



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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JOSH SAFDIE (ALT.)

Case #: ZBA #2009-56
Site: 3-5 Vinal Avenue
Date of Decision: December 16, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 22, 2009

ZBA DECISION

Applicant Name:	3-5 Vinal Avenue, LLC
Applicant Address:	661 Main Street, Malden, MA 02148
Property Owner Name:	3-5 Vinal Avenue, LLC
Property Owner Address:	661 Main Street, Malden, MA 02148
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant & Owner, 3-5 Vinal Avenue LLC, seeks a Special Permit under SZO §4.4.1 to expand a nonconforming three-family residential structure by constructing a shed dormer on a gable roof. RB zone. Ward 3.
<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 9, 2009
<u>Date(s) of Public Hearing:</u>	December 16, 2009
<u>Date of Decision:</u>	December 16, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-56 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 add a shed dormer on the right side of the house to make headroom for reconstructed stairs and access to a bedroom and bathroom. The shed dormer would be 13.5 feet in length and centered in the middle of the roof. The dormer would start 8 inches below the ridge and 2.4 feet in from the side wall. Internally, the three units are being reconfigured so that one bedroom would be eliminated in the house and an additional bathroom would be added to each unit.

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. As detailed in finding four below, the dormer is designed in an appropriate manner. The house would continue to be considered a 2 ½ story structure because the dormer's length is less than 50 percent of the length of the structure and the floor area ratio would not be greater than the allowable size.

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 conserving the value of land and buildings and the purpose of the district as an alteration to 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 dormer would be designed to be compatible with the built and unbuilt surrounding area. The dormer is on the side of the house with a 9.6 foot side yard and abuts a neighboring large yard so privacy is not a concern. The current design would not have a negative impact on the appearance of the house. It is centered on the roof, starts below the ridge and back from the side wall so that it appears as a fairly small dormer and not as an extension of the third story. The dormer has 2 windows that relate to the windows on the rest of the house.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richart 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:



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#	Condition	Timeframe for Compliance	Verified (initial)	Notes										
1	Approval is for the construction of a 13.5' shed dormer. 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>Nov 9, 2009</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Sept 30, 2009</td><td>Plans submitted to OSPCD (Plot Plan)</td></tr><tr><td>Nov 20, 2009</td><td>Modified plans submitted to OSPCD (X1-X2: existing floor plans, A-1: proposed 1st & 2nd floor plans, front & rear elevations)</td></tr><tr><td>Nov 27, 2009 (Nov 30, 2009)</td><td>Modified plans submitted to OSPCD (A-2: proposed 3rd & 4th floor plans, A-3 section/side elevation)</td></tr></table>				Date (Stamp Date)	Submission	Nov 9, 2009	Initial application submitted to the City Clerk's Office	Sept 30, 2009	Plans submitted to OSPCD (Plot Plan)	Nov 20, 2009	Modified plans submitted to OSPCD (X1-X2: existing floor plans, A-1: proposed 1 st & 2 nd floor plans, front & rear elevations)	Nov 27, 2009 (Nov 30, 2009)	Modified plans submitted to OSPCD (A-2: proposed 3 rd & 4 th floor plans, A-3 section/side elevation)
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Any changes to the approved elevations 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 inspection by Inspectional Services 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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