



**CITY OF SOMERVILLE, MASSACHUSETTS**  
***MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT***  
**JOSEPH A. CURTATONE**  
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MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

***ZONING BOARD OF APPEALS MEMBERS***

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ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2016-32**  
**Site: 39 Chester Street**  
**Date of Decision: July 13, 2016**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: July 25, 2016**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Robert & Darcy Gregory
<b>Applicant Address:</b>	39 Chester Street, Somerville MA 02144
<b>Property Owner Name:</b>	Robert & Darcy Gregory
<b>Property Owner Address:</b>	39 Chester Street, Somerville MA 02144

<u>Legal Notice:</u>	Applicant & Owner, Robert & Darcy Gregory, seek a Special Permit to alter a nonconforming structure under SZO §4.4.1 to construct a 3,231 sf addition and add a third unit. RB zone. Ward 6.
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<u>Zoning District/Ward:</u>	RB zone. Ward 6.
<u>Date of Application:</u>	March 17, 2016
<u>Date(s) of Public Hearing:</u>	6/22, 7/13
<u>Date of Decision:</u>	July 13, 2016
<u>Vote:</u>	4-0

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Appeal #ZBA 2016-32 was opened before the Zoning Board of Appeals at Somerville City Hall on July 13, 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The proposal is to add a 3,285 square foot addition to the back of the two-family house. A third residential unit will occupy the addition. It will have four or five bedrooms depending on if a portion of the master bedroom is closed off or not. Two parking spaces will be located in the rear yard. A deck will be added to the existing two-story rear portion of the house. The existing house will be restored but the interior will be change.

**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 the following dimensional requirements: left side yard setback and lot area.

The proposal will impact the following nonconforming dimensions: left side yard setback. The setback is 7.4 feet, the addition is 8.5 feet to the side lot line and the requirement in the district for a three-story structure is 10 feet. 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 side yard setback for the addition will be more conforming than the existing structure. The proposal has been designed with setbacks that minimally impact the neighbors and the floor area ratio and other dimensional requirements will continue to be conforming to the requirements of the SZO. The third unit is a by-right use. Two parking spaces will be provided on-site, which meets the parking requirements for the addition. The engineering plans and mitigation required as a condition of this approval will ensure that the proposal does not have negative impacts on stormwater runoff or the sewer capacity.



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 conserving the value of land and buildings.

The proposal is consistent with the purpose of the RB 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 surrounding area is a mix of one-, two-, three- and multifamily homes of varying sizes. The proposal works to add an addition with a separate front door because the property is on a corner lot.

The proposal will restore an old house and add a contemporary addition to it. Designs that distinguish the old and new can work well if the scale of the new does not overpower the old. For this proposal the Architect stated that the existing building is actually about three to four feet higher in two-dimensional elevation; however, due to the foreshortening affect it appears lower. The open porches between the old and the new create a break in the façade.

The first floor of the addition to the right of the front door is a blank wall. A condition of approval will be that tall plants line this portion of the structure to add visual interest for pedestrians.

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

The proposal is for a new unit and the existing two units will not be negatively impacted.

7. 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>	2	3



<i>Parking Spaces:</i>	0	2

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with the following conditions. Danielle Evans 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 3,285 sf addition to supply space for a by-right use. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Pln g.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>March 17, 2016</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>June 3, 2016</td><td>Modified plans submitted to OSPCD (T-1 Cover sheet, Z1-Z2 Zoning Compliance, A-0 Arch Site Plan, A-1-A-3 Floor Plans, A-5-7 Elevations)</td></tr><tr><td>May 25, 2015</td><td>Modified plans submitted to OSPCD (A0.1-2, 3-D renderings/elevation)</td></tr><tr><td>April 30, 2015</td><td>Plan submitted to OSPCD (plot plan)</td></tr></table>				Date (Stamp Date)	Submission	March 17, 2016	Initial application submitted to the City Clerk’s Office	June 3, 2016	Modified plans submitted to OSPCD (T-1 Cover sheet, Z1-Z2 Zoning Compliance, A-0 Arch Site Plan, A-1-A-3 Floor Plans, A-5-7 Elevations)	May 25, 2015	Modified plans submitted to OSPCD (A0.1-2, 3-D renderings/elevation)	April 30, 2015	Plan submitted to OSPCD (plot plan)
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April 30, 2015	Plan submitted to OSPCD (plot plan)													
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.														
<b>Pre-Construction</b>														
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng.											
3	The Applicant shall complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City’s Stormwater Management Policy.	BP	Eng.											
4	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng											



5	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	BP	Eng.	
<b>Construction Impacts</b>				
6	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	Plng.	
7	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application formed signed
8	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	
9	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	
<b>Design</b>				
10	The Applicant shall install tall plants that line this portion of the structure to add visual interest for pedestrians.	BP	Plng.	
11	An exterior light and electrical receptacle is required for the all of the levels of the porch with access to the ground and an electrical receptacle is required for the upper levels if there is no access to the ground.	Final sign off	Wiring Inspector	
<b>Site</b>				
12	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
13	There shall be a minimum of one tree of a 3 inch caliper per SZO §10.3.	CO	Plng.	
14	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	



<b>Miscellaneous</b>				
15	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
<b>Public Safety</b>				
16	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
17	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
<b>Final Sign-Off</b>				
18	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  
Josh Safdie

Attest, by the Staff:

\_\_\_\_\_  
Sarah White

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 \_\_\_\_\_

