



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

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

ORSOLA SUSAN FONTANO, CHAIRMAN
RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE (ALT.)

Case #: ZBA 2015-17
Site: 5-7 Cottage Avenue
Date of Decision: May 6, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 12, 2015

ZBA DECISION

Applicant Name:	Victoria & Matthew Behr
Applicant Address:	5 Cottage Avenue, Somerville, MA 02144
Property Owner Name:	Matthew Behr
Property Owner Address:	5 Cottage Avenue, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicants, Victoria & Matthew Behr, and Owner, Matthew Behr, seek a Special Permit to alter the rear porch and windows and doors on the nonconforming house.

<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Date of Application:</u>	April 2, 2015
<u>Date(s) of Public Hearing:</u>	May 6, 2015
<u>Date of Decision:</u>	May 6, 2015
<u>Vote:</u>	4-0

Appeal #ZBA 2015-17 was opened before the Zoning Board of Appeals at Somerville High School Auditorium on May 6, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



DESCRIPTION:

The proposal is to remove the rear porch and construct a 66 inch diameter spiral stair in its place. The stair will reach the third floor where there will be a new door to access the stairs. There will also be a new door on the first floor in the rear to a 6.5 by 3 foot entry deck with a 5 by 3 foot roof over it. Pavers will be installed in the rear yard in the footprint of the porch that will be removed.

This work is part of a larger renovation of the house to convert it from a three-family to a two-family. The first and second floors will become one unit and the third floor will be the second unit. Additional by-right work includes repairing and restoring the front porch in kind.

FINDINGS FOR SPECIAL PERMIT:

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 dimensional requirements, including minimum front, rear and side yard setbacks, lot area, ground coverage, lot area per dwelling unit and street frontage. The floor area ratio will become conforming as a result of the proposal.

The spiral staircase and landing in the rear yard will be within the nonconforming rear yard setback. 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 "[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 spiral stair and landing will occupy a smaller space than the existing two-story porch that will be removed. Also, the abutter to the rear is a one-story mechanic autobody shop that will not be negatively impacted by the proposal.

The Mayor's Office of Strategic Planning and Community Development has submitted an ordinance to the Board of Alderman to overhaul the current zoning ordinance. The re-advertised date of the legal notice was February 17. Massachusetts General Law 40a, Section 6 states that a zoning ordinance shall apply to a special permit issued after the first notice of the public hearing for such an ordinance. Therefore, staff and boards should evaluate all applications based on the current and proposed ordinances so that there are no issued posed under either ordinance.

Under the proposed zoning ordinance, the house is a house building type. The proposed ordinance would allow for alteration of the existing nonconforming components if the ZBA issued a Special Permit. Therefore the proposal could be move forward under both codes if the Special Permit is approved.

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 purpose of the Residence B district, which is, “[t]o establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” The proposal alters the structure for the occupants of the dwelling to effectively use the space as a two-family structure.

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 buildings are mostly single-, two-, and three-family houses and there is an autobody shop behind the property. The spiral stair and landing will not be visible from the public way. The two-story porch will be removed from the rear and the proposed projections will be smaller and less intrusive than the porch.

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

The conversion of the house from a 3-family to a 2-family will make the one of units larger and more expensive. The unit will accommodate an owner occupied family and will not have a significant impact on the affordability of housing in the neighborhood.

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.*

This property is marked as an area to conserve and the proposal meets this goal.

<i><u>SomerVision Summary</u></i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	3	2



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino with Josh Safdie absent. 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 **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the installation of a rear stair and landing. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 2, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Oct 10, 2014</td> <td>Plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>(Apr 29, 2015)</td> <td>Modified plans submitted to OSPCD (Ex-2 Existing Elevation & Section, Proposed Rear Elevation, Ex-1 Existing floor plans, Proposed floor plans 1-3)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 2, 2015	Initial application submitted to the City Clerk's Office	Oct 10, 2014	Plans submitted to OSPCD (Plot Plan)	(Apr 29, 2015)	Modified plans submitted to OSPCD (Ex-2 Existing Elevation & Section, Proposed Rear Elevation, Ex-1 Existing floor plans, Proposed floor plans 1-3)
	Date (Stamp Date)				Submission							
	April 2, 2015				Initial application submitted to the City Clerk's Office							
Oct 10, 2014	Plans submitted to OSPCD (Plot Plan)											
(Apr 29, 2015)	Modified plans submitted to OSPCD (Ex-2 Existing Elevation & Section, Proposed Rear Elevation, Ex-1 Existing floor plans, Proposed floor plans 1-3)											
Any changes to the approved site plan or elevations that are not de minimis must receive SPGA approval.												
2	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									
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
4	The Applicant shall provide details regarding the electrical work and removal of a meter to the electrical inspector.	BP	Electrical									
Final Sign-Off												
5	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

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 _____

