



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2014-26
Site: 14 Kidder Avenue
Date of Decision: May 7, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 12, 2014

ZBA DECISION

Applicant Name:	Richard Burck
Applicant Address:	3 Forest Street, Lexington, MA 02421
Property Owner Name:	Richard Burck
Property Owner Address:	3 Forest Street, Lexington, MA 02421
Agent Name:	N/A

Legal Notice: Applicant and Owner, Richard Burck, seeks a Special Permit under SZO §4.4.1 to alter a nonconforming structure to create a closet on the left side of a single-family dwelling. RB zone. Ward 6.

<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	March 21, 2014
<u>Date(s) of Public Hearing:</u>	May 7, 2014
<u>Date of Decision:</u>	May 7, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-26 was opened before the Zoning Board of Appeals at Somerville City Hall on May 7, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

As part of other interior renovations, the Applicant proposes to remove a window to create a bedroom closet by projecting an exterior wall to cantilever above an existing bulkhead. This projection is located on the left, or north side of the structure, facing the rear of the parcel. The closet addition will not be visible from the streetscape and would measure 5'-4" in width, 2'-6" in depth and approximately 8' in height. Staff has confirmed that the bulkhead will comply with the building code in regard to headroom.

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."

Under SZO §4.4.1, an existing single or two-family dwelling may alter a nonconformity through the granting of a Special Permit. Therefore, due to the existing nonconforming left side yard setback, the proposed closet, which is to cantilever within the side yard setback, above the existing bulkhead, requires a Special Permit.

In considering a special permit under §4.4 of the SZO, the Board finds that the alteration proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposed alteration will not impact abutters, nor be visible from the street. This proposal does not add bedrooms or change the parking requirement. This proposal does allow the occupants to better utilize the interior space. The existing floor area ratio (FAR) is 0.59 and as this is a proposed closet, this would not increase the FAR. The ground coverage (34%), landscape (66%) and pervious area (57%) are all in compliance.

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 conserve the value of land and buildings; to preserve the historical and architectural resources of the City; and to encourage the most appropriate use of land throughout the City."

The proposal is consistent with the purpose of the RB district, §6.1.2, which is, "To 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 to cantilever a closet over a bulkhead allows the occupants to better utilize the interior plan of this structure. The small addition is compliant with building code, does not impact abutters and is not visible from 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 parcel is located in a residential neighborhood of similar type structures, between Davis Square and Powder House Circle, near College Avenue. The surrounding buildings are single, two-, three-, and multi-family dwellings.

The proposal to cantilever a closet over a bulkhead allows the occupants to better utilize the interior plan of this structure. The small addition is compliant with building code, does not impact abutters and is not visible from the street.

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	Approval is for a Special Permit to alter a nonconforming structure to create a closet on the left side of a single-family dwelling. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Png.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(March 21, 2014)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 20, 2014 (April 25, 2014)</td> <td>Plans submitted to OSPCD (First Floor Plan, Second & Third Floor Plans, Closet Addition, & Existing Conditions)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(March 21, 2014)	Initial application submitted to the City Clerk's Office	March 20, 2014 (April 25, 2014)	Plans submitted to OSPCD (First Floor Plan, Second & Third Floor Plans, Closet Addition, & Existing Conditions)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
Design										
2	The new siding and trim detail shall match or be complimentary to the existing in size, color, and detail.	CO	Png.							
Public Safety										
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
Final Sign-Off										
4	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.							



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 _____

