



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 2009-43
Site: 92 Liberty Avenue
Date of Decision: October 21, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 23, 2009

ZBA DECISION

Applicant Name:	Richard Caruso
Applicant Address:	92 Liberty Avenue, Somerville, MA 02144
Property Owner Name:	Richard Caruso
Property Owner Address:	92 Liberty Avenue, Somerville, MA 02144
Agent Name:	N/A
 <u>Legal Notice:</u>	 Applicant & Owner Richard Caruso seeks a Special Permit under SZO §4.4.1 in order to enlarge and replace three existing windows. RA zone. Ward 6.
 <u>Zoning District/Ward:</u>	 RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 10, 2009
<u>Date(s) of Public Hearing:</u>	October 21, 2009
<u>Date of Decision:</u>	October 21, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-43 was opened before the Zoning Board of Appeals at Somerville City Hall on October 21, 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. After one hearing(s) of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The Applicant is proposing to relocate and install new windows on the second floor of the structure. On the right side, an existing window will be closed and two double hung windows would be installed in alignment with the windows on the first floor. On the left side, a single double hung window will be replaced with two double hung windows in alignment with the windows on the first floor. On the rear of the building, an approximately 5ft by 6ft window would replace a double hung window in alignment with and of a similar style with the window on the first floor.

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 proposal meets the criteria set forth in the ordinance for the special permit. The Board finds that the additional windows are consistent with the architecture of the existing 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 project is located in a Residence A (RA) zoning district. The RA district seeks, "To establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." The Board finds that the proposal is consistent with the purpose of the RA zoning district. The Board finds that the alteration is acceptable for the district and neighborhood.

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 as designed is compatible with the characteristics of the structures in the neighborhood. The Board finds that any privacy concerns due to the additional windows would be negligible. The proposed windows would only be replacing existing windows with larger openings and the existing set backs, though non-conforming, are substantial relative to many other homes in Somerville.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis & Scott Darling. 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 installation of windows on second floor of the rear and side facades. 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 stamp)</th><th>Submission</th></tr><tr><td>9/10/09</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>7/27/09 (10/5/09)</td><td>Site plan and elevations</td></tr></table>				Date(OSPCD stamp)	Submission	9/10/09	Initial application submitted to the City Clerk's Office	7/27/09 (10/5/09)	Site plan and elevations
	Date(OSPCD stamp)				Submission					
	9/10/09				Initial application submitted to the City Clerk's Office					
	7/27/09 (10/5/09)				Site plan and elevations					
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	Window trim and colors shall match that of the other windows on the structure.	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.	CO	Plng. / ISD							



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Danielle Fillis

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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