



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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Case #: ZBA # 2011-26
Site: 50 Belmont Street
Date of Decision: May 18, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 25, 2011

ZBA DECISION

Applicant Name:	Brad Stearns
Applicant Address:	CSA Services, 28 Willow Avenue, Somerville, MA 02144
Property Owner Name:	Michael Zucca
Property Owner Address:	50 Belmont Street, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant Brad Stearns and owner Michael Zucca, seek a special permit to alter a nonconforming structure under SZO §4.4.1 to construct a one story addition in the rear and an overhang on the north side of a single-family residence.

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	April 5, 2011
<u>Date(s) of Public Hearing:</u>	5/4 & 5/18/11
<u>Date of Decision:</u>	May 18, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-26 was opened before the Zoning Board of Appeals at Somerville City Hall on May 4, 2011. 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 Applicant is proposing to remove an existing rear enclosed entry to construct a one story, 9 foot by 16 foot addition at the rear of the existing dwelling. As part of this addition, the Applicant will also be removing the window on the first floor of the left elevation (south side) and the windows on this side of the rear enclosed entry. The windows on the rear elevation of the enclosed entry will be replaced with a single, double hung window and the window on the far right of the first floor of the rear elevation will be replicated on the addition. Furthermore, the Applicant is proposing to extend the nonconforming side yard setback on the right side (north side) of the structure towards Belmont Street to construct a 4 foot wide by 11 foot long overhang by the driveway. As a result of these exterior changes, the existing bedroom on the first floor would be expanded and additional closet space for that bedroom would be created.

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 §4.4.1 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

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 promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to prevent the overcrowding of land; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; to encourage housing for persons of all income levels; and to preserve and increase the amenities of the municipality."

The proposal is consistent with the purpose of the district (6.1.2. RB - Residence Districts), which is, "To 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."

The project is compatible with the characteristics of the surrounding area. The Applicant is proposing to remove an existing rear enclosed entry to construct a one story addition at the rear of the dwelling. As part of this addition the Applicant will also be removing the window on the first floor of the left elevation (south side) and the windows on this side of the rear enclosed entry. Additionally, the Applicant is proposing to extend the



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nonconforming side yard setback on the right side of the structure four feet towards the street to construct an overhang by the driveway. The property will remain a 1½ story, single-family residential use which is consistent with the surrounding neighborhood.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

No adverse environmental impacts are anticipated from this project. The structure will remain a 1½ story, single-family dwelling and will continue to be used for residential purposes. The Applicant is simply extending the existing nonconforming setback on the right side of the property by approximately four feet towards the street. The nonconforming side yard setback on the left side will remain the same, with only the rear enclosed entry increasing to one story. There are no anticipated negative environmental impacts from this proposal.



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DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Elaine Severino with Danielle Evans absent. 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	<p>Approval is to alter a nonconforming structure to construct a one story addition in the rear, an overhang on the north side, and to remove windows on the south side of a single-family residence. 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>(April 5, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 15, 2007 (May 10, 2011)</td> <td>Plot Plan and Site Plan</td> </tr> <tr> <td>April 8, 2011 (April 19, 2011)</td> <td>Plan submitted to OSPCD: Existing Floor Plan</td> </tr> <tr> <td><u>May 12, 2011</u> (May 16, 2011)</td> <td>Plan Submitted to OSPCD: Proposed Floor Plan</td> </tr> <tr> <td>May 8, 2011 (May 10, 2011)</td> <td>Plans submitted to OSPCD: Existing and Proposed Elevations</td> </tr> </tbody> </table> <p>Any changes to the approved site plans or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(April 5, 2011)	Initial application submitted to the City Clerk's Office	March 15, 2007 (May 10, 2011)	Plot Plan and Site Plan	April 8, 2011 (April 19, 2011)	Plan submitted to OSPCD: Existing Floor Plan	<u>May 12, 2011</u> (May 16, 2011)	Plan Submitted to OSPCD: Proposed Floor Plan	May 8, 2011 (May 10, 2011)	Plans submitted to OSPCD: Existing and Proposed Elevations	BP/CO	Plng.	
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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Elaine Severino (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 _____



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