



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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MICHAEL F. GLAVIN  
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PLANNING DIVISION

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**Case #: ZBA 2015-98**  
**Site: 7 Montgomery Avenue**  
**Date of Decision: April 19, 2017**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: May 1, 2017**

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**ZBA DECISION**

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<b>Applicant Name:</b>	James Langley
<b>Applicant Address:</b>	13 Algonquin Drive, Burlington, MA
<b>Property Owner Name:</b>	James Langley
<b>Property Owner Address:</b>	13 Algonquin Drive, Burlington, MA
<b>Agent Name:</b>	Sean T. O'Donovan, Esq.
<b>Agent Address:</b>	741 Broadway, Somerville, MA 02144

Legal Notice: Applicant/Owner, Charles Zammuto & James Langley, seek a Special Permit under SZO §4.4.1 to demolish a non-conforming 3-car garage and replace with a new 2-story 3-bedroom single-family home with parking relief for 1 vehicle under SZO §9.13.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.13
<u>Date of Application:</u>	November 5, 2015
<u>Date(s) of Public Hearing:</u>	April 19, 2017
<u>Date of Decision:</u>	April 19, 2017
<u>Vote:</u>	5-0

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Appeal #ZBA 2015-98 was opened before the Zoning Board of Appeals at Somerville City Hall on April 19, 2017. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The Applicant requests to demolish the existing garage and use part of the foundation to build a new 3-bedroom single-family house.

**FINDINGS FOR SPECIAL PERMIT (SZO §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."*

*Nature of Application:* RB – residential district.

The structure is currently nonconforming with respect to the following dimensional requirements:

	Required	Existing	Proposed
Minimum Lot Size (s.f.)	7500	1400	1400
Minimum Lot Area per Dwelling (1-9 units)	1500	n/a	1400
Maximum Ground Coverage	50%	39%	45%
Floor area ratio (F.A.R.)	1.0	0.39	1.06
Minimum front yard (ft)	15	6	0.2
Minimum side yards (ft)			
Left:	8	0	3.2
Right:	17	0.5	3
Minimum rear yards (ft)	20	24	14
Minimum frontage (ft)	50	28	16
Pervious Area (minimum %)	35%	8%	15%

Section 4.4.1 states that “[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, 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.”

In considering a special permit under §4.4 or 4.5 of the SZO, the Board finds that the use proposed would not be substantially more detrimental to the neighborhood than the existing structure and use. Despite the non-conformities, the proposed single-family home is far more appropriate to the existing neighborhood than the existing structure.

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 the purposes of the Ordinance are 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 conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RB district, 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.”

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The purposes of the Article are met but relief is required for one parking space. A three-bedroom house requires two parking spaces however, due to the reduced size of the lot, only one space can be accommodated on-site. The Board has worked with the Applicant on the design of the house and the site and recommends granting relief.

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."*

*Surrounding Neighborhood:* Winter Hill

*Impacts of Proposal (Design and Compatibility):*

The proposed house is generally of the same size and proportions as those existing in the neighborhood. It will be clad in HardiPlank with traditional details such as cornerboards and window trim similar to the other houses in the neighborhood as there are no elements of the existing structure worth saving or replicating.

The house is oriented to the street with the front porch only inches behind the front property line. The side yard dimensions are all tight but are not dissimilar to the adjacent properties. The lot is only 49.97' deep so the rear yard is the most constrained at 13.7'. The driveway is a minimal width and is designed so that no vehicle will straddle the public sidewalk. Low barriers or plantings may be required to separate the parking area from the pedestrian space.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

<u>SomerVision Summary</u>	<u>Existing</u>	<u>Proposed</u>
<i>Dwelling Units:</i>	0	1
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	0	0
<i>Estimated Employment:</i>	0	0
<i>Parking Spaces:</i>	0	0
<i>Publicly Accessible Open Space:</i>	0	0



8. Impact on Affordable Housing: *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

This new house will not have a direct impact on the affordable housing stock of Somerville but does provide another family sized home for sale.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Pooja Phaltankar with Josh Safdie absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino 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 new three-bedroom single-family detached house on the foundation of the existing three-car garage. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Planning									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>November 5, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 21, 2017</td> <td>Modified plans submitted to OSPCD (T1, C1, and A1-A7)</td> </tr> <tr> <td>April 5, 2017</td> <td>Modified plans submitted to OSPCD (L1)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	November 5, 2015	Initial application submitted to the City Clerk's Office	February 21, 2017	Modified plans submitted to OSPCD (T1, C1, and A1-A7)	April 5, 2017	Modified plans submitted to OSPCD (L1)
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April 5, 2017	Modified plans submitted to OSPCD (L1)											
Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.												
<b>Pre-Construction</b>												
2	The Applicant shall complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City's Stormwater Management Policy.	BP	Engineering									



3	Before demolition/building permits are issued, soil tests must be conducted. If soil contamination is observed by soil test results, the Applicant shall identify the Licensed Site Professional (LSP) responsible for the removal of any soil contamination at the site. The LSP shall submit to ISD and the Office of Sustainability and Environment (OSE) evidence showing that site cleanup has been carried out and has met the standards and requirements of the Massachusetts Department of Environmental Protection (DEP) <b>OR</b> a professional opinion by the LSP justifying the safety of the site in terms of health and safety of the workforce and occupants after submittal of Immediate Response Action Completion (IRAC) report to DEP but prior to filing Response Action Outcome (RAO) or Activity and Use Limitation (AUL).	Demolition /Building Permitting	ISD	
4	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Engineering	
5	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	
<b>Construction Impacts</b>				
6	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Planning	
7	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Continuous	Planning	Deed submitted & application form signed
8	The Applicant shall at their expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
9	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	
<b>Design</b>				
10	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	Prior to construction	Planning	



11	An exterior light and electrical receptacle is required for all levels of the porch and/or decks.	Final sign off	Wiring Inspector	
<b>Site</b>				
12	Landscaping shall be installed and maintained in compliance with the American Nurserymen’s Association Standards; there shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	Perpetual	Planning / ISD	
13	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
14	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Planning	
15	The on-site walkways and parking area will be constructed of pervious pavers in a manner acceptable to the Engineering Division.	BP	Engineering/ ISD	
<b>Miscellaneous</b>				
16	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Continuous	ISD	
<b>Public Safety</b>				
17	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
18	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO		
19	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	Planning / OSE	
<b>Final Sign-Off</b>				
20	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	Planning	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino  
Pooja Phaltankar (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 \_\_\_\_\_

