



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

PLANNING DIVISION

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**Case #: ZBA #2010-64**  
**Site: 355 Highland Avenue**  
**Date of Decision: November 17, 2010**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: December 1, 2010**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Rob Ticktin
<b>Applicant Address:</b>	99 Mayflower Road, Needham, MA 02492
<b>Property Owner Name:</b>	Rob Ticktin
<b>Property Owner Address:</b>	99 Mayflower Road, Needham, MA 02492
<b>Agent Name:</b>	Alba Baccari
<b>Agent Address:</b>	316 Central Street, Saugus, MA 01906

Legal Notice: Applicant & Owner Robert Ticktin seeks a special permit (SZO §4.4.1 & 8.5.B) to renovate an existing dormer, in one unit of a non-conforming three-family structure. NB zone. Ward 6.

<u>Zoning District/Ward:</u>	NB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1 & §8.5.B
<u>Date of Application:</u>	October 12, 2010
<u>Date(s) of Public Hearing:</u>	November 17, 2010
<u>Date of Decision:</u>	November 17, 2010
<u>Vote:</u>	5-0

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Appeal #ZBA 2010-64 was opened before the Zoning Board of Appeals at Somerville City Hall on November 17, 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 would like to renovate the existing third floor bathroom and rear egress. The construction process involves increasing the interior ceiling height of both the bathroom and rear egress in order to adhere to the Massachusetts State Building Code. To do so requires raising the roof on the existing dormer.

## **FINDINGS FOR SPECIAL PERMIT (SZO §5.1):**

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."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

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 existing structure is a pre-existing non-conforming structure that, while not a business within the NB district, is a part of the mixed-use nature of the street. The district is designed to establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods. This has been a residential site for many years.

Alterations to the dwelling, while non-conforming with dwelling unit size, will serve to improve the bathroom facility and egress. In order to meet the required height dimensions of the Massachusetts State Building Code, alterations must be made to the existing dormer on the third level. Completion of these renovations will allow the property to be preserved as residential and continue to contribute to the character of the neighborhood as it has for many years.

By changing the roof pitch to 3:12, the sloped dormer shall benefit the existing built context because it will remain similar to the way it has been and similar to many other dormers on this street. Additionally, the interior space will meet the required height needed to comply with the State Building Code.

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 project will result in a dormer with a profile similar to that which is on the structure today.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

No adverse impacts are expected.



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**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie with Danielle Evans absent. 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 reconstruction of an existing dormer with a different roof configuration. 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>Oct. 12, 2010</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Oct. 12, 2010</td><td>Plans submitted to OSPCD</td></tr><tr><td>Oct. 22, 2010</td><td>Additional plans &amp; images submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	Oct. 12, 2010	Initial application submitted to the City Clerk's Office	Oct. 12, 2010	Plans submitted to OSPCD	Oct. 22, 2010	Additional plans & images submitted to OSPCD
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Any changes to the approved that are not <i>de minimis</i> must receive SPGA approval.												
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
3	The siding on the dormer shall match the color and material of the siding on the house. The applicant shall submit color and material samples of siding to the Planning Staff prior to completion of the project.	CO	Plng.									
4	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.									

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
Josh Safdie (Alt.)

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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