



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 2007-45-R0808
Site: 161-163 Elm Street
Date of Decision: August 20, 2008

Decision: Revision Approved with Conditions
Date Filed with City Clerk: August 25, 2008

ZBA DECISION

Applicant Name: 161-163 Elm, LLC
Applicant Address: 311 Highland Avenue, Somerville, MA 02144
Property Owner Name: 161-163 Elm, LLC
Property Owner Address: 311 Highland Avenue, Somerville, MA 02144
Agent Name: Richard G. DiGirolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145

Legal Notice: Applicant & Owner: 161-163 Elm St, LLC seeks a revision to Special Permit ZBA 2007-45 to remove existing windows and install sliding doors, wood stairs, and railings on the west and east sides of the dwelling. RB zone. Ward 6.

Zoning District/Ward: RB zone/Ward 6
Zoning Approval Sought: Revision to Special Permit# 2007-45
Date of Application: July 25, 2008
Date(s) of Public Hearing: August 20, 2008
Date of Decision: August 20, 2008
Vote: 5-0

Appeal #ZBA 2007-45-R0808 was opened before the Zoning Board of Appeals at Somerville City Hall on August 20, 2008. After one (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to revise the approved plans to remove existing windows and install sliding doors and wood stairs and railings to the west and east sides of the dwelling.

FINDINGS FOR SPECIAL PERMIT REVISION

In order to grant a revision to a special permit, the SPGA must make certain findings and determinations as outlined in §5.3.8 and §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 and §4.5.3 of the SZO. Under §4.4.1, "The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building ... the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character." Under §4.5.3, the SPGA may consider the above, as well as "type of traffic, change in traffic patterns and access to the site...[and] glare."

In considering the requested special permits, the Board finds that the proposed modifications to the previously approved permits are beneficial to the project and are do not increase any detriment to the neighborhood of the nonconforming structure and use.

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 project site is located within an RB district, the purposes of which include "[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 the district."

The proposed modification of the permit would not impact the use of the property nor exacerbate its nonconformity.

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 proposed changes would be compatible with the surrounding area. The revision of the two doors would not impact the design of the structure or compatibility with the surrounding area.

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 revision to 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 to modify earlier permits for alteration and expansion of a dimensionally nonconforming structure and expansion of a nonconforming use by constructing two dormers and decks onto an existing six-family dwelling. In addition, the approval is for expansion and change of the nonconforming six-family use by converting an existing seventh dwelling in a detached structure to a detached accessory office use. <i>Revised plans illustrate sliding doors where windows were originally approved, and new stairs and railings.</i> This approval is based upon the following application materials and the plans submitted by the Applicant and/or agent:	Building Permit / CO	ISD / Plng.													
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>Aug 16, 2007</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Oct 12, 2007 - OSPCD</td><td>floor plans and elevations, sheets A1-A4</td></tr><tr><td>Nov 5, 2007 - OSPCD</td><td>accessory building proposed plan and elevations, sheet A-6</td></tr><tr><td>Aug 7, 2008 - OSPCD</td><td>Revision to right & left elevations, landing & stair detail, SK2-SK4</td></tr><tr><td>Aug 7, 2008 - OSPCD</td><td>Site plan, sheet SK1</td></tr></table>				Date	Submission	Aug 16, 2007	Initial application submitted to the City Clerk's Office	Oct 12, 2007 - OSPCD	floor plans and elevations, sheets A1-A4	Nov 5, 2007 - OSPCD	accessory building proposed plan and elevations, sheet A-6	Aug 7, 2008 - OSPCD	Revision to right & left elevations, landing & stair detail, SK2-SK4	Aug 7, 2008 - OSPCD	Site plan, sheet SK1
	Date				Submission											
	Aug 16, 2007				Initial application submitted to the City Clerk's Office											
	Oct 12, 2007 - OSPCD				floor plans and elevations, sheets A1-A4											
	Nov 5, 2007 - OSPCD				accessory building proposed plan and elevations, sheet A-6											
	Aug 7, 2008 - OSPCD				Revision to right & left elevations, landing & stair detail, SK2-SK4											
Aug 7, 2008 - OSPCD	Site plan, sheet SK1															
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.																
2	The Applicant shall remove the deck and wood fence at the front of the concrete accessory structure and replace them replaced with landscaping materials.	CO	Plng.													
3	All new sidewalks in relation to the proposed curb cut will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete.	CO	Plng.													
4	Prior to issuance of a certificate of occupancy, the Applicant shall submit for review and approval by the City Solicitor an appropriate legal instrument limiting the accessory office to use by a resident of the principal structure; upon approval by the City, the instrument shall be recorded in the Middlesex County Registry of Deeds.	CO	ISD													
5	A code compliant fire alarm and suppression system will be required. Fire Prevention permits will be required before work begins.	Building Permit	FP													
6	The Applicant is responsible for notifying the Planning	Final	Plng. / ISD													

	Staff at least five (5) working days in advance of a request for a final sign-off on a building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Building Permit Signoff		
--	--	-------------------------------	--	--

Attest, by the Zoning Board of Appeals:

Herbert Foster, Chairman
Orsola Susan Fontano, Clerk
Richard Rossetti
Danielle Fillis
T.F. Scott Darling, III, Esq.

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
ZBA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty (20) 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 special permit, or any extension, modification or renewal thereof, 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. The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services is 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 either

_____ 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.

Signed _____

City Clerk Date _____