



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

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Case #: ZBA 2015-70
Site: 72 Dimick Street
Date of Decision: November 18, 2015
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 1, 2015

ZBA DECISION

Applicant Name:	Kevin Kee
Applicant Address:	33 Walnut Street, Unit #3, Somerville, MA 02143
Property Owner Name:	Kevin Kee
Property Owner Address:	33 Walnut Street, Unit #3, Somerville, MA 02143
Agent Name:	Andrea Morton
Agent Address:	561 Windsor Street, Suite A404, Somerville, MA 02143

<u>Legal Notice:</u>	Applicant, Kevin Kee, seeks a Special Permit per SZO §4.4.1 to alter a non-conforming structure by building a 3-story front porch within the front yard setback.
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<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 2, 2015
<u>Date(s) of Public Hearing:</u>	November 18, 2015
<u>Date of Decision:</u>	November 18, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-70 was opened before the Zoning Board of Appeals at the Argenziano School cafeteria on November 18, 2015. 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 includes the removal of the existing entry portico and the construction of a three-story front porch. The 3rd story of the porch will not have a roof. The existing entry portico and the replacement front porches are all within the front yard setback, triggering the Special Permit.

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 §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.

1. Information Supplied:

- The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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 non-conforming with respect to the front yard setback. The RB zoning district requires a front yard setback of 15 feet (with a 10-foot minimum for features such as decks and unenclosed porches). The current setback is 2.5 feet. The applicant proposes retaining this 2.5-foot setback, slightly extending its length and creating 3 stories of open front porches.
- This intensification of the existing non-conformity requires the Applicant to obtain a Special Permit under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that Lawfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of [Article 5](#). The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.

- In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed to this legal triple-decker would not be substantially more detrimental to the neighborhood than those present on the existing structure. Many of the surrounding triple-deckers have open front porches significantly within the front yard setback.
- The addition of three stories of unenclosed porches is consistent with many of the other triple-decker buildings in the surrounding neighborhood as evidenced in the photo array supplied in the application. The proposed open porches are in keeping with the neighborhood character and, as proposed, will visually enhance the appearance of the building.

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 secure safety from fire, panic and other dangers; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.
- The proposal is consistent with the purpose of the district.

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 surrounding neighborhood is dominated by triple-decker 3-family residential structures with similar form and massing and many with three-story open front porches.
- There are few to no impacts from the proposal. The proposed changes are compatible with the use, form, and massing of other triple-deckers in the immediate area. The addition of these three open front porches is a reasonable accommodation to make in order to provide building residents with additional outdoor space.

5. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

- The proposal will not impact the existing stock of 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, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

- The proposal will not contribute to the metrics of SomerVision but allow the property owner to make some modifications to their home.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. 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 to construct open front porches on all three stories of a triple-decker. 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>August 27, 2015</td><td>Initial application submitted to Planning Department</td></tr><tr><td>September 1, 2015</td><td>Modified plans submitted OSPCD</td></tr><tr><td>October 16, 2015</td><td>Final plans submitted to OSPCD</td></tr><tr><td>October 22, 2015</td><td>Certified site plan submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	August 27, 2015	Initial application submitted to Planning Department	September 1, 2015	Modified plans submitted OSPCD	October 16, 2015	Final plans submitted to OSPCD	October 22, 2015	Certified site plan submitted to OSPCD
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Any changes to the approved plan that are not <i>de minimis</i> must receive SPGA approval.														

Construction Impacts				
2	The Applicant shall, at his 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	
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	An exterior light and electrical receptacle is required for the first level of the porch and an electrical receptacle is required for the upper levels.	Final sign off	Wiring Insp	



Miscellaneous				
5	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				
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
7	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*
 Danielle Evans
 Elaine Severino
 Josh Safdie

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 _____

