



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

MEMBERS

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DANIELLE FILLIS
ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA 2008-63
Site: 9 Belmont Square
Date of Decision: December 17, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 31, 2008

ZBA DECISION

Applicant Name:	Moses Blumenstiel
Applicant Address:	9 Belmont Square, Somerville, MA 02143
Property Owner Name:	Moses Blumenstiel
Property Owner Address:	9 Belmont Square, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner: Moses Blumenstiel seeks a special permit (SZO §4.4.1) to alter a nonconforming dwelling by adding a window and door. RB zone. Ward 3.
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<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 19, 2008
<u>Date(s) of Public Hearing:</u>	December 17, 2008
<u>Date of Decision:</u>	December 17, 2008
<u>Vote:</u>	5-0

Appeal #ZBA 2008-63 was opened before the Zoning Board of Appeals at Somerville City Hall on December 17, 2008. 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(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to add a window on the right side of the house near the front on the third floor. The window would align with the existing windows on the third floor and would have trim that matched that of the other windows. The proposal also includes adding a sliding glass door to the back side of the house which would open onto the third floor porch.

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 window would be consistent with the design of the house; it would align with the existing windows and its trim would match that on the house. The door proposed in the rear is commonly found on similar houses to access rear porches.

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. The proposal is consistent with the purpose of the district, which in part is to preserve three-family homes.

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 proposal is designed in a manner that is compatible with the area as specified in finding two, compliance with standards.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Richard Rossetti 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 addition of a window and door to the dwelling. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.							
	<table><tr><th>Stamp Date</th><th>Submission</th></tr><tr><td>Nov 5, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Nov 19, 2008</td><td>Plans submitted to OSPCD (1-3rd floor existing, 2-proposed 3rd floor, 3-elevations)</td></tr></table>				Stamp Date	Submission	Nov 5, 2008	Initial application submitted to the City Clerk's Office	Nov 19, 2008	Plans submitted to OSPCD (1-3 rd floor existing, 2-proposed 3 rd floor, 3-elevations)
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	Nov 19, 2008				Plans submitted to OSPCD (1-3 rd floor existing, 2-proposed 3 rd floor, 3-elevations)					
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
Danielle Fillis
Elaine Severino (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 _____