



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

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Case #: ZBA # 2011-25
Site: 59 Avon Street
Date of Decision: May 4, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 16, 2011

ZBA DECISION

Applicant Name:	Randall Faulkner
Applicant Address:	59 Avon Street, Somerville, MA 02143
Property Owner Name:	Randall Faulkner
Property Owner Address:	59 Avon Street, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant/Owner Randall Faulkner seeks a special permit to convert a two-family into a three-family dwelling (SZO §7.11.2.b), to convert approx 350 sf of attic space into livable space in a nonconforming structure (§4.4.1, §8.5.b), and to waive the requirement to provide one (1) additional parking space (§9.5.2.a). RA zone. Ward 3.
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<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§7.11.2.b
<u>Date of Application:</u>	April 4, 2011
<u>Date(s) of Public Hearing:</u>	May 4, 2011
<u>Date of Decision:</u>	May 4, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-25 was opened before the Zoning Board of Appeals at Somerville City Hall on May 4, 2011. 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 convert the house from a two-family into a three-family by making the third floor into a third unit. Approximately 350 sf of attic space would be made into livable space. The two bedrooms and the bathroom that were part of the second floor unit would become part of the third floor unit and a kitchen/dining area and living room would be built in the remaining portion of the ½ story. There is a small loft space above this floor that is not proposed to change. Two skylights will be added for additional natural light. There are two existing internal staircases so an external fire escape is not proposed as part of this conversion.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.2.b, §4.4.1, §8.5.b, §9.5.2.a, §9.13):

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 additional net square footage will be within the existing structure and no exterior alterations would be required.

The residential conversion complies with the definition – it is within the existing dwelling, but does not increase the gross floor area of the dwelling, change the footprint of the building nor extend the dwelling upward or outward.

In considering a special permit under §9.13 of the SZO for relief from providing one parking space, the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The residential conversion without adding an additional onsite parking spaces will not cause detriment through the above criteria. There appear to be a sufficient number of on-street parking spaces near the subject property. The back of the Somerville Home building is across the street from the property creating 250 feet of space available for on-street parking with no curb cuts.

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 encouraging the most appropriate use of land throughout the City. The proposal is also consistent with the purpose of the district as a residential use.



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In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in § 9.1, the purpose of the Off-street Parking and Loading Article. Using an on-street parking space that appears to be available instead of paving more of the site is consistent with the purposes of Section 9.1. Additional paving on the site would create more impervious surface and create an expansive parking area that would not be necessary since on-street parking is available.

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 exterior of the structure will not change as a result of the proposal. There is a mix of one-, two-, and three-family structures in the neighborhood so a conversion to a three-family is not an unusual use for this area.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a special permit. Scott Darling 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	<p>Approval is for the residential conversion from a two-family to a three-family dwelling (SZO §7.11.2.b) without providing an additional parking space. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>Apr 4, 2011</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 3, 2007</td> <td>Plans submitted to OSPCD (plot plan)</td> </tr> <tr> <td>Dec 17, 2005 (Apr 26, 2011)</td> <td>Plans submitted to OSPCD (existing and proposed 3rd floor plans & sections)</td> </tr> </tbody> </table> <p>Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Apr 4, 2011	Initial application submitted to the City Clerk's Office	May 3, 2007	Plans submitted to OSPCD (plot plan)	Dec 17, 2005 (Apr 26, 2011)	Plans submitted to OSPCD (existing and proposed 3 rd floor plans & sections)	BP/CO	Plng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
3	The Applicant shall paint the exterior of the house so that it has a uniform color scheme.	CO	Plng.									



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	Plng.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Evans
Josh Safdie (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 _____



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