



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 # 2011-71
Site: 58 Murdock Street
Date of Decision: October 19, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 25, 2011

ZBA DECISION

Applicant Name:	Christopher Paul Clark
Applicant Address:	58 Murdock Street, Apt. 2, Somerville, MA 02145
Property Owner Name:	Christopher Paul Clark
Property Owner Address:	58 Murdock Street, Apt. 2, Somerville, MA 02145
Agent Name:	N/A

Legal Notice: Applicant and Owner Christopher Clark seeks a special permit to alter a nonconforming structure under SZO §4.4.1 to change the windows on an enclosed porch in order to expand an existing bathroom on the second floor of a two-family residential property.

<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 16, 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 2011-71 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 is proposing to change the windows on the enclosed porch in order to expand an existing bathroom. Three windows will be removed, including one on the right side of the porch and two on the right half of the front façade. The removed windows will be replaced with one 24" wide by 36" tall window on the front façade. The replacement window will be located ~3.5' from the right edge of the building and ~5.25' from the remaining existing windows. The remainder of the front façade and the entire right side façade will be enclosed and covered with siding.

The project proposal will allow the Applicant to expand an existing bathroom into the enclosed porch area. Existing interior walls will be demolished and relocated, and the bathroom will be expanded from ~5.3' wide by 5.7' deep to ~7.7' wide by 10.8' deep. The layout of the bathroom will be reconfigured and new furnishings will be installed, including a full-size tub and stackable washer and dryer. The project also includes an extensive remodel of the existing kitchen.

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, as conditioned, would not be substantially more detrimental to the neighborhood than the existing structure. The design of Proposal B or C would preserve some of the openness and balance of the existing porch and mitigate the impact of converting quasi-public space into private space. Changes to the façade will not decrease the existing front setback, and the property will remain a two story, two-family residential use.

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; this particularly 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 purpose of the RB district 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." Proposal A would be consistent with the purpose of the district as an alteration to a two-family dwelling. However, replacing three existing sliding windows with one 24" by 36" window is discouraged because it significantly changes the appearance of the three-season porch and does not respect the architectural character of the original structure. Porches provide a separation between the public space of the sidewalk and front yard, and the private space inside of houses. Porches are typically open or are enclosed, but if enclosed they provide a significant amount of windows so that the space is transparent. Planning Staff would prefer to see one of the alternative window designs illustrated in Proposal B or C. Either of these proposals would be more consistent with the typical design of front façades and enclosed porches throughout the city.

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."



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Proposal A is not consistent with typical façade and enclosed porch design in the surrounding neighborhood. Converting the three-season porch to a bathroom with only one window closes off what is now quasi-public space and replaces it with private space. This private space would be located within the public realm, since the structure is set back only 5 feet from Murdock Street. The design of the enclosed porch will therefore have a significant impact on the Murdock Street streetscape.

Planning Staff has included conditions attached to the special permit that would dictate whether approval will be granted for Proposal A (Condition # 2), Proposal B (Condition # 3), or Proposal C (Condition # 4). Planning Staff has left the decision as to which porch enclosure design should be implemented to the Zoning Board of Appeals. As stated above, Staff would prefer to see Proposal B or C implemented instead of Proposal A.

If the Board chooses to accept the Applicant's original proposal and desires Proposal A, the Board should eliminate Condition # 3 and Condition # 4 as part of the decision. If the Board chooses to accept Staff's recommendation and desires Proposal B, the Board should eliminate Condition # 2 and Condition # 4 as part of the decision. If the Board desires Proposal C, Condition # 2 and Condition # 3 should be eliminated as part of the decision.

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 approve the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **4-1** to **APPROVE** the request with Danielle Evans voting in opposition. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is to alter a nonconforming structure under SZO §4.4.1 to change the windows on an enclosed porch in order to expand an existing bathroom on the second floor of a two-family residential property. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Png.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(September 16, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>April 4, 2011 (September 22, 2011)</td> <td>Mortgage Inspection Plan</td> </tr> <tr> <td>August 26, 2011 (September 22, 2011)</td> <td>Existing Floor Plan</td> </tr> <tr> <td>September 28, 2011 (September 28, 2011)</td> <td>Proposed Floor Plan, Existing Front Elevation, Existing Right Side Elevation, and drawings for Proposal A, B, and C</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(September 16, 2011)	Initial application submitted to the City Clerk's Office	April 4, 2011 (September 22, 2011)	Mortgage Inspection Plan	August 26, 2011 (September 22, 2011)	Existing Floor Plan	September 28, 2011 (September 28, 2011)	Proposed Floor Plan, Existing Front Elevation, Existing Right Side Elevation, and drawings for Proposal A, B, and C
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.														
2	The Applicant and Owner shall use the drawings entitled "Proposal A Front Elevation" and "Proposal A Right Side Elevation" (both stamped by OSPCD on September 28, 2011) for the design of the second floor enclosed porch.	Zoning Board of Appeals Hearing	Png.											
3	The Applicant or Owner shall submit window and trim detail samples to Planning Staff for review and approval.	BP	Png.											
4	The siding and trim on the subject porch enclosure shall match that of the existing structure.	Final Sign Off	Png.											
5	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP											
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	Png.											



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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