



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

PLANNING DIVISION

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2011-74
Site: 142 Orchard Street
Date of Decision: October 19, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 25, 2011

ZBA DECISION

Applicant Name:	Michael Fischer & Susan Wilkinson
Applicant Address:	142 Orchard Street, Somerville, MA 02144
Property Owner Name:	Michael Fischer & Susan Wilkinson
Property Owner Address:	142 Orchard Street, Somerville, MA 02144
Agent Name:	Abacus Architects & Planners
Agent Address:	119 Braintree Street, Suite 318, Boston, MA 02134

Legal Notice: Applicants and Owners Michael Fischer and Susan Wilkinson seek a special permit to alter a nonconforming structure under SZO §4.4.1 to construct a one story addition and deck in the rear of an existing single-family residence.

<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 20, 2011
<u>Date(s) of Public Hearing:</u>	October 19, 2011
<u>Date of Decision:</u>	October 19, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-74 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 construct a ~178 square foot one-story addition and a new ~210 square foot first floor deck at the rear of the house. The proposed addition will be built on the site of the existing deck, which will be removed. The new deck will extend across approximately two-thirds of the new rear wall, adjacent to the proposed addition, the existing house, and the existing rear porch. The new deck will be 2' 5" high and five steps will lead down to the backyard. The proposal also includes reconfiguring the window openings and installing sliding doors on the existing rear wall to provide access to the new deck.

The purpose of the proposed addition is to provide additional first floor space to allow the current owners to "age in place" and continue to live in the house as stairs become more difficult to climb.

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 addition and deck will not decrease the existing side yard setback. The new construction will be located in the rear of the existing structure and will not be visible from the Orchard Street right-of-way. The addition and deck will be partially to mostly obscured from the view of the abutting properties on either side, and the potential impacts on the property to the rear will be mitigated by the large backyard.

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.

The proposal is consistent with the purpose of the district, 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 Applicant is proposing to construct a ~178 square foot one-story addition and a new ~210 square foot first floor deck at the rear of an existing house. The existing structure is located 4.5' from the side property line, so the proposed addition will not decrease the side setback. The new deck will be located 9.3' from the side property line and 34.7' from the rear property line, which is outside of the required setbacks. The design of the addition and the new deck is compatible with typical homes in the neighborhood and Somerville as a whole. The character of the house will remain intact, as the



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Applicant is proposing to match the shingle siding, roofline, and roofing materials of the existing structure. The property will remain a 2.5 story, single-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 to alter a nonconforming structure under SZO §4.4.1 to construct a one-story addition and deck in the rear of an existing single-family 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>(September 20, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 15, 2011 (September 28, 2011)</td> <td>Plans submitted with application (Plot Plan)</td> </tr> <tr> <td>September 19, 2011 (September 28, 2011)</td> <td>Plans submitted with application (Elevations)</td> </tr> <tr> <td>September 20, 2011 (September 28, 2011)</td> <td>Plans submitted with application (Site Plan)</td> </tr> <tr> <td>September 19, 2011 (September 28, 2011)</td> <td>Plans submitted with application (Proposed Floor Plan)</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	(September 20, 2011)	Initial application submitted to the City Clerk's Office	September 15, 2011 (September 28, 2011)	Plans submitted with application (Plot Plan)	September 19, 2011 (September 28, 2011)	Plans submitted with application (Elevations)	September 20, 2011 (September 28, 2011)	Plans submitted with application (Site Plan)	September 19, 2011 (September 28, 2011)	Plans submitted with application (Proposed Floor Plan)	BP/CO	ISD/Plng.	
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2	The Applicant shall meet the Fire Prevention Bureau's requirements.	CO	FP													
3	New siding type and color, roofing, and materials of the addition shall match those of the existing structure.	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
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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