



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2013-59
Site: 86 Lowden Ave
Date of Decision: September 4, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: Sept. 5, 2012

ZBA DECISION

Applicant & Owner Name: Stephen and Virginia Post
Applicant & Owner Address: 86 Lowden Ave. Somerville, MA 02144
Agent Name: n/a

Legal Notice: Applicants and Owners, Stephen and Virginia Post, seek a Special Permit under SZO §4.4.1 to alter a nonconforming structure by extending the second story of a rear deck.

Zoning District/Ward: RA zone / Ward 6
Zoning Approval Sought: §4.4.1
Date of Application: August 6, 2013
Date(s) of Public Hearing: September 4, 2013
Date of Decision: September 4, 2013
Vote: 5-0

Appeal #ZBA 2013-59 was opened before the Zoning Board of Appeals at Somerville City Hall on September 4, 2013. 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 (1) hearing of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicants and Owners, Stephen and Virginia Post, propose to alter this two-family dwelling by expanding the second story of an existing rear deck to enable better use of this outside space. The existing second story deck is 9.5



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feet long and 4 feet wide and the proposed second story deck will be 9.5 feet long and 8 feet wide. The proposal to extend the deck will increase the area of the deck by approximately 38 square feet. The first floor of the rear deck will not be altered while the second story of the deck will become aligned with the rear façade of the structure.

FINDINGS FOR SPECIAL PERMIT (SZO §):

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."

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.

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 conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City".

The proposal is consistent with the purpose of the 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."

The proposed alterations will be compatible with the built and unbuilt surroundings. The proposal to alter the second story deck will not enlarge the footprint of the building and will maintain the use of the dwelling as a two-family, which is similar to land uses in the surrounding area.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Evans, Elaine Severino, and Brandy Brooks with Richard Rossetti absent. Upon making the above findings, Orsola Susan Fontano 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 an alteration to a nonconforming structure by extending the second story of a rear deck. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Png.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(August 6, 2013)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 25, 1995 (August 7, 2013)</td> <td>Mortgage inspection plan submitted to OSPCD</td> </tr> <tr> <td>(August 7, 2013)</td> <td>Proposed plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(August 6, 2013)	Initial application submitted to the City Clerk's Office	March 25, 1995 (August 7, 2013)	Mortgage inspection plan submitted to OSPCD	(August 7, 2013)	Proposed plans submitted to OSPCD
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.												
2	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									
3	New siding type and color, trim and other materials necessary to replace as a result of the proposal shall match the existing siding, trim, and other materials;	CO	Png									
Public Safety												
4	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
Final Sign-Off												
5	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	Png.									



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Danielle Evans
Elaine Severino
Brandy Brooks (Alt.)

Attest, by the Senior Planner:

Lori Massa

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 _____

