



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

PLANNING DIVISION

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Case #: ZBA # 2011-88
Site: 21 Edmands Street
Date of Decision: December 7, 2011
Decision: Petition Approved with Conditions
Date Filed with City Clerk: December 9, 2011

ZBA DECISION

Applicant Name:	Jodi Mace
Applicant Address:	21 Edmands Street, #2, Somerville, MA 02145
Property Owner Name:	Jodi Mace
Property Owner Address:	21 Edmands Street, #2, Somerville, MA 02145
Agent Name:	N/A

Legal Notice: Applicant and Owner Jodi Mace seeks a special permit to alter a nonconforming structure under SZO §4.4.1 by expanding an existing rear deck by approx 15 sf and adding a 2nd story.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 7, 2011
<u>Date(s) of Public Hearing:</u>	December 7, 2011
<u>Date of Decision:</u>	December 7, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-88 was opened before the Zoning Board of Appeals at the Visiting Nurses Association on December 7, 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 add a second level to the existing first floor rear porch. The second level will be the same depth as the porch below but will be three feet longer than it. The dimensions will be 5 feet by 13.5 feet. The deck will be made of composite wood. A door will replace a window on the second level to access the deck.

The legal notice states that the first story deck will be expanded; however, that is not part of the proposal.

The owner of Unit 2 asked the Unit 1 owner if he would like to expand his deck and if the Unit 3 owner would like to add a deck but neither was interested in doing so at this time.

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. The deck will not project further into the nonconforming rear yard and only three additional feet into the nonconforming side yard than the existing first floor deck. The second floor deck will not increase the nonconforming side yard setback as the house is even closer to the side property line than the deck will be. The neighboring property that is adjacent to the subject property on the nonconforming side does not have a deck or structure that will be closely abutting the deck.

The noise complaints that the neighbor raised are of concern and the City's noise control ordinance and compliance with it should be the means to address the problem. The proposed deck is a typical feature on a residential structure. The deck would not be increasing the structures nonconformities nor closely abutting neighboring structures and therefore staff find that it is not more detrimental than the existing structure.

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 the purpose of the RB district by making an alteration to a residential structure.

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."

Since the backyard is made up of brick pavers the small footprint of the second floor deck that is greater than the first floor deck will not reduce the amount of landscaping on the site. The deck will create more usable open space for the second floor residents. It is typical to have a two story deck on the rear of a house in the City. The first and second stories of decks usually align; however, in this case the first floor owner is not interested in expanding the first floor deck to match the length of the proposed second floor deck. The second floor resident would like a deck with sufficient space to enjoy a private outdoor area. The appearance is not ideal although because



the doors leading to the decks on the first and second stories will align with each other and the second floor deck construction will not impact landscaping, the visual appearance of the proposal is not negatively impactful.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Josh Safdie with Scott Darling absent for the vote. 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 construction of a second floor rear porch. 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>11/7/2011</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>6/30/2011 (12/1/11)</td> <td>Plans submitted to OSPCD (Plot/Site Plan)</td> </tr> <tr> <td>(12/1/11)</td> <td>Plans submitted to OSPCD (Perspective – existing and proposed, Elevation – left and right, Framing)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	11/7/2011	Initial application submitted to the City Clerk's Office	6/30/2011 (12/1/11)	Plans submitted to OSPCD (Plot/Site Plan)	(12/1/11)	Plans submitted to OSPCD (Perspective – existing and proposed, Elevation – left and right, Framing)	BP/CO	Plng.	
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2	The Applicant shall install one new exterior light fixture and one new exterior electrical receptacle for the new outdoor deck space.	Final Sign Off	Wiring Inspector									
3	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
Elaine Severino (Alt.)
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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