



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 # 2011-68
Site: 110 Josephine Avenue
Date of Decision: September 21, 2011
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 29, 2011

ZBA DECISION

| | |
|--------------------------------|--|
| Applicant Name: | Glen Nuckolls |
| Applicant Address: | 110 Josephine Avenue, #2, Somerville, MA 02144 |
| Property Owner Name: | Glen Nuckolls & Genevieve Walsh |
| Property Owner Address: | 110 Josephine Avenue, #2, Somerville, MA 02144 |
| Agent Name: | N/A |

Legal Notice: Applicant Glen Nuckolls and Owners Glen Nuckolls and Genevieve Walsh seek a special permit to alter a nonconforming structure under SZO §4.4.1 to construct an approx 110 sf deck on a garage attached to an existing two-family residence.

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|-----------------------------------|--------------------|
| <u>Zoning District/Ward:</u> | RA zone/Ward 6 |
| <u>Zoning Approval Sought:</u> | §4.4.1 |
| <u>Date of Application:</u> | August 23, 2011 |
| <u>Date(s) of Public Hearing:</u> | September 21, 2011 |
| <u>Date of Decision:</u> | September 21, 2011 |
| <u>Vote:</u> | 5-0 |

Appeal #ZBA 2011-68 was opened before the Zoning Board of Appeals at Somerville City Hall on September 21, 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 construct an 11' wide by 10' deep deck (110 square feet) on a portion of the garage roof. The deck will connect to the existing second floor porch via a landing and short staircase. The deck will connect to the existing first floor porch via a second staircase, which will be located along the side of the garage adjacent to the rear yard. The proposal also includes a short staircase to connect the first floor porch to the existing driveway. The deck and staircases will have 36" high railings, and the decking, stairs, railings, posts, and balusters will be made of wood. The staircase from the deck to the first floor porch will be supported by four 4" by 4" posts and the existing structure.

The proposal also includes replacing the existing garage doors with new doors in a traditional carriage house style, and installing a new rubber roof on the garage. When replacing the roof, the Applicant will make a best effort to either retain the existing parapet or replace it with a new parapet that is similar in character to the current design. The Board recommends that the parapet be retained or rebuilt, but the Applicant is still in the process of assessing the technical feasibility. If the Applicant finds that retaining or replacing the parapet is cost prohibitive, he may apply for a *de minimus* revision to the Special Permit, which Planning Staff will evaluate at that time.

Two of the new staircases will block existing doors. The stairs from the deck to the first floor porch will come down in front of a full-sized door in the side of the garage. The door currently opens, but it is difficult to use and it does not close well. The new doors on the front of the garage will replace this access point. The stairs from the first floor porch to the driveway will partially block a small door set in the foundation of the house. The door provides access to the basement, but it is also difficult to use. Blocking this access point will not pose a problem because there are three other full-sized doors that lead to the basement.

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 deck will not decrease the existing rear yard setback. The deck will be located in the rear of the existing structure and will be minimally visible from the Josephine Street right-of-way. The total structure footprint will only be expanded by approximately 56 square feet. 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 providing for and maintaining the uniquely integrated structure of uses in the City, conserving the value of land and buildings, and encouraging the most appropriate use of land throughout the City.



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The proposal is consistent with the purpose of the RA district, 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.”

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 already two 78.5 square foot porches attached to the house, and the existing garage is located within the rear setback. The design is compatible with typical decks in the City. The deck will be constructed within the rear yard setback, but it will be 8’ from the rear property line. It will be minimally visible from the Josephine Avenue right-of-way. The total structure footprint will be expanded by approximately 56 square feet, which does not significantly impact the amount of ground coverage and landscaped area. The historic character of the existing parapet will be retained, and the new doors will enhance the appearance of the front of the garage. The property will remain a 2½ story, two-family residential use, which is consistent with the surrounding neighborhood.

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 **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 deck on the roof of a garage attached to an existing residence. 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>(August 23, 2011)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>July 14, 2011 (August 26, 2011)</td> <td>Plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>(August 26, 2011)</td> <td>Plans submitted to OSPCD (Elevations, Framing)</td> </tr> <tr> <td>(September 14, 2011)</td> <td>Modified plans submitted to OSPCD (Elevations)</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 | (August 23, 2011) | Initial application submitted to the City Clerk’s Office | July 14, 2011 (August 26, 2011) | Plans submitted to OSPCD (Plot Plan) | (August 26, 2011) | Plans submitted to OSPCD (Elevations, Framing) | (September 14, 2011) | Modified plans submitted to OSPCD (Elevations) | BP/CO | ISD/PIng. | |
| Date (Stamp Date) | Submission | | | | | | | | | | | | | |
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| (August 26, 2011) | Plans submitted to OSPCD (Elevations, Framing) | | | | | | | | | | | | | |
| (September 14, 2011) | Modified plans submitted to OSPCD (Elevations) | | | | | | | | | | | | | |
| 2 | The Applicant shall submit the specifications of the new garage door and parapet design to Planning Staff for review and approval. | BP | PIng. | | | | | | | | | | | |



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|---|---|----------------|------------------|--|
| 3 | 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 | |
| 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
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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