



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

ZONING BOARD OF APPEALS MEMBERS

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Case #: ZBA 2015-25
Site: 15 Wesley Park
Date of Decision: June 24, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: July 3, 2015

ZBA DECISION

Applicant Name:	Joseph Tarkoff & Jocelyn
Applicant Address:	7 Dimick Street, Somerville, MA 02143
Property Owner Name:	Robert D. Scott & Karin Effland
Property Owner Address:	15 Wesley Park, Somerville, MA 02143
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner, Joseph David Tarkoff and Jocelyn Segal Tarkoff, seek a Special Permit to alter a nonconforming three-family to add window wells for the basement.

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Date of Application:</u>	May 21, 2015
<u>Date(s) of Public Hearing:</u>	June 24, 2015
<u>Date of Decision:</u>	June 24, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-25 was opened before the Zoning Board of Appeals at the Somerville High School Auditorium on June 24, 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 install two window wells and three windows in order to creating living space in the basement for one of the units. The units on the second and third floors will not change. There will be one 1-bedroom unit, one 2-bedroom unit and one 3-bedroom unit in the house. The window wells will be 40 by 24 inches and the windows will be vinyl casement, 36 by 48 inches. There will be a new window on the front of the house and a well and window on the right side and rear of the house.

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 structure is currently nonconforming with respect to dimensional requirements, including lot area, lot area per dwelling unit, front yard setback, side yard setback and street frontage.

The proposal will impact the following nonconforming dimensions: front yard setback and left side yard setback. The window wells on the left side and rear of the structure will project out 40 inches from the house. The left side yard setback at the window well location is just over 40 inches. The rear yard setback is over 20 feet. On the front of the house the window in the basement will be enlarged. 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 alterations will be minimally impactful to the appearance of the building, landscaped area and pervious coverage. The floor area ratio will continue to be conforming to the requirements of the SZO. The previous parking requirement was 4.5 which rounds up to 5 and the current proposal has a parking requirement of 5; therefore, no additional parking is required.

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 maintain the uniquely integrated structure of uses in the City.



The proposal is consistent with the purpose of the district, which is, “[t]o 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."*

The new and enlarged windows and window wells on the left and rear of the structure will not be readily visible from the public right of way and will not be negatively impactful to the appearance of the house. The window in the front of the house will be visible from the street. It is larger than a typical basement window; however, it will remain within the foundation area of the house and aligned with the windows above making it an acceptable design. The trash and recycling bins that are stored in the front of the house by this window shall be moved to the side or rear yard.

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

The units are not restricted as affordable units. The increase in living space of one of the units will make it a more expensive unit; however, it will also allow an increase in the diversity of housing sizes in the building and allow for the potential for a family to live here.

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.*

The property is in an area that is to be preserved in the SomerVision map.

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



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino and Josh Safdie. 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 alteration to a 3-family house to install windows and window wells. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May 21, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 18, 2015</td> <td>Plans submitted to OSPCD (a 01-04)</td> </tr> <tr> <td>June 3, 2015</td> <td>Modified plans submitted to OSPCD (a 05-06)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 21, 2015	Initial application submitted to the City Clerk's Office	May 18, 2015	Plans submitted to OSPCD (a 01-04)	June 3, 2015	Modified plans submitted to OSPCD (a 05-06)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	The smoke detectors in the entire residential unit must be hardwired.	CO	FP									
3	The Applicant shall submit a detailed plan of the utility room to the Wiring Inspector and Building Inspector for their review and approval.	BP	ISD									
4	The trash and recycling bins shall not be stored in the front yard.	Perpetual	ISD									
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	PIng.									



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

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 _____

