



**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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DANIELLE FILLIS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA #2009-51**  
**Site: 61 Rogers Avenue**  
**Date of Decision: December 16, 2009**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: December 22, 2009**

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**ZBA DECISION**

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<b>Applicant Name:</b>	David Crockett
<b>Applicant Address:</b>	100 Crest Road, Lynnfield, MA 01940
<b>Property Owner Name:</b>	Robert Chihade
<b>Property Owner Address:</b>	61 Rogers Avenue, Somerville, MA 02144
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicant, David Crockett, & Owner, Robert Chihade seek a Special Permit under SZO §4.4.1 in order to construct a dormer within the non-conforming side yard (§8.5.H).
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<u>Zoning District/Ward:</u>	RA zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1 & §8.5.H
<u>Date of Application:</u>	October 16, 2009
<u>Date(s) of Public Hearing:</u>	December 16, 2009
<u>Date of Decision:</u>	December 16, 2009
<u>Vote:</u>	5-0

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Appeal #ZBA 2009-51 was opened before the Zoning Board of Appeals at Somerville City Hall on December 16, 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.



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## **DESCRIPTION:**

The proposal is to construct a 6 ft 4 in wide shed dormer on the left side of the house that would match the style and slope of the existing dormer. The proposed dormer would be separated from the existing dormer by 4 ft 8 in and located towards the rear of the structure. The dormer would enable the owner to construct a bathroom within the half story.

## **FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §8.5.H):**

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. The dormer is not expected to impact the house adjacent to the nonconforming side yard. There is approximately 14 ft between the houses and a smaller sized bathroom window is being proposed for the dormer. While the Board would normally want to see a larger window to mimic those on the existing shed dormer, the use of the proposed area as a bathroom requires a need for privacy of both the owner and neighbor. In addition, the applicant has stated that a full sized window on the exterior wall would not work with the interior bathroom plan. The Board finds that since it is a relatively small dormer at 6ft in length, that the design as proposed, with the smaller window, would be acceptable. 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 predominant 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.



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**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. 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 an approximately 6 ft 4 in shed dormer on a gable roof. 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>(10/16/2009)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>(11/23/09)</td><td>Plans and elevations submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	(10/16/2009)	Initial application submitted to the City Clerk's Office	(11/23/09)	Plans and elevations submitted to OSPCD
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	(10/16/2009)				Initial application submitted to the City Clerk's Office					
	(11/23/09)				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 house.	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.  
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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