



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

PLANNING DIVISION

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2011-04
Site: 58 Liberty Avenue
Date of Decision: February 16, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: February 24, 2011

ZBA DECISION

Applicant Name:	David Franzel
Applicant Address:	2 Burns Road, Lexington, MA 02421
Property Owner Name:	David Franzel
Property Owner Address:	2 Burns Road, Lexington, MA 02421
Agent Name:	Adam Dash, Esq.
Agent Address:	48 Grove Street, Suite 304, Somerville, MA 02144

<u>Legal Notice:</u>	Applicant & Owner David Franzel seeks a Special Permit under SZO §4.4.1 to create living space in the basement of a nonconforming structure (§8.5.E). RA zone. Ward 6.
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<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1 & §8.5.E
<u>Date of Application:</u>	January 11, 2011
<u>Date(s) of Public Hearing:</u>	February 16, 2011
<u>Date of Decision:</u>	February 16, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-04 was opened before the Zoning Board of Appeals at Somerville City Hall on February 16, 2011. 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 convert 608 sf of the basement into living space for the first floor unit. The approval will allow the applicant to complete his plans to have a game room, bedroom, bathroom and laundry room in the basement. Areas for storage and utilities will remain. The bedroom in the basement will be relocated from the second floor so that there will be no change to the number of bedrooms in each unit. One unit has 3 bedrooms and the other has 4 bedrooms. The in-swing casement window proposed for the bedroom will be 36" wide by 46" tall to replace an existing 36" wide by 24.5" tall window. The window will be approximately at grade from the exterior of the building.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §8.5.E):

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 of the SZO, the Board finds that the alterations proposed will not be substantially more detrimental to the neighborhood than the existing structure. The additional living space will be used in conjunction with the first floor unit – the space will not change the use of the property nor the number of bedrooms. The alteration to the exterior of the structure includes enlarging an existing window by 21.5". The window will be on the side of the structure and will not be very visible from 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 conserving the value of land and buildings; and the purpose of the RA district in providing additional living space in a single-family home.

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 additional living space in the basement will only require an alteration to a window on the side of the house at the basement level. The massing of the structure, which is similar to surrounding houses, will not change. The use as a two-family is compatible with surrounding land uses.



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DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Josh Safdie with Herbert Foster absent. Upon making the above findings, Richard Rossetti 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 for the construction of 608± sf living space in the basement of the two-family house. 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>Jan 11, 2011</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Jan 4, 2011</td><td>Plans submitted to OSPCD (AS-2 site plan, AG-1 existing conditions, AG-2 existing floor plans, AG-3 floor area calculations proposed)</td></tr></table>				Date (Stamp Date)	Submission	Jan 11, 2011	Initial application submitted to the City Clerk's Office	Jan 4, 2011	Plans submitted to OSPCD (AS-2 site plan, AG-1 existing conditions, AG-2 existing floor plans, AG-3 floor area calculations proposed)
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Any changes to the approved square footage 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							
3	The Applicant shall complete the installation of the new exterior siding.	CO	Plng.							
4	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.							



Attest, by the Zoning Board of Appeals:

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