



**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 # 2011-91**  
**Site: 42 Preston Road**  
**Date of Decision: January 4, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: January 9, 2012**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Stephanie Nickerson
<b>Applicant Address:</b>	42 Preston Road, Somerville, MA 02143
<b>Property Owner Name:</b>	Stephanie Nickerson
<b>Property Owner Address:</b>	42 Preston Road, Somerville, MA 02143
<b>Agent Name:</b>	N/A

Legal Notice: Applicant and Owner Stephanie Nickerson seeks a special permit to alter a nonconforming structure under SZO §4.4.1 to construct a second story rear addition and first floor mudroom.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 15, 2011
<u>Date(s) of Public Hearing:</u>	January 4, 2012
<u>Date of Decision:</u>	January 4, 2012
<u>Vote:</u>	5-0

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Appeal #ZBA 2011-91 was opened before the Zoning Board of Appeals at Somerville City Hall on January 4, 2012. 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 second story addition at the rear of the structure along with a mudroom and a small porch on the first floor that will be used by all three units at the property. Currently, the first floor contains Unit #1 and Unit #3. Unit #1 is a one bedroom apartment with a living room, kitchen, and bathroom and Unit #3 is a studio apartment. The second and third floors of the building contain Unit #2 which is a three bedroom apartment with a living room, dining room, kitchen, and bathroom. The third floor contains two of the bedrooms for Unit #2 and a walk-in closet. The addition on the second floor would expand the living space for Unit #1 by adding two new bedrooms and a second full bathroom on the second floor above Unit #3. This would increase the net square footage of the entire structure by 529 square feet. As part of this addition, an internal stairwell would be added for access to the new bedrooms on the second floor. The second story addition would have two windows on the left side of the property and two windows on the rear façade, but would not add any windows on the right side elevation. The new mudroom would be located on the rear left side of the existing structure and the small attached porch would provide access down onto the driveway. The mudroom would have one window on its rear façade.

## **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 proposed second story addition will be located in the rear of the structure and will be within the footprint of the existing building. Additionally, there are no windows being proposed on the right side of the second story addition and therefore the privacy situation will not change with regard to the neighbor on that side who would potentially be the most impacted by this addition. The proposed mudroom and porch will only extend the existing, compliant, left side yard setback eight feet deeper into the lot, but will not worsen this condition in any manner. In fact, the proposed project will maintain all existing setbacks, including the existing 41.4 foot rear yard setback which well exceeds the minimum rear yard setback for the district of 20 feet. The character of the original house will remain intact as the Board has included a condition that the Applicant be required to install siding and roofing on the addition that matches those on the existing structure. Furthermore, as the Applicant is only altering the existing nonconforming setback on the right side of the property by increasing it vertically, the Applicant would not be worsening the existing nonconformities of the structure. The structure will remain a 2½ story, three-family dwelling and will continue to be used for residential purposes, which is consistent with the surrounding neighborhood. Therefore, there are no anticipated negative impacts from the proposal.

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 promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City."



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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 area. There shall be minimal impacts to the surrounding neighborhood as the proposed second story rear addition and first floor mudroom and porch would not appear to be detrimental to the immediate abutters or the surrounding area. The proposed second story addition will be located in the rear of the structure and will be within the footprint of the existing building. Additionally, there are no windows being proposed on the right side of the second story addition and therefore the privacy situation will not change with regard to the neighbor on that side who would potentially be the most impacted by this addition. The proposed mudroom and porch will only extend the existing, compliant left side yard setback eight feet deeper into the lot, but will not worsen this condition in any manner. In fact, the proposed project will maintain all existing setbacks, including the existing 41.4 foot rear yard setback which well exceeds the minimum rear yard setback for the district of 20 feet. With construction impacts limited to the rear of the building, no significant disruption to the neighborhood is anticipated. The character of the original house will remain intact as the Board has included a condition that the Applicant be required to install siding and roofing on the addition that matches those on the existing structure. The structure will remain a 2½ story, three-family dwelling which is consistent with the surrounding neighborhood.

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 impacts are anticipated from this project. No new noise, glare, smoke, vibration, nor emissions of noxious materials, nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception 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.



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**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling, and Josh Safdie with Danielle Evans absent. 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	Approval is to alter a nonconforming structure under SZO §4.4.1 to construct a second story rear addition and first floor mudroom. 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>(November 15, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>November 15, 2011 (December 29, 2011)</td> <td>Plot Plan</td> </tr> <tr> <td>(December 29, 2011)</td> <td>Existing Elevations and Floor Plans (1 – 4)</td> </tr> <tr> <td>(December 29, 2011)</td> <td>Proposed Elevations and Floor Plans (5 – 8)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(November 15, 2011)	Initial application submitted to the City Clerk's Office	November 15, 2011 (December 29, 2011)	Plot Plan	(December 29, 2011)	Existing Elevations and Floor Plans (1 – 4)	(December 29, 2011)	Proposed Elevations and Floor Plans (5 – 8)
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	November 15, 2011 (December 29, 2011)				Plot Plan									
(December 29, 2011)	Existing Elevations and Floor Plans (1 – 4)													
(December 29, 2011)	Proposed Elevations and Floor Plans (5 – 8)													
Any changes to the approved site plans or elevations that are not <i>de minimis</i> must receive SPGA approval.														
2	The Applicant shall update the fire alarm system to be code compliant.	CO	FP											
3	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P											
4	New siding type and color, roofing, and materials of the proposed addition and mudroom shall match those on the existing structure.	CO	Plng.											
5	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.  
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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