



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

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DANIELLE EVANS
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JOSH SAFDIE (ALT.)

Case #: ZBA # 2011-55
Site: 11 Sargent Avenue
Date of Decision: November 2, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: November 8, 2011

ZBA DECISION

Applicant Name:	Guy Mirisola
Applicant Address:	200 L Street, South Boston, MA 02127
Property Owner Name:	Guy Mirisola
Property Owner Address:	200 L Street, South Boston, MA 02127
Agent Name:	Tim Johnson
Agent Address:	720 E. Eighth Street, Unit 1, Boston, MA 02127

Legal Notice: Applicant and Owner, Guy Mirisola, seeks a special permit to alter a nonconforming structure under SZO §4.4.1 to construct rear egress stairways from the first and second floors on the rear side of an existing two-family residence.

<u>Zoning District/Ward:</u>	RB zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 5, 2011
<u>Date(s) of Public Hearing:</u>	8/3, 8/17, 9/7, 9/21, 10/5, 10/19 & 11/2/11
<u>Date of Decision:</u>	November 2, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-55 was opened before the Zoning Board of Appeals at Somerville City Hall on August 3, 2011. 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The Applicant is currently renovating the structure at 11 Sargent Avenue. As part of this renovation, the Applicant installed rear egress doors for the first and second floor units that are situated on the right, rear side of the structure. The addition of these rear egress doors requires the Applicant to install two rear egress stairways and associated landings from the first and second floor dwellings to the ground. The rear egress staircase from the first floor unit would have a 3'1" long by 3'3" wide landing and 5 steps that are 3'3" wide extending 4'2" along the side of the structure to the ground. The stairway from the second floor unit would also have a 3'1" long by 3'3" wide landing but then would have 10 steps leading down to a second landing that is 3' long by 3'3" wide. From this second landing another 9 steps would lead down to the ground. Both of the stairways would run along the side of the structure and lead to the back yard. The subject structure is connected to the structure at 9 Sargent Avenue and the two buildings form a larger u-shaped structure that spans the lots at 9 and 11 Sargent Avenue. The stairways, as part of this proposal, would be situated on the inside of the u-shaped building and would not be visible from the streetscape or either side of the property.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §5.1):

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 staircases would not be visible from the streetscape or either side of the property. The stairways would only be visible by the dwelling at the rear of the property on Marshall Street and the two units located in the attached portion of the structure on 9 Sargent Avenue. While the staircases would only be 3'11" from the property line of 9 Sargent Avenue, a substantial portion of the subject dwelling already shares a wall with the structure at 9 Sargent Avenue. It should be noted that the stairway down from the second story unit would block a portion of a window in the first floor unit. While this is not ideal, this window looks out of a hallway on the first floor, not a room, and the proposed design keeps the last step of the staircase even with the rear of the structure, which is preferable to the stairway extending past the end of the structure. Furthermore, the structure has a substantial rear yard setback of approximately 41 feet and this proposed design would preserve this setback. This is preferable to having a rear egress stairway design that reduces this setback and consumes more green space in the backyard. The installation of these staircases would create a safe, secondary means of egress from the first and second floor units at the subject property. The property will remain a 2½ story, two-family residential use which is consistent with the surrounding neighborhood.

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 provide for and maintain the uniquely integrated structure of uses in the City; to secure safety from fire, panic and other dangers; and to conserve the value of land and buildings."



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The proposal is also consistent with the purpose of the district (6.1.2. RB - Residence Districts), 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.”

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 project is compatible with the characteristics of the surrounding neighborhood. The staircases would not be visible from the streetscape or either side of the property. The stairways would only be visible by the dwelling at the rear of the property on Marshall Street and the two units located in the attached portion of the structure on 9 Sargent Avenue. While the staircases would only be 3’11” from the property line of 9 Sargent Avenue, a substantial portion of the subject dwelling already shares a wall with the structure at 9 Sargent Avenue. The proposed design maximizes the small space between the structures of 9 and 11 Sargent Avenue, while at the same time preserving the green space in the rear of the property.

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.

No adverse environmental impacts are anticipated from this project. No new noise, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water are anticipated as part of the proposal. The structure will remain a 2½ story, two-family dwelling and will continue to be used for residential purposes.



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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. 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 to alter a nonconforming structure under SZO §4.4.1 to construct rear egress stairways from the first and second floors on the rear side of an existing two-family residence. The Zoning Board of Appeals is not endorsing the proposed driveway on the Site Plan as part of the decision for this Special Permit application. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(July 5, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>January 14, 2011 (July 18, 2011)</td> <td>Plot Plan</td> </tr> <tr> <td>October 25, 2011 (October 26, 2011)</td> <td>Site Plan – C01</td> </tr> <tr> <td>July 14, 2011 (July 18, 2011)</td> <td>Partial North Elevation – SK-2</td> </tr> <tr> <td>March 25, 2011 (August 9, 2011)</td> <td>Partial First Floor Plan – SK-1</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(July 5, 2011)	Initial application submitted to the City Clerk's Office	January 14, 2011 (July 18, 2011)	Plot Plan	October 25, 2011 (October 26, 2011)	Site Plan – C01	July 14, 2011 (July 18, 2011)	Partial North Elevation – SK-2	March 25, 2011 (August 9, 2011)	Partial First Floor Plan – SK-1	BP/CO	ISD/Plng.	
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2	The Applicant shall meet the Fire Prevention Bureau's requirements.	Final Sign Off	FP													
3	The Applicant shall install an exterior light next to the first and second floor rear egress doors in compliance with the National Electrical Code 2011.	Final Sign Off	Wiring Inspector													
4	There shall be no vehicle parking in the area indicated as brick/stone/stamped concrete pavers on Site Plan – C01 ₂ .	Cont.	ISD													
5	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
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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