



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 #2010-08
Site: 67 Lexington Avenue
Date of Decision: March 17, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 18, 2010

ZBA DECISION

Applicant Name:	Ronald Rego
Applicant Address:	67 Lexington Avenue, Somerville, MA 02144
Property Owner Name:	Carol Rego
Property Owner Address:	67 Lexington Avenue, Somerville, MA 02144
Agent Name:	Derick Snare
Agent Address:	158 Central Street, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant and Owner, Ronald Rego, seeks a Special Permit under SZO §4.4.1 in order to extend an existing dormer within the non-conforming side yard.
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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>	January 28, 2010
<u>Date(s) of Public Hearing:</u>	March 17, 2010
<u>Date of Decision:</u>	March 17, 2010
<u>Vote:</u>	5-0

Appeal #ZBA 2010-08 was opened before the Zoning Board of Appeals at Somerville City Hall on March 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 proposal is to extend the left side shed dormer by 7.5 ft towards the front of the house. The dormer would match the style, slope and overhang of the existing dormer. The completed dormer would be 20 ft long and would enable the owner to construct a bathroom within the half story.

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 find 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. The proposed dormer would face the rooftop of the adjacent structure and the use of the proposed area as a bathroom would encourage the applicant to provide for privacy. While the Board normally would not encourage shed dormers extending from the roof apex and a 1.5 ft overhang, the Board finds the design to be acceptable as it is an extension of the existing form. The house would remain a 2 ½ story because the dormers would be less than 50% of the length of the roof.

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 extending from the roof apex is a design characteristic that is common in this neighborhood. While this design is a form that would not typically be recommended by the Board, the existence of this type of dormer on the existing structure and neighboring homes makes it acceptable to the Board. In addition, the impact on the structure's appearance from community path would be negligible, since the dormer would extend away from the path towards the front façade and the close proximity of the adjacent building would effectively act as screen.

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:



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#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of an approximately 7.5 ft shed dormer extension. 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>(1/28/10)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>1/20/10</td><td>Plans and elevations submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	(1/28/10)	Initial application submitted to the City Clerk's Office	1/20/10	Plans and elevations submitted to OSPCD
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	(1/28/10)				Initial application submitted to the City Clerk's Office					
1/20/10	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 shall match that of the existing dormer.	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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