



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

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Case #: ZBA 2016-61
Site: 49 Clarendon Avenue
Date of Decision: August 3, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 8, 2016

ZBA DECISION

Applicant Name:	Eduardo Costa
Applicant Address:	40 Crescent Street, Everett, MA 02149
Property Owner Name:	Candeloro Dicecca
Property Owner Address:	49 Clarendon Avenue, Somerville, MA 02144
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant, Eduardo Cost, and Owner, Candeloro Dicecca, seek a Special Permit under SZO §4.4.1 to add a second story spiral staircase.
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<u>Zoning District/Ward:</u>	RB zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 16, 2016
<u>Date(s) of Public Hearing:</u>	7/13 & 8/3/16
<u>Date of Decision:</u>	August 3, 2016
<u>Vote:</u>	4-0

Appeal #ZBA 2016-61 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The proposal is to add a spiral staircase within the right side yard setback for egress to the back yard from the second story.

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 §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.

1. Information Supplied:

- The Boards 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 Permit.

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 property is currently non-conforming with regard to lot area, front and side yard setbacks and street frontage. The addition of the spiral stairs within the non-conforming right side yard setback triggers the need for a Special Permit under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that Lawfully 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 are not substantially more detrimental to the neighborhood than the existing non-conforming building. The proposed spiral staircase will be tucked into a corner between the main structure and existing, rear porch and will be minimally-visible from the public way. The staircase will provide the second floor occupant with a means of egress to the exterior of the property and access the rear yard. The proposal is a reasonable request to provide for egress and outdoor access for the occupant.

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 secure safety from fire, panic and other dangers; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.
- The proposal is consistent with the purpose of the RA district which is "...to 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 surrounding neighborhood is a mixture of two- and three-family residences of similar vintage to 49 Clarendon.
- There are few to no impacts created by adding this exterior spiral staircase. This exterior alteration will be minimally visible from the street and will provide rear yard access for the second floor occupant.

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

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

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 proposal will not contribute to the metrics of SomerVision but will allow the property owner to make a reasonable modification to the structure.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti and Elaine Severino with Danielle Evans and Josh Safdie absent. 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 **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to add a spiral staircase to the rear of the main structure within the right side yard setback.	BP/CO	ISD/ Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>May 16, 2016</td><td>Initial application submitted to Planning Department</td></tr><tr><td>June 24, 2016</td><td>Photos, plot plan and zoning table submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	May 16, 2016	Initial application submitted to Planning Department	June 24, 2016	Photos, plot plan and zoning table submitted to OSPCD
	Date (Stamp Date)				Submission					
	May 16, 2016				Initial application submitted to Planning Department					
	June 24, 2016				Photos, plot plan and zoning table submitted to OSPCD					
Any changes to the plans approved by the ZBA MUST be reviewed by Planning Staff to determine if they are de minimis in nature prior to the changes being executed at the construction site.										



Construction Impacts				
2	The Applicant/Owner shall, at his 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	All construction materials and equipment must be stored on the project site. 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	
Miscellaneous				
4	The Applicant/Owner shall ensure that the spiral staircase is made of non-combustible/non-flammable material.	CO	ISD	
5	The Applicant shall ensure that the spiral staircase and all access thereto meet all building code requirements per the Somerville Inspectional Services Division (ISD).	CO	ISD	
Public Safety				
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
7	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*
Elaine Severino
Anne Brockelman (Alt.)

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 _____

