



CITY OF SOMERVILLE, MASSACHUSETTS
ZONING BOARD OF APPEALS
JOSEPH A. CURTATONE, MAYOR

MEMBERS

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

Case #: ZBA 2008-08
Site: 23 Milton Street
Date of Decision: April 16, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: April 30, 2008

ZBA DECISION

Applicant Name: Eden Naby Frye
Applicant Address: 15 Tower Hill Road, Brimfield, MA 01010
Property Owner Name: Eden Naby Frye & Mary Naby
Property Owner Address: 15 Tower Hill Road, Brimfield, MA 01010
Agent Name: Josh Fenollosa
Agent Address: Brown Fenollosa Architects, Inc.
700 Massachusetts Avenue, Cambridge, MA 02139

Legal Notice: Applicant & Owner Eden Naby Frye & Mary Naby Frye seek a special permit under SZO §4.4.1 to alter a dimensionally nonconforming structure by altering an existing dormer, raising a portion of the roof, demolishing a carriage house, and adding un-enclosed egress stairs. RB Zone. Ward 6.

Zoning District/Ward: RB zone. Ward 6.
Zoning Approval Sought: §4.4.1
Date of Application: February 19, 2008
Date(s) of Public Hearing: 3/19, 4/2 & 4/16/08
Date of Decision: April 16, 2008
Vote: 5-0

Appeal #ZBA 2008-08 was opened before the Zoning Board of Appeals at Somerville City Hall on March 19, 2008. 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 three (3) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant seeks to remove the carriage house and replace it with landscaping, un-enclosed porches and egress stairs. During demolition care would be exercised to save two large trees behind the structure. The excavated materials would be replaced with top soil. The Applicant also proposes renovating the third floor by modifying an existing dormer, renovating the roof and knee wall at the rear to allow for headroom, and adding a new deck over an existing flat roofed porch. The screened in porch on the first floor would become enclosed.

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 Staff 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 requires a special permit under §4.4.1 of the SZO. "The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building...the SPGA may consider, without limitation impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

Under the standards set forth under §4.4.1, the Planning Staff finds that the alterations would not be substantially more detrimental to the neighborhood. The design of the raised roof and dormers are characteristic of the architecture of the structure. Re-siding the structure in one material, cedar shingles, will improve its appearance. The shading due to the raised roof on the abutting property is a consideration; however, the visual enhancements to the property may mitigate this effect.

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."

Related to Article 1, the Applicant is working with the Somerville Historic Commission to preserve the historic carriage house if possible. The project is located in a Residence B 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 proposal is consistent with the purposes of the Ordinance.

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 Applicant has designed the alterations such that they relate to the style of the structure and respectful of the surrounding area. The use of the structure is not proposed to change as a result of the project.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Acting Chairperson, Richard Rossetti, Acting Clerk, Danielle Fillis, Scott Darling and Elaine Severino. 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 for the construction of egress stairs, renovation of the third floor by modifying an existing dormer, renovation of the roof and knee wall, addition of a new deck over an existing flat roofed porch and enclosure of the first floor porch. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent:	Building Permit	Plng.							
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>February 19, 2008</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>April 16, 2008</td><td>Modified plans submitted to OSPCD (A1.1, A1.2, A2.1, A2.2,A3.1D1.1, D1.2, D2.1, D2.2)</td></tr></table>				Date	Submission	February 19, 2008	Initial application submitted to the City Clerk’s Office	April 16, 2008	Modified plans submitted to OSPCD (A1.1, A1.2, A2.1, A2.2,A3.1D1.1, D1.2, D2.1, D2.2)
	Date				Submission					
	February 19, 2008				Initial application submitted to the City Clerk’s Office					
April 16, 2008	Modified plans submitted to OSPCD (A1.1, A1.2, A2.1, A2.2,A3.1D1.1, D1.2, D2.1, D2.2)									
Any changes to the approved site plan or elevations must receive ZBA approval.										
2	The Applicant shall comply with all of the laws, rules and regulations of the Historic Preservation Commission.	Building Permit	HPC							
3	Landscaping should be installed and maintained in compliance with the American Nurserymen’s Association.	Perpetual	Plng. / ISD							
4	The renovation of the third floor apartment unit will require that unit to be in compliance with current codes for fire protection.	CO	FP							
5	If demolition occurs, a paid fire detail (watch) will be required for the building demolition and while combustible material from the demolition work is on site.	Demolition Permitting	ISD							
6	If demolition occurs, the applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Department. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures, minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD							
7	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 that the proposal was constructed in accordance with the plans, information submitted and the conditions attached to this approval.	Final Building Permit Signoff	Plng./ISD							

Date: April 24, 2008
Case #: ZBA 2008-08
Site: 23 Milton Street

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairperson*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Fillis
Elaine Severino, (Alt.)

Attest, by the Zoning Board of Appeals 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 _____