



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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EXECUTIVE DIRECTOR

PLANNING DIVISION

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RICHARD ROSSETTI  
DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2013-03**  
**Site: 91 Perkins Street**  
**Date of Decision: March 6, 2013**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: March 19, 2013**

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**ZBA DECISION**

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<b>Applicant Name:</b>	91 Perkins Street, LLC c/o John Morley & Denis Fullerton
<b>Applicant Address:</b>	705 Cambridge Street, Cambridge, MA 02141
<b>Property Owner Name:</b>	91 Perkins Street, LLC c/o John Morley & Denis Fullerton
<b>Property Owner Address:</b>	705 Cambridge Street, Cambridge, MA 02141
<b>Agent Name:</b>	Michael T. Dwyer
<b>Agent Address:</b>	741 Broadway, Somerville, MA 02144

Legal Notice: Applicants, John Morley and Denis Fullerton Jr. and Owner, 91 Perkins Street LLC seek a Special Permit under SZO §4.4.1 for relief under the provisions of SZO §8.5.E to alter a nonconforming structure to increase the floor area ratio of the property by finishing a portion of the basement. RB zone. Ward 1.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1 & §8.5.E
<u>Date of Application:</u>	February 1, 2013
<u>Date(s) of Public Hearing:</u>	March 6, 2013
<u>Date of Decision:</u>	March 6, 2013
<u>Vote:</u>	4-0

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Appeal #ZBA 2013-03 was opened before the Zoning Board of Appeals at Somerville City Hall on March 6, 2013. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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**DESCRIPTION:**

Applicants, John Morley and Denis Fullerton Jr., owners of 91 Perkins Street LLC, propose to alter a twelve unit residential structure to increase the floor area ratio by finishing a portion of the basement. The current owners, since May 2012, are working to rehabilitate and update each unit as well as the exterior. The current net floor area of the building is 9,549 square feet with a floor area ratio of 1.24. The proposed net floor area would be 12,014 square feet with a floor area ratio of 1.56. This modification would create 2,465 square feet of increased living space in the basement, which is partially raised with 8 foot ceiling heights, to be used by the occupants of Units 1 and 2 for a family room and home office. The current owners are not aware of any history of sewage back flow and owner, John Moreley, currently occupies Unit 1.

Unit 1 would have new stairs installed that lead into an open concept family room and a home office would be located in the rear left portion of the basement. While the home office would contain a bathroom and closet, these features are already existent (see sheet A1.0). Egress out of the building and to the rear staircase is accessible from both the family room and home office toward the rear of the basement. Twelve windows are located along the right side, rear, and rear left side, where the home office would be located. Two of the six basement windows located along the right side façade would abut the parking lot on the corner of Perkins and Mt. Vernon streets; one would be near the staircase while the other would be in the right rear corner of the family room. The other four windows along this wall would become buffered by a new landscaped area, which varies from four to two feet in width and is located along the recessed portion of the right side façade.

Unit 2 would also have a new staircase installed, which would lead to an open concept family room with egress out of the building through a small door along the left side wall. This portion would have five windows, which all look onto the adjacent lot. The ceiling height is 8 feet and the basement windows are located at eye level, allowing for adequate natural light and ventilation. Shared laundry facilities, common storage, and the main stairwell are accessible from the basement of both units at the front of the building.

**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."

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 to finish portions of the basement will enhance and enlarge Units 1 and 2. There should be no impact on the surrounding neighborhood as the additional living space will not increase the number of occupants within either unit nor will it increase the number of cars.

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 provide for



and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to conserve the value of land and buildings; and to preserve the historical and architectural resources of the City.”

The proposal is consistent with the purpose of the Residence B 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.”

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.”

This proposal, to increase the floor area ratio by finishing portions of the basement, is compatible with the site and the neighborhood. This project will maintain the existing footprint and will not increase the number of occupants within the building, nor increase the number of vehicles to be parked at the site or on the street. Therefore, the surrounding neighborhood should not be negatively impacted as a result of this proposal.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Evans, Elaine Severino and Josh Safdie with Richard Rossetti absent. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Josh Safdie seconded the motion. Wherefore the Zoning Board of Appeals voted **(0-0)** 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 for relief to alter a nonconforming structure to increase the floor area ratio of the property by finishing a portion of the basement. 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>February 1, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 19, 2013 (February 27, 2013)</td> <td>Plot plan submitted to OSPCD</td> </tr> <tr> <td>February 19, 2013 (February 27, 2013)</td> <td>Plans submitted to OSPCD (T-1, Z.1, A0.0, A1.0, &amp; A1.1)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	February 1, 2013	Initial application submitted to the City Clerk's Office	February 19, 2013 (February 27, 2013)	Plot plan submitted to OSPCD	February 19, 2013 (February 27, 2013)	Plans submitted to OSPCD (T-1, Z.1, A0.0, A1.0, & A1.1)
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Any changes to the approved site and floor plans that are not <i>de minimis</i> must receive SPGA approval.												
2	The basement living space shall not be used as a bedroom nor shall this living space be allowed to become a separate unit.	CO	Plng.									
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
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	Plng.									



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Danielle Evans  
Elaine Severino (Alt.)  
Josh Safdie (Alt.)

Attest, by the Senior Planner:

\_\_\_\_\_  
Lori Massa, AICP

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 \_\_\_\_\_

