



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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JOSH SAFDIE (ALT.)

Case #: ZBA #2009-55
Site: 73 Highland Road
Date of Decision: March 17, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 19, 2010

ZBA DECISION

Applicant Name:	Christian MacDonald
Applicant Address:	73 Highland Road, Somerville, MA 02144
Property Owner Name:	Christian MacDonald
Property Owner Address:	73 Highland Road, Somerville, MA 02144
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner, Christian Macdonald, seek a Special Permit under SZO §4.4.1 in order to construct a dormer and second floor extension within the non-conforming side yard (§8.5.H). RA zone. Ward 5.
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<u>Zoning District/Ward:</u>	RA zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1, §8.5.H & §5.5
<u>Date of Application:</u>	November 9, 2009
<u>Date(s) of Public Hearing:</u>	12/16/09, 1/6, 1/20, 2/3, 2/17, 3/4 & 3/17/10
<u>Date of Decision:</u>	March 17, 2010
<u>Vote:</u>	5-0

Appeal #ZBA 2009-55 was opened before the Zoning Board of Appeals at Somerville City Hall on December 16, 2009. 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. The case was re-noticed due to a change to the plans for the hearing of March 17, 2010. After three total hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to construct a 16 ft wide shed dormer on the left side of the house towards the rear of the structure. Also, an approximately 7.2 ft by 12 ft second floor addition is proposed that would extend from the rear of the house above an existing first floor bump out. The dormer would enable the owner to construct a new bathroom and closet and the second floor addition would provide for a kitchen extension.

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 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 proposed left side dormer and addition would not be substantially more detrimental to the neighborhood than the existing structure. With this proposal, the applicant has revised an earlier proposal that required a variance and had some design issues Staff and the Board wanted addressed. This proposal has addressed those concerns and removed the variance requirement. The Board finds that this design maintains the visual appeal of the structure and that the dormer/addition 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 windows would not be directly across from the windows on the abutting structures dormer. The Board finds any impacts regarding privacy to be negligible.

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 the Boards' general design guidelines for dormers, including the setback off the roof apex, a small setback from the roof edges and an acceptable slope to the roof of the shed dormer. The Board finds the small circular windows on the rear and side of the dormer to be visually appealing and provides a unique character to the dormer that make is in character with the neighborhood architecture.



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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 construction of a 16ft shed dormer and a 7.2 ft by 12 ft second floor addition within the left side yard. 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>1/26/10</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	1/26/10	Plans and elevations submitted to OSPCD
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	(11/9/2009)				Initial application submitted to the City Clerk's Office					
1/26/10	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 and addition shall match that of the existing house.	CO	Plng.							
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 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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