



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2015-85
Site: 346 Summer Street
Date of Decision: November 18, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: December 1, 2015

ZBA DECISION

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

<u>Legal Notice:</u>	The Applicant and Owner, Paul Lavelle, seeks a special permit to modify a non-conforming structure by moving the rear egress stair to the outside of the structure, and adding decks at the second and third levels.
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<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Date of Application:</u>	September 29, 2015
<u>Date(s) of Public Hearing:</u>	10/21, 11/4 & 11/18/15
<u>Date of Decision:</u>	November 18, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-85 was opened before the Zoning Board of Appeals at Somerville City Hall on October 21, 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal demolishes the existing internal rear stair, and moves it to the outside of the structure. In doing so, the footprint of the existing partially enclosed rear porch is reduced, and two decks are added at the second and third levels, which are extensions of the landings of the new external stair. These modifications allow for a new dining room to be created on the first floor, for the dining room and kitchen to be reconfigured on the second floor, for a second bathroom to be added on the second floor, and for the kitchen and living room to be remodeled on the third floor. The proposed decks provide desirable outdoor space for the second and third floor units, and the new external stair also improves the safety the rear egress as compared to the existing internal stair. The design of the decks incorporates separate lattice structures for vines to grow on which would help soften the visual appearance of the new construction, and increase privacy for occupants of the second and third floor units, as well as occupants of adjacent properties. The number of bedrooms remains the same.

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 use: three-family use in an RA zone, and the following/dimensional requirements: FAR 1.11 (RA allows .75), and the side yard setback is 1.2' (RA requires 8'). The lot is also nonconforming with respect to landscaped area with 22%, where 35% is required, however the design increases this number to 24%.

The proposal will impact the following nonconforming dimensions: FAR and side yard setback. The current dimension of the side yard setback will remain 1.2', but instead of a partially enclosed porch, there will be a finished wall, and a foundation for that wall will be constructed where previously there was only wooden lattice. The existing FAR is 1.11, but will be reduced to 1.09. This alteration to a nonconforming structure requires the Applicant to obtain special permits 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 §4.4.1 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 would modernize the rear egress to the units on the second and third floors and in so doing allow the interior spaces to be reconfigured more efficiently, and also provide desirable outdoor space for the units on the second and third levels. To mitigate the appearance and scale of the proposed stair and deck the design incorporates lattice structures for vines which will also provide privacy. Furthermore, the owner has drawn up a future lease addendum for tenants that ensures the decks will be used in a respectful manner so as not to disturb neighbors, and prohibits tenants from using the decks



for storage. The proposal has been designed with rear yard setbacks that minimally impact the neighbors and will continue to be conforming to the requirements of the SZO.

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 The purposes of the Ordinance are to promote 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 conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; to encourage housing for persons of all income levels; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the district, (6.1.1. RA - Residence Districts) "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 surrounding neighborhood is composed primarily of residences with gabled roofs, front and rear porches and decks, and clapboard siding. Several neighboring parcels also have external rear egress stairs and decks; as such, the proposal is consistent and compatible with the neighborhood.

5. Adverse environmental impacts: *The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.*

No adverse environmental impacts are anticipated as a result of the proposal. There will not be levels of noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; or emission of noxious or hazardous materials or substances; or pollution of water ways or ground water; or interference of signals.

6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

There is no anticipated impact of the proposal on vehicular or pedestrian circulation.

6. Housing Impact: *Will not create 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.*



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 alteration of a nonconforming structure. 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>9/30/2015</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>10/15/2015</td><td>Modified plans submitted to OSPCD (1-10)</td></tr></table>				Date (Stamp Date)	Submission	9/30/2015	Initial application submitted to the City Clerk's Office	10/15/2015	Modified plans submitted to OSPCD (1-10)
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10/15/2015	Modified plans submitted to OSPCD (1-10)									
Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										
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	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							
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.	During Construction	T&P							
Design										
5	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							
Miscellaneous										



6	All tenants of 346 Summer Street shall adhere to the following lease addendum “ <i>rear stairs are for emergency use only; respect neighbors’ privacy and use front entrance day to day; absolutely no BBQs (fire hazard); max 10 persons on deck at one time; respect the neighbors please (noise, music and loud voices to be kept to a minimum); deck not to be used for storage (basement area is storage).</i> ”			
7	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				
8	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
9	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
Final Sign-Off				
10	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 _____

