



CITY OF SOMERVILLE, MASSACHUSETTS
STRATEGIC PLANNING AND COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE, MAYOR

STAFF

MADELEINE MASTERS, *PLANNING DIRECTOR*
CHRISTOPHER DI IORIO, *PLANNER/ZONING ADMINISTRATOR*
LORI MASSA, *PLANNER/ZONING ADMINISTRATOR*
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*
FREDERICK J. LUND, *SENIOR DRAFTSMAN*

Case #: ZBA 2008-44
Date: August 26, 2008
Recommendation:
Denial of Variance
Conditional Approval of Special Permit

PLANNING STAFF REPORT

Site: 23 Whitman Street

Applicant Name: Kevin Roy

Applicant Address: 161 Arnold Street, Revere MA 02151

Property Owner Name: Michael Bavaro

Property Owner Address: 23 Whitman Street, Somerville MA

Agent Name: Peter Sandonse

Agent Address: 9 Foster Street, Wakefield MA

Alderman: Trane

Legal Notice: The Applicant seeks a variance under §5.5 for number of stories §8.5.f and a special permit §4.4.1 to add a third story to the dwelling and a two-story deck.

Zoning District/Ward: Residence A / 7

Zoning Approval Sought: Variance under SZO §8.5.f and Special Permit under §4.4.1

Date of Application: August 26, 2008

Date(s) of Public Hearing: ZBA: September 17, 2008

Date of Decision: N/A

Vote: N/A

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a two-family dwelling on a 3,223 square foot lot. The lot is rectangular and slopes upward from the street to the rear of the property. The structure is 2 ½ stories; however, due to the slope it appears to be 3 ½ stories from the street. There is an enclosed porch on the front of the building. The rear yard is covered with grass and other vegetation along the rear retaining wall.



23 Whitman Street: Front of structure (left), rear yard (right)

2. Proposal: The proposal is to add a third story to the dwelling by constructing shed dormers on each side of the roof. The dormers would extend almost the full length of the roofline. The Applicant is also proposing to add a two story deck into the rear yard.

3. Nature of Application: In a Residence-A district, 2 ½ stories are allowed and the structure is currently 2 ½ stories. The dormers would increase the number of stories of the structure to three because they would be greater than 50% of the length of the sloping roof (SZO §2.2.155, definition of half story). The Applicant is seeking a variance for number of stories (SZO §8.5.f).

The structure is currently nonconforming with respect to several dimensional requirements, including minimum lot size, lot area per dwelling unit, front yard setback, side yard setback, and street frontage. The proposed deck increases the structure's encroachment on the nonconforming side yard, which is 3.5 feet; the minimum side yard setback in this district is 8 feet. These existing nonconformity requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO). Section 4.4.1 states that "[l]awfully existing one- and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."

4. Surrounding Neighborhood: The surrounding neighborhood is comprised of one-, two-, and three-family homes that are typically 2 ½ stories.

5. Impacts on Abutting Properties: The proposed deck in the rear of the structure would likely have minimal impact on the abutters. The proposed deck would not be directly adjacent to the house next door. The proposed shed dormers would change the character of the traditional 2 ½ story gable structure which is prevalent in this neighborhood and the City.



6. Green Building Practices: None.

7. Comments:

Fire Prevention: Has been contacted but has not provided comments.

Ward Alderman: Has been contacted but has not provided comments.

II. FINDINGS FOR VARIANCE (SZO §8.5.f):

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. There are “special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”

The parcel slopes upward from the street to the rear of the property. This slope allows the structure to have part of the basement fully above grade. The slope could potentially allow for more living space in the basement of this property than another property with no slope. The proposal would add another story to the structure making it appear as a four story structure from the street. Staff find that there are no special circumstances affecting the land or structure that are causing a substantial hardship.

2. “The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

The 2 ½ story structure as a two-family home is a reasonable use of the building and land. Staff find that a variance to construct a third story is not the minimum necessary for reasonable use of the building or land.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

One purpose of the Ordinance is to preserve the historical and architectural resources of the City; this particularly applies to this proposal. The additional story would be created by constructing dormers that, as designed, would change the character of the traditional 2 ½ story gable structure. These 2 ½ story gable structures are prevalent in this neighborhood and the City. This house is not designated as Local Historic District but it contributes to the architectural fabric of the City. Staff find that the variance would not be in harmony with the general purpose and intent of the Ordinance.

III. 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 Staff 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, Staff find that the deck alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. However, the change to the roof to add a third story would be substantially more detrimental to the neighborhood as noted in the third variance finding.

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 deck proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited, "[t]o conserve the value of land and buildings." However, the change to the roof to add a third story would be substantially more detrimental to the neighborhood as noted in the third variance finding.

The deck proposal is also consistent with the purpose of the RA 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."

The deck would be compatible with the site. It would not be visible from the front of the structure and would conform to the rear yard setback and landscaping requirements. However, the change to the roof to add a third story would be substantially more detrimental to the neighborhood as noted in the third variance finding.

IV. RECOMMENDATION

Variance from Number of Stories (SZO §8.5.f)

Based upon the above findings, the Planning Staff recommends **DENIAL** of the requested **VARIANCE** for an additional story. The Staff finds that the site does not meet the requirements for a variance as set forth under §5.5.3 of the SZO.

Special Permit under §4.4.1

Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT** only for the proposed deck.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	<p>Approval is for the construction of a 9' x 12', 2-story deck in the rear of the property. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent <i>as modified by the conditions below</i>:</p> <table><tr><th>Date</th><th>Submission</th></tr><tr><td>August 26, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr></table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.</p>	Date	Submission	August 26, 2008	Initial application submitted to the City Clerk's Office	BP / CO	PIng.	
Date	Submission							
August 26, 2008	Initial application submitted to the City Clerk's Office							
2	The proposed dormers shall not be constructed.	BP	ISD					
3	The rear yard setback shall be at least 20'. The deck shall extend into the rear yard 9' as shown on the floor plans (not 10' as shown on the plot plan).	BP	ISD					
4	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	PIng.					

