



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**MAYOR**

PLANNING DIVISION

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

**Case #: ZBA # 2012-18**  
**Site: 11 Church Street**  
**Date of Decision: April 4, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: April 6, 2012**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Christopher Shachoy
<b>Applicant Address:</b>	P.O. Box 382265, Cambridge, MA 02238
<b>Property Owner Name:</b>	CMS Church Nominee Trust
<b>Property Owner Address:</b>	P.O. Box 382265, Cambridge, MA 02238
<b>Agent Name:</b>	Bob Moriarty
<b>Agent Address:</b>	18 Tremont Street, Boston, MA 02109

<u>Legal Notice:</u>	Applicant Christopher Shachoy and Owner CMS Church Nominee Trust, seek a Special Permit to alter a nonconforming structure under SZO §4.4.1 to add additional square footage to the right rear of the third floor apartment and a Special Permit under SZO §9.13.a for relief from one parking space at an existing three-family residence. RC zone. Ward 2.
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<u>Zoning District/Ward:</u>	RC zone / Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.13.a
<u>Date of Application:</u>	February 27, 2012
<u>Date(s) of Public Hearing:</u>	4/4
<u>Date of Decision:</u>	April 4, 2012
<u>Vote:</u>	5-0

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Appeal #ZBA 2012-18 was opened before the Zoning Board of Appeals at Somerville City Hall on April 4, 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 (1) hearing of deliberation, the Zoning Board of Appeals took a vote.



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**DESCRIPTION:**

Applicant, Christopher Shachoy, proposes to alter this three-family home by adding square footage to the rear of the building on the third floor at the southeast corner and to convert two enclosed porches located on the right side below the proposed addition into living space. These modifications would expand the third floor apartment by adding 212 square feet of living area, increasing the gross floor area of the third floor to 1,131 square feet, and create a new net floor area of 3,879 square feet for the entire structure. The third story addition would integrate several of the existing dormers and rooftop additions to make the whole building more visually cohesive. The roofline of the tallest dormer/addition, which is centrally located at the rear of the main building, will remain as the highest peak of the building and will not be fully integrated into the proposed addition. The roofline of the new addition is proposed to create an asymmetrical gable by connecting to the roofline of the existing northeast shed dormer. The addition will extend to be flush with the rest of the rear façade, while the eaves of the primary building will remain slightly extended. Two windows will be added to the southern façade at the rear of the addition.

The two enclosed porches located directly beneath the planned third floor addition will be turned into living space as part of the project. The Applicant proposes to convert these two porches into additional bedrooms and second bathrooms for each unit by removing multiple windows from both the right and rear facades, and to install siding to match what currently exists. The Applicant is also proposing to re-install a pair of windows to both the first and second floor enclosed porches. The windows of the second and third floors will align above the back door and the window to its immediate left, while the first floor will also have a second window that will align above the adjacent basement window. The rear porch of the first floor apartment will remain unaltered. As part of this project, two bedrooms and a second bathroom will be added to each dwelling unit changing each from one-bedroom units to three-bedroom units.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §9.13.a):**

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. There are no character-defining features located at the rear of the building that will be affected by this proposal. While the right rear portion of the structure is somewhat visible from the Church Street right-of-way, most of the alterations to the structure are occurring well back from the street edge and therefore the changes will not greatly impact the view along the Church Street streetscape. Additionally, the requested parking relief of one required space for this proposal should only have a minimal impact to abutters and the surrounding neighborhood. The property currently does not have any parking on site and all of the existing residents of the structure already park on-street if they have a vehicle. Church Street is not heavily traversed by car and the subject property is located within an area of the City that offers easy access to public transportation

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."



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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 adequate light and air; to prevent the overcrowding of land; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.”

The proposal is consistent with the purpose of the district (6.1.3.RC – Residence Districts), which is, “To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.

In considering a Special Permit under §9.13.a of the SZO the SPGA may grant such a Special Permit only when consistent with the purposes set forth in Section 9.1 which establishes standards ensuring the availability and safe use of parking areas within the City. The Board finds that this proposal is consistent with the purposes in Section 9.1.

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 alterations and expansion of the third floor have been designed to be compatible with the built and unbuilt surrounding area. The expansion of the third floor apartment, to incorporate the remaining portion of the building’s footprint, will enhance the building through the integration of several shed dormers/additions at the rear of the building into one massing. The building will appear more visually unified upon completion of these modifications and therefore, more compatible with the surrounding neighborhood. Additionally, since most of the alterations to the structure are occurring at the rear of the property, the changes will not greatly impact the view along the Church Street streetscape. The structure will remain a three-family dwelling used for residential purposes which is consistent with the surrounding area.

5. Vehicular and Pedestrian Circulation: The circulation patterns for motor vehicles and pedestrians which would result from relief of one parking space for the subject property does not suggest a change in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

The subject property currently has no on-site parking on the lot. However, the subject property is located within close proximity to the amenities of Union Square and public transportation, and therefore the requested parking relief for this proposal does not appear to be detrimental to the surrounding area or the abutters. The Applicant hired a professional transportation firm, Design Consultants, Inc. to provide a parking assessment to determine the impact of not providing one (1) off-street parking space on the parking supply in the immediate neighborhood. Design Consultants, Inc. submitted a thorough and well prepared Parking Memorandum. The Parking Memorandum concluded that the proposed project will have a negligible impact on the surrounding neighborhood’s public parking supply. However, the Traffic and Parking Department did not fully support this assertion.

Traffic and Parking concurred that the surrounding neighborhood’s public parking supply could meet the demands of one (1) off-street parking space not being supplied by the project. However, Traffic and Parking felt there would be a slight increase in the traffic congestion and vehicle delay in this neighborhood due to this factor. Also, there would be a slight decrease in both pedestrian and vehicle safety as vehicles circulate the public ways of this neighborhood seeking available parking spaces. To alleviate this condition and promote a safe comprehensive transportation network in this neighborhood, traffic mitigation is required. The Traffic and Parking Department recommended and the Board has included a condition that the Applicant purchase and deliver to the City one (1) Pedestrian Impact Recovery System for the City to install at a nearby intersection in the surrounding neighborhood to promote a safe transportation network.



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**DECISION:**

Present and sitting were Members Herbert Foster, Richard Rossetti, Danielle Evans, Scott Darling, and Elaine Severino with Orsola Susan Fontano absent. Upon making the above findings, Richard Rossetti 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 for Special Permits to alter a nonconforming structure to add net square footage to the southeast corner of the third floor, to alter window openings and enclose two porches on the right side, and for relief from one (1) required parking space. 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>(February 27, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>November 28, 2011 (March 20, 2012)</td> <td>Plot Plan</td> </tr> <tr> <td>October 28, 2011 (March 20, 2012)</td> <td>Cover Sheet and Existing Elevations (A-1.0 and A-2.1)</td> </tr> <tr> <td>April 2, 2012 (April 4, 2012)</td> <td>Proposed Basement &amp; 1<sup>st</sup> Floor Plan, Proposed 2<sup>nd</sup> &amp; 3<sup>rd</sup> Floor Plan, and Proposed Elevations (A-1.1, A-1.2, and A-2.2)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan &amp;/or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(February 27, 2012)	Initial application submitted to the City Clerk's Office	November 28, 2011 (March 20, 2012)	Plot Plan	October 28, 2011 (March 20, 2012)	Cover Sheet and Existing Elevations (A-1.0 and A-2.1)	April 2, 2012 (April 4, 2012)	Proposed Basement & 1 <sup>st</sup> Floor Plan, Proposed 2 <sup>nd</sup> & 3 <sup>rd</sup> Floor Plan, and Proposed Elevations (A-1.1, A-1.2, and A-2.2)	BP/CO	ISD/Plng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP											
3	The Architect shall update sheets A-1.1, A-1.2, & A-2.2 to reflect the fenestration changes requested by Staff.	Prior to Decision Filing with City Clerk	Plng.											
4	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											



5	All construction materials and equipment, including dumpsters, 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	
6	New siding type and color, roofing, trim, and materials of the addition shall match or be complimentary to the rest of the existing structure	CO	Plng.	
7	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.	
8	The Applicant shall purchase and deliver to the City one (1) Pedestrian Impact Recovery System for the City to install at a nearby intersection in the surrounding neighborhood to promote a safe transportation network.	CO	T&P	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Richard Rossetti, *Acting Clerk*  
T.F. Scott Darling, III, Esq.  
Danielle Evans  
Elaine Severino (Alt.)

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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