



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

PLANNING DIVISION

***ZONING BOARD OF APPEALS MEMBERS***

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DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2012-44**  
**Site: 5 Tower Court**  
**Date of Decision: June 20, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: June 27, 2012**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Douglas Beudet
<b>Applicant Address:</b>	14 Ibbetson Street, Unit 3, Somerville, MA 02143
<b>Property Owner Name:</b>	Mary M. Fontaine
<b>Property Owner Address:</b>	5 Tower Court, Somerville, MA 02143
<b>Agent Name:</b>	Richard G. DiGirolamo, Esq.
<b>Agent Address:</b>	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant Douglas Beudet and Owner Mary M. Fontaine, seek a Special Permit under SZO §4.4.1 to alter and enlarge an existing two-family structure and a Special Permit under SZO §7.11.1.c to establish a four unit residential use. RC zone. Ward 2.

<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1 & §7.11.1.c
<u>Date of Application:</u>	May 10, 2012
<u>Date(s) of Public Hearing:</u>	June 20, 2012
<u>Date of Decision:</u>	June 20, 2012
<u>Vote:</u>	5-0

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Appeal #ZBA 2012-44 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on June 20, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



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**DESCRIPTION:**

The existing structure is a two-family dwelling located in an RC zoning district. The proposal is to renovate and expand the structure into a four-family dwelling. The height of the existing structure is estimated to be around 28-30 feet, and the new structure will increase slightly to a height of 33 feet. Despite the current address of 5 Tower Street, Tyler Street is being designated as the front for the proposed plans and this reference point will be used throughout the remainder of the Staff Report. The rear of the existing structure has zero feet of setback and the structure actually crosses over the property line in certain areas. The proposed plan will remove these portions of the structure which cross the property line into the adjacent lot. The proposed development will add two dwelling units to the existing structure towards the front of the property and make other alterations to the existing structure. These modifications will include a deck on the second floor of the right side of the existing building with an entrance to Unit # 2. Unit # 2 will be located on the second floor of the existing building and Unit # 1 will be located on the first floor. Unit # 1 will be 1,090 square feet and contain a kitchen, dining room, living room, master bedroom and bathroom, a second bedroom, a second bathroom, and a washer/dryer area. Unit # 2 will be 750 square feet and contain a kitchen, dining room, living room, study, bedroom, bathroom, and a washer/dryer area.

The proposed new addition will contain Units # 3 and # 4 located to the south of the existing structure, and will increase the net floor area of the entire building from 1,791 square feet to 4,275 square feet. The basement will include a garage with three parking spaces which will lead to a mudroom and then upstairs to Units # 3 and # 4. In addition to the garage entrance, there will be entryways from the east and west sides of the building for all four units. Units # 3 and # 4 will contain a kitchen, dining room, and living room on the first floor and two bedrooms, one full bathroom, and a washer/dryer area on the second floor. Unit # 3 will have 1,060 square feet and Unit # 4 will be 1,000 square feet. On the east side of the property there will be a permeable paver driveway, court, patio, and outdoor parking space as well as a bike rack. Including the garage there will be a total of four parking spaces on the site, which is less than the required six, but is sufficient based on the fact that the property is already nonconforming with respect to parking and meets the nonconforming requirement to increase from two to four parking spaces. The landscaping on the property will be greatly enhanced as can be seen on the Preliminary Landscape Plan. Along Tyler Street there will be three large shade trees and both Tyler Street and Tower Court will include shrubs, perennials, and grasses.

**FINDINGS FOR SPECIAL PERMIT (SZO §7.11.1.c and §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 renovations and expansions proposed would not be substantially more detrimental to the neighborhood than the existing structure. The renovations to the existing structure as well as the enhanced landscaping will beautify the existing property, which will benefit the surrounding neighborhood. The existing structure is a poorly maintained, defunct, two-family dwelling. Therefore, the surrounding neighborhood will benefit from the proposed renovations to create a four-family dwelling which has been through three meetings with the Design Review Committee to create a design which is appropriate for the neighborhood. Parking should not be detrimental to the neighborhood because an additional two off-street parking spaces will be provided for the two new units. There may be a minimal increase in noise with the additional two units, but these impacts should be insignificant and should not conflict with the existing uses in the RC District.



The proposed new entrance to Unit # 2 on the east side of the existing structure off of the proposed new deck, along with the east entrances to Units # 1, # 3, and # 4 will provide emergency egresses from the units. The proposed addition of Units # 3 and # 4 will not be detrimental to the surrounding neighborhood because sufficient land on the south (front) side of the property exists to accommodate this expansion. The front setback will decrease from 49.3 feet to 21 feet, but this will still meet the 15 foot minimum setback requirement for the district. The existing structure is already nonconforming with regard to the rear yard and right side yard setbacks, as well as the minimum lot size for the district. The increase in net floor area from 1,791 square feet to 4,275 square feet increases the FAR from 0.37 to 0.89, which is still well below the allowable maximum of 2.0 for an RC District. The driveway, court, parking space and patio on the east side of the lot will be constructed with permeable pavers, which will mitigate the impacts of water runoff. The removal of portions of the existing building along the rear lot line which currently encroach on the adjacent property will make the structure less nonconforming with respect to dimensional setbacks.

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 protect health; to secure safety from fire, panic and other dangers; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels."

The general concept of having a multi-family residential dwelling in this location is consistent with the purpose of the district (6.1.3. RC - Residence Districts), which is, "to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."

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 proposed renovations and expansions to the nonconforming structure are compatible with the characteristics of the surrounding neighborhood. The renovations to the existing structure as well as the enhanced landscaping will beautify the property which will benefit the surrounding neighborhood. The existing structure is a poorly maintained, defunct, two-family dwelling. Therefore, the surrounding neighborhood will benefit from the proposed renovations to create a four-family dwelling which has been through three meetings with the Design Review Committee to create a design which is appropriate for the neighborhood. Parking should not be detrimental to the neighborhood because an additional two off-street parking spaces will be provided for the two new units. There may be a minimal increase in noise with the additional two units, but these impacts should be insignificant and should not conflict with the existing uses in the RC District.

The proposed new entrance to Unit # 2 on the east side of the existing structure off of the proposed new deck, along with the east entrances to Units # 1, # 3, and # 4 will provide emergency egresses from the units. The proposed addition of Units # 3 and # 4 will not be detrimental to the surrounding neighborhood because sufficient land on the south (front) side of the property exists to accommodate this expansion. The driveway, court, parking space and patio on the east side of the lot will be constructed with permeable pavers, which will mitigate the impacts of water runoff on 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.



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No adverse environmental impacts are anticipated as part of this proposal. No new glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water, nor transmission of signals that interfere with radio or television reception are anticipated as part of the proposal. The driveway, court, parking space and patio on the east side of the lot will be constructed with permeable pavers, which will mitigate the impacts of water runoff. There may be a slight increase in noise with the additional two units, but in the context of a residential environment and neighboring light industrial area, the impacts will be fairly minimal. The structure on the property will remain a residential building in an RC District.



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**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans, 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	Approval is to establish four (4) residential units at the site under SZO §7.11.1.c and to make renovations to an existing nonconforming structure under SZO §4.4.1 to alter and enlarge an existing two-family residence. 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>(May 10, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 12, 2012 (June 4, 2012)</td> <td>Cover Sheet</td> </tr> <tr> <td>September 28, 2011 (June 4, 2012)</td> <td>Certified Plot Plan</td> </tr> <tr> <td>March 8, 2012 (June 14, 2012)</td> <td>Existing Elevations</td> </tr> <tr> <td>(June 4, 2012)</td> <td>Preliminary Landscape Plan</td> </tr> <tr> <td>March 8, 2012 (June 14, 2012)</td> <td>Proposed Elevations I</td> </tr> <tr> <td>March 8, 2012 (June 4, 2012)</td> <td>Proposed Elevations II</td> </tr> <tr> <td>March 8, 2012 (June 4, 2012)</td> <td>Proposed Floor Plans (Garage/Grade Level, First Floor Plans, and Second Floor Plans)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(May 10, 2012)	Initial application submitted to the City Clerk's Office	March 12, 2012 (June 4, 2012)	Cover Sheet	September 28, 2011 (June 4, 2012)	Certified Plot Plan	March 8, 2012 (June 14, 2012)	Existing Elevations	(June 4, 2012)	Preliminary Landscape Plan	March 8, 2012 (June 14, 2012)	Proposed Elevations I	March 8, 2012 (June 4, 2012)	Proposed Elevations II	March 8, 2012 (June 4, 2012)	Proposed Floor Plans (Garage/Grade Level, First Floor Plans, and Second Floor Plans)
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Any changes to the approved site plans and elevations that are not <i>de minimis</i> must receive SPGA approval.																						



2	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	
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
4	The Applicant shall at his/her 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	
5	Applicant will supply bicycle parking spaces as indicated on the Preliminary Landscape Plan.	CO	Plng.	
6	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
7	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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