



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

MEMBERS

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

Case #: ZBA #2009-23
Site: 5-7 Spencer Avenue
Date of Decision: July 15, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 28, 2009

ZBA DECISION

Applicant Name:	Marc Tanner
Applicant Address:	7 Spencer Avenue, Somerville, MA 02144
Property Owner Name:	Marc Tanner
Property Owner Address:	7 Spencer Avenue, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant & Owner Marc Tanner seeks a special permit (§5.1) to construct a dormer on a nonconforming dwelling (§4.4.1). RA zone. Ward 5.

<u>Zoning District/Ward:</u>	RA zone/Ward 5
<u>Zoning Approval Sought:</u>	§5.1 & §4.4.1
<u>Date of Application:</u>	June 2, 2009
<u>Date(s) of Public Hearing:</u>	July 15, 2009
<u>Date of Decision:</u>	July 15, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-23 was opened before the Zoning Board of Appeals at Somerville City Hall on July 15, 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 shed dormer on the left side of the house to create headroom for the construction of a closet, bathroom and laundry room. The length of the dormer would be 20' 2", just less than fifty percent of the roof's length. The dormer would be roughly centered within the length of the roof. The Applicant has reconfigured the windows on the dormer so that they are all the same size and account for a significant portion of the dormer's front wall face. The pitch of the dormer would be steep and match that of the dormer on the right side of the house. The siding of the dormer would be singles to match the house.

FINDINGS FOR SPECIAL PERMIT (SZO §):

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 would be opposite an existing dormer at 9-11 Spencer Avenue; however, the Board does not anticipate privacy concerns because the Architect stated that there would be 14.25 feet between the dormers. The house would continue to be considered a 2 ½ story structure because the dormer would be less than fifty percent of the roof's length.

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 the purpose of the district which is, "[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."

Typically the Board does not recommend shed dormers because they alter the character of the traditional 2 ½ story housing stock in the City. In this case, the proposed shed dormer would balance the existing shed dormer on the other side of the house. The dormers would have the same design, slope, and siding. On the proposed dormer, the window area accounts for a large portion of the dormer wall area, which improves the look of dormers. Also, several houses on this street have shed roofs on both sides. The proposed dormer is compatible with the built surrounding area.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Fillis, Elaine Severino and Josh Safdie with Scott Darling and Richard Rossetti absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Josh Safdie 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 20' 2" shed dormer on a nonconforming dwelling. 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>June 2, 2009</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>April 15, 2008 (June 15, 2009)</td><td>Plans submitted to OSPCD (plot plan)</td></tr><tr><td>June 2, 2009 (June 15, 2009)</td><td>Modified plans submitted to OSPCD (elevations, 3rd floor plan, site/roof plan)</td></tr></table>				Date (Stamp Date)	Submission	June 2, 2009	Initial application submitted to the City Clerk's Office	April 15, 2008 (June 15, 2009)	Plans submitted to OSPCD (plot plan)	June 2, 2009 (June 15, 2009)	Modified plans submitted to OSPCD (elevations, 3 rd floor plan, site/roof plan)
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Any changes to the approved plan that are not <i>de minimis</i> must receive ZBA approval.												
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
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*
Danielle Fillis
Elaine Severino (Alt.)
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 _____