



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2015-45
Site: 40 Evergreen Avenue
Date of Decision: August 19, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 24, 2015

ZBA DECISION

Applicant Name:	Burgundy Realty, c/o Vincent Lee
Applicant Address:	10 Nouvelle Way, Unit #923, Natick, MA 01760
Property Owner Name:	Burgundy Realty, c/o Vincent Lee
Property Owner Address:	10 Nouvelle Way, Unit #923, Natick, MA 01760
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner, Burgundy Realty, Vincent Lee, Manager, seek a Special Permit to alter a nonconforming two-family structure by adding a second story to the front porch, a window well, and new windows and doors under SZO §4.4.1 and a Special Permit to not provide a parking space §9.13.
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<u>Zoning District/Ward:</u>	RA zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 1, 2015
<u>Date(s) of Public Hearing:</u>	August 19, 2015
<u>Date of Decision:</u>	August 19, 2015
<u>Vote:</u>	4-0

Appeal #ZBA 2015-45 was opened before the Zoning Board of Appeals at Somerville City Hall on August 19, 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.



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DESCRIPTION:

The two-family house is currently being renovated and the following changes are proposed. Each unit would have three bedrooms. A second story would be added to the front porch with an external stair to provide access from the first to the second floor. A window well is proposed to be installed in the front yard along Dartmouth Street and an existing window will be expanded and other window will be added to provide light into the basement. A 677 square foot area in the basement will become a recreation room. The remaining portion of the basement will remain unfinished. There is an existing bathroom on this side of the basement that will serve as a utility bathroom. This side of the basement is common space for both units and will not be used as living space. The driveway will remain where it is located which fits a total of four cars with two parked in tandem. There will be a number of skylights on the roof.

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 dimensional requirements: side yard setback.

The proposal will impact the following nonconforming side yard setback. The current dimension to the porch that will be altered is 6 feet and the requirement in the district is 8 feet. 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 proposal has been designed with setbacks that minimally impact the neighbors because the window well will be a conforming distance from the front lot line and the railing for the second floor porch will be in line with the first floor porch below.

The following dimensions will change but remain conforming. The Floor Area Ratio for the house will increase but it will continue to be conforming at 0.726. The limit in the district is 0.75.

The increase in the number of bedrooms required parking relief. The property is nonconforming to parking requirements because the existing units with two bedroom each require three parking spaces and only two spaces are conforming to the dimensional requirements and can be counted as legal spaces. The addition of one bedroom per unit increases the parking requirement to four. Therefore, the application requires relief from providing one additional parking space.



SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is less than six. In considering a special permit under §9.13 of the SZO 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 site practically meets the number of spaces required by the ordinance because four spaces fit in the driveway. Some maneuvering of cars will be necessary; however, this is a typical situation with driveways and an existing situation for this lot. It is not expected to have negative impacts to traffic flow or a significant decrease to pedestrian safety.

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 maintain the uniquely integrated structure of uses in the City.

The proposal is consistent with the purpose of the RA district, in making alterations to the two-family house.

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. The proposal to reduce the required parking by one space will not be counter to the purposes of this section. The required number of parking spaces fit on the lot in tandem and will be available to the occupants of the units.

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 porch alteration to add a second story will be compatible with the existing structure and is a typical feature on a Somerville house. The design of the second story of the porch will match that of the existing first floor of the porch in the detailing of the posts, railings and balusters. The driveway will not change from its current configuration.

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

The residential unit will be more expensive with a renovation and access to a porch. The units are not restricted as affordable units and even without the expansion of the building the owner could increase the cost of the units.

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.*



The proposal will allow for increased outdoor amenity space which is not counter to the goals of SomerVision for this lot in the area of the City marked to be preserved.

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



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and 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 construction of a second floor to the front porch and for alterations to windows and doors. 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>July 1, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 31, 2015 (incorrect date as listed on plan)</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>July 20, 2015</td> <td>Modified plans submitted to OSPCD (Floor Plans: S-1, S-2 (see August 7 floor plan for correct door location onto porch), S-3, S-4, Roof Plan: A-4)</td> </tr> <tr> <td>(July 29, 2015)</td> <td>Plans submitted to OSPCD (illustrative rendering of proposed structure)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 1, 2015	Initial application submitted to the City Clerk's Office	June 31, 2015 (incorrect date as listed on plan)	Modified plans submitted to OSPCD (Plot Plan)	July 20, 2015	Modified plans submitted to OSPCD (Floor Plans: S-1, S-2 (see August 7 floor plan for correct door location onto porch), S-3, S-4, Roof Plan: A-4)	(July 29, 2015)	Plans submitted to OSPCD (illustrative rendering of proposed structure)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.														
2	An exterior light and electrical receptacle is required for the second level of the porch.	Final sign off	Wiring Inspector											
3	The second floor posts, railing and balusters shall match in style, size and be in line with these elements on the first floor porch.	Final sign off	Plng.											
4	The driveway shall have a border that is the width of 2 pavers and the apron of the driveway shall be pavers.	CO	Plng.											
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 _____

