



**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**

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ELAINE SEVERINO  
JOSH SAFDIE  
ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2015-51**  
**Site: 74 Morrison Avenue**  
**Date of Decision: August 5, 2015**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: August 18, 2015**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Buster Bronze, LLC
<b>Applicant Address:</b>	165 Amory Street, Cambridge, MA 02139
<b>Property Owner Name:</b>	Buster Bronze, LLC
<b>Property Owner Address:</b>	165 Amory Street, Cambridge, MA 02139
<b>Agent Name:</b>	N/A

Legal Notice: Applicant & Owner, Buster Bronze LLC, seeks a Special Permit to alter a nonconforming three-family structure to add a third floor to the rear porch and add a door to access the porch.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Date of Application:</u>	July 1, 2015
<u>Date(s) of Public Hearing:</u>	August 5, 2015
<u>Date of Decision:</u>	August 5, 2015
<u>Vote:</u>	5-0

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Appeal #ZBA 2015-51 was opened before the Zoning Board of Appeals at Somerville City Hall on August 5, 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 add a third floor to the rear porch and turn a window into a door to access the porch.

**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 proposal will impact the nonconforming side yard. The current dimension is 3 feet 8 inches, the proposal will alter the structure within this setback to add a third floor to the porch. 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 nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

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 will not expand the footprint of the porch and the proposal will add a small private outdoor space for the third floor unit.

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 maintaining the uniquely integrated structure of uses in the City and to providing adequate light and air.

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

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 design of the third floor of the porch will match that of the first two floors in the details of the posts, railings and balusters.



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

The third floor 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.

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



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Josh Safdie and Anne Brockelman with Danielle Evans 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 **5-0** 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 third floor to the rear porch and window and door alterations to access the porch. 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>July 1, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Oct 7, 2014</td> <td>Modified plans submitted to OSPCD (Plan of Land with Setbacks)</td> </tr> <tr> <td>Jul 14, 2015</td> <td>Modified plans submitted to OSPCD (existing &amp; proposed floor plan, existing &amp; proposed rear elevation)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 1, 2015	Initial application submitted to the City Clerk's Office	Oct 7, 2014	Modified plans submitted to OSPCD (Plan of Land with Setbacks)	Jul 14, 2015	Modified plans submitted to OSPCD (existing & proposed floor plan, existing & proposed rear elevation)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.												
2	An exterior electrical receptacle is required for the second level of the porch.	Final sign off	Wiring Inspector									
3	The posts, railing and balusters shall match those on the first and second floors of the porch.	Final sign off	Png.									
<b>Final Sign-Off</b>												
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:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Elaine Severino  
Josh Safdie  
Anne Brockelman, (Alt.)

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 \_\_\_\_\_

