



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 2010-42
Site: 25 Hamlet Street
Date of Decision: September 15, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: September 23, 2010

ZBA DECISION

Applicant Name:	Joseph LaRosa
Applicant Address:	850 Pleasant Street, Norwood, MA 02062
Property Owner Name:	N. James DiPirro
Property Owner Address:	21 Waldo Street, Somerville, MA 02143
Agent Name:	Frank D. Privitera, Jr.
Agent Address:	531 Medford Street, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant Joseph LaRosa and Owner N. James DiPirro seek a Special Permit under SZO §4.4.1 in order to modify an existing non-conforming structure, retain a portion of the structure, expand on the portion to remain, increase floor area and convert the use to a two-family home.
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<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 9, 2010
<u>Date(s) of Public Hearing:</u>	September 15, 2010
<u>Date of Decision:</u>	September 15, 2010
<u>Vote:</u>	5-0

Appeal #ZBA 2010-42 was opened before the Zoning Board of Appeals at Somerville City Hall on September 15, 2010. 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.



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DESCRIPTION:

The applicant proposes to construct a 3,842 sf two-family structure consisting of two 2½ story townhouses with four-way gable roofs. A portion of the foundation of the existing structure will be preserved to form the rear foundation wall of the proposed duplex, thereby classifying the project as a modification of the existing non-conforming structure in accordance with SZO §4.4.1.

Each unit would have three bedrooms and 2 ½ bathrooms. The rear unit would have a 22'x3' back deck. Four parking space are proposed at the rear of the duplex with a 10' driveway on the right side of the lot. Two entrances are proposed for the front unit: a front entrance with a 7'x4' porch and a shed roof on the right corner, and a side entrance on the left rear corner of the front unit. The rear unit will have one entrance on its front right corner with a 5'4" x 3'6" porch and a shed roof. The left side of the rear unit is set-back 2'4" from the left exterior wall of the front unit. On the left side of the first floor of the rear unit, a hip-roofed bay window is proposed. This window would be 11' in width and would extend 2' beyond the left exterior wall of the rear unit.

A landscaping plan has been submitted that proposes a dense row of arborvitae along the left property line, three decorative plumb trees in the front of the property, and a birch tree in the left rear corner of the property. The proposed 37% landscaped area includes a patio and yard for each unit, and a mixture of ornamental plants and perennials along the perimeter of two units.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1.4):

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 Staff 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, Staff find that the alterations and use proposed would not be substantially more detrimental to the neighborhood than the existing structure and use, and would actually be less detrimental than the existing condition at this site.

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, promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.

The proposal is consistent with the purpose of the district, which is, "To establish and preserve quiet neighborhoods



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of one- and two-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 style of the house would remain consistent with other structures on the street.

6. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area..

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Susan Fontano 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 modification of an existing structure to construct a 3,842± sf two-family structure consisting of two 2½ story townhouses. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>August 9, 2010</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>August 25, 2010</td><td>Detailed Landscaping Plan submitted to OSPCD</td></tr><tr><td>August 4/July 28 (September 8)</td><td>Updated plan set submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	August 9, 2010	Initial application submitted to the City Clerk's Office	August 25, 2010	Detailed Landscaping Plan submitted to OSPCD	August 4/July 28 (September 8)	Updated plan set submitted to OSPCD
	Date (Stamp Date)				Submission							
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Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.												
2	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD									
3	Trees and other plantings shown on Landscaping Plan (received August 25, 2010) shall be planted in accordance with specifications of SZO §10.6.1 and §10.6.2.	CO	Planning									
4	The applicant shall submit samples of building materials and colors to Planning Staff for review and approval	Prior to installation	Planning									



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5	To reduce the impact of a significant area of asphalt in the rear yard, the applicant shall construct the four parking spaces out of a permeable paver surface. The applicant may construct the length of the driveway out of a similar or different permeable surface. The applicant shall submit a sample of the proposed paver to Planning Staff for review and approval.	Prior to installation	Planning	
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
7	Any transformers and/or utility meters should not be located as to be visible from the street.	Electrical permits & CO	Planning	
8	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
9	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
10	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
11	In order to mitigate the impact of demolition and soil removal the Applicant shall follow the steps and timeline detailed in the Letter regarding Mitigation of Impact of Demolition and Soil Removal, dated August 24, 2010	During Construction	Planning	
12	To the maximum extent feasible applicant will utilize strategies during construction to mitigate dust and control air quality, to minimize noise and to implement a waste recycling program for the removed debris.	During Construction	OSE/IS D	
13	The applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	ISD	
14	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Planning	
15	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	CO	OSE/FP/ BOH	



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16	The Applicant undertake appropriate rodent control measures. This should include baiting for rodents before the start of construction, and additional rodent baiting as needed while the project is ongoing. Baiting should occur on the property and in the neighborhood in the vicinity of the property. Additional baiting shall be required as deemed necessary by ISD.	BP – through construction	ISD	
17	The applicant shall ensure that the site is fenced on the side and rear lot line, and the applicant shall replace any existing fence that is damaged at this time or during construction.	CO	Plng.	
18	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services 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.	



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Attest, by the Zoning Board of Appeals:

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

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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