



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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EXECUTIVE DIRECTOR

PLANNING DIVISION

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BRANDY BROOKS (ALT.)

**Case #: ZBA 2014-12**  
**Site: 25 Auburn Avenue**  
**Date of Decision: June 4, 2014**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: June 10, 2014**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Steven Teixeira
<b>Applicant Address:</b>	25 Auburn Avenue, Somerville, MA 02145
<b>Property Owner Name:</b>	Steven Teixeira
<b>Property Owner Address:</b>	25 Auburn Avenue, Somerville, MA 02145
<b>Agent Name:</b>	N/A

Legal Notice: Applicant and Owner, Steven Teixeira, seeks a Special Permit under SZO §4.4.1 to alter a nonconforming dwelling to add a by-right second unit, which includes a rear addition, a dormer, and modifications to windows and doors. The Applicant also seeks a Variance under SZO §9.5.1.a for two spaces of parking relief. RB zone. Ward 1.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.5.1.a
<u>Date of Application:</u>	February 27, 2014
<u>Date(s) of Public Hearing:</u>	4/16, 5/7, 5/21 & 6/4/14
<u>Date of Decision:</u>	June 4, 2014
<u>Vote:</u>	5-0

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Appeal #ZBA 2014-12 was opened before the Zoning Board of Appeals at Somerville City Hall on April 16, 2014. 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  
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[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The Applicant proposes to make significant upgrades to the property, which includes rebuilding and expanding the existing rear addition by approximately 130 square feet, adding a shed dormer to the right side, and modifications to windows and doors for a by-right second unit.

The front, or primary façade, would gain a two-story polygonal bay on the right side as well as front porch with a window above and another window located within the half-story. The right side façade currently has a large shed dormer, which would remain; however, the replacement windows would be double-hung. The rear addition would be reconstructed as two-stories with a roof deck above the second floor and extend an additional 15 feet toward the rear of the parcel. The reconstructed addition will provide basement access from the outside and the rear portion will project slightly at the first floor. The rear façade will provide a rear egress for both units with a deck that leads to the driveway. The left side façade will gain additional windows, as the property line provides three feet of clearance from the building.

Each unit will be composed of three bedrooms and two bathrooms. A washer/dryer will be located within each unit as well as one parking space for each unit. This site can fit 4 vehicles in two tandem lines at the end of the driveway, which still allows for a rear yard and landscaping; however, while four cars can fit on-site, tandem spaces does not fulfill the parking requirement and the two existing parking spaces are not dimensionally compliant.

The parcel currently has minimal landscaping and pervious areas. This proposal would expand both of these dimensions greatly and remove the existing chain link fences. Both the front and rear yards would become landscaped with a walkway that leads from the back deck to the outside basement access and the driveway. Both the front and rear path will be composed of pervious pavers and the existing asphalt will be significantly reduced.

**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."

Under SZO §4.4.1, an existing single or two-family dwelling may alter a nonconformity through the granting of a Special Permit. Therefore, due to the existing nonconforming left side yard setback, the proposed changes to the left side façade, which includes expanding the rear addition and creating a second dormer, requires a Special Permit. Additionally, the landscape and pervious areas are currently nonconforming, which would come into conformance as a result of this proposal. Last, as the depth of the parcel is 97.92 feet, the rear yard setback is reduced from 20 feet to 19.5 feet, due to the reduction of rear yards for parcels less than 100 feet deep. The rear setback is reduced 3" for each foot by which the parcel is less than 100 feet deep.

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 changes proposed will substantially rehabilitate the structure and enhance the overall streetscape. The enlarged rear addition will add additional living space, create a private outdoor space for the second floor unit and improve the interior conditions. The proposed dormer will look to the adjacent property, but as a driveway separates these buildings, there should be minimal impact to abutters since the dormer windows will be over a stairwell and within a closet. The addition of



architectural features, such as the bay window and front porch will serve to activate the streetscape while additional landscaping and pervious areas will create an inviting outdoor area. Other than nonconforming setback dimensions, the proposal would comply with ground coverage (29%), landscape (50%) pervious area (50%), and floor area ratio (0.55).

A Variance is required under SZO §9.5.1.a for two spaces of parking relief. The existing parking situation allows space for two vehicles. As the dwelling is currently a single family dwelling, the parking situation is conforming. The addition of a second, three-bedroom unit requires two additional parking spaces. This site can fit 4 vehicles in two tandem lines at the end of the driveway, which still allows for a rear yard and landscaping. While four cars can fit on-site, tandem spaces does not fulfill the parking requirement and the two existing spaces are not dimensionally compliant; therefore, a Variance is required. For Variance findings, refer to Section III.

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 "promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City.

The proposal is consistent with the purpose of the RB district, §6.1.2, 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."

The proposal to rehabilitate the subject structure enhances the building through the addition of a clear fenestration pattern and architectural detail, making this house consistent with other dwellings along the street. The front porch and two-story bay window will activate the front façade and put additional eyes on the street. The proposed alterations will positively impact the streetscape and minimally impact abutters.

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 parcel is located in a Residence B zoning district on a dead end street between McGrath highway and Cross Street in East Somerville. The surrounding neighborhood is predominantly composed of single and two-family dwellings; however, a multi-unit apartment building is located next door. The nearby dwellings are predominantly similar gable-ended structures of 2½ stories.

The enlarged addition, second dormer, and fenestration alterations will have minimal to no impact on abutters. The enlarged addition maintains a rear yard and steps back from the lot line while providing additional habitable space to make these three-bedroom or family units. The abutting dwelling to the left locates a driveway between the structures, so the proposed dormer does not look directly into this building and, as the windows within the dormer are positioned in a stairwell and a closet, the purpose of the windows is to provide natural light not views of the adjacent house. Proposed alterations to the window arrangements on the left side façade will enhance the interior plan and due to the location of the abutters driveway, the windows will not look directly into the adjacent dwelling and should have minimal to no impact on abutters, but will add to the character of the building.

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.



The proposal would not result in an adverse impact on the surrounding residential area. The site plan enhances the landscape and pervious area. The building design is conditioned to be composed of durable and quality materials. Changes to the fenestration are compatible with Auburn Avenue and the adjacent residential neighborhood.

6. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

The proposal does not change the existing circulation pattern. The subject parcel would continue to locate two parking spaces on site and these would be dedicated to each of the two units.

The Applicant prepared a Traffic Memorandum and conducted a Parking Utilization Study of all public on-street parking spaces within a reasonable walking distance (three minute walking distance) of the proposed redevelopment project. The Parking Utilization Study indicated that there were 42 on-street parking spaces in the area studied. The number of unoccupied on-street parking spaces varied from 10 to 13 during the study period. Based on this data, the Traffic Memorandum concluded that the proposed project and lack of 2 required off-street parking spaces would have a negligible impact on the surrounding neighborhood's public parking supply. Traffic and Parking has no objections to the conclusions of this Traffic Memorandum and Parking Utilization Study.

Traffic and Parking has no objections to this application.

#### **FINDINGS FOR VARIANCE (SZO §9.5.1.a):**

In order to grant a Variance, the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."

The shape of the subject parcel as well as the location of the existing dwelling (related to frontage) and landscape requirement limit the ability to provide parking in excess of 2 non-compliant parking spaces and make necessary the request for a Variance for two spaces of parking relief. The size of the lot (3,876 square feet) is not unique to the neighborhood, but is challenging with regard to locating more parking on-site due to the narrow nature of the lot and the existing structure on the lot, which makes the existing parking non-compliant. This site can fit 4 vehicles in two tandem lines at the end of the driveway, which still allows for a rear yard and landscaping; however, while four cars can fit on-site, tandem spaces does not fulfill the parking requirement. Four dimensionally compliant spaces will not fit on-site. The proposal for a two-family dwelling is an appropriate use for the property as this is consistent with the neighborhood and attempts to maximize the potential of this parcel. The lot size, location of the existing dwelling, and frontage restricts the ability to build more than the existing parking without eliminating the usable open space. To create additional on-site parking, more than one space per unit, creates a hardship to the proposed project.

2. The variance requested is the "minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."

The requested parking relief is the minimum necessary that would grant reasonable relief to appropriately utilize the subject parcel. This Residence B zoned neighborhood indicates that more than one unit is appropriate. The two-family residential use is by-right and the proposal provides one parking space per unit. This site can fit 4 vehicles in two tandem lines at the end of the driveway, which still allows for a rear yard and landscaping; however, while four cars can fit on-site, tandem spaces does not fulfill the parking requirement. Four dimensionally compliant spaces



will not fit on-site. The proposed two-family residential dwelling is allowed by zoning and is consistent with the neighborhood, but necessarily requires that a Variance for two spaces of parking relief is the minimum relief to be granted.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

Granting the request for a Variance would be in harmony with the general purpose of the SZO as the parking relief will balance the requirement for usable open space, which serves to enhance the neighborhood and quality of life. By ensuring that usable open space is part of this proposal, the SomerVision Comprehensive Plan is implemented by maintaining neighborhoods as places to live, work, play, and raise a family, which implies people before cars. The proposed project will be consistent with the existing buildings on Auburn Avenue as a two-family structure, architectural detail and activating the streetscape.

**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie 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 Special Permit to alter a nonconforming dwelling to add a by-right second unit, which includes a rear addition, a dormer, and modifications to windows and doors. The Applicant also seeks a Variance for two spaces of parking relief. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(February 27, 2014)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>April 8, 2014 (April 8, 2014)</td> <td>Plans submitted to OSPCD (EX1, SK1, SK2, SK3 &amp; SK4)</td> </tr> <tr> <td>November 21, 2013 (April 8, 2014)</td> <td>Plot plan submitted to OSPCD</td> </tr> <tr> <td>April <del>8-29</del>, 2014 (April <del>8-30</del>, 2014)</td> <td>Landscape plan submitted to OSPCD (SK5)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(February 27, 2014)	Initial application submitted to the City Clerk’s Office	April 8, 2014 (April 8, 2014)	Plans submitted to OSPCD (EX1, SK1, SK2, SK3 & SK4)	November 21, 2013 (April 8, 2014)	Plot plan submitted to OSPCD	April <del>8-29</del> , 2014 (April <del>8-30</del> , 2014)	Landscape plan submitted to OSPCD (SK5)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.														
<b>Pre-Construction</b>														
2	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City’s stormwater policy.	BP	Eng.											



<b>Construction Impacts</b>				
3	The Applicant shall at his 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	
4	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>				
5	Planning Staff shall review and approve materials for siding, trim, windows, and doors prior to construction. Applicant shall not use vinyl or plastic materials to sheath the exterior of the building.	BP	Plng.	
6	Planning Staff shall review and approve the construction documents that detail the reconstructed polygonal bay on the front façade.	BP	Plng.	
7	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
8	The Applicant shall pull in the railings of the roof deck to ensure the railings do not project beyond the eaves of the gable.	BP	Plng/ISD	
<b>Site</b>				
9	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
10	The Applicant shall plant grass on the left side of the building, between the structure and the neighbor's driveway.	CO	Plng.	
11	Any new fencing installed shall be composed of wood.	CO	Plng.	
<b>Public Safety</b>				
12	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
13	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	CO	OSE/FP/B OH	
<b>Final Sign-Off</b>				
14	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:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Danielle Evans  
Elaine Severino

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 \_\_\_\_\_

