



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

MEMBERS

HERBERT F. FOSTER, JR., *CHAIRMAN*
ORSOLA SUSAN FONTANO, *CLERK*
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DANIELLE FILLIS
ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA #2009-17
Site: 57-59 Winslow Avenue
Date of Decision: June 24, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 7, 2009

ZBA DECISION

Applicant Name:	Christa & Thomas Cornell
Applicant Address:	619 Mere Point Road, Brunswick, ME 04011
Property Owner Name:	Christa & Thomas Cornell
Property Owner Address:	619 Mere Point Road, Brunswick, ME 04011
Agent Name:	N/A

Legal Notice: Applicants Christa & Thomas Cornell seek a special permit for a residential conversion from 2 to 3 dwelling units (SZO §7.11.2.b) and for an alteration to a nonconforming structure in order to construct an egress stairs and landings (SZO §4.4.1).

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§7.11.2.b & §4.4.1
<u>Date of Application:</u>	April 23, 2009
<u>Date(s) of Public Hearing:</u>	6/3 & 6/24/09
<u>Date of Decision:</u>	June 24, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-17 was opened before the Zoning Board of Appeals at Somerville City Hall on June 3, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to convert the dwelling from a two-family into a three-family. The Applicant would construct egress stairs and landings in the rear that are 8' 2" by 12' 8". The stairs would connect from an existing deck on the third floor to an existing landing and stairs on the first floor.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.2.b & 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 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The staircase and landings would only partially be visible from the street and the immediate abutter's house is setback from the proposed location of the stairs.

The residential conversion complies with the definition – it is within the existing dwelling, but does not increase the gross floor area of the dwelling, change the footprint of the building nor extend the dwelling upward or outward. The required forth parking space would be provided for the third dwelling, which complies with the parking requirements.

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 maintain the uniquely integrated structure of uses in the City and encouraging the most appropriate use of land throughout the City. The proposal is also consistent with the purpose of the district as a residential use.

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 only change to the appearance of the house would be the staircase and landings; which are only partially visible from the street. The stairs would not have a negative impact on the appearance of the house from the bike path. The required parking is in the rear yard. The impervious coverage would not increase as the yard is already paved.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Josh Safdie with Scott Darling absent. 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 for a residential conversion from 2 to 3 dwelling units (SZO §7.11.2.b) and for the construction of egress stairs and landings. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO/BP	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(April 23, 2009)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>May 12, 2009 (May 19, 2009)</td><td>Modified plans submitted to OSPCD (plot plan, site plan, floor plans: A1.0, X1.0, X2.0, X2.1, X2.2, elevations: A2.0, A2.1, A2.2,)</td></tr></table>				Date (Stamp Date)	Submission	(April 23, 2009)	Initial application submitted to the City Clerk's Office	May 12, 2009 (May 19, 2009)	Modified plans submitted to OSPCD (plot plan, site plan, floor plans: A1.0, X1.0, X2.0, X2.1, X2.2, elevations: A2.0, A2.1, A2.2,)
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Any changes to the approved site plan, elevations or use that are not <i>de minimis</i> must receive ZBA approval.										
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
3	To ensure the safety of the tenant, the 3 rd floor apartment shall be vacant if a second means of egress is not available during the construction process.	During Construction	ISD							
4	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.							

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Fillis
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 _____