



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

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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RICHARD ROSSETTI  
T. F. SCOTT DARLING, III, ESQ.  
DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2012-25**  
**Site: 280 Broadway**  
**Date of Decision: April 18, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: April 24, 2012**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Amos G. Winter
<b>Applicant Address:</b>	49 Roseland Street, Apt. 6, Cambridge, MA 02139
<b>Property Owner Name:</b>	Fred Camerato
<b>Property Owner Address:</b>	342B River Street, Newton, MA 02465
<b>Agent Name:</b>	Anthony Impemba
<b>Agent Address:</b>	1 Waterhouse Street, Cambridge, MA 02138

Legal Notice: Applicant Amos G. Winter and Owner Fred Camerato, seek a Variance under SZO §5.5 for relief from the minimum side yard setback under SZO §8.5.H, relief from the minimum rear yard setback under SZO §8.5.I, and relief from the dimensional requirements of SZO §6.1.22.G.5 to install a second means of egress from the second story of the rear structure at the property.

<u>Zoning District/Ward:</u>	CCD 55 zone/Ward 4
<u>Zoning Approval Sought:</u>	§5.5, §8.5.H, §8.5.I & §6.1.22.G.5
<u>Date of Application:</u>	March 21, 2012
<u>Date(s) of Public Hearing:</u>	April 18, 2012
<u>Date of Decision:</u>	April 18, 2012
<u>Vote:</u>	5-0

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Appeal #ZBA 2012-25 was opened before the Zoning Board of Appeals at Somerville City Hall on April 18, 2012. 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 Applicant is proposing to renovate the existing rear, two unit commercial condominium building into one residential dwelling unit which he would occupy. The first floor of the structure would remain as is with two garaged parking spaces and the living space would all be located on the second floor. The new residential dwelling unit would have two bedrooms, a living room, a dining room, a kitchen, an office, two bathrooms, and a laundry area. The exterior of the structure would remain the same with the exception of a new egress door proposed from the second floor on the left side of the structure. This door would open out to a steel stairway that would descend down along the left side of the building and wrap around to the back of the structure where it would meet the ground. The stairs would be four feet wide which would still leave three feet of space for access around the left side of the building. The Applicant is not proposing any other changes to the exterior of the structure, nor any changes to the existing six unit residential building at the front of the lot.

**FINDINGS FOR VARIANCE (Dimensional Requirements of §8.5.H, §8.5.I, and §6.1.22.G.5):**

In order to grant a Variance the Zoning Board of Appeals must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. “There are special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”

The existing rear structure at the property is nonconforming with regard to the side and rear yard setbacks required of a structure in the CCD 55 district that abuts a residential district. To construct any kind of external stairway on the sides or rear of the rear building, even one that would only serve for fire escape purposes and as a second means of egress from the second floor, would require a Variance. The existing internal stairs land directly in front of the front door, making an external stairway on the front of the structure not beneficial for safety purposes. Additionally, from an aesthetic point of view, an external stairway on the front of the rear structure would not look pleasing. It is also not feasible or practical to demolish a portion of the existing structure to construct a second means of egress as-of-right. To construct an as-of-right external second means of egress would require one side of the structure to be torn down and pulled back at least seven feet on any side to allow enough clearance to construct a code compliant stairway. Additionally, the creation of a second internal stairway or creating a fire-rated hallway on the first floor which used the existing internal stairway for a fire escape from the second floor would not be safe and would be cost prohibitive as well. Therefore, the Board finds that there are special circumstances related the structures at the property that are causing a hardship to the Applicant that is not generally affecting the zoning district in which the property is located.

2. “The specific variance as may be granted by the Board is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

The external stairway that the Applicant is proposing to construct would require the minimum Variance necessary to meet building code and to provide a safe, secondary means of egress from the proposed residential unit. The external stairway would be the minimum width permissible for an egress stairway. The Applicant is proposing a four foot wide external, steel stairway that would descend down the left side of the rear building and wrap around the back of the structure where it would meet the ground. Without a second means of egress, the existing rear structure at the property could not be used for a residential unit. Additionally, an internal fire-rated corridor on the first floor that would lead to a second egress door on the first floor would not make sense structurally, financially, spatially, or safety-wise. The existing internal stairway lands at the front of the building by the front door and creating a fire-rated hallway away from the front door to the side or rear of the building for a fire escape would not make sense or improve the fire safety situation in the building. The proposed external stairway from the second floor creates the safest and most efficient second means of egress from the proposed living space on the second floor. The rear building, which was renovated as



commercial condominiums, has been vacant since its conversion, most likely due to its greatly recessed location off of the Broadway streetscape. The Applicant would like to make reasonable use of this structure by renovating it to create a residential unit for himself, but requires this second means of egress to make the space habitable. Therefore, the Board finds that the requested Variance is minimum necessary to make reasonable use of this existing structure.

3. “The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of the nearby buildings, the Board, in making its findings, shall take into account the number of persons residing or working in such buildings or upon such land, and the present and probable future traffic conditions.”

The proposed external stairway that would be created as a result of this Variance would not be detrimental to the Somerville Zoning Ordinance or the surrounding neighborhood. The stairway would only require a minimal four foot Variance from the dimensional requirements of the district to construct the external stairway on the left side and rear of the rear structure. The stairway would only be used as a secondary means of egress from the second floor of the proposed single-family unit in which the Applicant would be living. The primary egress would be through the front of the building and one would use the existing internal stairway to get to and from the habitable space on the second floor. The proposed steel external stairway would make the structure much safer in the event of a fire. Additionally, there are other means of secondary egress similar to this style in the surrounding neighborhood. The stairway would not negatively impact the neighbors on the side or rear of the property either. Furthermore, the proposed project meets the purpose of the Corridor Commercial District to “recognize that such corridors present opportunities for an active mix of uses while also addressing development challenges posed by smaller lots and nearby residential development. . . .” Therefore, the Board finds that the creation of this steel external stairway would not be substantially more detrimental or injurious to the public or the surrounding neighborhood than the existing structure.

### **DECISION:**

Present and sitting were Members Herbert Foster, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino with Susan Fontano absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Variance. 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:



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#	Condition	Timeframe for Compliance	Verified (initial)	Notes																				
1	<p>Approval is for relief from the minimum side yard setback under SZO §8.5.H, relief from the minimum rear yard setback under SZO §8.5.I, and relief from the dimensional requirements of SZO §6.1.22.G.5 to install a second means of egress from the second story of the rear structure at the property. 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>(March 21, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 23, 2010 (March 27, 2012)</td> <td>Amended Site Plan</td> </tr> <tr> <td>April 20, 2010 (March 27, 2012)</td> <td>Units Plan (Units 1, 2, 3, 4, 5, 6, 7, &amp; 8)</td> </tr> <tr> <td>May 11, 2011 (March 27, 2012)</td> <td>Units Plan (Units 7 &amp; Unit 8)</td> </tr> <tr> <td>(March 27, 2012)</td> <td>First Floor Plan</td> </tr> <tr> <td>(March 27, 2012)</td> <td>Second Floor Plan (Demo Plan)</td> </tr> <tr> <td>(March 27, 2012)</td> <td>Second Floor Plan (New Floor Plan)</td> </tr> <tr> <td>(March 27, 2012)</td> <td>Egress Plan</td> </tr> <tr> <td>March 15, 2012 (March 27, 2012)</td> <td>Left Side Elevation, Rear Elevation, and Isometric View (Sheets 1, 2, and 3)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(March 21, 2012)	Initial application submitted to the City Clerk's Office	June 23, 2010 (March 27, 2012)	Amended Site Plan	April 20, 2010 (March 27, 2012)	Units Plan (Units 1, 2, 3, 4, 5, 6, 7, & 8)	May 11, 2011 (March 27, 2012)	Units Plan (Units 7 & Unit 8)	(March 27, 2012)	First Floor Plan	(March 27, 2012)	Second Floor Plan (Demo Plan)	(March 27, 2012)	Second Floor Plan (New Floor Plan)	(March 27, 2012)	Egress Plan	March 15, 2012 (March 27, 2012)	Left Side Elevation, Rear Elevation, and Isometric View (Sheets 1, 2, and 3)	BP/CO	ISD/Plng.	
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2	Applicant shall comply with Fire Prevention Bureau's requirements.	CO	FP																					
3	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 or the night sky.	CO	Plng.																					



4	The Applicant or Owner shall remove the pavement markings for the parking spaces numbered 10, 11, 14, 15, and 16 as shown on the Amended Site Plan.	CO	Plng.	
5	The Applicant or Owner shall ensure that the areas on the left side, right side, and rear of the structure that will contain the new dwelling unit will all meet the definition of "Landscaping" under Section 2.2.81 of the Somerville Zoning Ordinance. This can be achieved by completing the work prior to the Certificate of Occupancy or by providing a bond and/or development agreement satisfactory to the City Solicitor to ensure that the work will be completed.	CO	Plng.	
6	No vehicles shall be parked outside of the designated parking spaces on the lot or in the garages.	Perpetual	ISD	
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.	



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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Richard Rossetti, *Acting Clerk*  
T.F. Scott Darling, III, Esq.  
Danielle Evans  
Elaine Severino (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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