



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 # 2012-10
Site: 16 Chester Street
Date of Decision: June 20, 2012
Decision: *Petition Denied*
Date Filed with City Clerk: July 3, 2012

ZBA DECISION

Applicant Name:	Michael Dull & Emily Dull
Applicant Address:	26 Summit Avenue, Somerville, MA 02143
Property Owner Name:	Michael Dull
Property Owner Address:	26 Summit Avenue, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant, Michael Dull and Emily Dull, and Owner, Michael Dull, seek a special permit for alteration to a nonconforming structure under SZO §4.4.1 to modify a window to add living space in the basement and a special permit to modify parking requirements under §9.13.a to waive the requirement for one additional parking space.

<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.13.a
<u>Date of Application:</u>	January 30, 2012
<u>Date(s) of Public Hearing:</u>	2/29, 3/14, 4/4, 4/18, 5/2, 5/16, 6/6 & 6/20/12
<u>Date of Decision:</u>	June 20, 2012
<u>Vote:</u>	0-4 (with 1 member abstaining)

Appeal #ZBA 2012-10 was opened before the Zoning Board of Appeals at Somerville City Hall on February 29, 2012. 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 four hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to add approximately 873 square feet of living area into the basement in order to convert the first floor studio apartment into a one-bedroom apartment. The basement was previously used as an illegal apartment but with this approval the square footage of this unit will be connected to a unit on the first floor. The total number of units at the site will be six. The conversion of the basement requires the installation of a window well for emergency egress from the basement bedroom. The window well will be located in the bay on the right side of the house.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §9.13.a):

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 be substantially more detrimental to the neighborhood than the existing structure. While the addition of a window well on the side of the property will be only slightly visible from the street and it will not negatively impact the appearance of the house, the Board had concerns about expansion of the living space into the basement. Specifically the Board had concerns about bedrooms and potential bedrooms in the basement.

In considering a Special Permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested Special Permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The Board finds that there will be substantial impact on the surrounding neighborhood with regard to the above criteria. The Board also questioned the number of parking spaces that the Applicant was seeking relief for. The Board felt that the Applicant should really be seeking two spaces of parking relief because of the number of potential bedrooms in the basement.

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 adequate light and air to the basement and encouraging the most appropriate use of land throughout the City.

The proposal is consistent with the purpose of the district, in allowing for a change to a residential structure.



Also, the Board finds that the proposal does not meet the intent of §9.1, the purpose of the Off-street Parking and Loading Article. Relief from providing one parking spaces will not create a situation that would be a nuisance or hazard to pedestrians and adjacent properties, and would decrease the traffic carrying capacity of the adjacent streets or significantly compromise the on-street parking available in Davis Square. Furthermore, the Board finds that the Applicant should be applying for more than one parking space of 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."

The Board finds that adding living space to the basement will impact the design of the house beyond the addition of a window well design which calls for additional living space and bedrooms in the basement is not compatible with characteristics of the built and unbuilt surrounding neighborhood. The basement could still be used reasonably for storage and mechanical purposes and the Board finds that the proposed additional living space in the basement is out of context with other structures in the surrounding area.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. 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 **0-4** to **DENY** the request with Danielle Evans abstaining.



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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Danielle Evans

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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