



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

**MEMBERS**

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

**Case #:** ZBA #2009-07  
**Site:** 80 Bay State Avenue, #2  
**Date of Decision:** April 15, 2009  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** April 16, 2009

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**ZBA DECISION**

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<b>Applicant Name:</b>	James P. Hanley
<b>Applicant Address:</b>	80 Bay State Avenue, #2, Somerville, MA 02144
<b>Property Owner Name:</b>	James P. Hanley
<b>Property Owner Address:</b>	80 Bay State Avenue, #2, Somerville, MA 02144
<b>Agent Name:</b>	N/A

**Legal Notice:** Applicant & Owner James Hanley seeks a special permit (SZO §4.4.1) to alter a nonconforming dwelling by extending a shed dormer by 9 feet and adding a window to the front of the house.

<u><b>Zoning District/Ward:</b></u>	RA zone/Ward 6
<u><b>Zoning Approval Sought:</b></u>	§4.4.1
<u><b>Date of Application:</b></u>	March 9, 2009
<u><b>Date(s) of Public Hearing:</b></u>	4/15/09
<u><b>Date of Decision:</b></u>	April 15, 2009
<u><b>Vote:</b></u>	5-0

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Appeal #ZBA 2009-07 was opened before the Zoning Board of Appeals at Somerville City Hall on April 15, 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 extend the shed dormer by 9 feet to create a space for a bathroom. The side elevation shows that there would be six feet from the dormer's edge to the front façade of the house. There would be a window on the dormer wall and a skylight on the roof. The proposal also includes adding a window to the 3<sup>rd</sup> story between the two existing windows.

**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, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The extension of the shed dormer on the gambrel roof does not substantially alter the character of the house.

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 for and maintaining the uniquely integrated structure of uses in the City; and the purpose of the Residence A 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."

Typically the Board does not recommend shed dormers because they alter the character of the traditional housing stock in the City. There is an existing shed dormer on this property that has a pitch that is not significantly different than the pitch of the gambrel roof. Also, several houses on this street have gambrel roofs with a gambrel dormer on one side and a shed dormer on the other. The extension of the dormer is compatible with the built surrounding area.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Scott Darling, Elaine Severino and Josh Safdie with Herbert Foster and Danielle Fillis 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 for the extension of an existing shed dormer by 9 feet and addition of a window to the front facade. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO	Plng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(March 9, 2009)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>March 2, 2009 (March 31, 2009)</td><td>Plans submitted to OSPCD (A-7)</td></tr><tr><td>April 1, 2009 (April 10, 2009)</td><td>Plans submitted to OSPCD (A-1, A-2)</td></tr><tr><td>April 8, 2009 (April 10, 2009)</td><td>Plans submitted to OSPCD (A-3, A-4, A-5, A-6)</td></tr></table>				Date (Stamp Date)	Submission	(March 9, 2009)	Initial application submitted to the City Clerk's Office	March 2, 2009 (March 31, 2009)	Plans submitted to OSPCD (A-7)	April 1, 2009 (April 10, 2009)	Plans submitted to OSPCD (A-1, A-2)	April 8, 2009 (April 10, 2009)	Plans submitted to OSPCD (A-3, A-4, A-5, A-6)
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Any changes to the approved elevations that are not <i>de minimis</i> must receive ZBA approval.														
2	The dormer shall be no closer than 6 feet from the front façade of the house.	CO	Plng.											
3	The Applicant shall obtain a Certificate of Compliance from Fire Prevention.	CO	FP											
4	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:

Orsola Susan Fontano, *Acting Chairperson*  
Richard Rossetti, *Acting Clerk*  
T.F. Scott Darling, III, Esq.  
Elaine Severino (Alt.)  
Josh Safdie (Alt.)

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 \_\_\_\_\_