



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

MEMBERS

HERBERT F. FOSTER, JR., *CHAIRMAN*
ORSOLA SUSAN FONTANO, *CLERK*
RICHARD ROSSETTI
T. F. SCOTT DARLING, III, ESQ.
DANIELLE FILLIS
ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA 2008-68
Site: 7-9 Bowers Avenue
Date of Decision: April 1, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: April 3, 2009

ZBA DECISION

Applicant Name:	Christina Yanhui Li
Applicant Address:	9 Bowers Avenue, Somerville, MA 02144
Property Owner Name:	Christina Yanhui Li/7-9 Bowers Avenue Realty Trust
Property Owner Address:	9 Bowers Avenue, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant & Owner: Christina Yanhui Li seeks a Special Permit (SZO §7.11.4.a) to establish three rooms to rent without kitchen facilities, for a tourist home, in an owner occupied dwelling. RB zone. Ward 6.

<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§7.11.4.a
<u>Date of Application:</u>	November 21, 2008
<u>Date(s) of Public Hearing:</u>	1/7, 1/21, 2/4, 2/18, 3/4, 3/18 & 4/1/09
<u>Date of Decision:</u>	April 1, 2009
<u>Vote:</u>	5-0

Appeal #2008-68 was opened before the Zoning Board of Appeals at Somerville City Hall on January 7, 2009. 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to establish three tourist rooms to rent, which would be owner occupied. There are no proposed changes to the exterior of the structure or site.

The site would be subject to regulations governing inn holders in the State Sanitary Code and in Somerville Licensing Commission's Rules and Regulations.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.4.a):

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 proposal conforms to the standards of the Zoning Ordinance to establish rooms for rent. The dwelling would be owner occupied and the rooms would be without kitchen facilities in them.

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 providing for and maintaining uniquely integrated structure of uses in the City. The use is also compatible with the Residence B district – the three rooms for rent would be within a typical 2 ½ story house and perform a function similar to housing. The use would also support the purpose of the business district adjacent to it.

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 2 ½ story dwelling would not change and would continue to be compatible with the residential neighborhood to the west.

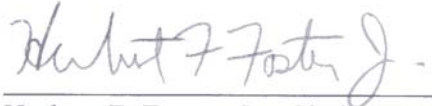
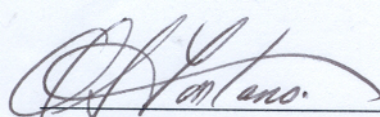
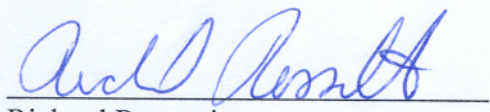
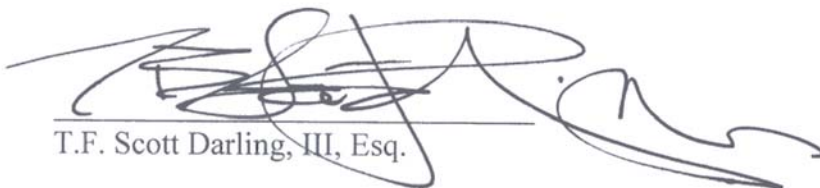
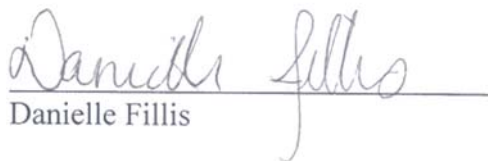
5. Additional Finding: The ZBA is concerned about the use of the basement. The use of the space is dictated by building code.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Scott Darling. 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 to establish three rooms to rent without kitchen facilities as a tourist home (SZO §7.11.4.a), in an owner occupied dwelling. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO	Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>Nov 21, 2008</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(January 12, 2009)</td><td>Plot Plan, 1st & 2nd Floor Plans</td></tr><tr><td>(March 19, 2009)</td><td>Garden Level Floor Plan</td></tr></table>				Date (Stamp Date)	Submission	Nov 21, 2008	Initial application submitted to the City Clerk’s Office	(January 12, 2009)	Plot Plan, 1 st & 2 nd Floor Plans	(March 19, 2009)	Garden Level Floor Plan
	Date (Stamp Date)				Submission							
	Nov 21, 2008				Initial application submitted to the City Clerk’s Office							
	(January 12, 2009)				Plot Plan, 1 st & 2 nd Floor Plans							
(March 19, 2009)	Garden Level Floor Plan											
Any changes to the approved use that are not <i>de minimis</i> must receive ZBA approval.												
2	The owner shall live at 7-9 Bowers Ave.											
3	The Applicant shall obtain a Certificate of Compliance from Fire Prevention.											
4	The property is subject to regulations governing inn holders in the State Sanitary Code and in Somerville Licensing Commission’s Rules and Regulations.	Perpetual as a tourist home	Licensing Commission									
5	Appropriate use of the basement shall be reviewed by ISD prior to issuance of a CO.	CO	ISD									

Attest, by the Zoning Board of Appeals:


Herbert F. Foster, Jr., Chairman
Orsola Susan Fontano, Clerk
Richard Rossetti
T.F. Scott Darling, III, Esq.
Danielle Fillis

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 _____