



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

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Case #: ZBA 2015-73
Site: 44 Powder House Boulevard
Date of Decision: October 7, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 20, 2015

ZBA DECISION

Applicant Name:	Francis & Marjorie Lichtenberger
Applicant Address:	44 Powder House Blvd, Somerville, MA 02144
Property Owner Name:	Francis & Marjorie Lichtenberger
Property Owner Address:	44 Powder House Blvd, Somerville, MA 02144
Agent Name:	Joseph O'Brien
Agent Address:	Cambridge Contracting, Inc. 12 Park Avenue, Cambridge, MA 02138

Legal Notice: Applicants and owners Francis & Marjorie Lichtenberger seek a Special Permit to alter a nonconforming three-family structure by remodeling and adding a family room in the basement.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Date of Application:</u>	September 3, 2015
<u>Date(s) of Public Hearing:</u>	October 7, 2015
<u>Date of Decision:</u>	October 7, 2015
<u>Vote:</u>	4-0

Appeal #ZBA 2015-73 was opened before the Zoning Board of Appeals at Somerville City Hall on October 7, 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 owner and current residents (the Lichtenberg family), propose to add a family room and bathroom in the basement, to demolish the existing rear stair to the basement, to add a new central stair to the basement from the first floor unit, and to replace and enlarge all of the basement windows. They also seek to make various remodeling improvements in all three units, and to convert the third floor unit from a four-bedroom to a three-bedroom.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §5.1):

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 per SZO §8.5: side yard setback. The proposal will not change the nonconforming dimensions of the setback, but the alteration to a nonconforming structure requires the Applicant to obtain a special permit under §4.4.1 of the SZO. In considering a special permit under §4.4 of the SZO, the Board finds that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing structure. The only visible exterior change will be the enlargement of the basement windows from 20"x32" to 36"x32".

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 encouraging the most appropriate use of land throughout the City."

The proposal is consistent with the purpose of the district (6.1.1. RA - Residence Districts), which is to "establish and preserve quiet neighborhoods of one- and two-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."*

Enlarging the basement windows is compatible with the surrounding area and land uses.

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

No adverse impacts on the existing stock of affordable housing are anticipated.



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.*

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	3	3
<i>Parking Spaces:</i>	2	2

DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans , Elaine Severino and Anne Brockelman with Josh Safdie absent and Richard Rossetti recused. Upon making the above findings, Danielle Evans 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 Alteration of the nonconforming structure. This approval is based upon the following application materials and the plans submitted by the Applicant: <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(August 13, 2015)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>(August 13, 2015)</td> <td>Modified plans submitted to OSPCD (1-11)</td> </tr> <tr> <td>(August 26, 2015)</td> <td>Modified plans submitted to OSPCD (1-13)</td> </tr> </tbody> </table> Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.	Date (Stamp Date)	Submission	(August 13, 2015)	Initial application submitted to the City Clerk’s Office	(August 13, 2015)	Modified plans submitted to OSPCD (1-11)	(August 26, 2015)	Modified plans submitted to OSPCD (1-13)	BP/CO	ISD/PIng.	
Date (Stamp Date)	Submission											
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Construction Impacts												



2	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
3	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
Design				
4	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
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*
Danielle Evans
Elaine Severino
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 _____

