



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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JOSH SAFDIE (ALT.)

Case #: ZBA # 2012-41
Site: 271 Summer Street
Date of Decision: June 6, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 11, 2012

ZBA DECISION

Applicant Name:	Gaston & Eileen de los Reyes
Applicant Address:	271 Summer Street, Somerville, MA 02143
Property Owner Name:	Gaston & Eileen de los Reyes
Property Owner Address:	271 Summer Street, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicants and Owners Gastón and Eileen de los Reyes, seek a Special Permit under SZO §4.4.1 for relief from the provisions of SZO §8.5.E. to finish a portion of the basement and to alter a nonconforming structure to install egress windows on an existing two-family residence.
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<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1 & §8.5.E
<u>Date of Application:</u>	May 8, 2012
<u>Date(s) of Public Hearing:</u>	June 6, 2012
<u>Date of Decision:</u>	June 6, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2012-41 was opened before the Zoning Board of Appeals at Somerville High School Auditorium on June 6, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

This triple-decker structure was renovated into a two-family dwelling in 2009. The owner occupies the second and third floors and the first floor is a rental unit. The basement is currently used for storage and utility space for mechanical and electrical systems. The Applicant is proposing to renovate approximately 80% (829 square feet) of the basement into living space that would be incorporated into the first floor unit. The new living space in the basement would include two bedrooms, two full bathrooms, and a recreational/living area. On the exterior of the building the only changes would be the increased size of three basement level windows, one on each side of the building and one in the front. The proposed enlarged windows on each side of the building would need window wells as they would provide emergency access from the two proposed bedrooms in the basement.

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 does not find that the alterations proposed would be substantially more detrimental to the neighborhood than the existing structure. Construction impacts will be limited to the interior of the building and therefore no significant disruption to the neighborhood is anticipated. All solid waste disposal for the project will be taken care of by the building contractor who will use a professional waste disposal company. The only changes to the exterior of the structure will be the enlarged basement level windows on the sides and front of the building. The enlarged windows on the sides of the structure are required as part of adding new bedrooms in the basement and the enlarged window in the front will only increase the vibrancy of the streetscape. The proposed additional bedrooms and living space in the basement would not appear to be detrimental to the immediate abutters or the surrounding area and therefore, there are no anticipated negative impacts from the proposal. The property will remain a 3 story, two-family residential use which is consistent with the surrounding 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 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 conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels."

The existing structure is a pre-existing nonconforming structure that is consistent with the purpose of the RB district (6.1.2. RB - Residence Districts), 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." While the structure does not meet the FAR or the front, left side, and right side dimensional setback requirements of the district, the structure is typical of many other buildings in the RB district. Furthermore, the renovations to the existing basement will only require minimal changes to the existing exterior of the structure.



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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."

Minimal, if any, impacts are anticipated from the finishing of the existing basement to create two bedrooms, two bathrooms, and a recreational space. Minimal, if any, impacts are anticipated from the enlargement of the basement level windows on the sides and front of the building. The enlarged windows on the sides of the structure are required as part of adding new bedrooms in the basement and the enlarged window in the front will only increase the vibrancy of the streetscape. The proposed additional bedrooms and living space in the basement would not appear to be detrimental to the immediate abutters or the surrounding neighborhood.

5. Adverse Environmental Impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

No adverse environmental impacts are anticipated from this project. No new noise, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception are anticipated as part of the proposal. The enlarged windows on the sides of the structure are required as part of adding new bedrooms in the basement and the enlarged window in the front will only increase the vibrancy of the streetscape. The property will remain a 3 story, two-family residential use which is consistent with the surrounding neighborhood.



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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 relief from the provision of SZO §8.5.E. (FAR) to finish a portion of the basement and to alter a nonconforming structure under SZO §4.4.1 to install egress windows on an existing two-family residence. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(May 8, 2012)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>August 15, 2008 (May 23, 2012)</td><td>Plot Plan</td></tr><tr><td>(May 23, 2012)</td><td>Floor Plans (A-1 and A-2)</td></tr><tr><td>(May 24, 2012)</td><td>Existing and Proposed Elevations (A-3 and A-4)</td></tr></table>				Date (Stamp Date)	Submission	(May 8, 2012)	Initial application submitted to the City Clerk's Office	August 15, 2008 (May 23, 2012)	Plot Plan	(May 23, 2012)	Floor Plans (A-1 and A-2)	(May 24, 2012)	Existing and Proposed Elevations (A-3 and A-4)
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	August 15, 2008 (May 23, 2012)				Plot Plan									
	(May 23, 2012)				Floor Plans (A-1 and A-2)									
(May 24, 2012)	Existing and Proposed Elevations (A-3 and A-4)													
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.														
2	The structure shall remain a two-family building and no additional dwelling units shall be added	Cont.	ISD											
3	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.											
4	A code compliant fire alarm system is required and shall be installed as part of this project by the Applicant.	CO	FP											
5	The Applicant shall remove the wet bar from the Basement Floor Plan and a wet bar shall never be installed in the basement in the future.	BP	PIng./ISD											



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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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