoning Board of Appeals in the Visiting Nurse Association, 3rd floor Community Room, 259 Lowell Street, 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. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



## **I. DESCRIPTION:**

The Applicant proposes removing the three-family use and converting the property to a two-family use. This change improves the lot area per dwelling unit (lot area per d.u.) ratio from 1,657 square feet of lot area per dwelling unit to 2,485 square feet of lot area per d.u. Although the property remains non-conforming in this respect (2,500 square feet is the minimum lot area per d.u. in the RA zone), the Applicant's proposal improves this non-conformity.

The Applicant is currently working on a by-right project. Subsequent to the receipt of their building permit, changes to their proposal resulted in the need for a Special Permit for front yard setback and left side yard setback. The triggers for these Special Permit requests are as follows:

### **Front Yard Setback**

The Applicant proposes projecting the front steps 13 inches further into the front yard setback. The SZO allows for the project of steps into the front yard setback as long as a minimum 10-foot setback is maintained from the front property line. The location of the current steps are already beyond that projection point with a setback of 4 feet, 5 inches. The 13-inch extension of these steps into the front yard setback will further exacerbate this non-conformity, leaving the new front yard setback at 3 feet, 4 inches.

### **Left side yard setback**

The rear of the property currently contains two rear decks/porches. The second-story deck will be removed. The first-story deck/porch will be re-built in the same location as current, maintaining the non-conforming left side yard setback of 7.1 feet. In the RA zone, a minimum 8-foot setback is required.

## **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, generally, the information provided by the Applicant conforms to the requirements of §4.4.1 and 5.1.4 of the SZO.

### **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."***

#### **Regarding §4.4.1 of the SZO**

***Section 4.4.1 states that "[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."***

### Front Yard Setback

As noted earlier in this report, the Applicant proposes exacerbating the existing, non-conforming front yard setback by increasing the projection of the front steps 13 inches closer to the property line. This will decrease the front yard setback from 4 feet, 5 inches to 3 feet, 4 inches. The Board finds that this is a minimal additional encroachment into the front yard setback – a few inches more than the width of a stair tread. Other properties along this street present a variety of front stair encroachments into the front yard setback, with some front steps terminating right at the intersection of the property line and the public sidewalk.

### Left side yard setback

Some of the massing on the rear of this structure will be eliminated due to the removal of the second story deck. The first story rear porch/deck will be reconstructed keeping the same non-conforming left side yard setback of 7.1 feet. The Board finds that any negative impact from maintaining this non-conforming setback negligible, particularly when considered against the removal of the second story rear deck massing. This proposal provides a visual improvement to the rear of the property from abutting parcels.

### Additional determinations

In addition to the considerations discussed above, the Board does not anticipate that this proposal will increase noises or odors in this neighborhood. Regular construction-related noise can be expected on this site as the project is underway. However, this uptick in noises will be temporary in nature. The Board anticipates that any odors associated with this project will be construction-related and, post-construction, will be in keeping with those typically experienced by residents living in close proximity to each other in an urban setting.

**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 purposes of the RA zone which are “[T]o 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.”

The overall proposal for this site – specifically the reduction in the number of dwelling units from three to two – brings the property into compliance with the density requirements for the RA zone which limits the number of dwelling units to two per property. The overall proposal also improves the non-conforming lot area per d.u. ratio.

**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."***

The requested special permits will have minimal to no impact on abutting properties. That said, the 13-inch encroachment into the front yard setback for the stairs still keeps the termination of the front stairs consistent with that of other properties along Hall Avenue.

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



The proposal will not add to the existing stock of affordable housing.

**6. SomerVision:**

The requested Special Permits will have no impact on SomerVision. However, the by-right project overall will visually improve this property.

**DECISION:**

**Special Permit under §4.4.1**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, 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. 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						
1	Approval is to increase the non-conforming front yard setback by 13 inches with the addition of new front steps and to maintain the existing, non-conforming left side yard setback at the rear with the (re)-construction of a first-story deck/porch.	BP/CO	ISD/PIng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 13, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>May 29, 2018</td> <td>Updated information submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 13, 2018	Application submitted to City Clerk's office.	May 29, 2018	Updated information submitted to OSPCD
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<p style="color: red;">Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.</p>										
<b>Design</b>										
1	All materials, including, but not limited to windows, exterior finishes, siding, and similar shall be submitted to, reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/PIng							
2	The Applicant shall submit to Planning Staff a final plan set that contains the existing location of the first riser and the proposed location of the first riser.	BP	ISD/PIng							
<b>Construction Impacts</b>										



3	The Applicant shall, at his 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	
4	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/ISD	
5	The name(s) and contact information of all entities working on the site shall be posted in an area easily-visible from the public way for the passing public to see.	During Construction	ISD	
6	Prior to the issuance of a building permit, the Applicant shall submit full engineering plans to the Engineering Department for their review and approval.	BP	ISD/Plng/Eng.	
7	The applicant must comply with the "Policy for new connections to and modifications to existing connections to the municipal sewer and drainage system stormwater management and infiltration/inflow mitigation."  The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.	BP	Engineering/ISD	
<b>Public Safety</b>				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
9	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
10	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO/Perpetual	ISD/Plng.	
11	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches. These requirements shall be written into any rental agreements or condo documents. Proof of the inclusion of this language shall be shown to Planning Staff prior to the issuance of a CO.	CO/Perpetual	ISD/Plng./FP	
<b>Final Sign-Off</b>				
12	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  
Daniel Evans  
Anne Brockelman (*Alt.*)

Attest, by City Planner: \_\_\_\_\_  
Sarah White

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 \_\_\_\_\_

