



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

MEMBERS

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JOSH SAFDIE (ALT.)

Case #: ZBA #2009-24
Site: 100 Albion Street
Date of Decision: July 15, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 28, 2009

ZBA DECISION

Applicant Name: Jose Dias
Applicant Address: 100 Albion Street, Somerville, MA 02144
Property Owner Name: Jose Dias
Property Owner Address: 100 Albion Street, Somerville, MA 02144
Agent Name: N/A

Legal Notice: Applicant & Owner Jose C. Dias seeks a special permit (§5.1) to construct a dormer on a nonconforming dwelling (§4.4.1). RB zone. Ward 5.

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

Appeal #ZBA #2009-24 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 right side of the house to create headroom for an existing bedroom. The Applicant has reduced the size of the dormer from the originally proposed 23 feet, to 17 feet, and finally 11 feet. The length of the dormer would be less than fifty percent of the roof's length. The changes were made considering the placement of the windows on the dormer, rearrangements of closets, and the need to only have the dormer span the width of the bedroom. The dormer would be in the rear, 6' from the rear wall, and be on the less public side of the house. The dormer would start at the roof ridge but would be setback 1.5 feet from the

building's main wall. The windows would account for a significant portion of the dormer's front wall face. The pitch of the dormer would be steep and the siding of the dormer would match the house.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1 & §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. As conditioned, the Applicant would submit drawings that accurately reflect the 11' width of the dormer.

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 a structure that is approximately ten feet away, which does not have 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 medium density neighborhoods of one-, two- and three-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 design of the shed dormer does not significantly alter the roofline of the house because it would be small with a fairly steep pitch and be located 6' from the rear wall on the less public side of the house. Ideally, the dormer would not start at the roof ridge; however, it is setback 1.5 feet from the building's main wall which makes it appear more like a dormer and less like an extension of the house for a third story. The window area accounts for a large portion of the dormer wall area, which improves the look of dormers. 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	<p>Approval is for the construction of a 11' by 11' shed dormer on a nonconforming dwelling. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>June 2, 2009</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>April 2, 2009 (June 11, 2009)</td> <td>Plans submitted to OSPCD (floor plans/details)</td> </tr> <tr> <td>(June 22, 2009)</td> <td>Modified plans submitted to OSPCD (plot/site plan)</td> </tr> <tr> <td>May 31, 2009 (June 11, 2009)</td> <td>Modified plans submitted to OSPCD (elev/section/framing, 3rd floor plan/details)</td> </tr> </tbody> </table> <p>Any changes to the approved plan that are not <i>de minimis</i> must receive ZBA approval.</p>	Date (Stamp Date)	Submission	June 2, 2009	Initial application submitted to the City Clerk's Office	April 2, 2009 (June 11, 2009)	Plans submitted to OSPCD (floor plans/details)	(June 22, 2009)	Modified plans submitted to OSPCD (plot/site plan)	May 31, 2009 (June 11, 2009)	Modified plans submitted to OSPCD (elev/section/framing, 3 rd floor plan/details)	BP/CO	Plng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP											
3	The Applicant shall submit drawings that accurately reflect the 11' width of the dormer.	BP	Plng./ 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	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 _____