



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

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Case #: ZBA 2015-90
Site: 23 Park Street, Unit #3
Date of Decision: November 18, 2015
Decision: Petition Denied
Date Filed with City Clerk: December 1, 2015

ZBA DECISION

Applicant Name:	Luyao Li
Applicant Address:	23 Park Street, Unit #3, Somerville, MA 02143
Property Owner Name:	Luyao Li
Property Owner Address:	23 Park Street, Unit #3, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner, Luyao Li, seeks a Variance from providing a parking space that is required to convert a studio to a 2-bedroom unit (SZO §9.5 & 5.5).
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<u>Zoning District/Ward:</u>	BA zone/Ward 2
<u>Zoning Approval Sought:</u>	§9.5 & §5.5
<u>Date of Application:</u>	September 24, 2015
<u>Date(s) of Public Hearing:</u>	11/4 & 11/18/15
<u>Date of Decision:</u>	November 18, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-90 was opened before the Zoning Board of Appeals at Somerville City Hall on November 4, 2015. 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 legalize the partition walls that were installed within unit 3 to convert it from a studio to a two-bedroom unit with a study. The unit is 1782 square feet.

FINDINGS FOR VARIANCE:

The building was a by-right project that was permitted with five studio units that had a parking requirement of one space per unit. The plot plan for the site shows six parking spaces. The sixth parking space is for a visitor that appears to have satisfied the visitors' space requirement for the subject property as well as the abutting property that is the mirror image of this property.

Converting a studio unit to a two-bedroom unit increases the parking requirement from 1 to 1.5. The fraction rounds up and an additional parking space is required. Since there is no space to add an additional parking space on the lot, the Applicant is seeking a variance.

In order to grant a Variance, the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."*

The Applicant would like to create bedrooms for privacy in the unit. The construction of studios as opposed to units with bedrooms was likely done to meet parking requirements in 2004. Nothing has changed with the soil conditions, shape or topography of land or structure since this building was constructed, and no evidence was submitted that the units are causing a hardship with being bought and sold as studios. Staff find that the proposal does not meet this finding.

2. *The variance requested is the "minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."*

The Variance would provide reasonable relief because the size of the unit is more typical of a multi-bedroom unit than a studio and would allow the owner to have privacy within her home. Providing one parking space for a two-bedroom unit would likely provide sufficient parking considering the proximity of the property to bus lines and services in the area.

On the other hand, the residential unit has been functional as a studio unit since the building was constructed. This is a reasonable use for a building that was built just over ten years ago. Therefore, the Board finds that the Variance is not required for a reasonable use of the building.

3. *"The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare."*

The proposal is not injurious to the neighborhood or detrimental to the public welfare. The bedrooms fit within the existing square footage and do not require exterior changes. The current owner of the unit does not have parking concerns. Future owners would be aware that there is only one onsite parking space for the unit and the unit would likely attract a household with only one car.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino and Anne Brockelman with Josh Safdie recused. Upon making the above findings, Richard Rossetti made a motion to deny the request for a Variance. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **DENY** the request.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
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 _____

