



CITY OF SOMERVILLE, MASSACHUSETTS  
ZONING BOARD OF APPEALS  
JOSEPH A. CURTATONE, MAYOR

**MEMBERS**

HERBERT F. FOSTER, JR., *CHAIRMAN*  
ORSOLA SUSAN FONTANO, *CLERK*  
RICHARD ROSSETTI  
T. F. SCOTT DARLING, III, ESQ.  
DANIELLE FILLIS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA 2008-67**  
**Site: 42 Allen Street**  
**Date of Decision: March 4, 2009**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: March 12, 2009**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Marc Resnick
<b>Applicant Address:</b>	183 Harvard Avenue, Allston, MA 02134
<b>Property Owner Name:</b>	Marc Resnick
<b>Property Owner Address:</b>	183 Harvard Avenue, Allston, MA 02134
<b>Agent Name:</b>	Alissa Devlin, Esq.
<b>Agent Address:</b>	183 Harvard Avenue, Allston, MA 02134

Legal Notice: Applicant & Owner: Mark Resnick seeks a special permit under §4.4.1 in order to finish and legalize partially completed alterations to a non-conforming structure. RB zone. Ward 2.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 26, 2008
<u>Date(s) of Public Hearing:</u>	1/7, 1/21, 2/4, 2/18, 3/4/09
<u>Date of Decision:</u>	March 4, 2009
<u>Vote:</u>	5-0

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Appeal #2008-67 was opened before the Zoning Board of Appeals at Somerville City Hall on January 7, 2009. 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 five hearings of deliberation, the Zoning Board of Appeals took a vote.

**DESCRIPTION:**

The proposal is to legalize and complete the two floor 15.3' by 26.8' rear addition that had previously been started. When completed the structure would contain 1,681 n.s.f. The addition would enable the applicant to reorganize and expand the two bedrooms in each unit. No additional units or bedrooms would be added. No additional parking would be required.

### **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."

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 proposed work by the new owner will correct an unfortunate situation that has left an eyesore on the neighborhood for almost two years. The design of the structure and the materials to be used will help to create a cohesive and properly scaled building. The Board finds that the design to complete this modest structure will fit within the neighborhood context.

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 Board will require a landscaping plan to be submitted to OSPCD that will screen and improve the appearance of the site. The redesign of the front entrance toward the street will enable the applicant to provide more landscaping along the front of the building along the sidewalk, which will improve the pedestrian experience in the area.

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."

While the building will be compatible with the density and character of the area, questions continue regarding site access. The November 10, 2008 site plan that was submitted to OSPCD on January 29, 2009 shows the existing driveway and curb cut being maintained. This access is not located on the applicant's property and there is no easement on record to use the driveway. If an agreement cannot be reached by the applicant and the owner of 36 Allen Street, a new curb cut would need to be cut for access to the site. This would require approval from DPW and the Traffic and Parking Department.

### **DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis 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	Approval is for the construction of an approximately 15.3' deep by 26.8' wide, two story rear addition. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(11/26/08)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>1/30/09(2/3/09)</td><td>Elevations</td></tr><tr><td>11/10/08(1/29/09)</td><td>Site Plan</td></tr></table>				Date (Stamp Date)	Submission	(11/26/08)	Initial application submitted to the City Clerk's Office	1/30/09(2/3/09)	Elevations	11/10/08(1/29/09)	Site Plan
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11/10/08(1/29/09)	Site Plan											
Any changes to the approved elevations that are not <i>de minimis</i> must receive ZBA approval.												
2	A landscaping plan shall be submitted to OSPCD for approval.	Building Permit	Plng/ISD									
3	The applicant shall secure an easement to use the existing curb cut and driveway on the 36 Allen Street property. If no agreement is reached the applicant shall submit to OSPCD/DPW & Traffic and Parking a new site plan for approval.	Building Permit	Plng /DPW /T&P									
4	A code compliant fire alarm system shall be installed.	CO	FP									
5	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									
6	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit 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.									
7	The applicant shall submit a final elevation drawing for Staff approval that indicates the siding materials to be used.	Building Permit	Plng./ISD									

Attest, by the Zoning Board of Appeals:

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

Attest, by the Zoning Board of Appeals 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 \_\_\_\_\_