



CITY OF SOMERVILLE, MASSACHUSETTS
ZONING BOARD OF APPEALS
JOSEPH A. CURTATONE, MAYOR

MEMBERS

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ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA 2008-42
Site: 12-14 Albion Place
Date of Decision: October 1, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 14, 2008

ZBA DECISION

Applicant Name: Frances Dilks
Applicant Address: 90 Pearson Avenue, Somerville, MA 02144
Property Owner Name: Frances Dilks
Property Owner Address: 90 Pearson Avenue, Somerville, MA 02144
Agent Name: Sandro Carella
Agent Address: 1 North Square, Boston, MA 02113

Legal Notice: Applicant & Owner: Frances Dilks seeks Special Permit approval under SZO §4.4.1 for the alteration of a non-conforming structure in order to construct a third story on an existing two and a half story building and to construct a two story rear deck. RB zone. Ward 5.

Zoning District/Ward: RB zone/Ward 5
Zoning Approval Sought: §4.4.1
Date of Application: August 6, 2008
Date(s) of Public Hearing: September 17, 2008
Date of Decision: October 1, 2008
Vote: 5-0

Appeal #ZBA 2008-42 was opened before the Zoning Board of Appeals at Somerville City Hall on September 17, 2008. 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 (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant is proposing to construct a third floor on the existing two and a half story structure to enlarge the space of two bedrooms and install a bathroom. The applicant is also proposing to reconstruct the two story front porch and to open the second level that is currently enclosed. The rear deck will be reconstructed to include a

second level, which will be open as well. Additional windows will be incorporated into the façade design to allow for more light into the structure.

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."

The Applicant requires a special permit under §4.4.1 of the SZO. Under §4.4.1, "The SPGA, as a condition of granting a special permit under this Section much find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming structure."

The Board finds that the applicant has made a substantial effort to address Staff concerns regarding the appearance of the proposed third floor.

The Board finds that the third floor addition and the rear deck would not be substantially more detrimental to the surrounding neighborhood than the existing structure, as required under §4.4.1 of the SZO. This design is reflective of traditional triple deckers found throughout Somerville and is in character with other similar structures in the neighborhood. Regarding the front porch, the Board finds the removal of the second floor enclosure and the general reconstruction to be beneficial to the neighborhood. The renovations will reduce the bulk of the structure along the street wall and will be architecturally more consistent with traditional porch designs in Somerville.

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 Board finds that the proposal is consistent with the purposes set forth in Article 1 of the Zoning Ordinance, and with, to the extent possible for a lawful pre-existing nonconforming structure, those purposes established for the RB district in which the property is located, namely, "[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 Board finds that the proposal **is compatible** with the site and area as there are many triple-decker residential structures in the immediate neighborhood. The location of the structure at the end of a cul-de-sac and the close proximity of other structures will limit any visual impacts of the proposed third floor on the surrounding area. The Board finds that the alterations proposed for the front porch will improve the character of the building and create a structure that is more compatible with the street on which it faces.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis 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 construct a third story on the existing two and a half story structure, to reconstruct the front two-story porch and front façade windows and construct a two-story open porch in the rear. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent:</p> <table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August 6, 2008</td> <td>Initial application and plans submitted to the City Clerk's Office (Plan of land, a1.1, a1.2, a1.3)</td> </tr> <tr> <td>September 16, 2008</td> <td>Revised elevations submitted to OSPCD (a2.1, a2.2, a2.3, a2.4)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan and elevations that are not <i>di minimis</i> must receive ZBA approval.</p>	Date	Submission	August 6, 2008	Initial application and plans submitted to the City Clerk's Office (Plan of land, a1.1, a1.2, a1.3)	September 16, 2008	Revised elevations submitted to OSPCD (a2.1, a2.2, a2.3, a2.4)	Building Permit	Png.	
Date	Submission									
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2	The applicant shall provide a code compliant fire alarm system.	CO	FP							
3	Columns on the front porch shall be 6" by 6" in dimension.	CO	Png.							
4	No future enclosure of the porches/decks shall be allowed.	Cont.	ISD							
5	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final Building Permit Signoff	Png. / ISD							

Attest, by the Zoning Board of Appeals:

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

Attest, by the Zoning Board of Appeals 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 _____