



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2013-25
Site: 57 Dane Street
Date of Decision: May 1, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 7, 2013

ZBA DECISION

Site: 57 Dane Street

Applicant & Property Owner Name: Tanis Teich
Applicant & Property Owner Address: 57 Dane Street Somerville, MA 02143
Agent Name: Richard G. DiGirolamo
Agent Address: 424 Broadway Somerville, MA 02145
Alderman: Maryann Heuston

Legal Notice: Applicant and Owner, Tanis Teich, seeks a Special Permit under SZO §4.4.1 to alter a non-conforming structure to enclose a rear porch at an existing two-family dwelling. RB zone. Ward 2.

Zoning District/Ward: RB/Ward 2
Zoning Approval Sought: Special Permit
Date of Application: April 2, 2013
Dates of Public Hearing: 5/1/2013
Date of Decision: 5/1/2013
Vote: 5-0

Appeal #ZBA 2013-25 was opened before the Zoning Board of Appeals at Somerville City Hall on May 1, 2013. 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 (1) hearing of deliberation, the Zoning Board of Appeals took a vote.



DESCRIPTION:

Applicant and Owner, Tanis Teich, proposed to alter a nonconforming structure by enclosing the existing 135 square foot back porch on the first floor. The porch is 7'-6" by 16'-0". The rest of the deck will remain. The rear yard setback will remain conforming and change from 45' to 37.5'. The door and windows used to enclose the porch will match the existing windows.

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. The enclosed portion of the deck will conform to the required setbacks and the structure will be just under the allowable floor area ratio.

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 conserving the value of land and buildings.

The proposal is consistent with the purpose of the district, 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 proposal to close the existing porch to expand the dining and living room will not be detrimental to the structure. The expansion will match the existing construction. The door and windows used to enclose the porch will match the existing windows.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Fillis, Elaine Severino, and Josh Safdie with Herbert Foster absent. Upon making the above findings, Richard Rossetti 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 Special Permit under SZO §4.4.1 to alter a non-conforming structure to enclose a rear porch at an existing two-family 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>March 25, 2013</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>June 6, 2011 (April 24, 2013)</td> <td>Modified plans submitted to OSPCD (C-02 Existing First Floor Plan, C-03 Existing Second Floor Plan, C-06 Existing Elevations)</td> </tr> <tr> <td>August 4, 2012 (April 24, 2013)</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>August 1, 2012 (April 24, 2013)</td> <td>Modified plans submitted to OSPCD (Site-01 Site/Parking Plan, Z-01 Basement Plan, Z-02 First Floor Plan, Z-03 Second Floor Plan, Z-04 Third Floor Plan, Z-05 Elevations, Z-06 Elevation, Z-07 Elevation, Z-08 Section, Z-09 Isometric)</td> </tr> </tbody> </table> <p>Any changes to the approved plans and elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	March 25, 2013	Initial application submitted to the City Clerk’s Office	June 6, 2011 (April 24, 2013)	Modified plans submitted to OSPCD (C-02 Existing First Floor Plan, C-03 Existing Second Floor Plan, C-06 Existing Elevations)	August 4, 2012 (April 24, 2013)	Modified plans submitted to OSPCD (Plot Plan)	August 1, 2012 (April 24, 2013)	Modified plans submitted to OSPCD (Site-01 Site/Parking Plan, Z-01 Basement Plan, Z-02 First Floor Plan, Z-03 Second Floor Plan, Z-04 Third Floor Plan, Z-05 Elevations, Z-06 Elevation, Z-07 Elevation, Z-08 Section, Z-09 Isometric)	BP/CO	ISD/PIng.	
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2	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector											
3	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP											
4	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	PIng.											



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
Danielle Evans
Elaine Severino
Josh Safdie (Alt.)

Attest, by the Zoning Board of Appeals Administrative Assistant:

Dawn 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 _____

