



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2012-73
Site: 13 Elmwood Street
Date of Decision: October 3, 2012
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 9, 2012

ZBA DECISION

Applicant Name:	Franziska Amacher
Applicant Address:	237 Mt. Auburn Street, Cambridge, MA 02138
Property Owner Name:	Chunga Cha
Property Owner Address:	13 Elmwood Street, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant, Franziska Amacher, and Owner, Chunga Cha, seek a Variance (SZO §5.5) in order to build a 1.5 foot extension of the first story of a porch into the front yard setback.

<u>Zoning District/Ward:</u>	RB zone/Ward 7
<u>Zoning Approval Sought:</u>	§5.5
<u>Date of Application:</u>	August 21, 2012
<u>Date(s) of Public Hearing:</u>	9/19 & 10/3/12
<u>Date of Decision:</u>	October 3, 2012
<u>Vote:</u>	4-0

Appeal #ZBA 2012-73 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on September 19, 2012. 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to allow for a portion of a newly constructed front porch to extend just over 1 foot (1' 1 ¼") into the required front yard setback. The projection would be on the first floor of the porch between columns and would serve the purpose of keeping 3 feet of access on the porch to be able to walk around the bay window. The projection will not require footings as it will cantilever out from a deck. The projection was constructed but it can be removed without affecting the rest of the structure if the variance is not granted.

FINDINGS FOR SPECIAL PERMIT (SZO §5.5):

In order to grant a variance the Board must find that all of the following conditions apply 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 Board agreed with the Applicant's statement: "In order to fit with the porches on adjacent house fronts, we are installing a deck. At the existing bay window the depth of the deck is only 2'-0". We propose to extend the deck only around the first floor bay window by one foot into the 10'-0" setback. Everywhere else the setback will be conforming to the 10'-0" required. Note that adjacent houses have setbacks ranging from zero, 7'-2", 9'-8" to 9'-9"."

The Board found that there are special circumstances related to the shape of the site and the placement of the house with a bay window that establishes a hardship of not being able to install a functional front porch. This condition does not affect generally the zoning district. Many houses in the zoning district were built with or added on front porches but this property would need a variance to have a functional porch that provided enough room to walk around the bay window. Porches are typical elements on 2 ½ story houses in the City and denying this would deprive the owners of installing a feature that provides benefit to the owners and to the neighborhood.

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 Board agreed with the Applicant's statement: "Front porches are important elements in the surrounding houses. With the proposed 1'-0" extension, it becomes possible to use our deck. These semi-private spaces are important elements in the public to private continuum from sidewalk to house. They also encourage people to sit outside, observe neighbors passing by, and interact if desired. This promotes a stronger sense of community."

The Board found that the request to have a small portion of the first story porch project a little over one foot into the required setback is a minimal amount to allow the porch to be functional and safe.

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."

The Applicant stated, "This small 1'-0" projection into the setback will be only at the first floor, and it will fit behind the average setback of adjoining houses."

The Board found that granting the variance would be in harmony with the general purpose and intent of the Ordinance. The Ordinance allows unenclosed porches to project farther into the front yard setback than other structures and allows setbacks to be based on neighboring properties setbacks. In this case the projection is just slightly over what the exception for front porches allows and the neighboring properties have what would be similar setbacks if the variance is granted.

The addition of a front porch would not be injurious to the neighborhood or detrimental to the public welfare. In fact it would add character to the house and would allow for interaction of residents as they spend time in this transition space between the private home and the public sidewalk. The porch projection will not appear odd as designed. It would project a small amount between columns and the porch would otherwise look like a typical 2-story front porch.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Herbert Foster, Scott Darling and Josh Safdie absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is for the approx 1.5 foot extension of a front porch into the required front yard setback. 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>Aug 21, 2012</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Aug 8, 2012</td> <td>Plans submitted to OSPCD (A-V plan and axonometric view)</td> </tr> <tr> <td>Aug 21, 2012</td> <td>Plans submitted to OSPCD (A-3 elevations)</td> </tr> </tbody> </table> <p>Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Aug 21, 2012	Initial application submitted to the City Clerk's Office	Aug 8, 2012	Plans submitted to OSPCD (A-V plan and axonometric view)	Aug 21, 2012	Plans submitted to OSPCD (A-3 elevations)	BP/CO	ISD/Plng.	
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2	An exterior light and electrical receptacle is required for the first of the porch and an electrical receptacle is required for the second level.	Final sign off	Wiring Inspector									
3	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.									



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
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 _____

