



CITY OF SOMERVILLE, MASSACHUSETTS
ZONING BOARD OF APPEALS
JOSEPH A. CURTATONE, MAYOR

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JOSH SAFDIE (ALT.)

Case #: ZBA 2008-64
Site: 22 Berkeley Street
Date of Decision: January 7, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: January 9, 2009

ZBA DECISION

Applicant Name:	John Comerford
Applicant Address:	22 Berkeley Street, Somerville, MA 02143
Property Owner Name:	Emilia & John Comerford
Property Owner Address:	22 Berkeley Street, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner: John Comerford seeks Special Permit with Site Plan Review approval under SZO§7.2 for two principal structures on a lot in order to legalize a dwelling unit in an existing carriage house. RA zone. Ward 3.
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<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§7.2
<u>Date of Application:</u>	November 3, 2008
<u>Date(s) of Public Hearing:</u>	12/17/08 & 1/7/09
<u>Date of Decision:</u>	January 7, 2009
<u>Vote:</u>	5-0

Appeal #2008-64 was opened before the Zoning Board of Appeals at Somerville City Hall on December 17, 2008. 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 two hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The applicant is proposing to legalize an existing dwelling unit within the finished space on the second floor of the carriage house. This unit would be a 20' by 20' studio apartment to house an elderly family member. The total number of dwelling units on the lot under this proposal would be two.

FINDINGS FOR SPECIAL PERMIT (SZO §7.2):

In considering the requested special permits with site plan review the Board must consider and make findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in more detail.

1. Information Supplied: The Applicant must comply "with the information requirements in Section §5.2.3;"

The information provided by the Applicant allows for a comprehensive review of the proposed development and is in general compliance with the requirements set forth under §5.2.3 of the SZO.

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 with site plan review".

As conditioned, the proposal will comply with these standards.

The proposal meets all requirements under SZO §9.9 for building access as required under SZO § 7.2. In addition, three (3) spaces will be provided on the lot, which meets the parking requirements under Article 9.

3. Purpose of the District: The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6". The project site is located within an RA district. The RA district seeks 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."

The Board finds that the addition of a second principal structure would bring the total number of units to two (2), which is allowed by right in the RA zone. The use is consistent with the surrounding neighborhood and the size of the proposed dwelling unit ensures limited inhabitants and preservation of the low density character of the neighborhood.

4. Site and Area Compatibility: The Applicant has to ensure that the project "Is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of buildings are compatible with those prevalent in the surrounding area."

The applicant is not seeking zoning approval for any new construction on the site.

5. Functional Design: The project must meet "accepted standards and criteria for the functional design of facilities, structures, and site construction."

There is no new construction proposed for the site. The carriage house is an existing structure that was constructed over 100 years ago. The applicant has stated that the carriage house was originally built with a second floor coachman's apartment where the apartment is currently located. The applicant claims this apartment has been in existence and used for over 60 years.

6. Impact on Public Systems: The project will "not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic."

The Board finds that since the number of proposed units on the property is allowed by right and that the apartment size would limit the number of inhabitants and that the impacts on the public services and facilities would be negligible.

7. 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."

Due to the residential nature of the proposed second principal structure no environmental impacts are foreseen as a direct result of this development. In addition, there will be no adverse impacts from construction due to the prior existence of the structure.

8. Consistency with Purposes: "Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections."

As the required findings of Article 5 have been made, and the proposal satisfies the purposes of Article 1, including "to encourage the most appropriate use of land" and "to encourage housing for persons of all income levels" and of Article 6, as already described, The Board find the proposal to be consistent with the purposes of the SZO.

9. Historic or Architectural Significance: The project must be designed "with respect to Somerville's heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties;"

There are no proposed exterior changes to the façade. The applicant has made previous improvements to the exterior of the structure and it appears to be a well maintained example of an historic Somerville carriage house.

10. Emergency Access: The Applicant must ensure that "there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment;"

Fire Prevention and Inspectional Services will review this proposal for building code compliance and any violations will need to be addressed by the applicant.

11. Screening of Parking: All three (3) parking spaces are enclosed by a 6 foot wooden fence, which when closed, will be effectively screen the vehicles from the streets and abutting neighbors.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling 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
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1	<p>Approval is for the establishment of two principal structures on the lot. This approval is based upon the following application materials and the plans submitted by the Applicant and/or agent:</p> <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>N/A (Clerk 11/03/08)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>N/A (SPCD 12/02/08)</td><td>Site Plan</td></tr></table> <p>Any changes to the approved site plan that are not <i>de minimis</i> must receive ZBA approval.</p>	Date (Stamp Date)	Submission	N/A (Clerk 11/03/08)	Initial application submitted to the City Clerk's Office	N/A (SPCD 12/02/08)	Site Plan	CO	Plng.	
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N/A (SPCD 12/02/08)	Site Plan									
2	Finished space and/or living area shall be limited to the second floor and shall not expand onto the ground level.	Cont.	ISD							
3	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit 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	The carriage house shall have a code compliant fire alarm system installed.	CO	FP							
5	Use of the second principal structure shall be limited to members of the Applicant's immediate family. Such use shall cease upon transfer of ownership of the property, at which time the property shall revert to single family use.	Cont.	ISD							

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Josh Safdie (Alt.)

Attest, by the Zoning Board of Appeals 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 _____