



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

MEMBERS

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DANIELLE FILLIS
ELAINE SEVERINO (ALT.)

Case #: ZBA 2008-13
Site: 37 Stone Avenue
Date of Decision: April 16, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: April 30, 2008

ZBA DECISION

Applicant Name:	Dianne Haas
Applicant Address:	152 Pearl Street #4, Cambridge, MA 02139
Property Owner Name:	37 Stone Avenue, LLC (c/o Dianne Haas)
Property Owner Address:	152 Pearl Street #4, Cambridge, MA 02139
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner Dianne Haas seeks Special Permit approval under SZO §4.4.1 to increase an existing F.A.R. non-conformity by finishing the existing basement. RA zone. Ward 3.
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<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	March 24, 2008
<u>Date(s) of Public Hearing:</u>	April 16, 2008
<u>Date of Decision:</u>	April 16, 2008
<u>Vote:</u>	5-0

Appeal #ZBA 2008-13 was opened before the Zoning Board of Appeals at Somerville City Hall on April 16, 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 one (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant is proposing to legalize the existing finished basement and increase the existing net square feet of the building by 833 s.f. No alterations are proposed for the exterior of the building. The additional finished space would be used as living space for the applicant/owner of unit one.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

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 Applicant requires a special permit under §4.4.1 of the SZO. Under §4.4.1, "The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building ... the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

Of those standards set forth under §4.4.1 of the SZO, the Planning Board finds that the change would not be substantially more detrimental to the neighborhood. There would be no visual impact on the neighborhood since the alteration is on the interior of the existing building. The Board supports the applicants' desire to legalize alterations that were done prior to the applicant's ownership of the property.

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 project is located in a Residence A (RA) zoning 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 this alteration is consistent with the general purpose of the RA district as no additional units or bedrooms are sought in this proposal. The Board finds that any illegal conversion to add a third unit would be made difficult by the limited access to the basement which is provided through either a bulkhead or through a stairway in the kitchen of the first floor unit. (see conditions)

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."

DECISION:

Present and sitting were Members Acting Chairperson Orsola Susan Fontano, Acting Clerk Richard Rossetti, Danielle Fillis, Scott Darling and Elaine Severino. 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	<p>Approval is for the alteration of a nonconforming two-family structure to allow the conversion of a basement space into livable space under SZO §4.4.1. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent:</p> <table><tr><th>Date</th><th>Submission</th></tr><tr><td>March 24, 2007</td><td>Initial application and plans submitted to the City Clerk’s Office</td></tr></table> <p>Any changes to the approved plans must receive ZBA approval.</p>	Date	Submission	March 24, 2007	Initial application and plans submitted to the City Clerk’s Office	Building Permit	Plng.	
Date	Submission							
March 24, 2007	Initial application and plans submitted to the City Clerk’s Office							
2	No additional units shall be added to this two-unit building;	Cont.	Plng. / ISD					
3	No additional access/egress will be provided to the basement;	Cont.	Plng. / ISD					
4	The Applicant must contact the 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 Building Permit Signoff	Plng. / ISD					

Attest, by the Zoning Board of Appeals:

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