



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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Case #: ZBA 2009-60
Site: 28 Josephine Avenue
Date of Decision: February 3, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: February 9, 2010

ZBA DECISION

Applicant Name:	Cindy Siyuan He
Applicant Address:	36 Oxford Avenue, Belmont, MA 02478
Property Owner Name:	Cindy Siyuan He
Property Owner Address:	36 Oxford Avenue, Belmont, MA 02478
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner, Cindy Siyuan He, seeks a Special Permit under SZO §4.4.1 to construct a dormer within the required side yard setback (8.5.H) and to expand the non-conforming floor area ratio from approximately .78 to 1.1 (8.5.E) by finishing the existing basement space into living area.
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<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	December 15, 2009
<u>Date(s) of Public Hearing:</u>	1/20 & 2/3/10
<u>Date of Decision:</u>	February 3, 2010
<u>Vote:</u>	5-0

Appeal #ZBA 2009-60 was opened before the Zoning Board of Appeals at Somerville City Hall on January 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, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The applicant is proposing to construct an approximately 12 ft gable roof dormer on the right side of the house that would match the style and length of the existing dormer. The dormer would enable the owner to construct a second bathroom within the half story. The applicant is also proposing to excavate approximately 19 in from the basement floor and then construct a finished basement to include a family room, bathroom and additional bedroom. The applicant would also construct a two story rear deck, replace the existing vinyl siding with cedar wood siding, install new windows and add window trims to restore some of the original style and detail. The applicant is also proposing to alter the driveway to provide for an additional parking space.

FINDINGS FOR SPECIAL PERMIT (SZO §4.41):

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. The dormer is not expected to impact the house adjacent to the nonconforming side yard. There is approximately 25 ft between the houses and smaller sized bathroom windows are being proposed for the dormer. The Board finds the design to be visually appealing and meets many of the Board's internal guidelines for dormers including the gable roof and setbacks from the building edges. The house would remain a 2 ½ story because the dormers would be less than 50% of the length of the roof.

The Board finds that the increase in FAR from .82 to 1.1 would also not be substantially more detrimental to the neighborhood than the existing structure since the increase would be undetectable from the outside of the structure. The additional bedroom requires an additional parking space that the applicant has provided for in the site plan. Landscaping would be reduced to 958 sf, which continues to exceed the 25% required by the SZO. The Board has been assured by the applicant that the finished basement would not become an additional illegal unit and the Board will condition that the structure remains a two family.

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. The structure would remain a two family home and therefore preserve the "quiet neighborhoods" associated with the RA 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 style of the house would remain consistent with other structures on the street and with the alterations would be more compatible with the area as the historical detail of the home is restored.



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The gable dormer is a design characteristic that is predominant in this neighborhood. The Board finds that the increase in floor area would allow for larger units that would be appropriate for families, which the City wants to maintain and promote.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Elaine Severino with Danielle Fillis 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 an approximately 12 ft gable roof dormer and the establishment of 922 nsf of living space in the basement. 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>(12/15/2009)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>11/19/09</td><td>(A10, A11)</td></tr><tr><td>12/21/09</td><td>(A7, A8, A12, site plan)</td></tr><tr><td>12/1/09</td><td>Proposed Deck and Dormer</td></tr></table>				Date (Stamp Date)	Submission	(12/15/2009)	Initial application submitted to the City Clerk's Office	11/19/09	(A10, A11)	12/21/09	(A7, A8, A12, site plan)	12/1/09	Proposed Deck and Dormer
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12/1/09	Proposed Deck and Dormer													
Any changes to the approved plans and elevations that are not <i>de minimis</i> must receive ZBA approval.														
2	The structure shall not be converted into a three-family dwelling.													
3	The siding and color of the dormer shall match that of the existing house.	CO	Plng.											
4	The applicant shall submit a landscaping plan that depicts the location of existing trees with 6" caliper or greater to be approved by Planning Staff.	Building Permit	Plng./ ISD											
5	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association.													
6	All construction materials, dumpsters and equipment shall be stored onsite.	During construction	ISD											
7	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											



8	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	
9	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.
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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