



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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BRANDY BROOKS (ALT.)

**Case #: ZBA 2014-65**  
**Site: 3 Cameron Avenue**  
**Date of Decision: August 20, 2014**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: August 25, 2014**

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**ZBA DECISION**

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<b>Applicant Name:</b>	David A. Kinsella
<b>Applicant Address:</b>	7 Bridge Street, #9, Billerica, MA 01821
<b>Property Owner Name:</b>	Daniel M. Murphy
<b>Property Owner Address:</b>	3 Cameron Avenue, Somerville, MA 02144
<b>Agent Name:</b>	N/A

Legal Notice: Applicant, David Kinsella, and Owner, Daniel Murphy, seek a Special Permit per SZO §4.4.1 to alter a nonconforming structure to add rear decks, increase the height of the structure, and window alterations and §9.13 for parking relief.

<u>Zoning District/Ward:</u>	RC zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.13
<u>Date of Application:</u>	June 12, 2014
<u>Date(s) of Public Hearing:</u>	8/6 & 8/20/14
<u>Date of Decision:</u>	August 20, 2014
<u>Vote:</u>	5-0

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Appeal #ZBA 2014-65 was opened before the Zoning Board of Appeals at Somerville City Hall on August 6, 2014. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The proposal is to increase the height of the structure by jacking up the home off of its' foundation and then building up the foundation. The increase in 3' of height will allow for the headroom for an additional dwelling unit in the basement. New windows will be added to the front façade for the basement unit. The entrance to the unit will be accessed from the front sidewalk but the door will be on the driveway side of the home. The single front entrance will be changed to two separate entrances.

In addition to work for the third unit, a new rear egress and decks are proposed. The first and second floor units will have small rear decks with egress to the rear and side yard. There will be a recessed patio for the basement unit.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §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."*

Due to the Residential C district three families are by-right. The subject property, at 4500 square feet also meets the lot area per dwelling unit calculation of 875 square feet per unit.

Under SZO §4.4.1, an existing single or two-family dwelling may alter a nonconformity through the granting of a Special Permit. However, the conversion from a two- to a three-family dwelling requires that any extension of a nonconforming structure require a Special Permit. The lot is existing nonconforming due to the minimum lot size and setbacks.

A special permit is also required for parking relief. Per SZO §9.5.2.a, existing one and two family residences converting to 2 or 3 family residences shall provide one parking space per additional dwelling unit. Under SZO §9.13 a special permit is required since the Applicant is not provided any further parking than the driveway and one car garage which is viewed as one space.

In considering a Special Permit under §4.4 & §9.13 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. There are several conditions proposed as a conditions of approval to bring the structure into context with the surrounding neighborhood.

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 for rear decks and parking relief are 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 and to conserve the value of land and buildings.



The proposal is consistent with the purpose of the district, which is, “To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.”

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 Section 9.1. One space of parking relief will not cause an increase in traffic volumes or congestion. It is assumed that anyone occupying the property that does own a car will be parking on the street.

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 subject property is located in an RC district between Davis and Teele Squares. The surrounding neighborhood is predominantly comprised of single-, two-, and three-family dwellings. The Tufts Administration Building is located across Holland Street.

There are little to no impacts of the proposal to add the rear decks and for parking relief. There are several conditions of approval proposed to bring the structure into context with the surrounding neighborhood.

5. 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.*

A parking memo was requested by the City Traffic Engineer which was not provided. An additional unit requires one space of parking relief. The parking requirement for the building is 3.5 and would increase to 4.5 or 5 spaces, only 1 is provided. As Planning Staff proceeds with adoption of a new zoning ordinance, the parking count will be connected to unit count versus bedroom count; one unit will equal one space. This is in line with the data collected on registration that the car ownership rate in Davis Square is .86 per household and the car ownership rate in Teele Square is 1.03 per household.

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; 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.*

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	2	3
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	0	0
<i>Estimated Employment:</i>	0	0
<i>Parking Spaces:</i>	1	1



<i>Publicly Accessible Open Space:</i>	0	0
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**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 a Special Permit per SZO §4.4.1 to alter a nonconforming structure to add rear decks, increase the height of the structure, and window alterations and §9.13 for parking relief. 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>June 12, 2014</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>June 11, 2014</td> <td>Modified plans submitted to OSPCD (A0.0 Cover, EC1.0 Existing Basement Plan, S1.0, Foundation Plan &amp; Detail, A1.0 Proposed Plans, A1.1 Proposed Plans &amp; Door Schedule, A2.0 Proposed Elevations &amp; Window Schedule, A2.1 Proposed Elevations, )</td> </tr> <tr> <td>June 12, 2014</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>August 13, 2014</td> <td>Modified plans submitted to OSPCD (Landscaped Plan)</td> </tr> <tr> <td>August 20, 2014</td> <td>Modified plans submitted to OSPCD (Option B - Rendering)</td> </tr> </tbody> </table> <p>Any changes to the approved plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	June 12, 2014	Initial application submitted to the City Clerk’s Office	June 11, 2014	Modified plans submitted to OSPCD (A0.0 Cover, EC1.0 Existing Basement Plan, S1.0, Foundation Plan & Detail, A1.0 Proposed Plans, A1.1 Proposed Plans & Door Schedule, A2.0 Proposed Elevations & Window Schedule, A2.1 Proposed Elevations, )	June 12, 2014	Modified plans submitted to OSPCD (Plot Plan)	August 13, 2014	Modified plans submitted to OSPCD (Landscaped Plan)	August 20, 2014	Modified plans submitted to OSPCD (Option B - Rendering)	BP/CO	ISD/ Plng.	
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<b>Pre-Construction</b>																



2	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans/reports must be submitted to the Engineering Department for review and approval.	BP	Eng.	
<b>Construction Impacts</b>				
3	The Applicant shall at his 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	
<b>Design</b>				
5	The Applicant shall reside the home with wood shingles/siding or fiber cement siding. Final materials samples for siding, trim, windows, and doors shall be submitted to Planning Staff for review and approval prior to construction. No vinyl siding shall be permitted.	BP	Plng	
6	A foundation line of 3-4' shall be designed. Applicant will submit elevations to Planning Staff for review and approval.	BP	Plng.	
7	There shall be no basement windows on the front elevation. Revised elevations incorporating basement windows shall be submitted to Planning Staff for review and approval.	BP	Plng.	
8	Applicant shall screen underneath the porch with lattice or similar materials.	BP	Plng.	
9	On the left elevation, window types 2 & 4 should be aligned. On the same elevation, window types 7, 7, & 4 shall be aligned vertically.	BP	Plng	
10	The ceiling height of the basement shall not be more 5' above the average finished grade abutting the building.	Perpetual	Plng	
<b>Site</b>				
11	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
12	The Applicant shall work with the Director of Highways to install a street tree in the vicinity of the project.	CO	Dir of Hwy/ Plng	
<b>Miscellaneous</b>				
13	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	
<b>Public Safety</b>				



14	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
<b>Final Sign-Off</b>				
15	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	Png.	
16	The Applicant shall install pervious pavers or stamped concrete from the front of the driveway to the front face of the façade.	Png.	CO	
17	The Applicant shall submit a landscaping plan with planting along the foundation and a front hedge that provides year – round screening for Planning Staff review and approval.	Png.	BP	
18	The front fence shall turn along the driveway.	Png.	CO	
19	The Applicant will work with the neighbor at 1 Cameron Avenue to replace the fence on the shared property line, if possible.	Png.	CO	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Danielle Evans  
Elaine Severino

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 \_\_\_\_\_

