



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

PLANNING DIVISION

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Case #: ZBA # 2011-45
Site: 186 Pearl Street
Date of Decision: July 13, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 27, 2011

ZBA DECISION

Applicant Name:	Derly Moraes Sullyvan Mendes
Applicant Address:	186 Pearl Street, Somerville, MA 02145
Property Owner Name:	Raymond Nardone
Property Owner Address:	58 Elm Street, Somerville, MA 01701
Agent Name:	N/A

Legal Notice: Applicant, Derly Moraes and owner, Raymond Nardone, seek a special permit to alter a nonconforming structure under SZO §4.4.1 to expand a dormer on an existing three-family residence.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	April 27, 2011
<u>Date(s) of Public Hearing:</u>	July 13, 2011
<u>Date of Decision:</u>	July 13, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-45 was opened before the Zoning Board of Appeals at Somerville City Hall on July 13, 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 proposal is to extend an existing 17 foot long dormer on the right side of the structure 11 feet 6 inches towards the front façade. The expansion would make the dormer a total of 28 feet 6 inches long. The rear 12 feet of the existing dormer currently provides access to and down the rear egress stairs. This portion of the dormer is actually only the width the stairwell as can be seen in the photo below. The remaining 5 feet of the existing dormer comes directly off the peak of the main roof and provides additional headroom to access the rear egress stairwell. The proposed dormer expansion design would also come off the peak of the main roof and extend 11 feet 6 inches towards the front of the structure. The dormer extension will provide the headroom required per building code for the interior stairs that provide access to and from the third floor. As part of the dormer expansion, the Applicant would also like to remove the roof plate of the front facade beyond the existing downspout on the right side and extend the rear roof plate the length of the proposed dormer towards the front facade. There are currently no windows on the existing dormer but the Applicant is proposing to add three, double-hung windows onto the dormer in a style similar to those on the existing structure.

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 would not be substantially more detrimental to the neighborhood than the existing structure as conditioned. Privacy is not a concern as there are already multiple windows on the subject façades of 186 Pearl Street and the adjacent property, 190 Pearl Street. There are also no windows on the third floor of 190 Pearl Street and the addition of windows on the third floor of 186 Pearl Street will not worsen privacy issues between the two dwellings. The subject 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."

One purpose of the ordinance is to preserve the historical and architectural resources of the City and this applies to this proposal. This house is not designated as a Local Historic District but it contributes to the architectural fabric of the City. The proposal would be consistent with the purpose of the RB district as an alteration to the three-family dwelling. However, the Applicant's proposed design of this particular dormer is discouraged because it could greatly alter the appearance of the structure in a negative manner. By removing the roof plate of the front façade beyond the existing downspout and extending the rear roof plate the length of the proposed dormer extension as shown in Exterior Elevation (Side Elevation, SKA-3), the design would not respect the architectural character of the original structure. Planning Staff would much rather see as much of the front façade's roof plate preserved as illustrated in the elevation proposed by Staff, with edits shown in red (Exterior Elevation (Side Elevation – Staff Edits, SKA-3)). This is a more preferable design than the extension of the rear roof plate towards the front, which would be much longer than the rear roof plate on the left side of the structure. While there are dormers on many of the structures in the surrounding area, these respect the roof plates of the front façades of their structures.



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The Board finds that either design for the proposed dormer extension, as conditioned, **is consistent** with the purposes established for the RB district in which the property is located, namely “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.” The Board finds that this dormer expansion, whether it is constructed with the Applicant’s proposed design or Staff’s proposed design, as conditioned, will not negatively impact the local neighborhood uses in the area.

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.”

There are dormers on many of the homes in the neighborhood that surround the subject property. However, the Board finds that the dormer extension, as designed, appears too large and does not appear compatible with the design of the existing dwelling. Dormers should have the appearance that they are subordinate to the main roof lines and by not maintaining the roof plate of the front façade, the Applicant’s proposed design does not give the dormer a subordinate appearance. Furthermore, with the Applicant’s proposed design, the right side of the structure will take on the appearance that it is a full 3 story structure. The building was originally designed as a 2½ story structure and while 3 story buildings are permitted in the RB district, this was not the original design intent for the building.

Planning Staff has included conditions attached to the special permit that would dictate whether the dormer expansion is designed as the Applicant has proposed (Condition #2) or as Planning Staff has proposed (Condition #3). Planning Staff has left the decision as to which dormer extension design should be implemented to the Zoning Board of Appeals. As stated above, Staff would prefer to see the design implemented which maintains the roof lines of the front façade for as much of the structure as possible, as opposed to extending the rear roof line towards the front of the structure. If the Board chooses to accept Staff’s recommendation and desires the dormer extension design as drawn in Staff’s proposal, the Board should eliminate Condition #2 as part of the decision and the “Exterior Elevation (Side Elevation, SKA-3)” plan from Condition #1. However, if the Board prefers the dormer extension design as shown in the Applicant’s proposal, they should eliminate Conditions #3 and #4 from the list of conditions and the “Exterior Elevation (Side Elevation – Staff Edits, SKA-3)” plan from Condition #1.

As part of the Zoning Board of Appeals decision of July 13, 2011, the Board chose to remove condition #2 referencing the design of the dormer which extended the lower, rear roofline towards the front of the structure and the associated plan as part of condition #1.

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 project. No new noise, lighting, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water are anticipated as part of the proposal. The structure will remain a 2½ story, three-family dwelling and will continue to be used for residential purposes.



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DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie with Danielle Evans absent. 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	Approval is permit to alter a nonconforming structure under SZO §4.4.1 to expand a dormer on an existing three-family residence. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(April 27, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 16, 2011 (July 1, 2011)</td> <td>Plot Plan</td> </tr> <tr> <td>July 5, 2011 (July 6, 2011)</td> <td>Existing and Proposed Third Floor Plan</td> </tr> <tr> <td>June 30, 2011 (July 5, 2011)</td> <td>Exterior Elevation (Side Elevation – Staff Edits, SKA-3)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(April 27, 2011)	Initial application submitted to the City Clerk's Office	February 16, 2011 (July 1, 2011)	Plot Plan	July 5, 2011 (July 6, 2011)	Existing and Proposed Third Floor Plan	June 30, 2011 (July 5, 2011)	Exterior Elevation (Side Elevation – Staff Edits, SKA-3)
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July 5, 2011 (July 6, 2011)	Existing and Proposed Third Floor Plan													
June 30, 2011 (July 5, 2011)	Exterior Elevation (Side Elevation – Staff Edits, SKA-3)													
Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.														
2	The Applicant and Owner shall work with Planning Staff to design a drawing for the dormer extension that reflects the edits in the elevation entitled "Exterior Elevation (Side Elevation – Staff Edits, SKA-3)" (stamped by OSPCD on July 5, 2011.)	Zoning Board of Appeals Hearing	Plng.											
3	The Applicant shall submit an updated floor plan and elevation for Planning Staff approval that reflects the design proposed by Planning Staff.	BP	Plng.											
4	The Applicant shall meet the Fire Prevention Bureau's requirements.	CO	FP											
5	The roofing, siding and trim on the subject dormer extension shall match that of the existing structure.	Final Sign Off	Plng.											
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.											



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Josh Safdie (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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