



**CITY OF SOMERVILLE, MASSACHUSETTS**  
***MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT***  
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EXECUTIVE DIRECTOR

PLANNING DIVISION

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ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2015-59**  
**Site: 92-94 Partridge Avenue**  
**Date of Decision: September 16, 2015**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: September 30, 2015**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Keith Fallon
<b>Applicant Address:</b>	9 Winthrop Court, Medford, MA 02155
<b>Property Owner Name:</b>	92 Partridge Avenue, LLC
<b>Property Owner Address:</b>	9 Winthrop Court, Medford, MA 02155
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicant, Keith Fallon, and Owner, 92 Partridge, LLC, seek a Special Permit per SZO §4.4.1 to enclose a portion of rear deck for egress stair on a non-conforming structure.
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<u>Zoning District/Ward:</u>	RA zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 13, 2015
<u>Date(s) of Public Hearing:</u>	September 16, 2015
<u>Date of Decision:</u>	September 16, 2015
<u>Vote:</u>	5-0

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Appeal #ZBA 2015-59 was opened before the Zoning Board of Appeals at Somerville City Hall on September 16, 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.



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

The proposal is to enclose a portion of the rear deck for egress stair, upgrade and reconfigure the finished space in the basement area, and reconfigure space in the third floor by repurposing unused space for a laundry and larger dining area. This reconfiguration reduces the finished space in the basement by 80 sq. feet but increases the overall finished space by .16 (existing 1.25 and proposed 1.4), well-within the 25% increase allowed. The applicant also plans to increase the landscaped area from 0% to 10%. With the exception of enclosing the rear egress stair, all changes are occurring within the confines of the building envelope.

**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 Board 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 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 non-conforming with respect to the floor area ratio (FAR), left and right side yard setbacks, front yard setback, landscaped area and number of stories.
- The proposal will change the floor area ratio from 1.25 to 1.4. The FAR allowed in the RA zone is 0.75. Intensifying this existing non-conformity requires the Applicant to obtain a special permit under §4.4.1 of the Somerville Zoning Ordinance (SZO). The increase in FAR is .16. The applicant is reducing the amount of finished square feet in the basement by 80 square feet. The overall increase in FAR is created by reconfiguring space on the third floor to provide additional dining space and a small laundry space for this unit. The Board finds that this minimal increase will serve to accommodate a reasonable expectation that a resident will have a small laundry facility within their 3<sup>rd</sup>-floor unit.
- Enclosing a portion of the rear deck for the egress stair will not cause any further encroachment into the rear or side yard setbacks.

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."

- In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed to this legal 3-family conversion would not be substantially more detrimental to the neighborhood than those contained within the existing structure. Finishing/upgrading a basement is a way of creating more livable space to a home without any impact on abutting properties since there is no change to the setbacks of the home. The minimal increase in FAR created through the creation of the third floor laundry space and additional dining area is a reasonable accommodation



to make for this third-floor unit. Parking relief is not needed because there is no change in bedroom count.

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 district.

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 mix of residential uses including 3-family conversions, 2-family and 2-family conversions. The surrounding neighborhood contains numerous structures of 2 ½ and 2 ¾ stories with similar massing.
- There are few to no impacts from the proposal. The majority of the modifications are to the inside of the home save for the enclosure of egress stairs to the rear. The lot is quite small and largely covered with impervious asphalt. Creating landscaped area where currently none exists will increase the green area from 0% to 10% and provide some pervious spaces to the parcel.

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

- The proposal will not impact the existing 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 allow the property owner to make some modifications to their home.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. 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 to finish the basement. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>August 13, 2015</td><td>Initial application submitted to Planning Office</td></tr><tr><td>August 26, 2015</td><td>Modified plans submitted OSPCD and via CitizenServe (Site Plan, Existing and Proposed Basement, First, Second, and Third Floor Plans)</td></tr></table>				Date (Stamp Date)	Submission	August 13, 2015	Initial application submitted to Planning Office	August 26, 2015	Modified plans submitted OSPCD and via CitizenServe (Site Plan, Existing and Proposed Basement, First, Second, and Third Floor Plans)
	Date (Stamp Date)				Submission					
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August 26, 2015	Modified plans submitted OSPCD and via CitizenServe (Site Plan, Existing and Proposed Basement, First, Second, and Third Floor Plans)									
Any changes to the approved plan that are not <i>de minimis</i> must receive SPGA approval.										
2	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP							
Final Sign-Off										
3	The Applicant shall contact Planning Staff at least five (5) 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.							
4	A 5-6 foot paver apron will run from the start of the driveway toward the back of the property.	ISD	Plng.							
5	The Applicant shall work with Planning Staff to determine landscaping for the rear portion of the parcel.	ISD	Plng.							

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 \_\_\_\_\_

