



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 2008-32**  
Site: **43 Russell Road**  
Date of Decision: **August 20, 2008**  
Decision: *Petition Approved with Conditions*  
Date Filed with City Clerk: **August 25, 2008**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Lancer Contracting
<b>Applicant Address:</b>	71 Concord Avenue, Belmont, MA 02478
<b>Property Owner Name:</b>	Cynthia Dill & Boris Goldowsky
<b>Property Owner Address:</b>	43 Russell Road, Somerville, MA 02144
<b>Agent Name:</b>	E. Kirton, Architect
<b>Agent Address:</b>	413 Central Avenue, Pawtucket, RI 02861

Legal Notice: Applicant: Lancer Contracting & Owner: Cynthia Dill & Boris Goldowsky seek Special Permit approval under SZO §4.4.1 for the alteration of a non-conforming structure in order to construct three dormers. RA zone. Ward 7.

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 23, 2008
<u>Date(s) of Public Hearing:</u>	7/23 & 8/20/08
<u>Date of Decision:</u>	August 20, 2008
<u>Vote:</u>	5-0

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Appeal #ZBA 2008-32 was opened before the Zoning Board of Appeals at Somerville City Hall on July 23, 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 one (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

## **DESCRIPTION:**

The Applicant is proposing to extend an existing shed dormer and to construct two additional shed dormers from the roof ridgeline to enlarge the space of two bedrooms. The dormer on the right side of the house would extend 12'5" towards the rear of the house from the existing dormer. The two proposed dormers on the left side of the house would be 12'5" wide in the rear and 10'3" wide towards the front of the house. The rear dormers will be set back approximately 4' from the rear roof line and the front dormer will be approximately 1' from the front roof line. The side roof line extends approximately a half foot beyond the side supporting wall which creates 1'6" of distance between the dormer bottom and the side roof line.

## **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."

The Applicant requires a special permit under §4.4.1 of the SZO. Under §4.4.1, "The SPGA, as a condition of granting a special permit under this Section must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming structure."

The Board finds that the applicant has made a substantial effort to address concerns regarding the reduction in size, asymmetry and the appearance of the proposed dormers. The Board finds the dormers would not be substantially more detrimental to the surrounding neighborhood than the existing structure, as required under §4.4.1 of the SZO. The Board will condition strong trim features around the windows similar to the trim on the windows below the roof line.

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 Board finds that the proposal is consistent with the purposes set forth in Article 1 of the Zoning Ordinance, and with, to the extent possible for a lawful pre-existing nonconforming structure, those purposes established for the RA district in which the property is located, namely, "[t]o establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts".

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 proposal **is compatible** with the site and area as other houses in the neighborhood have similarly designed dormers. The proposed dormers would be dimensionally nonconforming in terms of the side and front yard set backs and the proposed conditions would help to mitigate any visual impact.

### **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 to construct three shed dormers (two new dormers and one extension of an existing dormer). 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>June 23, 2008</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>July 17, 2008</td><td>Revised plans and elevations submitted to OSPCD (A1.0, A2.0, A2.2)</td></tr><tr><td>August 5, 2008</td><td>Revised rendering submitted to OSPCD (A5.0)</td></tr></table>				Date	Submission	June 23, 2008	Initial application submitted to the City Clerk’s Office	July 17, 2008	Revised plans and elevations submitted to OSPCD (A1.0, A2.0, A2.2)	August 5, 2008	Revised rendering submitted to OSPCD (A5.0)
	Date				Submission							
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August 5, 2008	Revised rendering submitted to OSPCD (A5.0)											
Any changes to the approved site plan and elevations that are not di minimis must receive ZBA approval.												
2	The applicant shall provide a code compliant fire alarm system.	Building Permit	FP									
3	Additional window trim components similar to the existing windows below the roof line shall be incorporated into the design of the dormer windows.	CO	Plng.									
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.	Final Building Permit Signoff	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 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 \_\_\_\_\_