



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

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ANNE BROCKELMAN, (ALT.)

Case #: 2016-69
Site: 14 Bond Street
Date of Decision: September 7, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 21, 2016

ZBA DECISION

Applicant Name:	Jose Sousa
Applicant Address:	14 Bond Street, Somerville, MA 02145
Property Owner Name:	Jose Sousa
Property Owner Address:	14 Bond Street, Somerville, MA 02145
Agent Name:	N/A

Legal Notice: Applicant and Owner, Jose Sousa, seeks a Special Permit under SZO §4.4.1 to extend the basement living area within the setback.

<u>Zoning District/Ward:</u>	RC zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 22, 2016
<u>Date(s) of Public Hearing:</u>	September 7, 2016
<u>Date of Decision:</u>	September 7, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2016-69 was opened before the Zoning Board of Appeals at Somerville City Hall on September 7, 2016. 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:

The Applicant proposes to increase the living area of the basement unit by extending the footprint of the basement underneath the existing rear deck. The basement foundation runs along the side yard at a distance of 2'5" from the property line. The trigger for the Special Permit is the extension of this foundation/living area within the right yard setback.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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."*

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, 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 §4.4.1 of the SZO, the Board finds that the extension of the living space in the basement unit will have a negligible effect on the neighborhood. The alterations to the property will be largely underground, with only the new foundation, egress window, associated window well and new stairs visible on the right rear of the property.

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 Board finds that the to extend the basement unit in order to add more living space is consistent with the purpose of the RC district which is, according to §6.1.3 of the SZO "...to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."

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."*

Based on the findings noted in item 2 ("Compliance with Standards") above, in considering a special permit under §4.4.1 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the conditions currently extant on the existing structure.

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

The proposal will not add to the existing stock of affordable housing.

7. SomerVision:



There is no impact on SomerVision with this proposal.

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 to extend the basement in order to create more living space for this unit.	BP/CO	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>June 22, 2016</td><td>Application submitted to City Clerk’s Office</td></tr><tr><td>August 16, 2016</td><td>Updated zoning dated sheet submitted to OSPCD</td></tr><tr><td>August 29, 2016</td><td>Certified plot plan submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	June 22, 2016	Application submitted to City Clerk’s Office	August 16, 2016	Updated zoning dated sheet submitted to OSPCD	August 29, 2016	Certified plot plan submitted to OSPCD
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	August 16, 2016				Updated zoning dated sheet submitted to OSPCD							
August 29, 2016	Certified plot plan submitted to OSPCD											
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.												
Construction Impacts												
2	The Applicant shall, at their 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	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	ISD/Plng.									
4	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. Construction equipment shall NOT be stored on City property.	During Construction	T&P/ ISD									
Design												
5	The new basement window shall meet all code standards for emergency egress and shall contain a window well.	CO	ISD/Planning Staff									
Site												



6	The Applicant/Owner shall screen the new foundation with appropriate evergreen plantings, but shall not allow those plantings to block the egress window or any associated window well.	CO/Perpetual	ISD/Planning	
Public Safety				
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO/Perpetual	FP	
8	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
Final Sign-Off				
9	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*
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 _____

