



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

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POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2016-151**  
**Site: 217 School Street**  
**Date of Decision: January 18, 2017**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: January 23, 2017**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Carlos Ferreira
<b>Applicant Address:</b>	142 Fisher Street, Westborough, MA 01581
<b>Property Owner Name:</b>	Ireni Mizrahi
<b>Property Owner Address:</b>	217 School Street, Somerville, MA 02145
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicant, Carlos Ferreira, and Owner, Irene Mizrahi, seek a Special Permit under SZO §4.4.1 to construct a dormer within the required left side yard of a nonconforming structure.
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<u>Zoning District/Ward:</u>	RA zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	December 2, 2016
<u>Date(s) of Public Hearing:</u>	January 18, 2017
<u>Date of Decision:</u>	January 18, 2017
<u>Vote:</u>	5-0

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Appeal #ZBA 2016-151 was opened before the Zoning Board of Appeals at Somerville City Hall on January 18, 2017. 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 construct a dormer within the left side yard setback of the nonconforming structure. The proposed dormer within the setback will allow for headroom in the stairwell to access the attic area.

**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."*

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, front, rear, and left side yard setbacks, FAR, frontage, landscaped area, and pervious area. The proposed alteration to construct a dormer will occur within the nonconforming left side yard setback. The current dimension of the left side yard is 4.5 feet where 8 feet is required. This alteration to a nonconforming structure requires the Applicant to obtain a special permit under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that “[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5.”

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 allow for the homeowners to have adequate headroom in their stairway leading to the finished attic. The proposal has been designed with setbacks and at a height that minimally impacts the neighbors and no other nonconforming dimensional requirements will be altered. The structure currently conforms to the maximum requirements for height and right side yard setback and will remain conforming as a result of the proposal.

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 provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RA 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.” The proposal will preserve the structure as a one-family home, is compatible with the neighborhood, and will not be inconvenient to the residents 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."*

*Surrounding Neighborhood:* The surrounding neighborhood is comprised of single-, two-, and three-family dwellings. The roof type in the neighborhood is predominately gable with a few instances where shed dormers have been constructed on gable roofs.

*Impacts of Proposal (Design and Compatibility):* The height of the proposed dormer is approximately 5 feet above the attic floor and has been designed to minimize its visibility from the public way. A large window is proposed on the exterior wall of the proposed dormer. The Board finds that as condition with a smaller window the proposed dormer would be designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area and land uses.

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

There will be no adverse impacts on the stock of existing affordable housing.

7. 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 proposed dormer has been designed to respect neighborhood forms and patterns.



**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 for the construction of a dormer on the left side of the roof. This approval is based upon the following application materials and the plans submitted by the Applicant: <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>December 2, 2016</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>December 25, 2015</td><td>Plans submitted to OSPCD (A-1, A-2, A-3, A-4, A-6, A-7, and A-8 )</td></tr><tr><td>July 17, 2016</td><td>Plans submitted to OSPCD (A-5 and A-9)</td></tr><tr><td>July 31, 2016</td><td>Plans submitted to OSPCD (A-11 and A-12)</td></tr><tr><td>November 30, 2016</td><td>Plans submitted to OSPCD (P-2 and P-03)</td></tr><tr><td>December 2, 2016</td><td>Plans submitted to OSPCD (Cross Sections and Site Plan)</td></tr></table>	Date (Stamp Date)	Submission	December 2, 2016	Initial application submitted to the City Clerk’s Office	December 25, 2015	Plans submitted to OSPCD (A-1, A-2, A-3, A-4, A-6, A-7, and A-8 )	July 17, 2016	Plans submitted to OSPCD (A-5 and A-9)	July 31, 2016	Plans submitted to OSPCD (A-11 and A-12)	November 30, 2016	Plans submitted to OSPCD (P-2 and P-03)	December 2, 2016	Plans submitted to OSPCD (Cross Sections and Site Plan)	BP/CO	ISD/Plng.	
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Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.																		
2	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.															
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															
4	The window of the proposed dormer shall match that of the window directly below to the left as shown on the Cross Sections plan dated December 2, 2016.	CO	ISD/Plng.															
5	The materials and color of the siding and trim on the proposed dormer shall be of the same materials and color of the rest of the structure.	CO	ISD/Plng.															



<b>Public Safety</b>				
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
<b>Final Sign-Off</b>				
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. PereiraCopies 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 \_\_\_\_\_

