



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 # 2011-84
Site: 173 Central Street
Date of Decision: November 30, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 7, 2011

ZBA DECISION

Applicant Name:	Out of the Woods Construction & Cabinetry, Inc.
Applicant Address:	15 Ryder Street, Arlington, MA 02476
Property Owner Name:	James Doran & Van Loc Doran
Property Owner Address:	173 Central Street, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant Out of the Woods Construction & Cabinetry, Inc. and Owners James and Van Loc Doran seek a special permit to alter a nonconforming structure under SZO §4.4.1 to remove an existing rear deck/porch and install a 35 sf cantilevered bay window.
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<u>Zoning District/Ward:</u>	RA zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 1, 2011
<u>Date(s) of Public Hearing:</u>	November 30, 2011
<u>Date of Decision:</u>	November 30, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-84 was opened before the Zoning Board of Appeals at Somerville City Hall on November 30, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The Applicant is proposing to remove an existing 160 square foot, second story deck/screened-in porch on the side of a two-family dwelling and to install in its place a 35 square foot cantilevered bay with five windows. The existing deck/screened-in porch covers the top of the two parking spaces on the side of the property and is supported by two tall columns in the driveway. The screened-in porch area is 106 square feet and the deck area is 54 square feet. The proposed cantilevered bay would be 3.5 feet deep and 10 feet wide and have three window openings on the face of its façade and one on either side.

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 Staff 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, Staff finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposed new cantilevered bay would not be visible from Central Street, but it would be visible from Browning Road which runs along the front of the property. Noise at the property would be reduced because the outdoor deck/screened-in porch will be replaced with the enclosed bay that will limit sound to the inside of the dwelling. The proposal will also increase the side yard setback from roughly one foot to 14.1 feet providing an additional buffer to the neighbor on the left side of the property. The property will remain a 2½ story, two-family residential use which is consistent with the surrounding neighborhood. Therefore, there are no anticipated negative impacts from the proposal.

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 "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; 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 also consistent with the purpose of the district (6.1.1. RA - Residence Districts), which is, "To establish and preserve quiet neighborhoods of one- and two-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 proposed new cantilevered bay would not be visible from Central Street, but it would be visible from Browning Road which runs along the front of the property. Noise at the property would be reduced because the outdoor deck/screened-in porch will be replaced with the enclosed bay that will limit sound to the inside of the dwelling. The proposal will also increase the side yard setback from roughly one foot to 14.1 feet providing an additional buffer to the neighbor



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on the left side of the property. The structure will remain a 2½ story two-family dwelling and will continue to be used for residential purposes, which is consistent with the surrounding neighborhood

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, nor transmission of signals that interfere with radio or television reception 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 Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino with Herbert Foster absent. Upon making the above findings, Richard Rossetti 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 alter a nonconforming structure under SZO §4.4.1 to remove an existing deck/porch and install a 35 square foot cantilevered bay. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(November 1, 2011)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>October 5, 2011 (November 14, 2011)</td><td>Plot Plan</td></tr><tr><td>November 10, 2011 (November 14, 2011)</td><td>Existing Front and Side Elevations</td></tr><tr><td>October 24, 2011 (November 14, 2011)</td><td>Proposed Front and Side Elevations</td></tr></table>				Date (Stamp Date)	Submission	(November 1, 2011)	Initial application submitted to the City Clerk's Office	October 5, 2011 (November 14, 2011)	Plot Plan	November 10, 2011 (November 14, 2011)	Existing Front and Side Elevations	October 24, 2011 (November 14, 2011)	Proposed Front and Side Elevations
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October 24, 2011 (November 14, 2011)	Proposed Front and Side Elevations													
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.														
2	The Applicant shall meet the Fire Prevention Bureau's requirements.	Final Sign Off	FP											
3	New siding type and color, roofing, and materials of the proposed cantilevered bay shall match those on the existing structure.	CO	Plng.											
4	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:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Evans
Elaine Severino (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 _____



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