



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

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Case #: ZBA 2016-66
Site: 16 Monmouth Street
Date of Decision: August 17, 2016
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 22, 2016

ZBA DECISION

Applicant Name:	Stephen Kasper
Applicant Address:	59 High Street, Reading, MA 01867
Property Owner Name:	Dan & Ursula Stoutenburgh
Property Owner Address:	16 Monmouth Street, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant, Stephen Kasper of Our House Design & Build, and Owners, Dan & Ursula Stoutenburgh, seek a Special Permit under SZO §4.4.1 to alter an existing deck and stairs within the rear yard setback.
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<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 8, 2016
<u>Date(s) of Public Hearing:</u>	8/3 & 8/17/16
<u>Date of Decision:</u>	August 17, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2016-66 was opened before the Zoning Board of Appeals at Somerville City Hall on August 3, 2016. 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 Applicant proposes to remove the existing stairs leading to the deck and filling in that same space with additional deck area. New stairs and a landing extending off the back, left corner of the deck will be installed.

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. in detail.

1. Information Supplied:

Regarding SZO §4.4.1:

- 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."*

Regarding SZO §4.4.1:

- The non-conformity affected by this proposal is the rear yard setback.
- In the RB zone, the required rear yard setback is 20 feet. The existing deck is 5 feet from the rear property line. The infill of the deck in the location of the soon-to-be-former stairs, triggers the special permit. Further triggering the special permit is the construction of new stairs to access the deck. The new stairs will be code-compliant, and reduce the steepness of the current stairs.

Section 4.4.1 states that Lawfully existing non-conforming 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.

Regarding SZO §4.4.1:

- In considering a Special Permit under §4.4.1 of the SZO, the Board finds that the extension of the rear deck and construction of related stairs and landing would not be substantially more detrimental to the property or the surrounding neighborhood than the conditions currently extant on the lot.
- Infilling current stair space to create additional deck area, and constructing safe, code-compliant stairs are reasonable allowances to provide this Applicant particularly given that the rear setback will not be further encroached upon and life safety issues will be addressed.



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."*

Regarding SZO §4.4.1:

- 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...

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 increase in deck area and construction of new access stairs will be compatible with the surrounding area.

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

- There will be no impact on 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 project will have no impact on the SomerVision Plan.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Josh Safdie with Anne Brockelman voting with Danielle Evans 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 the extension of the existing rear deck and new stairs.	BP/CO	ISD/ Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>June 8, 2016</td><td>Initial submission to City Clerk</td></tr><tr><td>June 22, 2016</td><td>Plan submission to OSPCD</td></tr><tr><td>August 2, 2016</td><td>Updated plans submitted to OSPCD.</td></tr></table>				Date (Stamp Date)	Submission	June 8, 2016	Initial submission to City Clerk	June 22, 2016	Plan submission to OSPCD	August 2, 2016	Updated plans submitted to OSPCD.
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August 2, 2016	Updated plans submitted to OSPCD.											
Any changes to this project must be submitted to Planning Staff for review prior to their implementation.												
Construction Impacts												
2	The Applicant shall, at their 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	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	ISD/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. Construction equipment shall NOT be stored on City property.	During Construction	T&P/ ISD									
Design												
5	The deck addition shall use the same materials as are extant on the existing deck. **Should the Applicant find that the existing deck will have to be replaced in its entirety, no vinyl or synthetic products shall be used to construct an entirely new deck and stairs.**	CO	ISD/Plng									
Site												



6	Any new lighting installed for this deck shall be downcast and shall not cast light onto abutting properties.	Perpetual	Plng. / ISD	
7	As per Somerville Fire Prevention regulations, grills and similar items shall not be used or stored on the deck, stairs or landing.	Perpetual	Plng/ISD/ Fire Preventio n	
Miscellaneous				
8	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and property.	Perpetual	ISD/Plng	
Public Safety				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
10	The deck and stairs shall meet all building code and life-safety requirements.	CO	ISD	
Final Sign-Off				
11	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	ISD/Plng.	

Attest, by the Zoning Board of Appeals:

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

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 _____

