



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 # 2011-44
Site: 168 Summer Street
Date of Decision: June 8, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 16, 2011

ZBA DECISION

Applicant Name:	Drew & Anne Hyland
Applicant Address:	168 Summer Street, Somerville, MA 02143
Property Owner Name:	Drew & Anne Hyland
Property Owner Address:	168 Summer Street, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicants and Owners, Drew A. and Anne S. Hyland, seek a special permit to alter a nonconforming structure under SZO §4.4.1 to construct a deck in the rear of an existing single-family residence.

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 9, 2011
<u>Date(s) of Public Hearing:</u>	June 8, 2011
<u>Date of Decision:</u>	June 8, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-44 was opened before the Zoning Board of Appeals at the Visiting Nurses Association on June 8, 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 proposal is to remove an existing rear egress stairwell and bulkhead in the rear of a single-family residence to construct an approximately 14 foot by 12.6 foot deck with stairs leading down into the backyard. The stairs would be 3 feet wide by 6.7 feet long, with 4 feet of the stairs extending outside of the envelope of the proposed deck. The area underneath the deck would be enclosed with lattice but would be accessible on the northwest side via two doors that would open. This area would be used as storage for the Applicants bikes and garden tools. The deck would only be accessible from the dwelling via the existing rear egress of the structure.

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 be located in the rear of the existing structure and will not be visible from the Summer Street right of way. Additionally, the proposal will only extend the existing nonconforming right side yard setback 12.6 feet deeper into the lot. Electrical code requires there to be one exterior light fixture and one exterior electrical receptacle for all decks. The Applicant has indicated that there is an existing light fixture but not an electrical receptacle. The Board is requiring the electrical receptacle as Condition #3. The property will remain a 2½ story, single-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; to provide adequate light and air; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City."

The proposal is also 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 Applicant is proposing to alter a nonconforming structure to construct a deck in the rear of an existing single-family residence. The proposed deck is only 177 square feet and the proposal will only extend the nonconforming side yard setback 12.6 feet deeper into the lot. Additionally, the proposed deck will create a safer means of rear egress from the



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dwelling as the current rear egress is quite small and narrow. Further, the project will allow for storage of the residents' bikes and garden tools underneath the deck which are currently kept under a tarp in the backyard. The property will remain a 2½ story, single-family residential use 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, lighting, glare, smoke, 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, single-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 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	Approval is to alter a nonconforming structure under SZO §4.4.1 to construct a 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:	BP/CO	Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(May 9, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 2, 2011 (June 2, 2011)</td> <td>Plot Plan</td> </tr> <tr> <td>(June 1, 2011)</td> <td>East View, South View, and West View Elevations</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(May 9, 2011)	Initial application submitted to the City Clerk's Office	May 2, 2011 (June 2, 2011)	Plot Plan	(June 1, 2011)	East View, South View, and West View Elevations
	Date (Stamp Date)				Submission							
	(May 9, 2011)				Initial application submitted to the City Clerk's Office							
May 2, 2011 (June 2, 2011)	Plot Plan											
(June 1, 2011)	East View, South View, and West View Elevations											
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	The Applicant shall meet the Fire Prevention Bureau's requirements.	Final Sign Off	FP									
3	The Applicant shall install 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	Png.	
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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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