



**CITY OF SOMERVILLE, MASSACHUSETTS**  
***MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT***  
**JOSEPH A. CURTATONE**  
**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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**Case #: ZBA 2016-108**  
**Site: 37 Day Street**  
**Date of Decision: November 16, 2016**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: November 30, 2016**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Gwen Simpkins, Delaporte Development
<b>Applicant Address:</b>	82 Dover Street, #3, Somerville, MA 02144
<b>Property Owner Name:</b>	Kristine Niemeyer
<b>Property Owner Address:</b>	37 Day Street, Somerville, MA 02144
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicant, Delaporte Development, and Owner, Kristine Niemeyer, seek a Special Permit under SZO §4.4.1 to renovate and expand a two-family residential structure.
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<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 15, 2016
<u>Date(s) of Public Hearing:</u>	10/19 & 11/2 & 11/16/16
<u>Date of Decision:</u>	November 16, 2016
<u>Vote:</u>	5-0

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Appeal #ZBA 2016-108 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on October 19, 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 proposal is to renovate the existing two-family structure, add an addition to the rear, and create occupiable space in the basement and attic story. The basement will only be half finished to retain mechanical and storage space. The existing dormer will be removed and the attic design shows 3 new dormers of appropriate size and shape to provide head height for the proposed bedrooms and bath.

**FINDINGS FOR SPECIAL PERMIT (SZO §5.1):**

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."*

***Nature of Application: 6.1.2. RB - Residence Districts***

Section 4.4.1 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."

This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO). The structure is currently nonconforming with respect to the following use / dimensional requirements:

Lot Area and Frontage: the current size is 5,594 square feet which is under the required minimum of 7,500 s.f. and the non-conforming Street Frontage of 42.3' as opposed to the minimum 50' required in the RB zone.

Coverage and Landscape: the Ground Coverage increase from 25% to 33% but remains well below the maximum 50%. The redesign of the site increases the Landscaped Area from 13% to 29% conforming to the 25% minimum and the Pervious Area will be increased from 35% to 65% (well over the required 35% minimum).

Yards: The existing structure does not meet the Side Yard requirements of 8' minimum and 17' combined for a 2-1/2 story structure. It also has a non-conforming one-story bay located in the side yard 1.4' from the property line - this bay becomes a second means of egress but the dimension does not change. The only change in yard dimensions is the Rear Yard which is currently 65.5', is proposed to be 45.4', and is required to be 20'.

In considering a special permit under §4.4 or 4.5 of the SZO, the Board finds the proposed renovation and addition is not substantially more detrimental to the neighborhood than the existing nonconforming building.



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 I, 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 promote the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the district, 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."

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."*

*Surrounding Neighborhood:* Day Street is a residential area within walking distance to Davis Square. The neighborhood is made up of single-family, two- and three-family residential and small apartment buildings. Many of the houses are wood-frame structures with siding that vary in height from 1-1/2 to 3 stories tall while the apartment buildings are brick and up to 4-stories. Most properties have driveways for on-site parking - Day Street is one-way with metered parking only on both sides of this block..

*Impacts of Proposal (Design and Compatibility):* The proposal is in-keeping with the surrounding structures and improves the appearance of the structure. The front porch will be re-opened and detailed appropriately for the building type and neighborhood. A new front fence and landscaping will also greatly improve the street view.

Increasing the number of bedrooms in the units (from 2 to 3) does not trigger additional parking requirements but the landscape plan shows that each unit will have 2 parking spaces and all paving will be permeable pavers.

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.*

*Impacts of Proposal (Environmental):* There are no adverse environmental impacts with this project.

6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

*Impacts of Proposal (Circulation):* There are no increases in pedestrian or vehicular circulation impacts associated with this project.

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

*Impacts of Proposal (Housing):* There are no changes in the stock of existing affordable housing associated with this project.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie with Anne Brockelman and Pooja Phaltankar 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 **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 renovation and additions to the structure and the redesign of the site plan. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/PIng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>September 15, 2016</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>November 1, 2016</td><td>Modified plans submitted to OSPCD (A01-09, Schematic Landscape Plan, &amp; Existing Conditions Plan)</td></tr></table>				Date (Stamp Date)	Submission	September 15, 2016	Initial application submitted to the City Clerk's Office	November 1, 2016	Modified plans submitted to OSPCD (A01-09, Schematic Landscape Plan, & Existing Conditions Plan)
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Any changes to the approved design drawings that are not <i>de minimis</i> must receive SPGA approval.										
Pre-Construction										
2	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD							
Construction Impacts										
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	PIng.							
4	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	PIng.	Deed submitted & application formed signed						
5	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, 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							



6	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>				
7	Applicant shall provide final color and material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Png.	
8	Exterior lights and electrical receptacles are required for the front porch and at the second means of egress in both side yards.	Final sign off	Wiring Inspector	
<b>Site</b>				
9	A minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3 and be planted and maintained according to National Nurseryman's Standards, and in accordance with SZO §10.2.2 and §10.6.2;	Perpetual	Png. / ISD	
10	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	
11	All driveway aprons shall be concrete and will be installed by the Applicant in accordance with the specifications of the Highway Superintendent.	CO	Png.	
<b>Miscellaneous</b>				
12	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>				
13	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
14	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	Png.	
15	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Png/OSE	
<b>Final Sign-Off</b>				
16	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	Png.	
17	Existing large mature tree in rear corner of property must be retained and protected during construction. Should any of the transplanted trees not survive, a new tree will be planted in accordance with condition #9.	During Construction	Png./ISD	



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. PereiraCopies 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 \_\_\_\_\_

