



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2014-07
Site: 86 Powderhouse Boulevard
Date of Decision: March 19, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 21, 2014

ZBA DECISION

Applicant Name:	Jose & Maria Barros
Applicant Address:	252 High Street, Medford, MA 02155
Property Owner Name:	Jose & Maria Barros
Property Owner Address:	252 High Street, Medford, MA 02155
Agent Name:	N/A

Legal Notice: Applicants & Owner Jose & Maria Barros seek a Special Permit under SZO §4.4.1 to alter a nonconforming structure by enclosing the second floor of a rear porch.

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	February 5, 2014
<u>Date(s) of Public Hearing:</u>	March 19, 2014
<u>Date of Decision:</u>	March 19, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-07 was opened before the Zoning Board of Appeals at Somerville City Hall on March 19, 2014. 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 proposal is to enclose the second story of the rear porch. The third floor unit uses the second story porch as a second means of egress and access to the basement where the laundry is located. Enclosing the second floor of the porch would allow the path from the third floor to the basement to be fully enclosed. The siding of the enclosed porch will be vinyl clapboards to match the rest of the house.

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."

Lawfully existing three-family dwellings, which are nonconforming with respect to dimensional requirements, may be enlarged, expanded, renovated, or altered by special permit granted by the SPGA in accordance with the procedures of Article 5. The structure is nonconforming in terms of lot size (3,741 square exists and 10,000 square feet is required), frontage (46 feet exists and 50 is required), lot area per dwelling unit (1247 square feet exists and 2250 is required), floor area ratio (0.87 exists and 0.75 is the maximum) and rear yard setback (approximately 2 feet and 16.5 feet are required).

Enclosing the second story porch will change the appearance of the structure in the nonconforming rear yard setback and increase the nonconforming floor area ratio by 0.02.

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. Enclosing porches is generally not encouraged as porches provide private outdoor space and a transition from living space in the structure and the public realm, however, in this case the usability of the third unit will be improved by this change and the porch as conditioned will be designed to continue to appear to be a porch and not an inappropriate addition.

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 RA district as it is being done as part of a renovation to a residential property.

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 redesigned porch will have sufficient windows so that it continues to appear as a porch and not an expansion of the interior living space. A condition of approval is that a trim board is placed on the western façade so that there is



a visual break between the house and porch. This will also help if the house is not fully resided to provide a separation between materials. The color of vinyl siding may not match the color of the new vinyl. If an exact match of the color is not found, the owner should choose a compatible color with planning staff approval.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Brandy Brooks with Elaine Severino absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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	Approval is for the enclosure of a second floor rear porch. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Plng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>Feb 5, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Oct 28, 2013</td> <td>Modified plans submitted to OSPCD (plot plan)</td> </tr> <tr> <td>Jan 28, 2014 (Mar 14, 2014)</td> <td>Modified plans submitted to OSPCD (elevation, section)</td> </tr> <tr> <td>Jan 31, 2014 (Mar 14, 2014)</td> <td>Modified plans submitted to OSPCD (floor plans)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	Feb 5, 2014	Initial application submitted to the City Clerk's Office	Oct 28, 2013	Modified plans submitted to OSPCD (plot plan)	Jan 28, 2014 (Mar 14, 2014)	Modified plans submitted to OSPCD (elevation, section)	Jan 31, 2014 (Mar 14, 2014)	Modified plans submitted to OSPCD (floor plans)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.														
2	The rear porch shall not extend farther into the rear yard than the existing porch	BP/CO	ISD/ Plng.											
3	Trim board shall be installed on the western façade to visually separate the house from the porch enclosure.	CO	Plng.											
4	The color of the porch enclosure shall match or be complementary to the main structure. The Applicant/Owner shall bring the color of the siding to Planning Staff for review and approval prior to ordering the material.	Prior to purchasing siding	Plng.											
Final Sign-Off														
5	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:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Brandy Brooks

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 _____

