



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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JOSH SAFDIE (ALT.)

Case #: ZBA #2009-36
Site: 31 Appleton Street
Date of Decision: September 2, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: September 8, 2009

ZBA DECISION

Applicant Name:	Radhika Bagai
Applicant Address:	31 Appleton Street, Somerville, MA 02144
Property Owner Name:	Radhika Bagai
Property Owner Address:	31 Appleton Street, Somerville, MA 02144
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner Radhika Bagai seeks Special Permit approval under SZO §4.4.1 for the alteration of a non-conforming structure in order to relocate windows. RA zone. Ward 6.
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<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 27, 2009
<u>Date(s) of Public Hearing:</u>	September 2, 2009
<u>Date of Decision:</u>	September 2, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-36 was opened before the Zoning Board of Appeals at Somerville City Hall on September 2, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant is seeking a special permit under SZO §4.4.1 to alter the façade of the structure by relocating and replacing the windows on all sides of the structure to support an internal redesign. The work is proposed for two

phases, the first phase would include construction on the second and half story, with phase two completing the first floor and the basement office space.

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."

The Applicant requires a special permit under §4.4.1 of the SZO. Under §4.4.1, "the SPGA, as a condition of granting a special permit under this Section must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming structure."

The Board finds that the Applicant's proposal **would not be substantially more detrimental** to the surrounding neighborhood than the existing structure, as required under §4.4.1 of the SZO. The proposal is not more detrimental in visual effects or privacy concerns. The Board finds that the alterations would be an improvement to the structure and create an unusual façade that is not typical of historical Somerville architecture, but nevertheless is appealing. The Board notes that there are several other structures in the area that feature elements of modern design (pictures are attached to this report).

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 finds that the proposal **is consistent** with the purposes set forth in Article 1 of the Zoning Ordinance, and with, to the extent possible for a lawful pre-existing nonconforming structure, those purposes established for the Residence B (RB) zoning district in which the property is located, namely "(t)o 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 Board finds that the proposal **is compatible** with the site and area. The addition would not be visually intrusive within the neighborhood. As mentioned above there are some structures in the area that feature modern design elements that the Board find visually appealing. The structure directly across the street from the subject property has such features and the Board finds the design to be a positive addition to the street.

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 alteration of the façade of the structure to install new windows. This approval is based upon the following application materials and the plans submitted by the Applicant:	Building Permit	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(7/27/09)</td><td>Initial application submitted to the City Clerks Office</td></tr><tr><td>7/28/09 (8/18/09)</td><td>Proposed Plans and Elevations (A1.05, A2.01-A2.04)</td></tr></table>				Date (Stamp Date)	Submission	(7/27/09)	Initial application submitted to the City Clerks Office	7/28/09 (8/18/09)	Proposed Plans and Elevations (A1.05, A2.01-A2.04)
	Date (Stamp Date)				Submission					
	(7/27/09)				Initial application submitted to the City Clerks Office					
7/28/09 (8/18/09)	Proposed Plans and Elevations (A1.05, A2.01-A2.04)									
Any changes to the approved plans and elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	The applicant shall make best efforts to complete Phase II immediately following completion of Phase I.	Cont.	Plng.							
3	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. / 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 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 _____