



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

PLANNING DIVISION

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Case #: ZBA # 2010-74
Site: 52 Franklin Street
Date of Decision: August 17, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 18, 2011

ZBA DECISION

Applicant Name:	James Erb
Applicant Address:	8 Baldwin Street, North Andover, MA 01845
Property Owner Name:	Maria Freitas
Property Owner Address:	52 Franklin Street, Somerville, MA 02145
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant, James Erb, and Owner, Maria Freitas, seek a special permit (SZO §4.4.1, §5.1) to allow the expansion of an existing nonconforming single family structure in order to construct a three family dwelling.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1 & §5.1
<u>Date of Application:</u>	November 1, 2010
<u>Date(s) of Public Hearing:</u>	8/3, 8/17
<u>Date of Decision:</u>	August 17, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2010-74 was opened before the Zoning Board of Appeals at Somerville City Hall on August 3, 2011. 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 Applicant is proposing to build a 2½ story structure on the existing foundation of the house and build an addition into the rear yard. The structure will be 4,266 net square feet and it will be used as a three-family dwelling.

The front of the building will appear as a typical 2½ story residential structure with a front door to access one of the units. There will be two gable dormers on the right side of the house that will be connected by a shed roof. The middle portion of the building will be a cross-gable and will be at the same height as the front portion of the building. The addition in the back will be a gable structure that is pulled back from the left side property line and project out to the right of the existing footprint of the building. This back portion of the building will be a few feet lower than the rest of the building and will have a dormer that matches the one proposed on the front portion of the building. The back two units will have pedestrian entrances from the driveway side of the building. There will be different pavement treatment in the driveway from the sidewalk to the front doors of the back units.

The units will function as townhouses, although, they do not meet the definition of townhouses because they do not have continuous vertical firewalls between the units. Each unit will contain an open kitchen, dining area, living room and half bathroom on the first floor, a master bedroom and bathroom on the second floor, and a guest room/office and bathroom in the half-story.

The windows on the house will be double hung and have a six over six grid which is similar to the windows on the existing house. The two windows on the right side of the house that are within a foot of the property line are proposed to remain and no other windows are proposed to be on this side of the building. The other side of the building will have typical residential window patterns. The shed portion of the dormers will each have one diamond shaped window.

Two of the units will have two garage parking spaces under each of them. The garages will be mostly below the grade of the street level. There will be space for mechanical equipment, trash and storage in the garages of units one and two and the basement of unit three. The two units with garages will have decks that project out nine feet over the garage doors. The decks and adjacent front entrance landings will be separated by privacy screens. The third unit will have an at grade parking space at the end of the driveway. This unit will have a small deck in the rear of the house.

The front and rear yards of the site will be landscaped but the details of the plantings are not yet determined. A retaining wall will be constructed ten feet from the southern property line to create a flat, usable back yard.

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 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 specifically with regard to traffic, parking, noise, odor, scale, shading, visual effects, or neighborhood character. To the extent possible for a nonconforming structure, the proposal complies with the standards of the zoning ordinance. The height of the structure would increase along the existing nonconforming side yard; however, the remaining portion of the structure will be conforming to the dimensional requirements. The two window openings that are



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within three feet of the property line will remain as is and no other windows are proposed along the portion of the building that is very close to the property line. The structure will remain a 2½ story gable structure, which is a similar form to the existing house. The use of the property is by-right and the required parking would be provided in garages and with one at grade parking space.

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 providing for and maintaining the uniquely integrated structure of uses in the City and encouraging the most appropriate use of land throughout the City. The proposal is also consistent with the purpose of the RB district as a three-family home.

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 proposal is designed in a manner that is compatible with the characteristics of the built environment and surrounding land uses. There are residential properties with varying numbers of units abutting the property and in the neighborhood. The building will appear as a typical 2½ story residential structure with a front door on the street and a typical window pattern. The roof pitch, dormers, clapboard siding and window style will all match that of the existing structure. The massing of the building will increase from its current state and become more similar to the residential structures to the northeast. The dormers were designed to mimic the existing small gable dormers on the house; however, the new dormers will have a shed roof in between the gable dormers to add more headroom to the half story. The four garage doors will be partially below the grade of the street making them less visible than they would be otherwise. Another feature that further reduces the prominence of the garage doors is that the decks will extend over the driveway, making the garage doors appear recessed.

The Historic Preservation Commission has not deemed the structure preferably preserved due to the condition of the building, the cost of repairing it, and the Applicants' expressed desire to build within the context of the neighborhood. A Commission representative will be involved with the approval of the final details to ensure that these details lend to the structure fitting into the context of the neighborhood as it appears to in the plan. Recommendations will likely be to use either wood clapboard or cementitious board siding with a smooth flat finish, appropriately sized corner boards to match existing, eaves with returns to match the existing, windows to have interior and exterior muntins with spacers, preferably of wood, or aluminum clad and not vinyl.

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.

The five required parking spaces will be provided onsite. There will be different pavement treatment in the driveway from the sidewalk to the front doors of the back units to indicate to pedestrians that the front doors to two of the units are on the side of the building. The distinct paths also remind drivers that pedestrians will be using the driveway. There is at least 20 feet behind the parking spaces, allowing for sufficient maneuvering space for the cars to pull out of the driveway in a forward direction. The curb cut should be a maximum of twelve feet wide.



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DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Scott Darling 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 the alteration of a nonconforming structure to construct an approx 4,266 nsf building. 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>November 1, 2010 (complete July 20, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 22, 2011</td> <td>Plans submitted to OSPCD (A3.1 South Elevation, A3.3 North Elevation, A1.5 Roof Plan)</td> </tr> <tr> <td>May 27, 2011</td> <td>Plans submitted to OSPCD (5.1 Building Section)</td> </tr> <tr> <td>July 20, 2010</td> <td>Modified plans submitted to OSPCD (A1.3 2nd Floor Plan, A1.4 3rd Floor Plan)</td> </tr> <tr> <td>July 27, 2011</td> <td>Plans submitted to OSPCD (A1.1 Basement Plan, A1.2 1st Floor Plan, A3.2 East & West Elevations,</td> </tr> </tbody> </table> <p>Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	November 1, 2010 (complete July 20, 2011)	Initial application submitted to the City Clerk's Office	March 22, 2011	Plans submitted to OSPCD (A3.1 South Elevation, A3.3 North Elevation, A1.5 Roof Plan)	May 27, 2011	Plans submitted to OSPCD (5.1 Building Section)	July 20, 2010	Modified plans submitted to OSPCD (A1.3 2 nd Floor Plan, A1.4 3 rd Floor Plan)	July 27, 2011	Plans submitted to OSPCD (A1.1 Basement Plan, A1.2 1 st Floor Plan, A3.2 East & West Elevations,	BP/CO	ISD/Plng.	
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2	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD													
3	The Applicant will be required to demonstrate that the project meets the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.													



4	Applicant shall provide final material samples for siding, trim, windows and doors to the Planning Staff for review and approval prior to construction.	BP	Plng.	Planning Staff will consult with HPC rep
5	Applicant shall supply a landscape plan to Planning Staff for review and approval. There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	BP	Plng.	
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	
7	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
8	There shall be different pavement treatment in the driveway from the sidewalk to the front doors of the back units.	CO	Plng.	
9	The curb cut shall be a maximum of 12 feet wide.	CO	DPW	
10	A complete fire sprinkler system shall be installed with code compliant low voltage fire alarm system, including manual pull stations, monitored by a central station fire alarm company. Local 120 volt interconnected smoke and CO detectors must be installed inside each unit.	CO	FP	
11	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	
12	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.	Perpetual	ISD	
13	Vehicles exiting this property must exit in a forward direction.	Perpetual	T&P	
14	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
15	Trash and recycling bins shall be stored inside or screened by fencing or vegetation that blocks any view of them.	Perpetual	Plng.	
16	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
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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