



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

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2011-32
Site: 32 Dartmouth Street
Date of Decision: May 4, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 16, 2011

ZBA DECISION

Applicant Name:	JSS Realty Corporation
Applicant Address:	4 Airline Drive, North Reading, MA 01864
Property Owner Name:	JSS Realty Corporation
Property Owner Address:	4 Airline Drive, North Reading, MA 01864
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and owner JSS Realty Corp., seeks a special permit to alter a nonconforming structure under SZO §4.4.1 to construct a three-story wood framed porch and stairs in the rear of an existing three-family residence.

<u>Zoning District/Ward:</u>	RA zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	March 23, 2011
<u>Date(s) of Public Hearing:</u>	May 4, 2011
<u>Date of Decision:</u>	May 4, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-32 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 construct three exterior porches, one on top of the other, in the rear portion of an existing three-family structure with a small set of stairs from the first floor porch to the driveway. The proposed porches and stairs will occupy a portion of the existing driveway and will extend flush along the left elevation stopping approximately six feet short of the end of the structure. As part of this project, an existing bulkhead in the driveway will be removed to allow the construction of the porches. The porches will be supported on two sides by the existing structure and on the outlying corner by a post foundation. The second and third floor porches will only be accessible from the interior of each of those units. The first floor porch will be entirely enclosed with screening/lattice work, while the second and third floor porches will have a 42" high railing around them. These proposed porches will provide new, private outdoor space for all three units in the rear of the structure, in addition to the existing common outdoor space on the first floor front porch.

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 provide adequate light and air; 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 (6.1.1. RA - Residence Districts), which is, "To 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 project is compatible with the characteristics of the surrounding area. The Applicant is proposing to construct three exterior porches, one on top of the other, and stairs in the rear portion of the existing structure. Other structures in the area have similar style rear porches and this design is consistent with the others. The proposed porches will extend flush along the left elevation stopping approximately six feet short of the end of the structure and will be subordinate in nature



to the rest of the existing structure. The property will remain a 2½ story, three-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 effects are anticipated. The proposed porches will extend flush along the left elevation and will stop approximately six feet short of the end of the structure. The porches and stairs will be constructed on a portion of the existing driveway, therefore not creating any new impervious surface on the site. No additional units are proposed for the structure and therefore no additional waste water is anticipated as a result of the project. There may be a small increase in noise upon project completion as residents of the structure will now each have their own private outdoor space to use, but this is not anticipated to be excessive in nature or detrimental to the neighborhood.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino. Upon making the above findings, Richard Rossetti 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 three-story wood framed porch and stairs in the rear of an existing three-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>(March 23, 2011)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>March 1, 2011 (April 15, 2011)</td> <td>Plot Plans (Existing and Proposed)</td> </tr> <tr> <td>(April 15, 2011)</td> <td>Existing Floor Plans submitted with application (EX 01 – EX 04)</td> </tr> <tr> <td>January 18, 2011 (April 15, 2011)</td> <td>Proposed Floor Plans and Elevations submitted with application (S-4 01 – S-4 10)</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	(March 23, 2011)	Initial application submitted to the City Clerk’s Office	March 1, 2011 (April 15, 2011)	Plot Plans (Existing and Proposed)	(April 15, 2011)	Existing Floor Plans submitted with application (EX 01 – EX 04)	January 18, 2011 (April 15, 2011)	Proposed Floor Plans and Elevations submitted with application (S-4 01 – S-4 10)	BP/CO	Plng.	
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2	The Applicant shall meet the Fire Prevention Bureau’s requirements.	CO	FP											



3	The Applicant shall submit to Planning Staff for approval a site plan that includes parking and landscaping and the materials for parking and landscaping.	BP	Plng.	
4	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
5	To the maximum extent feasible the Applicant will utilize strategies during construction to mitigate dust and control air quality, to minimize noise and to implement a waste recycling program for the removed debris.	During Construction	OSE/IS D	
6	The Applicant shall obtain a Certificate of Occupancy for three units.	Final Sign Off	Plng.	
7	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.	



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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Evans
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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