



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 2009-35  
**Site:** 16 Avon Street  
**Date of Decision:** August 19, 2009  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** August 24, 2009

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**ZBA DECISION**

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<b>Applicant Name:</b>	IPL Realty Trust, David Levy, Trustee
<b>Applicant Address:</b>	P.O. Box 421, Arlington, MA 02476
<b>Property Owner Name:</b>	IPL Realty Trust, David Levy, Trustee
<b>Property Owner Address:</b>	P.O. Box 421, Arlington, MA 02476
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicant & Owner IPL Realty Trust, David Levy, Trustee seeks a special permit under §4.4.1 in order to construct a 12.5 ft wide dormer in the required side yard setback. RA zone. Ward 3.
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<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 14, 2009
<u>Date(s) of Public Hearing:</u>	August 19, 2009
<u>Date of Decision:</u>	August 19, 2009
<u>Vote:</u>	5-0

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Appeal #ZBA 2009-35 was opened before the Zoning Board of Appeals at Somerville City Hall on August 19, 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 proposal is to construct a 12.5 ft shed dormer on the right side of the house to add a closet and bathroom on the half story. The dormer would be set back eight feet from the front of the house. The pitch of the dormer would be 12/3 and intersect the roof approximately two feet from the roof ridge. Two windows are proposed for the dormer. The siding of the dormer would match the existing color and materials of the existing structure.

**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 design of the shed dormer does not significantly alter the roofline of the house because it is set off approximately 2 ft from the roof ridge; it is also set back 8 ft from the front of the structure. The shape of the dormer is consistent with the shed dormer on the left side of the building in regards to roof pitch and height, which provides symmetry to the building that the Board favors. There are no dormers on the adjacent 2.5 story structure and therefore no increased privacy issues are anticipated.

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 providing adequate light and air and the purpose of the district, which is, "[t]o 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 design of the dormer is compatible with the built surrounding area. There are many other structures in the nearby area of comparable size and design with similar shed dormers.

**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 12.5ft shed dormer. 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>(7/14/09)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>7/10/09 (7/30/09)</td><td>Plans and elevations submitted to OSPCD (A103, A300, A301)</td></tr></table>				Date (Stamp Date)	Submission	(7/14/09)	Initial application submitted to the City Clerk's Office	7/10/09 (7/30/09)	Plans and elevations submitted to OSPCD (A103, A300, A301)
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	(7/14/09)				Initial application submitted to the City Clerk's Office					
	7/10/09 (7/30/09)				Plans and elevations submitted to OSPCD (A103, A300, A301)					
Any changes to the approved elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	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.							

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 \_\_\_\_\_