



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

MEMBERS

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JOSH SAFDIE (ALT.)

Case #: ZBA 2008-58
Site: 13 Rush Street
Date of Decision: December 17, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 29, 2008

ZBA DECISION

Applicant Name:	Joseph Yengo
Applicant Address:	13 Rush Street, Somerville, MA 02145
Property Owner Name:	Joseph Yengo
Property Owner Address:	13 Rush Street, Somerville, MA 02145
Agent Name:	N/A

Legal Notice: Applicant & owner Joseph Yengo seeks a special permit (SZO §4.4.1) to add a story above the existing garage and add a 2-story, 275± sf addition to the rear of a nonconforming dwelling. RB/Ward 1.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 23, 2008
<u>Date(s) of Public Hearing:</u>	12/3 & 12/17/08
<u>Date of Decision:</u>	December 17, 2008
<u>Vote:</u>	5-0

Appeal #2008-58 was opened before the Zoning Board of Appeals at Somerville City Hall on December 3, 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 two (2) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant is proposing to construct a story above the existing garage and add a two-story, 275± square foot addition to the rear of the structure. The addition would expand a one-car garage into a two-car garage, add a living room above the garage, and alter an existing living room. The rear portion of the structure would have a flat roof that aligned with the flat roof in the middle portion of the structure. The siding of the addition would match existing siding. The shed in the rear yard would be removed and replaced with landscaping to retain the required amount of landscaping on the property.

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. The proposal would not create any new nonconforming dimensions nor encroach further into the nonconforming side setback.

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. The proposal is also consistent with the purpose of the Residence B district as a two-family dwelling.

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 project is designed to be compatible with the existing house and surrounding area. The rear portion of the structure would have a flat roof that would align with the flat roof in its middle portion.

DECISION:

Present and sitting were members Orsola Susan Fontano, Richard Rossetti, Danielle Fillis, Elaine Severino and Josh Safdie. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Elaine Severino 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 to construct a story above the existing garage and add a two-story, 275± sf addition to the rear of the nonconforming dwelling. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO/Building Permit	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>October 23, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Dec 8, 2008 (Dec 12, 2008)</td><td>Modified plans submitted to OSPCD (site plan A-1, floor plans A-2, elevations A-3, sections A-4)</td></tr></table>				Date (Stamp Date)	Submission	October 23, 2008	Initial application submitted to the City Clerk's Office	Dec 8, 2008 (Dec 12, 2008)	Modified plans submitted to OSPCD (site plan A-1, floor plans A-2, elevations A-3, sections A-4)
	Date (Stamp Date)				Submission					
	October 23, 2008				Initial application submitted to the City Clerk's Office					
Dec 8, 2008 (Dec 12, 2008)	Modified plans submitted to OSPCD (site plan A-1, floor plans A-2, elevations A-3, sections A-4)									
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	The Applicant shall remove the shed and landscape the area.	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:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
Danielle Fillis
Elaine Severino (Alt.)
Josh Safdie (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 _____