



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

PLANNING DIVISION

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Case #: ZBA # 2011-59
Site: 10 Hillside Circle
Date of Decision: August 17, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 18, 2011

ZBA DECISION

Applicant Name:	Hillside Enterprises, LLC
Applicant Address:	60 Highland Road, Somerville, MA 02145
Property Owner Name:	Hillside Enterprises, LLC
Property Owner Address:	60 Highland Road, Somerville, MA 02145
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner, Hillside Enterprises, LLC, seeks a special permit to alter a nonconforming structure under SZO §4.4.1 to replace and alter the roof over a rear egress stairwell in an existing three-family residence.

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 13, 2011
<u>Date(s) of Public Hearing:</u>	August 17, 2011
<u>Date of Decision:</u>	August 17, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-59 was opened before the Zoning Board of Appeals at Somerville City Hall on August 17, 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 remove the existing shed style roof on top of the rear egress stairwell and to replace it with a flat rubber roof to allow more head room in the stairwell. The new roof will be complete with R30 insulation, CDX roof sheathing, and a rubber roof membrane.

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 new roof will be located in the rear of the existing structure and will not be visible from the Hillside Circle right-of-way. The new flat roof over the rear stairwell would still be lower than the main roof of the existing structure and would not alter the streetscape in any manner. The property will remain a 2½ story, three-family residence, which is consistent with the surrounding area.

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; providing adequate light and air; conserving the value of land and buildings; and encouraging the most appropriate use of land throughout the City."

The proposal is consistent with the purpose of the district, (6.1.2. RB - Residence Districts), which 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."

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. The construction of the flat rubber roof over the rear egress stairwell will have minimal impact as it is not visible from the public way, would still be lower than the main roof of the existing structure, and would not alter the streetscape of Hillside Circle in any manner. The property will remain a 2½ story, three-family residence, which is consistent with the surrounding area.

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 effects are anticipated from this project. No new noise, lighting, glare, smoke, dust, 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.

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	Approval is to alter a nonconforming structure under SZO §4.4.1 to replace and alter the roof over a rear egress stairwell in 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>(July 13, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>July 26, 2011 (July 28, 2011)</td> <td>Site Plan</td> </tr> <tr> <td>May 16, 2011 (July 22, 2011)</td> <td>Existing Floor Plans (A.01)</td> </tr> <tr> <td>May 16, 2011 (July 22, 2011)</td> <td>Existing and Proposed Rear Elevations (A.02)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(July 13, 2011)	Initial application submitted to the City Clerk's Office	July 26, 2011 (July 28, 2011)	Site Plan	May 16, 2011 (July 22, 2011)	Existing Floor Plans (A.01)	May 16, 2011 (July 22, 2011)	Existing and Proposed Rear Elevations (A.02)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.														
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP											
3	The E.U.A.s shown on the Site Plan designated for Units #1, #2, and #3 shall not be used for parking spaces. Wording in the condominium documents should reflect this and a copy of this documentation shall be provided to Planning Staff for review.	CO	Plng.											
4	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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