



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

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JOSH SAFDIE (ALT.)

Case #: ZBA 2009-12
Site: 126 Orchard Street
Date of Decision: June 3, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 11, 2009

ZBA DECISION

Applicant Name:	Axel Christensen
Applicant Address:	126 Orchard Street, Somerville, MA 02144
Property Owner Name:	Axel Christensen
Property Owner Address:	126 Orchard Street, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant & Owner Axel Christensen seeks a special permit (SZO §4.4.1) to alter a nonconforming dwelling by constructing a 3700± s.f. addition. RB zone. Ward 6.

<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	April 9, 2009
<u>Date(s) of Public Hearing:</u>	5/20 & 6/3/09
<u>Date of Decision:</u>	June 3, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-01 was opened before the Zoning Board of Appeals at Somerville City Hall on May 20, 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.

DESCRIPTION:

The proposal is to construct a 2.5 story addition to the rear portion of the structure. The proposal has been revised from a size of 3,700± s.f. to 3,355± s.f. The roof on the front of the house would increase in height from 19 feet to 34 feet 2 inches. The height of the rear portion of the building would be 32 feet. Dormers and windows would be added to the sides of the structure and a porch would be added in front. The proposal is also to add a dwelling unit for a total of three units. Each floor of the house would contain a dwelling unit. Two of the units would have three

bedrooms and one unit would have two bedrooms. The first floor of the addition would be open carports for four parking spaces. One additional parking space would be located next to the carports.

The two large trees along the property line would remain.

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 finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure specifically with regard to traffic, parking, noise, odor, scale, shading, visual effects, or neighborhood character. To the extent possible for a nonconforming structure, the proposal complies with the standards of the zoning ordinance.

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 maintaining the uniquely integrated structure of uses in the City and encouraging the most appropriate use of land throughout the City. The proposal is also consistent with the purpose of the RB district as a three-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 Applicant has incorporated design elements that are typical of homes in Somerville such as front porches, bay windows, and dormers. The bulk of the building is similar to the house to the left and less than that of the four story building to the right.

5. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

The existing driveway width is narrower than the requirement for two-way use. Therefore, proper signage should be posted at the driveway: R1-2 (Yield) coupled with a R1-2a (To oncoming traffic).

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie. 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 a 3,700± s.f. addition and alterations to a nonconforming structure. 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>(April 9, 2009)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>January 12, 2009 (April 27, 2009)</td><td>Plans submitted to OSPCD (plot plan)</td></tr><tr><td>May 26, 2009 (May 29, 2009)</td><td>Revised plans submitted to OSPCD (floor plans, elevations, site plan)</td></tr></table>				Date (Stamp Date)	Submission	(April 9, 2009)	Initial application submitted to the City Clerk’s Office	January 12, 2009 (April 27, 2009)	Plans submitted to OSPCD (plot plan)	May 26, 2009 (May 29, 2009)	Revised plans submitted to OSPCD (floor plans, elevations, site plan)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.												
2	The landscaped area shall cover at least 25% of the site as verified by a final landscaping plan to be submitted for staff approval prior to seeking final sign-offs. The two mature trees shown in the site plan shall be retained.	Final sign-off/ Perpetual	Plng. / ISD									
3	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP									
4	The Applicant shall at his expense replace any existing equipment and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW									
5	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P									
6	The applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites;	Demolition Permitting	ISD									
7	The Applicant shall install proper signage: R1-2 (Yield) coupled with a R1-2a (To oncoming traffic).	CO	T&P									

8	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.	
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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 _____