



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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EXECUTIVE DIRECTOR

PLANNING DIVISION

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BRANDY BROOKS (ALT.)

**Case #: ZBA 2014-47**  
**Site: 38 Warner Street**  
**Date of Decision: June 18, 2014**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: June 25, 2014**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Melvin Santos
<b>Applicant Address:</b>	38 Warner Street, Somerville, MA 02144
<b>Property Owner Name:</b>	Melvin Santos
<b>Property Owner Address:</b>	38 Warner Street, Somerville, MA 02144
<b>Agent Name:</b>	N/A

Legal Notice: Applicant and Owner Melvin Santos, seeks a special permit to alter a nonconforming structure under SZO §4.4.1 to expand the front porches on the first and second floors of an existing two-family residence. RA zone. Ward 6.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 14, 2014
<u>Date(s) of Public Hearing:</u>	June 18, 2014
<u>Date of Decision:</u>	June 18, 2014
<u>Vote:</u>	5-0

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Appeal #ZBA 2014-47 was opened before the Zoning Board of Appeals at the Argenziano School Cafeteria on June 18, 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 rebuild the first and second story porches on the front of the home to be 8'-4" deep and extend the width of the home. The original porches were approximately 102 square feet each (15.7 feet wide by 6.5 feet deep) and the new porches would be approximately 208 square feet each (25 feet wide by 8.3 feet deep). Both the first and second story porches would be increased by approximately 105 square feet and would move 4 feet closer to the sidewalk. The stairs leading to the front porches will also be rebuilt. The new design will be 6 steps instead of 5 to be code compliant.

The application also includes by-right improvements to the site. The front porch and yard will be landscaped including a 24" high stone landscaping wall. The side yard will be improved from asphalt to a paver patio and landscaping.

**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."*

This is a residential property within an RA district. The structure is currently nonconforming with respect to the minimum front and right side yard setbacks. The existing front yard setback nonconformity requires the Applicant to obtain a special permit under Somerville Zoning Ordinance (SZO) §4.4.1 to alter the nonconforming structure to expand the front porches on the first and second floors of the existing two-family residence.

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.

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 I, 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; and to provide adequate light and air.

The proposal is consistent with the purpose of the district, 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."*



This is a residential property located in an RA district. The surrounding area is comprised most of two-family homes with a few three- and multi-family dwellings in the area. The vast majority of structures in the area are 2½ stories in height.

There shall be minimal impacts to the surrounding neighborhood as a result of the proposed project, the improvements proposed will make the house more compatible with existing properties. The proposal will reduce the existing nonconforming front yard setback to 5'-9" at the edge of the deck and approximately 2' at the front stairs. Both the new first and second story porches would be 105 square feet larger allowing for enhanced semi-private outdoor space on the first two floors of the dwelling. The proposed porches would take the unsafe, deteriorating, and unsightly existing front porches and replace them with new, structurally sound porches that would span the length of the front of the dwelling. The property will remain a 2½ story, two-family residential use which is consistent with the surrounding neighborhood. The proposed porches would not appear to be detrimental to the immediate abutters or the surrounding area and therefore, there are no anticipated negative impacts from the proposal.

5. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

In the landscape plan submitted the applicant will maintain the 20' visibility diagonal at the corner of Warner and Pearson Streets.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

The project will have no impact on the existing affordable housing stock in Somerville.

7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, Transform key opportunity areas, Preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.*

SomerVision calls for neighborhoods such as these to be preserved. Allowing the rebuilding of beloved architectural features complies with the SomerVision plan.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Josh Safdie with Danielle Evans and Brandy Brooks 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	<p>Approval is for a Special Permit to alter a nonconforming structure under SZO §4.4.1 to expand the front porches on the first and second floors. 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>May 14, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 5, 2011</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>(June 11, 2014)</td> <td>Modified plans submitted to OSPCD (Existing - Deck Top View, Deck Side View, &amp; Landscape Plan, Proposed - Porch Top View, Porch Side View, Porch Front View, Landscape Plan)</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	May 14, 2014	Initial application submitted to the City Clerk's Office	August 5, 2011	Modified plans submitted to OSPCD (Plot Plan)	(June 11, 2014)	Modified plans submitted to OSPCD (Existing - Deck Top View, Deck Side View, & Landscape Plan, Proposed - Porch Top View, Porch Side View, Porch Front View, Landscape Plan)	BP/CO	ISD/ Plng.	
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<b>Pre-Construction</b>												
2	The applicant will need to provide a letter Engineering indicating no increased run-off to adjacent properties or public ROW and any increase seen after project completion will need to be remedied at no expense to the City of Somerville. Applicant will provide this letter prior to receipt of a building permit. The letter shall include existing and proposed site conditions including but not limited to: impervious area, pervious area, stormwater run-off, etc.	BP	Eng.									
<b>Construction Impacts</b>												
3	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									



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	
<b>Design</b>				
5	Applicant shall provide final material samples for decking and railing to Planning Staff for review and approval prior to construction.	BP	Plng.	
6	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
7	The front porches shall never be enclosed.	Perpetual	Plng/ISD	
<b>Site</b>				
8	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
<b>Miscellaneous</b>				
9	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
<b>Public Safety</b>				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
11	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
<b>Final Sign-Off</b>				
12	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  
Elaine Severino  
Josh Safdie

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 \_\_\_\_\_

