



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

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Case #: ZBA 2015-76
Site: 5 Hersey Street
Date of Decision: November 4, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 10, 2015

ZBA DECISION

Applicant Name:	Slava & Rhiannon Menn
Applicant Address:	745 Atlantic Avenue, Boston, MA 02111
Property Owner Name:	Nordau Ventures, LLC
Property Owner Address:	745 Atlantic Avenue, Boston, MA 02111
Agent Name:	Garrett Hogan, Nordau Ventures, LLC
Agent Address:	745 Atlantic Avenue, Boston, MA 02111

Legal Notice: Applicants, Slava & Rhiannon Menn and Owner, Nordau Ventures, LLC with Slava Menn as Manager, seek Special Permits per SZO §4.4.1 to finish a basement which increases the FAR and to construct a second floor balcony within the front yard setback.

<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 17, 2015
<u>Date(s) of Public Hearing:</u>	November 4, 2015
<u>Date of Decision:</u>	November 4, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-76 was opened before the Zoning Board of Appeals at Somerville City Hall on November 4, 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 proposal is to finish a portion of the basement, increasing the FAR and construct a second floor balcony within the front yard setback, both of which trigger special permits. The square footage will increase by 297 sq. feet, within the 25% increase allowed under special permit. The second floor balcony protrudes into the front yard setback, requiring a special permit. The dormer to be added to the second floor above the current front entry facing Hersey Street, but it is beyond the front yard setback requirement, and thus does not trigger special relief.

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 §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.

1. Information Supplied:

- The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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 non-conforming with respect to FAR, setbacks on all sides, lot coverage and landscaped area.
- The proposal will change the floor area ration (FAR) from .92 to 1.15. The FAR allowed in the RA zone is 0.75. Intensifying this existing non-conformity requires the Applicant to obtain a special permit under §4.4.1 of the Somerville Zoning Ordinance (SZO). Staff finds that this request to increase the FAR is a reasonable one to provide the Applicants with a small amount of additional square footage. This lot is particularly challenging and severely limits the ability of the applicants to add additional space to a relatively small house.
- The addition of the second floor balcony will extend this upper portion of the structure into the front yard setback. Given that the enclosed front entryway already extends into the front yard setback and the new balcony would extend over these same dimensions, the balcony addition will not adversely impact abutting properties.

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 to this legal single-family would not be substantially more detrimental to the neighborhood than those contained within the existing structure. Finishing/upgrading a basement is a way of creating more livable space to a home without any impact on abutting properties since there is no change to the setbacks of the home.



- In considering a special permit under §4.4 of the SZO with respect to the second floor balcony, the Board finds that this proposed alteration would not be substantially more detrimental to the neighborhood as it does not further penetrate the front yard setback any more than the existing enclosed front entryway.

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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.
- The proposal is consistent with the purpose of the district.

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 neighborhood is a mix of residential uses including single-family, 2-family and 2-family conversions. The surrounding neighborhood contains numerous structures of 2 ½ and 2 ¾ stories with similar massing.
- There are few to no impacts from the proposal. The most significant modifications are to the interior of the structure. The proposed changes to the exterior of the residence will help improve the street presence of the property while providing the homeowners with a small amount of outdoor space on a lot with limited area for outdoor enjoyment.

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

- The proposal will not impact the existing stock of affordable housing.

6. 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 not contribute to the metrics of SomerVision but allow the property owner to make some modifications to their home.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino and Josh Safdie. 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 **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is to finish the basement, increase the FAR and add a second floor balcony within the front yard setback.. 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>September 17, 2015</td> <td>Initial application submitted to Planning Office</td> </tr> <tr> <td>October 2, 2015</td> <td>Modified plans submitted OSPCD (Site Plan, Existing and Proposed Basement, First, Second floor plans, updated zoning data sheet and exterior changes.)</td> </tr> </tbody> </table> <p>Any changes to the approved plan that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	September 17, 2015	Initial application submitted to Planning Office	October 2, 2015	Modified plans submitted OSPCD (Site Plan, Existing and Proposed Basement, First, Second floor plans, updated zoning data sheet and exterior changes.)	BP/CO	ISD/ Plng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP							
3	The basement shall not be converted into additional bedroom space nor used as an additional unit.	CO	ISD							
Final Sign-Off										
4	The Applicant shall contact Planning Staff at least five (5) 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	ISD/Plng.							



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

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 _____

