



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

PLANNING DIVISION

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2012-65
Site: 7 Westminster Street
Date of Decision: September 5, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: September 17, 2012

ZBA DECISION

Applicant Name:	Kevin Kelleher
Applicant Address:	1 Hanson Road, Saugus, MA 01906
Property Owner Name:	Christopher Cacioppo
Property Owner Address:	108 College Avenue, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant Kevin Kelleher and Owner Christopher Cacioppo, seek a Special Permit to alter a nonconforming structure under SZO §4.4.1 to add a third floor rear porch and to expand the rear porches deeper into the lot at an existing three-family residence.

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 2, 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 2012-65 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 existing structure has a dwelling unit on each floor of the building. The first floor unit is 1,305 square feet, the second floor unit is 1,439 square feet, and the third floor unit is 1,090 square feet. Both the first and second floor units have 4 foot deep by 17 foot wide unenclosed rear porches which are not connected. The second floor unit also has a small unenclosed front porch. The third floor unit has no private outdoor space. The Applicant is proposing to extend the existing rear porches 6 feet deeper into the lot and to add a new rear porch to the third floor unit. The new porches would all then be 10 feet deep but would still maintain the same width of 17 feet. The first floor rear porch would also have steps within the footprint of the porch that would provide access into the backyard. These new steps would replace the existing, unsafe concrete steps that lead down from the first floor deck. As part of this proposal a new door would be created on the third floor of the rear façade where there is currently a window to allow access out onto the third floor porch. Each rear porch would only be accessible from within each of the units, aside from the steps that would lead into the backyard on the first floor. The base of the first floor porch would be enclosed with lattice.

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 Permit.
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 to the rear of the structure would not be substantially more detrimental to the neighborhood than the existing structure. These porches would only be extended an additional 6 feet deeper into the lot, adding another 102 square feet to each porch. The decks existing 4 foot setback from the left property line and 19 foot setback from the right property line would both be maintained. The expanded decks would also still be well in compliance with the required rear yard setback with 24 feet remaining to the rear property line. The proposed third floor deck would be within the same footprint as the first and second floor decks and its railing would not extend beyond the slope of the gable roof. By containing all of the new construction to the rear of the property, the Westminster Street streetscape would not be altered in any way. The extension of the rear porches deeper into the backyard would not make the existing structure any more invasive to the surrounding properties of the area. This expanded and newly created private outdoor space may draw residents of each of these units outside more frequently, but the noise impacts that may result from this new space would be minimal. This is especially true as the property is only one lot away from Broadway and the heart of Teele Square, both of which generate significant streetscape activity. The extension of the rear porches and the creation of the third floor rear porch should also not greatly impact the amount of sunlight being received by surrounding structures or limit the views from abutting properties. The railings of the porches will consist of balusters that will allow light to penetrate through the railings. The property will remain a 2½ story, three-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 protect health; to provide



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adequate light and air; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City.”

While the existing use of the property, a nonconforming three-family dwelling, is not directly consistent with 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,” the proposal itself is consistent as it is compatible with and convenient to the residents of the district and the surrounding neighborhood.

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. These rear porches would only be extended an additional 6 feet deeper into the lot, adding another 102 square feet to each porch. The proposed third floor deck would be within the same footprint as the first and second floor decks and its railing would not extend beyond the slope of the gable roof. By containing all of the new construction to the rear of the property, the Westminster Street streetscape would not be altered in any way. The extension of the rear porches deeper into the backyard would not make the existing structure any more invasive to the surrounding properties of the area. This expanded and newly created private outdoor space may draw residents of each of these units outside more frequently, but the noise impacts that may result from this new space would be minimal. This is especially true as the property is only one lot away from Broadway and the heart of Teele Square, both of which generate significant streetscape activity. The property will remain a 2½ story, three-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 proposal. No new noise, glare, dust, 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 project. The property will remain a 2½ story, three-family residential use which is consistent with the surrounding neighborhood.



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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 to add a third floor rear porch, to expand the rear porches deeper into the lot, and to convert a window into a door on the rear façade of an existing three-family residence under SZO §4.4.1. 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 2, 2012)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>July 1, 2012 (August 28, 2012)</td> <td>Plot Plan</td> </tr> <tr> <td>(August 28, 2012)</td> <td>Proposed Rear Elevation</td> </tr> <tr> <td>(August 28, 2012)</td> <td>Right Side Elevation – Proposed</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 2, 2012)	Initial application submitted to the City Clerk’s Office	July 1, 2012 (August 28, 2012)	Plot Plan	(August 28, 2012)	Proposed Rear Elevation	(August 28, 2012)	Right Side Elevation – Proposed	BP/CO	ISD/Plng.	
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(August 28, 2012)	Right Side Elevation – Proposed													
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 shall meet the Fire Prevention Bureau’s requirements.	CO	FP											
4	The Applicant shall install one exterior light fixture, and one electrical receptacle on each level of the rear deck spaces.	CO	Wiring Inspector											
5	The Applicant shall at their 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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