



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

PLANNING DIVISION

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DAN BARTMAN, *ZONING PLANNER*
ADAM DUCHESNEAU, *PLANNER*
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

Case #: ZBA 2011-98
Date: March 8, 2012
Recommendation:
~~Variance – Unable to Recommend~~
Special Permit – Conditional Approval

UPDATED PLANNING STAFF REPORT¹

Site: 33-35 Dimick Street

Applicant and Property Owner Name: Steven Courtemanche
Applicant and Property Owner Address: 10 Walden Drive, Merrimack, NH 03054
Alderman: Maryann Heuston

Legal Notice: Applicant and Owner Steven Courtemanche, seeks a Variance under SZO §5.5 for relief from the rear yard setback requirement and a Special Permit under SZO §4.4.1 to enclose porches in the side and rear yards of an existing three-family dwelling. RB zone. Ward 2.

Zoning District/Ward: RB Zone / Ward 2

Zoning Approval Sought: Variance under SZO §5.5 and Special Permit under SZO §4.4.1

Date of Application: December 15, 2011

Dates of Public Hearing: Zoning Board of Appeals – **February 1, 2012**

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a 3,200 square foot lot located near the intersection of Buckingham Street and Dimick Street, one block north of Beacon Street. It contains a 6,440 gross square foot, three-story, three-family dwelling with 3,638 net square feet.
2. Proposal: The existing three-family dwelling has three identical units, each with a living room, dining room, kitchen, two full bathrooms, and three bedrooms. Each unit also has a 9 foot deep by 28.4 foot wide unenclosed rear porch. The Applicant is proposing to enclose 7 of the 9 feet of depth of each of

¹ Updated through March 8, 2012 to reflect the changes since the last Staff Report that was issued on January 26, 2012. Additions made to the Staff Report are highlighted by being underlined and text that was removed is ~~crossed out~~.



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these rear porches to ~~make them~~ create habitable living space, turning part of each one porch into a sitting area. The Applicant is also proposing to extend the outdoor portion of the decks another 1.75 feet deeper into the lot which would create a 3.75 foot deep outdoor porch space. The sitting area on the first floor would contain ~~ten~~ nine windows, ~~two on each side and six in the rear,~~ sliding doors to access the outdoor porch space, along with and a relocated door that would lead out to stairs down to the ground. The sitting areas on the second and third floors would also contain ~~four~~ nine windows and sliding doors to access the outdoor porch space. ~~two on the left side, six in the rear, and three on the right side.~~ There would also be two new windows added between each floor on the right side of the structure to provide additional light into the rear egress stairwell. ~~As part of the project, the Applicant would also be reworking the stairway that leads down from the first floor rear porch to run parallel with the building, which would be an as-of-right portion of the project.~~ The external stairs on the right side of the structure would be relocated to provide access directly out of the rear egress stairwell where a new external door would be installed.

3. Nature of Application: The lot itself is nonconforming with regard to lot size at 3,200 square feet, as 7,500 square feet is required in the RB district. The property is also nonconforming with regard to lot area per dwelling unit with only 1,067 square feet per unit, while the RB district requires 1,500 square feet, and also with regard to minimum frontage with only 40 feet, while 50 feet is the minimum for the district. The structure is nonconforming with regard to maximum ground coverage at 51.3% (50% is the maximum in the district), floor area ratio at 1.14 (1.0 maximum), and the front and left side yard setbacks. Since the structure is not a single- or two-family dwelling and because the building is increasing its already nonconforming floor area ratio, these existing nonconformities require the Applicant to obtain a Special Permit under Somerville Zoning Ordinance (SZO) §4.4.1 to alter the nonconforming structure to enclose the porches in the side and rear yards and extend the outdoor portion of the decks in the rear of the existing three-family dwelling.

Additionally it should be noted, that, because the lot is less than 100 feet deep there is a reduction factor for the required rear yard setback which would only necessitate 15 feet of rear yard setback; less than the normally required 20 feet in the RB district. Unenclosed porches are allowed to project into a rear yard setback $\frac{1}{4}$ of its required distance, in this case 3.75 feet. The existing unenclosed porches do not exceed this distance and therefore the structure is currently conforming with regard to its rear yard setback. The Applicant's proposal to enclose part of the existing rear porches and extend the existing outdoor deck space deeper into the lot can be done with simply the above referenced §4.4.1 Special Permit to alter the nonconforming structure. For this altered proposal, no dimensional Variance is required and therefore the Applicant is **WITHDRAWING** their Variance application from the altered proposal. However, by enclosing the rear porches and making them habitable living space, this would bring the structure into nonconforming status with regard to its required rear yard setback of 15 feet. This change from conforming to nonconforming status of the rear yard setback would require a variance from the dimensional requirement in §8.5.I of the SZO.

4. Surrounding Neighborhood: The subject property is located in a RB District. The surrounding area is comprised predominantly of two- and three-family dwellings between $2\frac{1}{2}$ and 3 stories, with some multi-family dwellings in the area.

5. Impacts of Proposal: The proposal to partially enclose the existing porches and extend the outdoor portion of the decks on the rear of the three-family dwelling would have a minimal impact, if any, on the surrounding area. The existing porches are already in place with footings, a roof, railings, and support beams on all three floors, and the proposal would only extend the outdoor decks 1.75 feet deeper into the property. Simply Partially enclosing these rear porches and extending the outdoor portion of them would not make the existing structure any more invasive to the surrounding properties of the area. In fact, by partially enclosing the rear porches this ~~will~~ would actually provide a ~~significant amount of some~~ noise

reduction for the area by ~~eliminating~~ reducing noise generated from people using these porches as some noise will now be contained inside the structure. The partial enclosing of the rear porches and the extension of the outdoor portion of the decks should also not greatly impact the amount of sunlight being received by surrounding structures or limit the views from abutting properties. The property will remain a three-story, three-family residential use which is consistent with the surrounding neighborhood.

6. Green Building Practices: None indicated.

7. Comments:

Fire Prevention: Stated in an email to Planning Staff on January 26, 2012 “A Code compliant fire alarm system and carbon monoxide detectors shall be in place.”

Ward Alderman: ~~Alderman Heuston has been contacted but has not yet provided comments indicated in an email to Planning Staff on Thursday, March 8, 2012 that she is supportive of the altered Special Permit application and the withdrawal of the Variance application, so long as a condition is included with the Special Permit that states that these newly created sitting rooms at the rear of the structure CANNOT be used as bedrooms.~~

Historic Preservation: ~~Has been contacted but has not yet provided comments.~~ Preservation Planner Kristi Chase and Historic Preservation Commission Executive Director Brandon Wilson indicated the following in a memorandum to Planning Staff on February 1, 2012:

“Historic and Architectural Significance

This building was constructed between 1900 and 1920 in the triple-decker style. The building received its shell of vinyl siding in 1975 when a Building Permit was issued to J Sousa.

This is one of the few neighborhoods with numerous buildings in this style contrary to the popular belief that this is the dominant architectural style of buildings in the City.

Proposed Work and Recommendations

HPC Staff finds that the proposed alteration will be minimally visible from the street and would not negatively impact the streetscape. However, the Staff also notes that the enclosure of the back porch is not in-keeping with the triple-decker style. The ample porches on the front and especially the rear to bring in fresh air and give some outdoor space to the tenants are hallmarks of the style and era and should be retained if at all possible.”



Existing Conditions



After working with Alderman Heuston and Planning Staff on the proposed design of the project since the Zoning Board of Appeals hearing on February 1, 2012, the Applicant has decided to **WITHDRAW** their **VARIANCE** application and pursue a project that only requires a Special Permit. Therefore, the Variance findings listed below are no longer applicable to this application.

II. FINDINGS FOR VARIANCE (SZO §5.5):

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. “There are special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”

The existing lot of the subject property is quite small at only 3,200 square feet, which only provides 1,067 square feet per dwelling unit at the site and the existing structure takes up most of the lot. The three level rear porch structure is already in place with footings, three floors, a roof, railings, and support beams. Enclosing the rear porches as they currently exist will be easier, both structurally and financially, than only enclosing seven feet of the existing porches, constructing a new rear wall of the structure, and maintaining an approximately two foot deep porch in the existing footprint. The result of this would be a shallow enclosed room approximately seven feet deep and an even shallower, two foot deep, unenclosed porch space which would be almost unusable. By enclosing the rear porches as they currently exist, the load bearing walls can be installed to line up with the support beams and footings of the porches. This approach would help to avoid extensive construction costs compared to other options such as only enclosing the first seven feet of the existing porch, which could be done without the need for a Variance and would only require a Special Permit.

2. “The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

Staff is unable to determine if the proposal to enclose the rear porches at the property, which requires two feet of variance relief from the 15 feet of required rear yard setback as specified in the SZO, is the minimum variance necessary to grant reasonable relief to the owner and is necessary for reasonable use of the building. The Applicant has indicated that there is a need to provide additional common space in each of the units for tenants where noise levels can be kept down. The Applicant feels that an enclosed space in the rear of each of the dwellings, that is well insulated, would offer such relief. A portion of the rear porch, seven feet in fact, could be enclosed via Special Permit without the need for a Variance, but this would then create sitting areas that are only seven feet deep and leave the existing porches with only two feet of depth. The Applicant has indicated that these types of spaces would be less than ideal as seven feet of space is less than the width of a couch and would make it difficult to fit furniture in the sitting areas. Additionally, the Applicant has stated that with only seven feet of depth to a room, it would make it difficult to squeeze past someone who is sitting and greatly limit the usability of the space, as would also be true for the extremely shallow two foot deep remaining porch area. Staff is unable to determine if the requested variance would be the minimum variance necessary to grant reasonable relief to the owner or if the variance is necessary for reasonable use of the building.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

~~This project is consistent with the purposes of the SZO and will not be detrimental to the surrounding neighborhood. The granting of this Variance will be consistent with the purposes of the SZO, will not be injurious to the neighborhood, and will not be detrimental to the public welfare. The fenced in backyard will remain the same and the traffic patterns at the property will not be altered. The enclosed rear porches will offer a substantial amount of noise reduction compared to the existing situation of the unenclosed rear porches from which sounds travels unhindered. The Variance will also allow for a faster construction process and will be less disruptive to the surrounding neighbors than the more involved construction process of only enclosing part of the existing porches. The existing porches are already in place with footings, a roof, railings, and support beams on all three floors. Simply enclosing these rear porches would not make the existing structure any more invasive to the surrounding properties of the area. Enclosing the rear porches should also not greatly impact the amount of sunlight being received by surrounding structures or limit the views from abutting properties. The property will remain a three-story, three-family residential use which is consistent with the surrounding neighborhood.~~

II. 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 Staff 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, Staff finds that the alterations proposed to the rear and side of the structure would not be substantially more detrimental to the neighborhood than the existing structure. The existing porches are already in place with footings, a roof, railings, and support beams on all three floors, and the proposal would only extend the outdoor decks 1.75 feet deeper into the property. ~~Simply Partially~~ enclosing these rear porches and extending the outdoor portion of them would not make the existing structure any more invasive to the surrounding properties of the area. In fact, by partially enclosing the rear porches this will would actually provide a significant amount of some noise reduction for the area by ~~eliminating~~ reducing noise generated from people using these porches as some noise will now be contained inside the structure. The partial enclosing of the rear porches and the extension of the outdoor portion of the decks should also not greatly impact the amount of sunlight being received by surrounding structures or limit the views from abutting properties. The property will remain a three-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 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 also consistent with the purpose of the district (6.1.2. RB - Residence Districts), which is, “To 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 project is compatible with the characteristics of the surrounding neighborhood. The existing porches are already in place with footings, a roof, railings, and support beams on all three floors, and the proposal would only extend the outdoor decks 1.75 feet deeper into the property. Simply Partially enclosing these rear porches and extending the outdoor portion of them would not make the existing structure any more invasive to the surrounding properties of the area. In fact, by partially enclosing the rear porches this will would actually provide a significant amount of some noise reduction for the area by eliminating reducing noise generated from people using these porches as some noise will now be contained inside the structure. The partial enclosing of the rear porches and the extension of the outdoor portion of the decks should also not greatly impact the amount of sunlight being received by surrounding structures or limit the views from abutting properties. The property will remain a three-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, 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 three-story, three-family residential use which is consistent with the surrounding neighborhood.

III. RECOMMENDATION

~~Variance under §5.5 and §8.5.I and Special Permit under §5.1, §4.4.1, and §8.5.E~~

~~Based upon the application materials and the above findings, the Planning Staff is UNABLE TO RECOMMEND approval for the rear yard setback VARIANCE at this time. The Staff finds that the Applicant has not adequately addressed that the application meets the second finding under §5.5.3 of the SZO. If the Zoning Board of Appeals is able to make the above findings for the requested Variance, the Staff recommends the conditions listed below be attached to the decision.~~

Based upon the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application materials based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes																		
1	<p>Approval is for a Variance under SZO §5.5 for relief from the rear yard setback requirement under SZO §8.5.I and for a Special Permit to alter a nonconforming structure under SZO §4.4.1 to <u>partially enclose the rear porches and extend the outdoor portion of the rear decks</u> in the side and rear yards, <u>add a door and relocate stairs on the right side</u>, and to increase the floor area ratio of an existing three-family dwelling under SZO §8.5.E. 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>(December 15, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td><u>(March 5, 2012)</u></td> <td><u>Updated application submitted to OSPCD</u></td> </tr> <tr> <td>June 25, 2001 (January 17, 2012) <u>(March 5, 2012)</u></td> <td>Site Plan (<u>Current View</u>)</td> </tr> <tr> <td>June 25, 2001 <u>(March 5, 2012)</u></td> <td>Site Plan (<u>Proposed View</u>)</td> </tr> <tr> <td>(January 17, 2012)</td> <td>Basement Floor Plan</td> </tr> <tr> <td>(January 17, 2012) <u>(March 5, 2012)</u></td> <td>Basement, First, Second, and Third Floor Plans</td> </tr> <tr> <td>(January 17, 2012) <u>(March 5, 2012)</u></td> <td>Diagrammatic Section</td> </tr> <tr> <td>(January 17, 2012) <u>(March 5, 2012)</u></td> <td><u>Current and Proposed Left, Rear, and Right Side Elevations</u></td> </tr> </tbody> </table> <p>Any changes to the approved site plans that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(December 15, 2011)	Initial application submitted to the City Clerk's Office	<u>(March 5, 2012)</u>	<u>Updated application submitted to OSPCD</u>	June 25, 2001 (January 17, 2012) <u>(March 5, 2012)</u>	Site Plan (<u>Current View</u>)	June 25, 2001 <u>(March 5, 2012)</u>	Site Plan (<u>Proposed View</u>)	(January 17, 2012)	Basement Floor Plan	(January 17, 2012) <u>(March 5, 2012)</u>	Basement , First, Second, and Third Floor Plans	(January 17, 2012) <u>(March 5, 2012)</u>	Diagrammatic Section	(January 17, 2012) <u>(March 5, 2012)</u>	<u>Current and Proposed Left, Rear, and Right Side Elevations</u>	BP/CO	ISD/PIng.	
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2	A code compliant fire alarm system and carbon monoxide detectors shall be in place.	CO	FP																			
3	The Applicant shall submit window and trim detail samples to Planning Staff for review and approval.	BP	PIng.																			
4	New siding type and color, trim, and materials of the enclosed porches shall match that of the existing structure.	CO	PIng.																			

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	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	
<u>7</u>	<u>The newly created "Sitting Areas" shown on the floor plans at the rear of each unit shall not be used as bedrooms.</u>	<u>Perpetuity</u>	<u>ISD/Plng.</u>	
<u>7</u> <u>8</u>	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.	



33-35 Dimick Street