



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-80
Site: 8-10 Ware Street
Date of Decision: August 22, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 29, 2018

ZBA DECISION

Applicant / Owner Name: Sara Lehrhoff Gehling and Victor Gehling
Applicant / Owner Address: 10 Ware Street
Alderman: Katjana Ballantyne

Legal Notice: Applicant's and Owner's, Sara Lehrhoff Gehling and Victor Gehling, seek a Variance under §5.5 and §8.5 to construct an addition to the side and rear of the existing structure.

<u>Zoning District/Ward:</u>	RA Zone. Ward 7.
<u>Zoning Approval Sought:</u>	§5.5 and §8.5
<u>Date of Application:</u>	June 14, 2018
<u>Date(s) of Public Hearing:</u>	August 22, 2018
<u>Date of Decision:</u>	August 22, 2018
<u>Vote:</u>	4-0

Appeal #ZBA 2018-80 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 August 22, 2018, the Zoning Board of Appeals took a vote.



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I. DESCRIPTION:

The proposal is to construct an addition to the side and rear of the existing structure that will expand the rear condominium to have three-bedrooms for a growing family. The proposed addition will extend the current footprint 7'-1" into the rear yard and 7'-8" into the left side yard. The proposal will also finish the basement. The architecture of the proposed addition will match that of the existing house in terms of materials, windows, trim, and roofing.

II. FINDINGS FOR VARIANCE

A Variance (§5.5) is sought to construct an addition that will violate the required rear yard and left side yard setbacks. The structure currently conforms to both requirements and the proposed addition will be over the minimum rear yard setback by 1'-3" and over the minimum left side yard setback by 2'-6".

DIMENSION	EXISTING	REQUIRED	PROPOSED
Rear Yard	24'-7"	18'-9"	17'-6"
Left Side Yard	12'-4"	7'-6"	5'

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."*

Applicant's response: Our townhouse is unique for Somerville in that it is a rear unit of a two-unit townhouse. In addition, it is also rotated such that the front of our unit faces the neighboring house at 12 Ware Street instead of being directly off the street. This means that most of our house is not visible from the street, giving us incredible privacy. This "rotated" layout also means that the proposed renovations will only be minimally visible from the abutting back/side yards. The impact of the renovations will also be masked by the high privacy fence at 8 Ware, a retaining wall and vegetation abutting 35 Curtis Street and 13 Fairmont Ave, a large pergola at 13 Fairmont, and large maple trees and a studio at 42 Curtis St. It will not impact our parking and will minimally impact our back yard/garden.

Finding a property like ours in Somerville is very difficult. As a rear-unit not only do we have a great deal of privacy but our home also has many other benefits. While we are technically a condo, unlike most duplex condos, our townhouse truly feels and functions like a single-family home. We have both a basement and an attic; we have a private entrance, yard, and garden; we can roll our strollers right up to the front door rather than carrying them up a flight of stairs. In addition, because our house was built in the 1980's it has many amenities--central air, ample closet space, lead free--that many homes in Somerville do not have.

Over the past year, as we've thought through the next steps for our family, we've spoken with several Somerville realtors and have also followed the local real estate market closely. What makes our current situation challenging is that we know we will not find another property like this in Somerville (and specifically in Teele Square/West Somerville, the area we have grown to love) that we can both afford and meets our need.



Board's response: The lot does present a unique circumstance with the orientation of the existing structure on the lot compared to other buildings in the neighborhood. The building is virtually sideways on the lot with the front porches to each unit on the right side of the building.

2. *"The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."*

Applicant's response: We are pursuing these renovations because we are a young family that desperately wants to stay in Somerville. When we bought our home five years ago we thought it was our starter home. We knew we'd outgrow the space once we had kids, but assumed we'd leave Somerville and move into a larger home when that time came. However, faced with this reality we've realized that we don't want to leave the city we've called home for over 8 years.

We have always loved Somerville, but a whole new Somerville opened up to us when we had kids. The playgrounds, the green space at Tufts, our neighborhood fire station with its open doors, and the many trucks that drive by throughout the day (which excites our 3-year-old to no end). Because of these reasons and many others, we've come to realize that we want to be Somervillians long-term. But to make this dream a reality we need more space for our growing family. As mentioned above, given the current market we cannot afford to buy a larger home that meets our needs in or near our neighborhood. The only way we can stay and raise our kids here is to build onto our current home. We initially worked with our architect to draw up plans that stayed within the setbacks. Our architect worked hard to come up with a design that would provide us with a functional home, however after receiving bids from numerous contractors it became evident that we'd be spending a great deal of money on a house that would only meet our needs for the short term.

By modifying our plans to have 5-foot setbacks on the left side of our house and 17.5' in the rear we gain just enough space to fit everything we need into our home so we can stay long term. It is the minimum amount of square footage needed to build a functioning home for our family. It will allow for an extra full bath on the first floor (enabling us to live in our house during the renovations rather than move out for many months and spend tens of thousands on rent); it will ensure that we are able to fit 3 bedrooms, 2 full baths, and a home office "nook" on the second floor; it will allow us to turn the basement into livable space with adequate storage, a playroom for our kids, and a guest room for our aging parents. We will also maintain most of our yard, allowing for open space and a garden where our children can play. As is evident in the drawings, the rooms in our renovated home will not be large, but they will be functional and will provide us with enough space to live for many years to come.

Board's response: The proposed addition is close to complying with setback requirements but the Applicants need a little more space to accommodate their growing family. The Applicants are requesting 1'-3" of relief from the rear yard setback requirement and 2'-6" from the left side yard setback requirement. Expanding a residential use could be considered reasonable relief to the owner.

3. *"The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare."*

Applicant's response: The side and rear yard setbacks we are requesting do not comply with the current zoning ordinance for our property, but they will not be injurious to the neighborhood. We have put great thought into our plans and have worked with our neighbors over the past year to ensure that our designs



address any concerns they had. At the request of our neighbors at 8 Ware we did not put any windows on the wall that directly faces their patio. Similarly, we are only building out 7 feet in the rear in order to preserve the driveway and both of our parking spaces at the request of our neighbors at 12 Ware. We have also included a snow storage plan which shows that there will be ample snow storage in the winter. So as not to disturb any of our neighbors, the mechanicals will remain in their current location, ~12 feet from the side yard property line. As we worked with our architect, we took time to study the neighborhood and found that many homes on our street have setbacks that do not comply with current zoning laws. While we recognize that each request is judged on a case by case basis, our addition will be in harmony with the surrounding area.

Our addition, and more specifically the side and rear setbacks, will only be seen by our direct abutters: our townhouse neighbors at 8 Ware whose view will be blocked by a tall privacy fence; our side yard neighbors at 42 Curtis whose view will be blocked by large maple trees and an art studio on their property; our backyard neighbors at 36 Curtis whose driveway abuts our garden; our other backyard neighbors at 13 Fairmount whose view is blocked by a pergola and greenery; and our next door neighbors at 12 Ware with whom we share a driveway. In our application, we have included a signed statement of support from four of our five direct abutters. Of those four, three have also chosen to write their own, personal letters of support for us. The fifth direct abutter is the only owner that is not a Somerville resident; they live in Newton and their house is a rental property. They provided me with verbal consent when I first discussed our plans over a year ago. I recently sent along our final plans, but have been unable to get in touch with them. The neighbors we have spoken with all recognize that our request will have no negative impact on their property and fully support our plans.

We are applying for a variance to allow a 5-foot side setback on the left side of our yard, consistent with the proposed update to the Somerville zoning code currently under review. The left side of our townhouse (8-10 Ware) and the rear of 42 Curtis are almost always fully shaded due to multiple large trees and the art studio at 42 Curtis, both of which are located close to the property line. As such our side-yard is not usable space. In addition, we are applying for a variance to allow for a 17.5' setback in the rear; this is 1.25' closer to the property line than is allowed. However, the rear setback will be 20' from the retaining wall that abuts 13 Fairmount. The wall functions as part of our yard (see pictures provided) and we help maintain it, however only part of it is officially on our property; the remainder is owned by 13 Fairmount. Our neighbors at 13 Fairmount are very supportive of our addition; given the way the wall functions, our property will still be an adequate distance from the property line and out abutters.

Finally, while we hope to stay in our renovated home for many years to come, if we ever decide to move our home will be an added value to the Somerville housing market. The demand for 3 and 4 bedroom homes large enough to accommodate a family far outweighs the supply. Side by side townhouses with private yards and parking are a rare find. Rather than being injurious to the neighborhood we feel this addition will add value to both the neighborhood and the city of Somerville.

Board's response: The surrounding neighborhood is residential in nature and contains structures that are much larger than the subject site would contain with the proposed addition. The proposal has been designed to accommodate a growing family and would be in harmony with the general purpose and intent of this Ordinance. Considering nearby structures and natural elements, and support from many direct abutters granting of the Variance would not be injurious to the neighborhood or otherwise detrimental to the public welfare.



DECISION:**Variance under §5.5 and §8.5**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Variance. 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 for the construction of a side and rear addition. 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>June 14, 2018</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>June 13, 2018</td><td>Plans submitted to OSPCD (ZBA 1 – ZBA 9)</td></tr></table>				Date (Stamp Date)	Submission	June 14, 2018	Initial application submitted to the City Clerk’s Office	June 13, 2018	Plans submitted to OSPCD (ZBA 1 – ZBA 9)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
Pre-Construction										
2	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.							
Construction Impacts										
3	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.							
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							
Design										
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.							
Site										
6	Landscaping should be installed and maintained in compliance with the American Nurserymen’s Association Standards;	Perpetual	Plng. / ISD							
7	The two parking spaces associated with the rear unit shall be converted into a permeable paver material.	CO	Plng. / ISD							

Miscellaneous				
8	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.	CO	Plng.	
9	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.	BP	Plng.	
10	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				
11	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
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.	
Final Sign-Off				
13	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
Anne Brockelman (*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 _____

