



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

*PLANNING DIVISION*

**PLANNING BOARD MEMBERS**

KEVIN PRIOR, *CHAIRMAN*  
MICHAEL A. CAPUANO, ESQ.  
JOSEPH FAVALORO  
ELIZABETH MORONEY  
JAMES KIRYLO  
DANA LEWINTER, ALT.

**Case #:** ZBA 2009-55

**Date:** December 16, 2009

**Recommendation:** Conditional Approval

---

**PLANNING BOARD RECOMMENDATION**

---

**Site: 73 Highland Road**

**Applicant Name:** Christian Macdonald

**Applicant Address:** 73 Highland Road, Somerville, MA 02144

**Property Owner Name:** same

**Property Owner Address:** same

**Agent Name:** none

**Alderman:** O'Donovan

Legal Notice: Applicant & Owner, Christian Macdonald, seek a Special Permit under SZO §4.4.1 in order to construct a dormer within the non-conforming side yard (§8.5.H). The applicant also seeks a Variance under SZO §5.5 in order to construct a dormer that exceeds fifty (50) percent of the length of the sloping roof to which it is attached creating a non-conforming third floor.

Zoning District/Ward: Residence A / 5

Zoning Approval Sought: Special Permit under SZO §4.4.1

Date of Application: November 9, 2009

Date(s) of Public Meeting/Hearing: Planning Board 12/3/09 / Zoning Board of Appeals 12/16/09

Date of Decision: N/A

Vote: N/A

---

Dear ZBA members:

At its regular meeting on December 3, 2009 the Planning Board heard the above-referenced application. Based on materials submitted by the Applicant and the Staff recommendation, the Board voted (4-0 with



**CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143**  
**(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722**

**[www.somervillema.gov](http://www.somervillema.gov)**



Michael Capuano and Joseph Favaloro absent), to recommend **conditional approval** of the requested **Special Permit**.

In conducting its analysis, the Planning Board found:

## **I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is a corner lot of 3520 sf, at the intersection of Highland Road and Kidder Avenue. On the property is a two-family dwelling that is 2 ½ stories with a gable roof. There is an existing 14ft gable dormer on the right side of the house which fronts on Kidder Avenue. The house is setback 15ft from Kidder Avenue on this side. The house is approximately 35 ft from the front to rear facades.

2. Proposal: The proposal is to construct a 17 ft wide shed dormer on the left side of the house. A single skylight is proposed for the dormer. A second shed dormer is proposed for the right side of the house which would be extended from the existing side gable dormer and extend 13ft towards the front of the structure. The dormer would enable the owner to construct a new stairway, a bathroom, closet and master bedroom.

3. Nature of Application: The structure is currently nonconforming with respect to several dimensional requirements, including minimum lot size, lot area per dwelling unit, a left side yard setbacks, and street frontage.

The proposed left side dormer would affect the nonconforming left side yard, which is 2.8ft. The minimum required by the Somerville Zoning Ordinance (SZO) is 7.5ft for a 2 ½ story structure (reduced from 8 feet because it is a narrow lot). The existing nonconformity requires the Applicant to obtain a special permit under §4.4.1 of the SZO.

The proposed 13ft right side shed dormer to extend from the existing 14ft gable dormer would increase the total length of dormer on the right side to 27ft. Since the house is only approximately 35ft in depth, the total would be greater than 50% of the roof length, which by definition (SZO §2.2.155) creates a full third story. An alteration that creates a 3 story structure from a 2.5 story structure requires a variance from SZO§8.5.f in an RA district which has a maximum height of 2.5 stories.

4. Surrounding Neighborhood: The structures in the surrounding neighborhood are of two predominant styles there are structures with similar architectural style with a gable roof and a gable dormer and other larger homes with Gambrel roofs and dormers. Gable roof homes such as the subject structure are 2.5 story structures of wooden construction.

5. Green Building Practices: None.

6. Comments:

*Fire Prevention:* Has been contacted but has not provided comments.

*Ward Alderman:* Has been contacted but has not provided comments.

## II. 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 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 proposed left side dormer would not be substantially more detrimental to the neighborhood than the existing structure as conditioned. Staff will condition that windows be incorporated into the design of the dormer as is typically requested by Staff to improve the appearance of the structure. The dormer as conditioned is not expected to impact the house adjacent to the nonconforming side yard. There is approximately 15 ft between the houses and the dormer would not be directly across from the gable dormer on the abutting home.

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 providing for and maintain the uniquely integrated structure of uses in the City and purpose of the RA district in altering this two-family home.

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. The shed dormer meets several of Staff's general design guidelines for dormers, including the setback off the roof apex, the setback from the roof edges and an acceptable slope to the roof of the shed dormer. Staff finds the small windows on the side of the dormers facing the front of the structure to be visually appealing and beneficial to the design of the structure, but will condition additional windows be added to the left side dormer.

## III. FINDINGS FOR VARIANCE (SZO §8.5.f):

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."

**Applicant justification:** *"This house is a corner lot, and the dormer that we propose is on the street side of the house. There is also a large side yard on this side of the house that sets the home back from the sidewalk an additional 15 feet. Finally, the Dormer section that we propse is only 13 feet long, but*

*because there is already an existing dormer on this side of the home, it puts us over the limit for a special permit. The existing Dormer on this side of the house is an original design feature of the structure, not something that was added at a later time. We are simply proposing to extend this dormer by 13 feet on one side."*

**Staff Finding:** The parcel is on flat terrain and of a shape and size typical in Somerville. Soil conditions have not been indicated to be different or justifying a special circumstance. Staff finds that there are no special circumstances affecting the land or structure that are causing a substantial hardship.

2. "The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."

**Applicant justification:** *"This home was originally designed as a single family home, but was converted at some point to a 2 family. In order to have adequate space to raise children in this home, we would either need to re-convert it back to a single family, or make the proposed modifications to the structure to accommodate extra living space. At this time we simply can not afford to do the necessary renovations to convert back to a single family, and we also need the extra rental income that the first floor apartment gives us. In addition, we have spent a considerable amount of money on architectural services and materials in anticipation of moving forward with the plans as they have been submitted. Since initially submitting our plans to the Building department in July, we were given no indication that the dormer in question would be a problem, despite several meetings with various members of the building department. We were not told about the issue with the length of our dormers until we had been sent to the planning department for a special permit based on our setback on the opposite side of the house. If this proposal is rejected, we will be faced with another expensive re-design, and thousands of dollars in Windows that have already been purchased and may not be fit into our new design."*

**Staff Finding:** The 2 ½ story structure as a two-family home is a reasonable use of the building and land. Staff find that a variance to construct a third story is not the minimum necessary for reasonable use of the building or land.

3. "The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare."

**Applicant justification:** *"We do not feel that the modifications that we are proposing is outside the scope of a normal 2 family structure in Somerville. As we are owner occupants, not developers, our intentions are simply to make the home suitable to raise a family here. We plan to be members of this community for a very long time going forward, and would never suggest anything that we thought would be detrimental to public welfare."*

**Staff Finding:** One purpose of the Ordinance is to preserve the historical and architectural resources of the City; this particularly applies to this proposal. The additional story would be created by constructing dormers that, as designed, would change the character of the traditional 2 ½ story gable structure. These 2 ½ story gable structures are prevalent in this neighborhood and the City. This house is not designated as Local Historic District but it contributes to the architectural fabric of the City. Staff find that the variance would not be in harmony with the general purpose and intent of the Ordinance.

**IV. RECOMMENDATION****Variance under SZO §5.5**

Based upon the above findings, the Planning Staff is **UNABLE TO RECOMMEND APPROVAL** of the requested **VARIANCE** for a third story in an RA district. The Staff finds that the site does not meet the requirements for a variance as set forth under §5.5.3 of the SZO.

**Special Permit under §4.4.1**

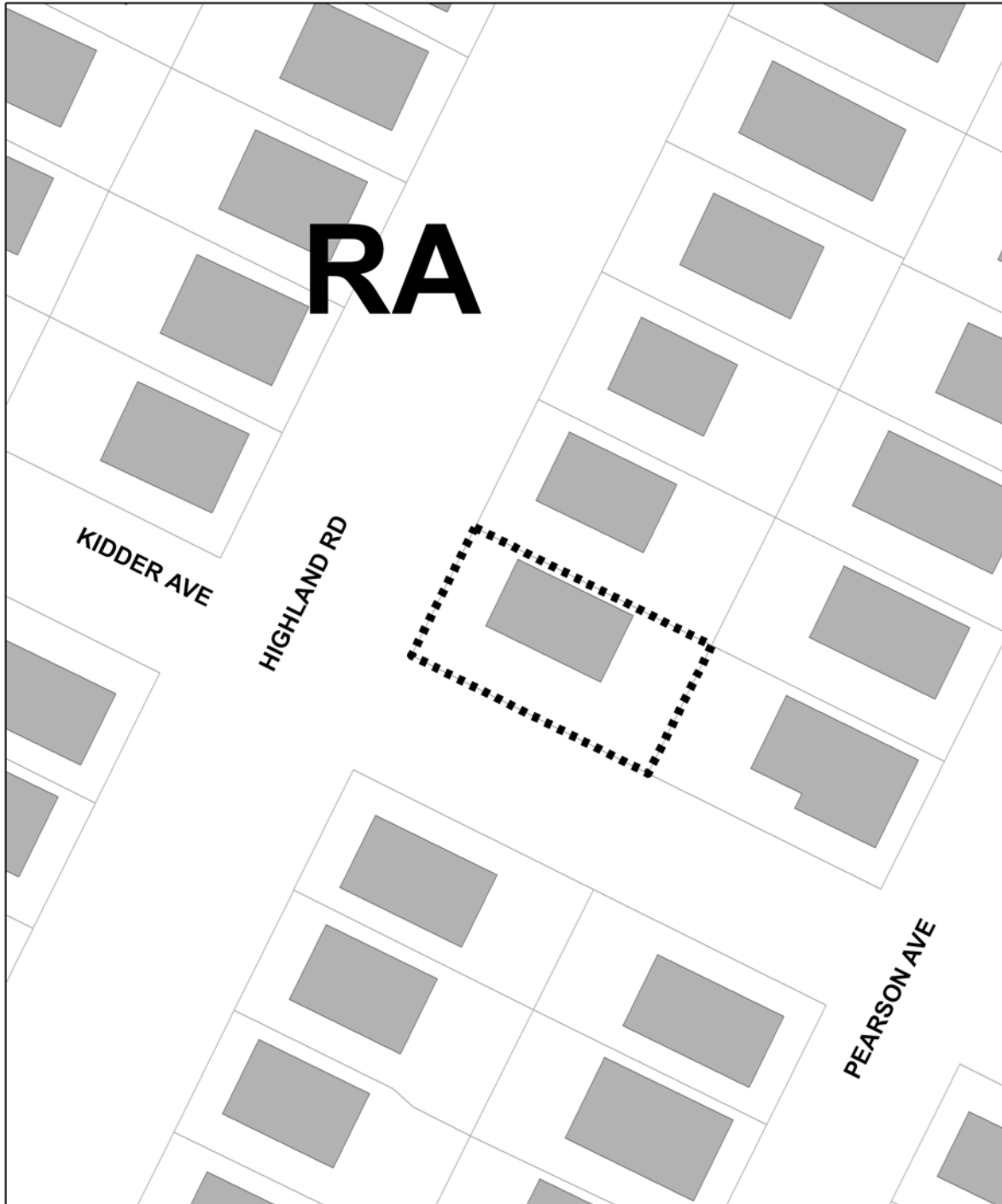
Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

Although the Planning Board is recommending approval of the requested Special Permit, the following conditions should be added to the permits:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of a 17ft shed dormer within the left side yard on a gable roof. 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>(11/9/2009)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>11/4/09 (12/2/09)</td><td>Plans and elevations submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	(11/9/2009)	Initial application submitted to the City Clerk's Office	11/4/09 (12/2/09)	Plans and elevations submitted to OSPCD
	Date (Stamp Date)				Submission					
	(11/9/2009)				Initial application submitted to the City Clerk's Office					
11/4/09 (12/2/09)	Plans and elevations submitted to OSPCD									
Any changes to the approved plans and elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	The siding and color of the dormer shall match that of the existing house.	CO	Plng.							
3	The applicant shall submit revised elevations showing the left side dormer with windows incorporated into the design and the removal of the right side dormer if the variance is not approved by the ZBA. This elevation shall be subject to Planning Staff approval.	Building Permit	Plng							
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 was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.							

Sincerely,

Kevin Prior  
Chairman



**73 HIGHLAND AVENUE**