



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2012-79
Site: 252 Summer Street
Date of Decision: October 17 2012
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 23, 2012

ZBA DECISION

Applicant Name:	Manuel Perez
Applicant Address:	252 Summer Street, #2, Somerville, MA 02143
Property Owner Name:	Manuel Perez
Property Owner Address:	252 Summer Street, #2, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant and Owner, Manuel Perez, seeks a Special Permit under SZO §4.4.1 to alter a nonconforming two-family dwelling by modifying an existing second-story deck on the rear façade, which includes a staircase and railings

<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 18, 2012
<u>Date(s) of Public Hearing:</u>	October 17, 2012
<u>Date of Decision:</u>	October 17, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2012-79 was opened before the Zoning Board of Appeals at Somerville City Hall on October 17, 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.



DESCRIPTION:

Applicant and Owner, Manuel Perez, proposes to alter this two-family dwelling by modifying an existing second-story deck on the rear façade, which includes a staircase and railings. The dimensions of the existing deck are not proposed to change, however the staircase leading from the deck to the ground below will be reconfigured, a wood pergola will be added at the rear of the deck, and railings for the first floor rear entry will be altered to match the new proposed railings. Currently, the staircase wraps around the right rear corner of the deck and the majority of the rise in height of the staircase is perpendicular to the building. The staircase will be altered so the majority of the rise in height is parallel to the width of the deck and house, instead of perpendicular, to allow for more deck area. While the dimensions of the deck will not change, the usable area of the deck will change from approximately 30 square feet to 42 square feet. The dimensions of the pergola will be seven feet in length, by three feet in width, by eight feet in height. The pergola will be located at the rear of the deck and slightly overhang both the staircase and the left edge of the deck. The first floor rear entry will be reconstructed with the same footprint; however, the railings will be modified to match the new railings proposed for the second story deck. All railings, the staircase and pergola will be composed of stained wood.

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 gain about 12 square feet in area, but will retain the same footprint as only the staircase is proposed to change. Additionally, the first floor rear entry will be reconstructed with the same footprint and new railings will be consistent to those of the second story deck.

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 secure safety from fire, panic and other dangers; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."

The proposal is consistent with the purpose of the Residence B district, SZO §6.1.2, which is, "[t]o 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 proposal to alter the first and second story rear deck of this two-family dwelling is compatible with the built and unbuilt surrounding area. As the neighborhood is predominantly residential, this proposal is compatible with the



Spring Hill neighborhood because the decks will retain their existing footprints. While the second story deck staircase will be modified slightly to add the usable space to the deck, the staircase does not negatively affect the neighboring properties or other abutters. The addition of a pergola will enhance the deck by adding shade and an architectural element, as well as help more clearly define this outdoor space.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 a Special Permit to alter a nonconforming structure under SZO §4.4.1 to modify an existing second-story deck on the rear façade, which includes a staircase and railings. 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>September 18, 2012</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 13, 2007 (October 1, 2012)</td> <td>Plot plan submitted to OSPCD</td> </tr> <tr> <td>September 18, 2012 (October 1, 2012)</td> <td>Site plans submitted to OSPCD (T1.0, A1.0, A2.0, & A2.1)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	September 18, 2012	Initial application submitted to the City Clerk's Office	February 13, 2007 (October 1, 2012)	Plot plan submitted to OSPCD	September 18, 2012 (October 1, 2012)	Site plans submitted to OSPCD (T1.0, A1.0, A2.0, & A2.1)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
3	The Applicant shall install one exterior light fixture, and one electrical receptacle for each means of egress from the first and second story rear decks.	CO	Wiring									
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
Danielle Evans
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 _____

