



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

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Case #: ZBA # 2011-75
Site: 68 Wallace Street
Date of Decision: November 2, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: November 8, 2011

ZBA DECISION

Applicant Name:	Janet Collins
Applicant Address:	305 Wachusett Street, Jamaica Plain, MA 02130
Property Owner Name:	Rose McMahan
Property Owner Address:	68 Wallace Street, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant Janet Collins and Owner Rose McMahan seek a special permit to alter a nonconforming structure under SZO §4.4.1 to construct a roof and two sides over an existing wheelchair lift.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 4, 2011
<u>Date(s) of Public Hearing:</u>	November 2, 2011
<u>Date of Decision:</u>	November 2, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-75 was opened before the Zoning Board of Appeals at Somerville City Hall on November 2, 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.

DESCRIPTION:



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The Applicant is proposing to construct a 4.5 foot wide by 5 foot deep enclosure around an existing wheelchair lift on the left side of the dwelling. One of the occupants of the dwelling is confined to a wheelchair and to assist him in getting to and from work the doorway and chair lift were installed in the 1990's. Currently the lift is entirely exposed to all of the elements and during the last two winters the lift has sometimes become frozen and inoperable, making it impossible for the occupant to go to work. The proposed project would construct a sloped roof over the lift at the same pitch as the as the roof over the existing enclosed front porch. The lift enclosure would also include two side walls to provide additional protection from the elements. One side of the lift would remain open to allow access onto and off of the lift.

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 existing front porch is already enclosed and therefore the proposed project would not greatly alter the streetscape along Wallace Street. The proposed siding type and color, roofing, trim, and materials of the enclosure will match those of the existing structure, including the roof pitch of the proposed enclosure which will be the same as the roof pitch on the existing enclosed front porch. The proposed enclosure would only extend the left side of the front façade towards the left property line an additional 4 feet, however, the proposal would not reduce the existing left side yard setback because the proposed enclosure would still be within the existing building envelope. The proposal, however, would reduce the existing nonconforming front yard setback by 6 inches towards the front of the lot from 7 feet to 6.5 feet. The landscaping and parking conditions at the site would remain the same as the area where the lift currently sits is already paved and the enclosure would not interfere with traffic flow on the property. The property will remain a 1½ story, single-family residential use which is consistent with the surrounding neighborhood.

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 secure safety from fire, panic and other dangers; to conserve the value of land and buildings; and to encourage housing for persons of all income levels."

The proposal is also 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 neighborhood. The existing front porch is already enclosed and therefore the proposed project would not greatly alter the streetscape along Wallace Street. The proposed siding type and color, roofing, trim, and materials of the enclosure will match those of the existing structure, including the roof pitch of the proposed enclosure which will be the same as the roof pitch on the existing enclosed front porch. The proposed enclosure would only extend the left side of the front façade towards the left property line an additional 4 feet, however, the proposal would not reduce the existing left side yard setback because the proposed enclosure would still be within the existing building envelope. The proposal, however, would reduce the existing nonconforming front yard setback by 6 inches towards the front of the lot from 7 feet to 6.5 feet. The landscaping and parking conditions at the site would remain the same as the area where the lift currently sits is already paved and the enclosure would not interfere with traffic flow on the property. The structure will remain a 1½ story, single-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 impacts are anticipated from this project. No new noise, 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 structure will remain a 1½ story, single-family dwelling and will continue to be used for residential purposes.



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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 construct a roof and two sides over an existing wheelchair lift. 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>(October 4, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(October 21, 2011)</td> <td>Existing Site Plan</td> </tr> <tr> <td>(October 27, 2011)</td> <td>Proposed Site Plan</td> </tr> <tr> <td>(October 27, 2011)</td> <td>Existing and Proposed Front and Left Side Elevations</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	(October 4, 2011)	Initial application submitted to the City Clerk's Office	(October 21, 2011)	Existing Site Plan	(October 27, 2011)	Proposed Site Plan	(October 27, 2011)	Existing and Proposed Front and Left Side Elevations	BP/CO	ISD/PIng.	
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(October 27, 2011)	Proposed Site Plan													
(October 27, 2011)	Existing and Proposed Front and Left Side Elevations													
2	The Applicant shall meet the Fire Prevention Bureau's requirements.	CO	FP											
3	New siding type and color, roofing, trim, and materials of the addition shall match those of the existing structure.	CO	PIng.											
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:

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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