



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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Case #: ZBA # 2010-79

Site: 14 James Street

Date of Decision: March 2, 2011

Decision: *Petition Approved with Conditions*

Date Filed with City Clerk: March 8, 2011

ZBA DECISION

Applicant Name:	Ekaterina Smirnova & Aleksandar Lekic
Applicant Address:	14 James Street, Somerville, MA 02145
Property Owner Name:	Ekaterina Smirnova & Aleksandar Lekic
Property Owner Address:	14 James Street, Somerville, MA 02145
Agent Name:	N/A

<u>Legal Notice:</u>	Applicants and Owners, Ekaterina Smirnova and Aleksandar Lekic, seek a special permit to alter a non-conforming structure under SZO §4.4.1 to add a half story to the front facade of the existing structure to construct a two-story addition on top of the first floor in the rear of an existing single-family residence to create a two-family residence. ¹
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<u>Zoning District/Ward:</u>	RB zone. Ward 4.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	December 13, 2010
<u>Date(s) of Public Hearing:</u>	1/19, 2/2, 2/16 & 3/2/11
<u>Date of Decision:</u>	March 2, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2010-79 was opened before the Zoning Board of Appeals at Somerville City Hall on January 19, 2011. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by

¹ This is the original legal advertisement for the originally proposed project. Since that time, the Applicant has scaled back and revised their plans for the project. The Applicant is now seeking a special permit to alter a non-conforming structure under SZO §4.4.1 to construct a one-story addition on top of the first floor with adjoining decks in the rear of an existing single-family residence. RB zone.



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M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant is proposing a one-story, 229 square foot addition on top of the first floor at the rear of an existing 1,367 square foot single-family residence (a 17% increase in net square footage). The addition will be used to expand the first and second floors of the home. The house has an existing one-story, three-season porch at the rear of the home that is not insulated. The Applicant is planning to tear down the porch and build a two-story fully insulated addition in its place. The proposed addition would be three feet deeper in the lot than the current dimensions of the three-season porch. It would also be located further to the south, and align with the south wall of the existing house, along the driveway. New decks would be constructed on the first and second stories on the north side of the proposed addition in the area currently occupied by a portion of the three-season porch.

As a result of the exterior changes above, on the first floor, the kitchen would be relocated and expanded to create a large kitchen/dining area that would connect to the living room. The existing bathroom would be upgraded to a full bath and relocated next to the stairwell. Additionally, a bedroom would be created on the first floor. On the second floor, one of the rear bedrooms would be expanded and the bathroom would be relocated to connect to the newly expanded bedroom. The newly constructed deck on the second story would be accessible from this expanded rear bedroom. The existing bedroom on the north side of the home would also be expanded and the third existing bedroom on the second floor would be converted to be used as office space. The third floor would remain as it currently exists.

The proposal described above is a substantially revised and scaled back proposal from the originally planned project. The Applicant was originally proposing a two-story, 694 square foot addition at the rear of the existing single-family residence (a 49% increase in net square footage). This addition would have been used to facilitate the conversion of the existing five-bedroom home into two units, each of which would have had 2 bedrooms. The first floor would have been one unit and the second and third floors would have been the second unit. The Applicant was proposing to raise the entire existing roof by three feet to provide greater head room at the ingress/egress point to the third floor. The roof pitch facing James Street would have remained the same, but three vertical feet would have been added to the front façade to accommodate for the raising of the roof. The rear roof pitch would have also become much shallower to provide additional head room on the third floor.

On the first floor, the kitchen would have been reorganized and expanded to create a large living room/kitchen area. The existing bathroom would have been expanded and relocated between two new bedrooms that would have been created. The second floor unit would have replaced one of the existing bedrooms with a living room by removing a closet and an eight foot section of wall from the room. The new living room would have opened out to a newly installed kitchen, pantry, and reconfigured bathroom. The third floor would have also been expanded and reconfigured to create a new larger bedroom, an office/television room, and an entirely new full bathroom would have been installed. The existing storage space on the third floor at the front of the home would have been retained. At the rear of the home, a stairwell would have been installed to provide egress points for the first and second floors and a 10 by 14 foot deck would have been installed on the third floor with access occurring from the new bedroom.

Planning Staff was not supportive of this original application for three reasons. First, the original proposal would have removed a five-bedroom, single-family home from the Somerville housing stock. This would have decreased the housing options for large families in the city. Second, the proposed design of the original project would have caused the loss of a uniquely designed structure in the James Street streetscape. The original unique design of the home's front façade causes a visual break in the streetscape and adds interest to the street. Lastly, the proposed change from a single-family to a two-family dwelling would have put the structure out of context with the other homes on James Street. All of the homes on the subject property's side of James Street are 2.5 story, gable-ended, single-



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family homes and the originally proposed changes would have disrupted the traditional neighborhood character of the street.

After materials for the original application were distributed to Planning Board members, the Applicant decided to substantially revise their original proposal and submitted plans that were similar to the currently proposed design. But, unlike the current proposal, the addition was located on the north side of the residence with the decks situated on the south side (opposite of the currently proposed design). At the first Planning Board meeting on January 20th, the abutter to the north (16 James Street) and to the south (12 James Street) were both present. The neighbor to the north, Janet Steins, expressed concerns about the proposed addition in that it would block sunlight and her views to the south from her first and second story rear porches. She submitted visuals to the Planning Board at that meeting to illustrate this point. Per the Board's request, a neighborhood meeting involving Planning Staff, the Ward Alderman, the Applicant, and the north and south abutting neighbors was arranged for Thursday, January 27th at the project site. Before this meeting, Ms. Steins submitted a letter to the Planning Board dated January 24, 2011 signed by her, the abutters to the south (the O'Brien's of 12 James Street), and two other neighbors on James Street opposing the project. Ms. Steins later confirmed via email that the neighbors at 10 James Street were also opposed to the project. The letter proposed a one story addition in the rear of 14 James Street as a compromise to the Applicant's proposal.

Present at the meeting on January 27th were Planning Director George Proakis, Planner Adam Duchesneau, Ward Alderman Walter Pero, the Applicant Alex Lekic and his contractor, Ms. Steins of 16 James Street, and Conor O'Brien of 12 James Street. The discussion centered on possibly flipping the location of the addition and the decks to place the addition on the south side of the residence, closer to 12 James Street. Mr. O'Brien stated that he was ok with this proposal, as the driveway would still buffer the addition from their house, but Ms. Steins stated that she was opposed to any addition that would go above one story, even though the new proposal would provide additional visibility of open space from her property. There was also some question as to the actual percentage increase in square footage of the home if the addition were constructed. Staff was asked to look into this further and found the percentage increase of the addition to be accurate (17%). Furthermore, upon performing additional research, Staff determined that if the Applicant did put the addition on the south side of the residence and removed the decks entirely from the design, the project could be done as-of-right with no Special Permit required.

In response to the discussion at the meeting on January 27th, the Applicant redesigned their project for a third time and submitted a letter to the Planning Board dated February 1, 2011 in response to the letter written by Ms. Steins. In this third proposed design, the addition would be a total of two stories located on the south side of the residence and the decks would be located on the north side of the property, set back one foot from the edge of the north side of the residence. This third design of the project was the design that the Planning Board acted upon at their meeting on Thursday, February 3rd where only Ms. Steins was present along with the Applicant. The Planning Staff considers this request to be reasonable and compliant with the required findings, and the Planning Board, at the February 3, 2011 meeting recommended conditional approval of this plan.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1.4 & §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."

In considering a special permit under §4.4.1 of the SZO, the Board find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. This street is characterized by 2.5 story homes with a very regular pattern of placement on the street, and similar height. The proposed



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addition is consistent with this pattern and will not alter the distinctive architectural character of the home itself which would be detrimental to other properties on the street.

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 "promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to prevent the overcrowding of land; to conserve the value of land and buildings; 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 (6.1.2. RB – Residence Districts), which is, "To establish and preserve medium density neighborhoods of one-, two- and three-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."

The project is compatible with the characteristics of the surrounding area. The Applicant is proposing to extend the non-conforming setback side of the existing structure deeper into the lot by three feet and add an additional story in the rear of the home. The property will remain a 2.5 story, single-family residential use which is consistent with the surrounding neighborhood.

5. Adverse 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.

None of these adverse effects are anticipated.



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DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino voting for Herbert Foster. 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								
1	Approval is to alter a non-conforming structure under SZO §4.4.1 to construct a one-story addition on top of the first floor with adjoining decks in the rear of an existing single-family residence. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(December 13, 2010)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>January 11, 2011 (February 17, 2011)</td><td>Plot Plan</td></tr><tr><td>(February 17, 2011)</td><td>Proposed Perspectives, Floor Plans, and Elevations</td></tr></table>				Date (Stamp Date)	Submission	(December 13, 2010)	Initial application submitted to the City Clerk’s Office	January 11, 2011 (February 17, 2011)	Plot Plan	(February 17, 2011)	Proposed Perspectives, Floor Plans, and Elevations
	Date (Stamp Date)				Submission							
	(December 13, 2010)				Initial application submitted to the City Clerk’s Office							
	January 11, 2011 (February 17, 2011)				Plot Plan							
(February 17, 2011)	Proposed Perspectives, Floor Plans, and Elevations											
Any changes to the approved site plans, elevations, perspectives, or use that are not <i>de minimis</i> must receive SPGA approval.												
2	The Applicant will install an updated code compliant fire alarm system.	CO	FP									
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									
4	To the maximum extent feasible the Applicant will utilize strategies during construction to mitigate dust and control air quality, to minimize noise and to implement a waste recycling program for the removed debris.	During Construction	OSE/IS D									



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5	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OS E	
6	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
7	The Applicant shall install siding and roofing on the proposed addition that compliments the color and texture of the siding and roofing on the existing structure.	BP	Plng.	
8	The Applicant shall clearly show on the proposed elevations and perspectives all proposed window and door openings on the north, west, and south sides of the structure, including the proposed framing for each window and door opening. Framing and window size details shall match the character of the existing structure and shall be subject to review and approval by Planning Staff.	BP	Plng.	
9	The structure shall remain a single-family home.	Perpetuity	Plng.	
10	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.	



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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Evans
Elaine Severino (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 _____



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