



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

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2011-72
Site: 38 Warner Street
Date of Decision: October 19, 2011
Decision: Petition Denied
Date Filed with City Clerk: October 25, 2011

ZBA DECISION

Applicant Name:	Melvin Santos
Applicant Address:	38 Warner Street, Somerville, MA 02144
Property Owner Name:	Melvin Santos
Property Owner Address:	38 Warner Street, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant and Owner Melvin Santos, seeks a special permit to alter a nonconforming structure under SZO §4.4.1 to expand the front porches on the first and second floors of an existing two-family residence.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 14, 2011
<u>Date(s) of Public Hearing:</u>	October 19, 2011
<u>Date of Decision:</u>	October 19, 2011
<u>Vote:</u>	4-1

Appeal #ZBA 2011-72 was opened before the Zoning Board of Appeals at Somerville City Hall on October 19, 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 purchased the property in 2007 and since that time has been making upgrades to the structure and the property itself. The dwelling used to include first and second story front porches but last year the second story porch became very weathered, rotted, and structurally unsafe and the Applicant received a letter from the Inspectional Services Division stating that the situation of the front porches needed to be address. Before the onset of the 2010-2011 winter, the Applicant decided to remove the second story porch for fear it would collapse under the weight of the snow that winter. The Applicant would like to now also remove the remaining first floor front porch and reconstruct new, larger, first and second story front porches that would run the length of the front of the dwelling. The original porches were approximately 102 square feet each (15.7 feet wide by 6.5 feet deep) and the new porches would be approximately 208 square feet each (25 feet wide by 8.3 feet deep). Both the first and second story porches would be increased by approximately 105 square feet and would move 4 feet closer to the sidewalk. As part of the project, the Applicant would also like to slightly widen the front steps from approximately 6 feet to 8 feet so that they can provide a more direct path to the front entrance. The steps would also be reworked and improved as they are currently at differing heights and depths and are somewhat unsafe. The new steps would have a consistent rise of 8 inches and run of 11 inches.

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."

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. The proposal would shrink the existing nonconforming front yard setback by 4 feet towards the front of the lot, but not any closer to the side property lines than the existing structure. The actual front yard setback would be reduced from 6.9 feet to 3 feet because this factors in stairs that are greater than 3 feet in height. The expanded usable area of the porches themselves would only be moving 3.25 feet closer to the sidewalk. The property will remain a 2½ story, two-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 protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; 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 (6.1.1. RA - Residence Districts), which is, "To establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts."



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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. There are first and second story front porches on many of the structures in the area and some of them span the entire front length of the dwelling as is being proposed. This can be seen in the photographs submitted by the Applicant. The actual front yard setback would be reduced from 6.9 feet to 3 feet because this factors in stairs that are greater than 3 feet in height. The expanded usable area of the porches themselves would only be moving 3.25 feet closer to the sidewalk. Both the new first and second story porches would be 105 square feet larger allowing for enhanced semi-private outdoor space on the first two floors of the dwelling. The proposed porches would take the unsafe, deteriorating, and somewhat unsightly existing front porches and replace them with new, structurally sound porches that would span the length of the front of the dwelling. The property will remain a 2½ story, two-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 project. No new noise, 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, two-family dwelling and will continue to be used for residential purposes.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Susan Fontano made a motion to deny the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **4-1** to **DENY** the request with Richard Rossetti in favor.



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Attest, by the Zoning Board of Appeals:

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

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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