



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.)

Case #: ZBA 2008-20

Site: 2 Benton Road

Date of Decision: July 9, 2008

Decision: *Petition Approved with Conditions*

Date Filed with City Clerk: July 18, 2008

ZBA DECISION

Applicant Name:	Vin Gately
Applicant Address:	490B Boston Post Road, #202, Sudbury, MA 01776
Property Owner Name:	Benton Road Realty Trust
Property Owner Address:	490B Boston Post Road, #202, Sudbury, MA 01776
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant: Vin Gately & Owner: Benton Road Realty Trust seek Special Permit approval under SZO §4.4.1 for the alteration of a non-conforming structure in order to reconstruct the front porch and install a first floor deck and new doorways. RB zone. Ward 3.
----------------------	--

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	April 18, 2008
<u>Date(s) of Public Hearing:</u>	5/21, 6/4, 6/18 & 7/9/08
<u>Date of Decision:</u>	July 9, 2008
<u>Vote:</u>	5-0

Appeal #2008-20 was opened before the Zoning Board of Appeals at Somerville City Hall on May 21, 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 (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant is converting the structure into a three-family home which is a by-right change in use. The Applicant will be removing the vinyl siding and replacing with cedar clapboard, replacing the old windows, replacing an existing porch on the east side of the building, and landscaping the property.

A Special Permit is sought under SZO §4.4.1 in order to:

1. Add an additional deck (10 feet by 10 feet) with a new doorway to the east side yard;
2. Remove the access ramp;
3. Replace the existing front porch and add a front access stairway;
4. Replace an existing window with a second entry doorway on the façade;
5. Remove a door from the rear of the structure and add a door to the west side of the structure;
6. Add dentil blocks to the soffit.

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 Applicant, in error, had begun to alter the exterior of the building by removing the front ramp, reconstructing the front porch and altering window and door openings without Special Permit approval. A stop work order has been issued by ISD while proper applications and approvals are sought by the Applicant.

The Board finds the exterior alterations completed by the applicant without proper permits to be a misunderstanding and not an attempt to evade proper permitting procedures. The Applicant has since met with Planning Staff and Historic Preservation to redesign their earlier proposal in order to maintain and reestablish important historical elements to the structure.

Staff finds that the Applicant's redesigned 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. Staff finds the revised plans will substantially improve the structure's appearance relative to both the prior exterior and the initial proposed plans.

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, which would restore the property to residential use, **is consistent** with the purposes set forth in Article 1 of the Zoning Ordinance, and with 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 deck, porch and door modifications would not be visually intrusive within the neighborhood and would, in fact, substantially improve the appearance of the structure and it's compatibility with the surrounding area. The redesigned front porch will be more historically accurate than what previously existed when the structure was operated as a funeral home.

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. 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	<p>Approval is for the construction of a 10 foot wide by 10 foot deep open deck, the reconstruction of the covered front porch, the incorporation and modification of door locations and the reintroduction of dentil blocks along the soffit. This approval is based upon the following application materials and the plans submitted by the Applicant and/or the Agent:</p> <table><tr><th>Date</th><th>Submission</th></tr><tr><td>April 18, 2008</td><td>Application materials submitted to the City Clerk’s Office</td></tr><tr><td>May 5, 2008</td><td>Plot Plan submitted to OSPCD</td></tr><tr><td>June 12, 2008</td><td>Revised site plan, elevations and first floor plan submitted to OSPCD</td></tr></table> <p>Any changes to the approved elevations and plans must receive ZBA approval.</p>	Date	Submission	April 18, 2008	Application materials submitted to the City Clerk’s Office	May 5, 2008	Plot Plan submitted to OSPCD	June 12, 2008	Revised site plan, elevations and first floor plan submitted to OSPCD	Building Permit	Plng.	
Date	Submission											
April 18, 2008	Application materials submitted to the City Clerk’s Office											
May 5, 2008	Plot Plan submitted to OSPCD											
June 12, 2008	Revised site plan, elevations and first floor plan submitted to OSPCD											

2	The applicant shall submit front porch drawings with details to be requested and approved by the Historic Preservation Division.	Building Permit	Hist.	
3	Any substitutions made to the materials beyond that which is currently specified in the plans must receive Historic Preservation Division approval.	CO	Hist.	
4	The stairway location and railings of the new deck shall be built according to the layout and design in submitted plan L-1.	CO	Plng.	
5	Dentil Blocks shall be positioned in historically accurate locations visible from the absence of paint in those locations.	Cont.	Plng.	
6	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.	CO	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
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 _____