



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

PLANNING DIVISION

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Case #: ZBA #2010-53
Site: 39 Jay Street
Date of Decision: November 3, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: November 17, 2010

ZBA DECISION

Applicant Name:	Witold Potempa & Wendy Coleman
Applicant Address:	276 Clifton Street, Belmont, MA 02478
Property Owner Name:	Witold Potempa
Property Owner Address:	276 Clifton Street, Belmont, MA 02478
Agent Name:	Orazio Sirignano
Agent Address:	P.O. Box 368

<u>Legal Notice:</u>	Applicants and Owners, Witold Potempa & Wendy Coleman, seek a Special Permit under SZO §4.4.1; §8.5.G; §8.5.H to erect a second and third story porch, in addition to renovating the existing main level porch.
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<u>Zoning District/Ward:</u>	RB zone. Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1, §8.5.G & §8.5.H
<u>Date of Application:</u>	September 14, 2010
<u>Date(s) of Public Hearing:</u>	10/20 & 11/3/10
<u>Date of Decision:</u>	November 3, 2010
<u>Vote:</u>	5-0

Appeal #ZBA 2010-53 was opened before the Zoning Board of Appeals at Somerville City Hall on October 20, 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 two hearings of deliberation and continued to November 3, 2010, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The applicant is proposing to renovate the existing porch and plans to keep the same dimensions as the previous porch, in addition to adding two new stories.

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 alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure since the Board knows of no concerns about the current existing deck or stairs. Although the original porch has no permit history, there is no record of any complaints about the structure that had been in the same location for many years. No additional work is being proposed for the exterior of the 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 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 RB district in altering this dwelling. The applicants purchased a dwelling with an existing porch, and proposed to renovate the porch, keeping same size dimensions, in addition to adding two stories. The Board finds this to be acceptable as an initial building permit was prior to zoning changes, delineating the existing first level structure non-conforming. Further, the two new proposed stories, will not hinder the nature of the built character in the district, but will contribute to the existing 2-3 story porch spaces aligning the neighborhood street.

Many of the homes in this neighborhood have similar porches that have second and sometimes third stories. The window configuration on the second story of the building indicates that this home probably was built with a second story porch, although probably did not have a third story porch. Historic preservation staff indicated that this design is consistent with the historic nature of homes in the area.

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 increase in legal porch size would not have an effect on the site or the area as the existing porch was the same size. An additional two story porch is being proposed, and aesthetically it is consistent with the streetscape character. Historic preservation staff indicated that this design gives the triple-decker the impact on the streetscape that was intended when it was originally developed.



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DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Josh Safdie. Upon making the above findings, Richard Rossetti 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 to replace existing porch and add an additional two-story outdoor gallery space, while maintaining an existing 121 sf. 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>(9/13/2010)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>10/21/10</td><td>Updated plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	(9/13/2010)	Initial application submitted to the City Clerk's Office	10/21/10	Updated plans submitted to OSPCD
	Date (Stamp Date)				Submission					
	(9/13/2010)				Initial application submitted to the City Clerk's Office					
10/21/10	Updated plans submitted to OSPCD									
Any changes to the approved plans that are not <i>de minimis</i> must receive ZBA approval.										
2	The porch shall be constructed at the dimensions indicated on the plans.	CO	ISD							
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:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Evans
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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