



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2014-57
Site: 69-71 Lexington Avenue
Date of Decision: August 6, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 8, 2014

ZBA DECISION

Applicant Name:	David Bemiss
Applicant Address:	69 Lexington Avenue, Somerville, MA 02144
Property Owner Name:	Nicole Bemiss & David Bemiss
Property Owner Address:	69 Lexington Avenue, Somerville, MA 02144
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner David Bemiss seeks a Special Permit under SZO §4.4.1 to alter a 2.5 story, 3-family nonconforming structure by finishing a portion of the basement and removing an attached rear shed to create a new basement access and window. RA zone. Ward 6.
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<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 3, 2014
<u>Date(s) of Public Hearing:</u>	August 6, 2014
<u>Date of Decision:</u>	August 6, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-57 was opened before the Zoning Board of Appeals at Somerville City Hall on August 6, 2014. 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 expand the floor area ratio of the home by finishing the basement. The basement will have improved gym/storage, laundry and rec room space, and would add a small bathroom. The small rear shed, which currently serves as a basement entry and storage space, will be removed and replaced with a new bulkhead basement entry and a window into the gym/storage area.

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."

The Applicant is seeking a Special Permit under SZO §4.4.1 to expand the floor area ratio. The existing net floor area is 3,068 square feet, which makes the Floor Area Ratio .85. An FAR of .75 is the maximum in the district. To make the basement livable space will increase the FAR to .99, essentially expanding the nonconformity. The Applicant also seeks to add a new window at basement level on the rear wall.

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.

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 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."

This RA zoned residential neighborhood is made up of similar one-, two-, and three-family residential structures, and this proposed use enhances the living space of residents without being detrimental to the neighborhood. The removal of the shed will most likely be a positive improvement, making the backyard larger and improving the form of the structure.

There are few to no impacts associated with the proposal. The expansion of square footage is kept within the existing footprint.

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

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	3	No change
<i>Parking Spaces:</i>	2	No change

This proposal does not significantly impact the Somervision goals, but does help to preserve the residential areas by improving livability.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 _____. 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>July 3, 2014</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(July 16, 2014)</td><td>Plans submitted to OSPCD (Existing site plan, floor plans, rear elevation, and proposed floor plan and rear elevation.)</td></tr></table>				Date (Stamp Date)	Submission	July 3, 2014	Initial application submitted to the City Clerk’s Office	(July 16, 2014)	Plans submitted to OSPCD (Existing site plan, floor plans, rear elevation, and proposed floor plan and rear elevation.)
	Date (Stamp Date)				Submission					
	July 3, 2014				Initial application submitted to the City Clerk’s Office					
(July 16, 2014)	Plans submitted to OSPCD (Existing site plan, floor plans, rear elevation, and proposed floor plan and rear elevation.)									
Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.										



Construction Impacts				
2	The Applicant shall at his or her 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 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	
Final Sign-Off				
	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:

Herbert Foster, *Chairman*
 Orsola Susan Fontano, *Clerk*
 Richard Rossetti
 Danielle Evans
 Elaine Severino

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 _____

