



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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Case #: ZBA 2008-71
Site: 22 Benedict Street
Date of Decision: October 21, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 22, 2009

ZBA DECISION

Applicant Name:	Qi Chao Ding
Applicant Address:	22 Benedict Street, Somerville, MA 02145
Property Owner Name:	Qi Chao Ding
Property Owner Address:	22 Benedict Street, Somerville, MA 02145
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant/Owner Qi Chao Ding seeks a special permit (SZO §4.4.1) to alter a nonconforming dwelling by adding 20' x 14' porch to the rear. RB zone. Ward 1.
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<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	December 22, 2008
<u>Date(s) of Public Hearing:</u>	1/21, 2/4, 2/18, 3/4, 3/18, 4/1, 4/15, 5/6, 5/20, 6/3, 6/24, 7/15, 8/5, 8/19, 9/2, 6/16, 10/7 & 10/21/09
<u>Date of Decision:</u>	October 21, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2008-71 was opened before the Zoning Board of Appeals at Somerville City Hall on January 21, 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to construct a 19'-10" by 12'-8" addition in the rear of the dwelling. The space would be used as an enclosed porch. The regular sized door on the rear elevation would lead to stairs to access the basement. Since there would be an internal element or "box" to create headroom for the stairs leading to the basement, the sash in the window above the door would be fixed to prevent someone from getting on top of the box and falling out of the window. The opening in the concrete block garage that is currently covered with plywood would be filled in with a suitable finish material. The color would be a complimentary tone to the house as it would be difficult to match its blue vinyl color. The Applicant has previously submitted drawings that were difficult to read and contained errors, and Staff had recommended Denial. The revised plans address the following concerns related to those plans. There is a three-foot space between the addition and the existing garage, which would provide access to the side yard and allow maintenance of the structures. Also, the window on the right side of the addition would be relocated so that the addition would not be covering a portion of it.

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 an analysis of the dimensions and orientation of the project with respect to the required Special Permit.

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 Boards finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The existing porch is poorly sided and has not weathered well, so its replacement would be an improvement to the structure.

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 conserving the value of land and buildings. The proposal is consistent with the purpose of the district as the porch would be part of the existing residential use.

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 size and orientation of the addition is compatible with the built surrounding area. The redesigned addition is compatible with the design of the house and does not appear "tacked-on". The addition would have trim and windows that are the same as those on the house and the color would be complimentary to the color of the house. Trying to match the faded blue vinyl siding would be difficult. The design allows for access to the side yard. The plans also show the relocation of an existing window on the house so that it would not be blocked by the addition and filling in the opening in the garage, which is currently covered with plywood.



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DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Josh Safdie. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Josh Safdie 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 a 12’-8”x19’-10” rear porch addition, replacing an existing porch. This approval is based upon the following plans submitted by the Applicant:	BP/CO	Plng.		
	Date (Stamp Date)				Submission
	Oct 16, 2009 (Oct 19, 2009)				Revised plans submitted to OSPCD (including additional landscaping on the site plan)
	Any changes to the approved plans that are not <i>de minimis</i> must receive ZBA approval.				
2	The applicant shall meet all requirements for fire prevention.	CO	FP		
3	The area below the porch addition shall not be used as living space.	CO	ISD		
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 has been completed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.		
5	The applicant shall incorporate landscaping in the side yard along Benedict Avenue to be approved by the Planning staff.	CO	Plng.		



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Fillis
Josh Safdie (Alt.)

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 _____



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