



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

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

HERBERT F. FOSTER, JR., *CHAIRMAN*
ORSOLA SUSAN FONTANO, *CLERK*
RICHARD ROSSETTI
T. F. SCOTT DARLING, III, ESQ.
DANIELLE EVANS
ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA # 2011-53
Site: 85/87 Lexington Ave
Date of Decision: July 13, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 18, 2011

ZBA DECISION

Applicant Name:	Lorena M. Proia & Jeffrey Turner
Applicant Address:	85 Lexington Ave, Somerville MA 02144
Property Owner Name:	Lorena M. Proia & Jeffrey Turner
Property Owner Address:	85 Lexington Ave, Somerville MA 0214
Agent Name:	N/A

Legal Notice: Applicants & Owners Lorena M. Proia & Jeffrey Turner seek a special permit under SZO §4.4.1 to construct a two-story deck in the rear of a nonconforming two-family dwelling.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 14, 2011
<u>Date(s) of Public Hearing:</u>	July 13, 2011
<u>Date of Decision:</u>	July 18, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-53 was opened before the Zoning Board of Appeals at Somerville City Hall on July 13, 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722

www.somervillema.gov



DESCRIPTION:

The proposal includes constructing a larger first story deck and a small second story deck. The first floor will have a section that is 12 by 14 feet and another section that is 10 by 10 feet that will be used for a hot tub. There will be stairs down to the ground from both sides of the deck. The stairs leading to the dog run on the left side of the property are not shown on the plot plan but they are indicated on the site plan and elevations. These stairs will have a three foot setback from the property line. The second story will be 12 by 7.5 feet. The deck and railings will be made of wood with balusters and lattice panels. The posts on the corners of the deck will be masonry piers with a decorative light fixture on top of each pier.

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. It is typical to have two-story porch in the rear yard of a home in the city. Besides the side yard dimensional requirement, the deck does not create nonconformities in terms of rear yard setback, ground coverage or landscaped area. The stairs from the deck to the ground will be just greater than three feet from the property line and therefore the building code regulations do not prevent the stairs from being constructed of wood.

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 RA 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."

The overall appearance of the rear yard will improve as a result of the proposal. Currently the landscaping in the back yard is not consistently planted, the existing deck needs to be replaced and there is a concrete patio that has deteriorated. The deck, patio and landscaping will be replaced as a result of this application. The lattice panels proposed for the top of the railing was designed to increase the privacy of the deck considering that there will be a hot tub on the deck. The panels do not appear to make the deck feel like an enclosed space which would not be compatible with typical decks in the City. The decorative lighting on the masonry piers can be attractive but should be kept to a level that will not cause light disturbance in the neighbors' backyards.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Scott Darling and Elaine Severino with Danielle Evans absent. Upon making the above findings, Orsola 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	Approval is for the reconstruction of a rear, 2-story deck. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>6/14/11</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>6/3/11</td> <td>Plans submitted to OSPCD (A1: Site Plan, A2: Proposed Elevations and Details)</td> </tr> <tr> <td>5/31/11</td> <td>Plans submitted to OSPCD (Plot Plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	6/14/11	Initial application submitted to the City Clerk's Office	6/3/11	Plans submitted to OSPCD (A1: Site Plan, A2: Proposed Elevations and Details)	5/31/11	Plans submitted to OSPCD (Plot Plan)
	Date (Stamp Date)				Submission							
	6/14/11				Initial application submitted to the City Clerk's Office							
6/3/11	Plans submitted to OSPCD (A1: Site Plan, A2: Proposed Elevations and Details)											
5/31/11	Plans submitted to OSPCD (Plot Plan)											
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	The Applicant shall install a new exterior light fixture and a new exterior electrical receptacle for each of the levels of the new outdoor deck space in compliance with the National Electrical Code 2011.	Final Sign Off	Wiring Inspector									
3	To the extent possible, the deck lighting must be confined to the subject property and must not intrude, interfere or spill onto neighboring properties.	Continuous	ISD									
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.
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 _____



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722

www.somervillema.gov

