



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

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Case #: ZBA 2017-116
Site: 14 Norwood Avenue
Date of Decision: January 3, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: January 16, 2018

ZBA DECISION

Applicant / Owner Name: Nicholas Bruch and Julie Redline Bruch
Applicant / Owner Address: 14A Norwood Avenue, Somerville, MA 02145
Alderman: Mark Niedergang

Legal Notice: Applicants and Owners, Nicholas Bruch and Julie Redline Bruch, seek a Special Permit under SZO §4.4.1 to alter a nonconforming structure by constructing a second level rear deck within the nonconforming rear, right, and left side yards. RA Zone. Ward 5.

<u>Zoning District/Ward:</u>	RA Zone. Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 30, 2017
<u>Date(s) of Public Hearing:</u>	December 13, 2017 and January 3, 2018
<u>Date of Decision:</u>	January 3, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2017-116 was opened before the Zoning Board of Appeals in the Aldermanic Chambers of Somerville City Hall, 93 Highland Avenue. 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
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DESCRIPTION:

The proposal is to construct a second story rear deck above the existing rear deck that will match the width of the house and project eight feet from the rear wall.

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 use / dimensional requirements: lot area, lot area per dwelling unit, front yard, rear yard, left yard, and right yard setbacks, and street frontage.

The proposal is to construct a second story rear deck above the existing rear deck that will match the width of the house and project eight feet from the rear wall. The existing structure is currently nonconforming to both side yard setbacks and the rear yard setback. The proposal will impact the following:

	<i>Existing</i>	<i>Proposed</i>	<i>Required</i>	This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).
Left side yard	3.2 feet	3.2 feet	8 feet	
Right side yard	5 feet	4.9 feet	8 feet	
Rear yard	17.4 feet	9.7 feet	20 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 allow for the creation of additional outdoor amenity space while not projecting further away from the rear of the house. However, the rear yard is technically decreased because of the angle of the rear property line. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for ground coverage, landscaped area, pervious area, and floor area ratio (FAR) 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 prevent the overcrowding of land; to avoid undue concentration of population; 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.”*

Surrounding Neighborhood: Norwood Avenue is in Magoun Square and consists of single, two-, and three family homes.

Impacts of Proposal (Design and Compatibility): The Board finds that the proposed dormer extension and the rear porch alterations are designed to be compatible with the existing structure and the neighborhood.

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 by allowing a modest increase in living space while preserving and enhancing 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, Anne Brockelman, and Pooja Phaltankar with Danielle Evans and Josh Safdie 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 **5-0** to **APPROVE** the request. In addition the following conditions were attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for a second story rear porch. 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>October 30, 2017</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>(December 12, 2017)</td><td>Plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	October 30, 2017	Initial application submitted to the City Clerk's Office	(December 12, 2017)	Plans submitted to OSPCD
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	October 30, 2017				Initial application submitted to the City Clerk's Office					
	(December 12, 2017)				Plans submitted to OSPCD					
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	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.							
5	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector							
Site										
6	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD							
Public Safety										
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
8	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD							
9	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										

10	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.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Elaine Severino
Anne Brockelman (Alt.)
Pooja Phaltankar (Alt.)

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 _____

