



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-55
Site: 37-39 Harrison Street
Date of Decision: June 6, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: June 13, 2018

ZBA DECISION

Applicant / Owners Name: Fan Wang and Marc Wagner
Applicant / Owners Address: 215 Lincoln Street, Boston, MA 02111
Alderman: J.T. Scott

Legal Notice: Applicants / Owners, Fan Wang and Marc Wagner, seek a special permit under SZO §4.4.1 to alter a nonconforming structure by constructing a deck off of the second floor above the front porch. 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>	April 20, 2018
<u>Date(s) of Public Hearing:</u>	June 6, 2018
<u>Date of Decision:</u>	June 6, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-55 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 proposal under this special permit is to construct a second level to the existing front porch that is within the required front and left side yard backs.

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 currently nonconforming with respect to the following dimensional requirements: lot area, lot area per dwelling unit, front and left side yard setbacks, and street frontage.

The proposal will impact the nonconforming dimensions of the front and left side yard setbacks. The current respective dimensions are 7 feet and 1 foot and the proposal to construct a second-story porch above the existing one-story front porch will not change these dimension. The respective required setbacks for 2.5 story structures in the RB district are 15 feet and 8 feet.

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 will result in a porch design that is very common throughout the City and within this neighborhood. It will also allow the residents of the second floor some access to outdoor space. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for ground coverage, landscaped area, pervious area, floor area ratio (FAR), building height, rear yard setback, and right 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 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 provide adequate light and air; 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 RB district, 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 site is located on the northern side of Harrison Street between the blocks of Kent Street and Mondamin Court. The surrounding neighborhood is residential and is made of single, two-, and three-family dwellings.

Impacts of Proposal (Design and Compatibility): The proposed porch design will be compatible to the characteristics of the built surrounding area as there are numerous houses on Harrison Street with a two-story front porch.

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.

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. 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 for the construction of a second-story front porch. 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>April 20, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 28, 2017</td> <td>Plans submitted to OSPCD (E1.0, E1.1, E1.2, E1.3, E2.1, E2.2, E2.3, E2.4, S1.1, A0.0, A1.0, A1.1, A1.3, A1.4, D1.0, and A2.3)</td> </tr> <tr> <td>January 4, 2018</td> <td>Plans submitted to OSPCD (A1.2, A2.1, A2.2, and A2.4)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 20, 2018	Initial application submitted to the City Clerk's Office	December 28, 2017	Plans submitted to OSPCD (E1.0, E1.1, E1.2, E1.3, E2.1, E2.2, E2.3, E2.4, S1.1, A0.0, A1.0, A1.1, A1.3, A1.4, D1.0, and A2.3)	January 4, 2018	Plans submitted to OSPCD (A1.2, A2.1, A2.2, and A2.4)
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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.	During Construction	Plng.									
3	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									
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									
5	The Applicant shall coordinate with the Department of Public Works (DPW) Engineering Division and the Highway Division on the proposed curb cut and driveway prior to the curb being cut and the driveway installed.	Prior to curb cut and driveway	Eng. and Highway									
Design												
6	Applicant shall provide final material samples for decking and railing to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.									
Site												
7	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD									
Miscellaneous												



8	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.	
9	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				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
11	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
12	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.	
Signage				
13	Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
Final Sign-Off				
14	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: _____

Alexander 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 _____

