



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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BRANDY BROOKS (ALT.)

Case #: ZBA # 2013-74
Site: 739 Somerville Avenue
Date of Decision: November 20, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 22, 2013

ZBA DECISION

Applicant Name:	Brian Lavelle
Applicant Address:	194 Waltham Street, Lexington, MA 02421
Property Owner Name:	Paul Lavelle
Property Owner Address:	194 Waltham Street, Lexington, MA 02421
Agent Name:	N/A

Legal Notice: Applicant Brian Lavelle and Owner Paul Lavelle seek a Special Permit under SZO §4.4.1 to alter a nonconforming two-family structure by changing the roof type, replacing the front porch and stairs and adding a rear deck and stairs.

<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 15, 2013
<u>Date(s) of Public Hearing:</u>	November 20, 2013
<u>Date of Decision:</u>	November 20, 2013
<u>Vote:</u>	4-1

Appeal #ZBA 2013-74 was opened before the Zoning Board of Appeals at Somerville City Hall on November 20, 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 hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to remove the existing gable roof and replace it with a mansard roof. The third floor will be renovated to include 84 more usable feet. There will be two bedrooms and a bathroom on the third floor and the staircase from the second floor will be reconstructed. The number of units and bedrooms will not change.

The proposal also involves constructing a two-story deck in the rear that wraps around the left side of the house.

The front porch and stairs will be replaced in-kind.

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."

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 change the building type from a 2 ½ story gable structure to a 3 story mansard structure. This is generally discouraged; however, the current proposal will not negatively impact the streetscape. A large shed dormer that was originally approved for the building to get a code compliant staircase to the third floor would also greatly alter the 2 ½ story structure and arguably be more detrimental.

The rear deck will not be detrimental as they will not be seen from the street and do not infringe upon the neighbors privacy.

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 providing for and maintaining the uniquely integrated structure of uses in the City and conserving the value of land and buildings.

The proposal is also consistent with the purpose of the Residence B zoning district in making alterations to a two-family house.

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 mansard is designed in a very traditional form that can be found throughout the City. The shape of the mansard is appropriate and there will be brackets along the fascia board. The dormers are small and a single window fills the main wall. Also, mansard roofs are not unusual for the block as there are two buildings within close proximity that have mansard roofs.



The back of the roof is flat and does not carry the mansard shape around the back. The back can only be seen from the abutters to the rear and their view of the house will appear like a gambrel.

The structures on the block are close together but there will still be just over three feet of clearance between the proposed deck and the property line leaving sufficient space to access the rear yard. The rear yard is not well maintained and adding a deck and renovating the property in general will be an improvement.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie and Brandy Brooks absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **4-1** to **APPROVE** the request with Elaine Severino voting in opposition. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to alter a nonconforming two-family structure by changing the roof type, replacing the front porch and stairs and adding a rear deck and stairs. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>Oct 15, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 6, 2013</td> <td>Plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>March 15, 2013</td> <td>Plans submitted to OSPCD (A.1 floor plans, A.2 Elevations/Sections, X.1 existing conditions)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	Oct 15, 2013	Initial application submitted to the City Clerk's Office	June 6, 2013	Plans submitted to OSPCD (Plot Plan)	March 15, 2013	Plans submitted to OSPCD (A.1 floor plans, A.2 Elevations/Sections, X.1 existing conditions)
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Any changes to the approved site plan and elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	An exterior light and electrical receptacle is required for the first level of the porch and an electrical receptacle is required for the second level.	Final sign off	Wiring Inspector									
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
4	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	PIng.									



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Elaine Severino

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

