



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

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2012-66
Site: 31 Franklin Avenue
Date of Decision: September 5, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: September 17, 2012

ZBA DECISION

Applicant Name:	Ocean City Development, LLC
Applicant Address:	12 Alfred Street, Suite 300. Woburn, MA 01801
Property Owner Name:	Ocean City Development, LLC
Property Owner Address:	12 Alfred Street, Suite 300. Woburn, MA 01801
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner Ocean City Development, LLC seeks a Special Permit under SZO §4.4.1 to expand a dormer on the left side of the existing nonconforming two-family structure. RB zone. Ward 1.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 1, 2012
<u>Date(s) of Public Hearing:</u>	September 5, 2012
<u>Date of Decision:</u>	September 5, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2012-66 was opened before the Zoning Board of Appeals at Somerville City Hall on September 5, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The current Applicant, Ocean City Development, LLC, proposes to expand the existing shed dormer on the left side of this two-family dwelling to create a new bathroom. The proposed expansion of the existing shed dormer would be of the same shed-style, slightly reduced in size, attached to the left side of the existing dormer. The current dormer is approximately 14 feet wide and extends to the ridgeline of the house. The face of the dormer is 6 feet high and includes two windows. The proposed shed dormer extension would be approximately 6 feet wide and would extend further towards the rear of the existing structure. The face of the proposed shed dormer extension would be approximately five feet high. The new shed dormer will allow space for the construction of a new full bathroom and will include a small window on the face of the dormer. The usable square footage of the property will increase by 32 square feet (from 1,936 square feet to 1,968 square feet) and the Floor Area Ratio (FAR) will increase from 0.52 to 0.53, which is still well below the maximum of 1.0 for an RB district.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §5.1):

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 dormer is not expected to impact the house adjacent to the nonconforming side yard. While the Board does not encourage shed dormers extending from the apex of a roof, the Board finds the design acceptable as the dormer is an extension of an existing dormer. Additionally, the new addition is smaller than the existing dormer, and it will be shielded from the streetscape as it is located behind the larger existing dormer.

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 protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; and to conserve the value of land and buildings."

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

The expansion of the dormer has been designed to be compatible with the built and unbuilt surrounding area and land uses. The form of the building would remain consistent with other structures along the street and in the



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neighborhood. The dormer is not expected to impact the streetscape or the surrounding neighborhood as the dormer addition will be minimally visible being shielded behind the larger existing shed dormer, which is located closer to Franklin Avenue. The proposed shed dormer would be of comparable size to other shed dormers on neighboring houses.

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 as part of this proposal. No new glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water, nor transmission of signals that interfere with radio or television reception are anticipated as part of the proposal. The existing structure will remain a two-family residential building in an RA District.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. 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 under SZO §4.4.1 to expand an existing dormer on the left side of a 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>(August 1, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>July 26, 2012 (August 22, 2012)</td> <td>Plot Plan</td> </tr> <tr> <td>August 21, 2012 (August 22, 2012)</td> <td>Floor Plans, Roof Plan, and Elevations (Sheets 1 & 2)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(August 1, 2012)	Initial application submitted to the City Clerk's Office	July 26, 2012 (August 22, 2012)	Plot Plan	August 21, 2012 (August 22, 2012)	Floor Plans, Roof Plan, and Elevations (Sheets 1 & 2)	BP/CO	ISD/PIng.	
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August 21, 2012 (August 22, 2012)	Floor Plans, Roof Plan, and Elevations (Sheets 1 & 2)											



2	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	
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
4	New siding type and color, roofing, trim, and materials of the dormer expansion shall match or be complimentary to the rest of the existing structure.	CO	Plng.	
5	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
6	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:

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

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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