



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 2008-02
Site: 26 Henderson Street
Date of Decision: March 5, 2008
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 13, 2008

ZBA DECISION

Applicant Name:	Patev Haase
Applicant Address:	P.O. Box 362, Belmont, MA 02478
Property Owner Name:	Patev Haase
Property Owner Address:	P.O. Box 362 Belmont, MA 02478
Agent Name:	N/A
Agent's Address:	N/A

Legal Notice: Applicant & Owner Patev Haase seeks a special permit (SZO §4.4.1) to construct a dormer that will be dimensionally nonconforming in terms of the front yard setback under SZO §8.5.G. RB zone. Ward 5.

<u>Zoning District/Ward:</u>	Residence B (RB) zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1 & §8.5.G
<u>Date of Application:</u>	January 14, 2008
<u>Date(s) of Public Hearing:</u>	2/20 & 3/5/08
<u>Date of Decision:</u>	March 5, 2008
<u>Vote:</u>	5-0

Appeal #ZBA 2008-02 was opened before the Zoning Board of Appeals at Somerville City Hall on February 20, 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 proposing to construct a shed dormer to add head room to the existing stairs and new bathroom. The dormer's siding and shingles would match the existing vinyl siding and shingles. The Applicant is also proposing to add a canopy roof over an existing landing in the nonconforming front yard that will not extend beyond the landing.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §8.5.G):

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 Board finds that the 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 Board had concerns regarding the dormer's bulk, setback, shed style, asymmetry of the structure, and the fact that it is flush with the exterior wall; however, the redesign of the dormer addressed these concerns. The Applicant redesigned the dormer after the February 7, 2008 Planning Board meeting and submitted two schemes. Scheme B greatly reduces the bulk of the dormer, reduces the appearance of the front setback, and gives some design detail to the side elevation. The style of this redesign dormer is in line with the style of the house and the existing windows.

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 is consistent with the purposes set forth in Article 1 of the Zoning Ordinance, and with, to the extent possible for a lawful pre-existing nonconforming structure, those purposes established for the RB 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 the district."

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 proposed porch and redesigned dormer are compatible with the site and area with the attached conditions.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Danielle Fillis with Scott Darling absent. 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 to construct a canopy roof over an existing landing and dormer that will be dimensionally nonconforming in terms of the front yard setback. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent:	Building Permit	Plng.							
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>January 14, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>February 14, 2008</td><td>Modified plans submitted to OSPCD (Scheme "B" front and side elevation)</td></tr></table>				Date	Submission	January 14, 2008	Initial application submitted to the City Clerk's Office	February 14, 2008	Modified plans submitted to OSPCD (Scheme "B" front and side elevation)
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	January 14, 2008				Initial application submitted to the City Clerk's Office					
	February 14, 2008				Modified plans submitted to OSPCD (Scheme "B" front and side elevation)					
Any changes to the approved site plan and elevations must receive ZBA approval.										
2	If approved, the additions proposed to this property would have to conform to current fire codes, including a smoke detector in the hall between the bedrooms if it currently does not exist.	Building Permit	FP							
3	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 Building Permit Signoff	Plng. / ISD							
4	The Applicant shall work with the Planning Staff with regards to the landscaping (SZO §10.2.2) on the property.	CO	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
ZBA 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 _____