



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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

**Case #: ZBA # 2012-55**  
**Site: 193 School Street**  
**Date of Decision: September 5, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: September 12, 2012**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Micah Silver
<b>Applicant Address:</b>	193 School Street, #3, Somerville, MA 02145
<b>Property Owner Name:</b>	Micah Silver
<b>Property Owner Address:</b>	193 School Street, #3, Somerville, MA 02145
<b>Agent Name:</b>	N/A

Legal Notice: Applicant and Owner, Micah Silver, seeks a Special Permit under SZO § 4.4.1 to convert an existing garage into living space.

<u>Zoning District/Ward:</u>	RA zone/War 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 3, 2012
<u>Date(s) of Public Hearing:</u>	8/15 & 9/5/12
<u>Date of Decision:</u>	September 5, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2012-55 was opened before the Zoning Board of Appeals at Somerville City Hall on August 15, 2012. 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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## **DESCRIPTION:**

Owner and Applicant, Micah Silver, proposes to convert the existing concrete block garage into living space. Alterations to the exterior include replacing the bricks that have been used to fill two window openings on the rear elevation with glass blocks, fresh paint and a security light to the right of the door. The garage is located at the rear of the property, in the right corner adjacent to the property lines, and is legally part of the third floor, owner occupied unit. An emergency egress staircase, supported by the garage, leads from a door within the Mansard roof to the ground below. The current floor area ratio (FAR) is 0.87 and the additional living space would create an FAR of 0.98.

The Applicant went to Inspectional Services and was given a building permit, prior to requesting a Special Permit, to install fire resistant glass blocks in the two rear windows, reframe and install the existing door, stud out the interior, add insulation and sheetrock to walls and ceilings, and install a new electrical unit. However, upon a preliminary inspection, the Inspector determined the Applicant would need to obtain a Special Permit first, as the Applicant was adding habitable space which changes the floor area ratio.

The Applicant proposes to convert this garage into living space for use as storage and for small house projects or hobbies. The two windows on the rear façade, currently filled with brick, would be replaced with glass block, and the door would be reframed and reinstalled in the same location. Studs and insulation would be installed to create interior walls and the walls would have ½" sheetrock on ¾" strapping. The concrete floor and steel beam would remain unchanged. Shelving and cabinets would be installed in the right portion of the garage for storage and a new electrical distribution box would be installed to the left of the entry door. An energy efficient ductless heat pump would be used to heat and cool the space and a smoke detector would also be installed. A security light will also be added to the exterior, adjacent the door. Additionally, the Applicant would like to install plumbing for a utility sink.

## **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 find that the use proposed would not be substantially more detrimental to the neighborhood than the existing use. The new use does not substantially modify the way the space is currently used; however, upon altering the space, it will likely be used more often and for the specific purpose of storage and small house projects. As the exterior design of the building is not proposed to be modified, other than paint and a small security light, and the new use is not substantially different from the current use as storage space, the proposal is not more detrimental to the neighborhood.

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 protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the



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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 Residence A (RA) district, SZO, §6.1.1, which is, “[t]o 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.”

The change in use of the garage, from a garage space to a space for storage and small house projects or hobbies, is compatible with the built and unbuilt surrounding area. Altering the use of this space enables the resident of the third floor unit, which is currently the owner of the property, to expand the usable square footage of the property and utilizes an area that currently is not functional.

5. Vehicular and Pedestrian Circulation: The circulation patterns for motor vehicles and pedestrians, which would result from the use, will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

Currently, the garage is technically understood as a garage; however, the structure is not able to legally house a vehicle as the space is less than 9 feet in width. Additionally, a double door composed of glass is located in the left bay, which has only one operable door, and the right bay has been infilled with glass block and concrete. Presently, cars park tandem in the driveway in front of the right garage bay.



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**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling 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 convert an existing garage into living space. 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>(July 3, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 4, 2010 (August 7, 2012)</td> <td>Plot plan submitted to OSPCD</td> </tr> <tr> <td>(August 28, 2012)</td> <td>Existing plan at Time of Building Permit Approval submitted to OSPCD</td> </tr> <tr> <td>(August 28, 2012)</td> <td>Proposed floor plan for garage structure</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(July 3, 2012)	Initial application submitted to the City Clerk's Office	June 4, 2010 (August 7, 2012)	Plot plan submitted to OSPCD	(August 28, 2012)	Existing plan at Time of Building Permit Approval submitted to OSPCD	(August 28, 2012)	Proposed floor plan for garage structure
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(August 28, 2012)	Proposed floor plan for garage structure													
Any changes to the approved site plan or use that is not <i>de minimis</i> must receive SPGA approval.														
2	The Applicant shall not use this converted garage to living space as a bedroom or similar room type. This converted space shall only be used as storage space or for small house projects or hobbies.	CO	FP											
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*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
Danielle Evans

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 \_\_\_\_\_



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