



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

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

HERBERT F. FOSTER, JR., *CHAIRMAN*
ORSOLA SUSAN FONTANO, *CLERK*
RICHARD ROSSETTI
T. F. SCOTT DARLING, III, ESQ.
DANIELLE FILLIS
ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA 2009-26
Site: 32 Linden Avenue
Date of Decision: October 7, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 9, 2009

ZBA DECISION

Applicant Name:	Steve Liakos
Applicant Address:	32 Linden Avenue, Somerville, MA 02143
Property Owner Name:	Steve Liakos
Property Owner Address:	32 Linden Avenue, Somerville, MA 02143
Agent Name:	Jon Lannan, AIA
Agent Address:	59 Pearson Road, Somerville, MA 02144

<u>Legal Notice:</u>	Applicant & Owner Steve Liakos seeks Special Permit approval under SZO §4.4.1 for an increase of the gross floor area of an existing non-conforming structure by more than 25 percent in order to construct an approximately 850sf third story addition. The applicant also seeks Special Permit approval under SZO §9.13.a in order to not provide one required parking space. RB zone. Ward 5.
----------------------	--

<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.13.a
<u>Date of Application:</u>	June 22, 2009
<u>Date(s) of Public Hearing:</u>	8/5, 8/19, 9/2, 9/16 & 10/7/09
<u>Date of Decision:</u>	October 7, 2009
<u>Vote:</u>	4-1

Appeal #ZBA 2009-26 was opened before the Zoning Board of Appeals at Somerville City Hall on August 5, 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 of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov



DESCRIPTION:

The Applicant is proposing to add a third story addition of approximately 686 nsf. The proposed third floor would contain two bedrooms, a media room and a bathroom which would allow the second floor to be renovated into a larger living room, dining room and kitchen. A new open, covered two-story porch would be added to the Linden Court side replace/incorporate the exterior iron egress stairs.

FINDINGS FOR SPECIAL PERMIT (SZO §):

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 and architect have worked closely with Planning and the Historic Preservation Staff to design a structure that is sympathetic to the historic character of the neighborhood. This type of cul-de-sac development is unusual in the city and the circumstance under which this area was built gives it historic interest. The proposal, as revised, meets the criteria set forth in the ordinance for the special permit. Staff finds that the addition is consistent with the architecture of the existing structure in regards to historic character of the building and the immediate neighborhood subdivision.

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 B (RB) zoning district. The RB district seeks, "to 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." The Board finds that the proposal is consistent with the purpose of the RB zoning district. The Board finds that the increase in floor area is acceptable for the district and neighborhood.

Though the structure appears to be 3.5 stories, which would violate the SZO, there will not be a floor that would create an attic space. Without a floor to create the attic space the structure, by definition, would be only three (3) stories and would therefore meet the requirements set in the SZO. The original proposal submitted by the applicant was a triple-decker design with a flat roof. After several meetings between Staff, Historic Preservation, the applicant and architect it was decided that the hip roof and Colonial Revival architecture would better maintain the historic character of the neighborhood. In addition, the existing floors within the structure have low ceilings and the height to the peak of the proposed roof would be approximately 31ft, which remains substantially below the 40ft maximum height allowance in the RB zone. It will be conditioned that the structure only contains three (3) stories, which would be determined by Inspectional Services.

The Board wants to note that a media room has been indicated on the third floor plans. In the event Inspectional Services finds this to be a bedroom the applicant will have to either redesign the floor plan to make it not a bedroom, provide an additional parking space, or request special permit relief from this requirement. It will be conditioned that the dwelling unit contain only two bedrooms, to be determined by Inspectional Services.



**CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722**

www.somervillema.gov



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 Planning Board finds that the proposal as designed is compatible with the characteristics of the structures in the subdivision in which it is located. Historic Preservation Staff is satisfied that the key historical elements of the neighborhood have been maintained with this design.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **4-1** to **APPROVE** the request with Danielle Fillis voting in opposition. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of an approximately 850 gsf third story 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 stamp)</th><th>Submission</th></tr><tr><td>5/29/09</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>9/3/09 (9/10/09)</td><td>Plot plan, site plan and elevations</td></tr></table>				Date(OSPCD stamp)	Submission	5/29/09	Initial application submitted to the City Clerk’s Office	9/3/09 (9/10/09)	Plot plan, site plan and elevations
	Date(OSPCD stamp)				Submission					
	5/29/09				Initial application submitted to the City Clerk’s Office					
	9/3/09 (9/10/09)				Plot plan, 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	The façade materials and color of the structure shall match that of the existing building or, if the structure is to be resided, shall be approved by Planning Staff prior to receiving a building permit	Building permit	Plng.							
3	The subject dwelling unit shall be limited to two bedrooms or meet parking requirements under the SZO	Building permit	ISD							
4	The subject dwelling unit shall be limited to three stories as defined by the SZO.	CO	ISD							
5	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							
6	The Applicant shall remove the asphalt from the east side yard along Linden Avenue and the rear yard area extending from Linden Avenue to the existing shed and replace with landscaping. A landscaping plan shall be submitted to Planning Staff for approval prior to installation.	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 _____



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722

www.somervillema.gov

