



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

PLANNING DIVISION

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JOSH SAFDIE (ALT.)

Case #: ZBA 2008-53
Site: 163 Hudson Street
Date of Decision: November 18, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: November 24, 2009

ZBA DECISION

Applicant Name:	Afarin Bellisario
Applicant Address:	79 Cliff Road, Wellesley, MA 02481
Property Owner Name:	Afarin Bellisario
Property Owner Address:	79 Cliff Road, Wellesley, MA 02481
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner: Afarin Bellisario seeks Special Permit approval under SZO §4.4.1 for the alteration of a non-conforming structure in order to enlarge the existing structure with an increase of the gross floor area by more than 25 percent. This proposal would create a new unit as-of-right. RB zone. Ward 5.
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<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 15, 2008
<u>Date(s) of Public Hearing:</u>	11/5/08-11/18/09
<u>Date of Decision:</u>	November 18, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2008-53 was opened before the Zoning Board of Appeals at Somerville City Hall on November 5, 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The Applicant is seeking a special permit under SZO §4.4.1 to construct a 1,100nsf (1,800gsf) two-story addition in the existing right side yard. The addition is proposed in order to provide an additional unit which is allowed as-of-right. The addition would extend 24ft from the rear right side of the structure creating an "L" shaped building. A separate entrance would provide access to the new unit separate from that of the existing two-family. The new construction would be approximately 27ft 7in in height from the lowest point to the roof line (25ft high under the SZO). The driveway would be shifted to the right approximately 10ft to provide access to four onsite parking spaces. Two parking spaces will be located beneath the addition and two surface spaces are proposed for within the rear yard. The proposed driveway would be constructed with permeable paved materials within the circulation area.

Some alterations to the existing structure are proposed including the replacement of a hip roof with a flat roof, window alterations and enclosure of an open area beneath the rear section of the structure.

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."

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 Applicant's 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 applicant has worked closely with the Board and with the neighbors during several community meetings to design an addition that is visually appealing, reduces the scale of the structure and maximizes the open area and landscaping on the right side of the lot. The lot has a large landscaped area along the right side of the property with some existing trees that would be maintained with this proposal. In addition, conditions will be placed in the report that would require the replacement of any mature trees that are removed during construction.

Several concerns have been raised by neighbors in the four community meetings that have been convened. Concern from neighbors regarding the blockage of sunlight has been addressed by the applicant with a flat roof design of the addition and the removal of a sloped roof on the existing structure. Drainage issues have been a legitimate concern since the subject property slopes away from the front yard towards the rear yard. The applicant has agreed to, and will be required under the conditions of approval, to hire a licensed engineer to design a drainage proposal to be approved by the City's Engineering Division. The applicant has indicated on the site plan that permeable pavement would be used in the driveway circulation area.

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."



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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 Residence B (RB) zoning 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 such districts.”

This proposal includes the creation of an additional unit. The building would be converting from a two to three family, which is allowed by right in the RB district. The lot on which this building is situated is 7,260sf. The proposal would create a building of 4,547 nsf, which is almost 40% below the maximum FAR allowed on this property at .62. The Board has calculated the FAR of all the properties on the street and the average FAR is .60. The Board finds that the square footage of the proposed structure would be consistent with the massing of structures in relation to their lots. The proposed height of the structure at 25ft and at two stories would be lower than the predominant 2.5 story housing type in the area. The Board finds that with this proposal the character of the neighborhood would be maintained and that the three units would be consistent with the purpose of the RB 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 proposal **is compatible** with the site and area. The structure, as conditioned, would be compatible with characteristics of the surrounding homes related to height, FAR, façade appearance and materials. The proposed addition would be consistent will all dimensional requirements under the SZO. This property has a size and frontage that is generally twice the size of the other lots on that side of the street, making the scale of this proposal in relation to the lot appropriate for the area. Much of the pervious landscape in the right side yard will be maintained and would continue to be beneficial to the appearance of the neighborhood.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Fillis, Scott Darling and Elaine Severino. 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 1,100nsf addition. This approval is based upon the following application materials and the plans submitted by the Applicant and/or the Agent:	Building Permit	Plng.								
	<table><tr><th>Date (OSPCD)</th><th>Submission</th></tr><tr><td>9/15/08</td><td>Initial application and plot plan submitted to the City Clerk's Office</td></tr><tr><td>11/4/09 (11/4/09)</td><td>Site plans, floor plans and elevations</td></tr></table>				Date (OSPCD)	Submission	9/15/08	Initial application and plot plan submitted to the City Clerk's Office	11/4/09 (11/4/09)	Site plans, floor plans and elevations	
	Date (OSPCD)				Submission						
	9/15/08				Initial application and plot plan submitted to the City Clerk's Office						
	11/4/09 (11/4/09)				Site plans, floor plans and elevations						
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.											
2	The applicant shall submit a landscaping plan to the neighbors* and Planning Staff. to be approved by Planning	Building Permit	Plng./ ISD								



	Staff, that depicts the location of existing trees with 6" caliper or greater.			
3	The applicant shall replace any of the trees with 6" caliper or greater that are removed during construction with the same or better quality tree of 6" caliper or greater.	CO	Plng./ ISD	
4	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association.	Continued	Plng./ ISD	
5	Siding materials shall be wood or fiber cement clapboard and shall be applied to the existing and proposed structure.	CO	Plng.	
6	Sprinklers shall be installed throughout the structure if required by building code.	CO	Fire	
7	The applicant shall provide a "Drainage Plan" and an "Inspection and Maintenance Plan" for the drainage system. This report shall be prepared and stamped by a registered professional civil engineer, forwarded to the neighbors*, and approved by the Engineering Staff and/or city consultant.	Building Permit	Eng.	
8	The applicant shall notify the neighbors* by email two working days in advance when the applicant's civil engineer will be onsite.	Building Permit	Plng./ ISD	
9	The applicant shall employ a licensed exterminator to undertake appropriate rodent control measures onsite.	Building Permit	ISD	
10	The applicant shall contact the Somerville Health Department and request that the appropriate rodent control measures are undertaken in the immediate neighborhood surrounding the construction site.	Building Permit	ISD/ Health Dept.	
11	All construction materials, dumpsters and equipment shall be stored onsite.	During construction	ISD	
12	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.	CO	DPW/ ISD	
13	All new sidewalks shall be installed by the applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete subject to DPW approval	CO	DPW/ ISD	
14	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 Signoff	Plng./ ISD	
15	The applicant shall ensure the removal of waste dumpsters on a timely basis.	During construction	ISD	
16	The applicant shall comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during excavation and construction.	During construction	Plng./ OSE	
17	The applicant shall meet with the abutter at 165 Hudson Street to discuss the trees between 163 and 165 Hudson Street. A landscaping plan shall be submitted to Planning	Building Permit	Plng.	



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	Staff for approval.			
18	The applicant shall install a wood fence at the rear yard between 163 and 165 Hudson Streets subject to Planning Staff approval. The applicant shall show the owner of 165 Hudson Street the fence proposal.	CO	Plng.	
19	No roof deck shall be installed on the structure.	Continued	ISD	
* The "neighbors" shall include only those individuals that have previously been on the email list that is in possession of the Planning Staff.				



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
T.F. Scott Darling, III, Esq.
Danielle Fillis
Elaine Severino (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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