



**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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DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2011-18**  
**Site: 50 Brastow Avenue**  
**Date of Decision: April 20, 2011**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: April 29, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Mark & Randi Soltysiak
<b>Applicant Address:</b>	50 Brastow Avenue, Somerville, MA 02143
<b>Property Owner Name:</b>	Mark & Randi Soltysiak
<b>Property Owner Address:</b>	50 Brastow Avenue, Somerville, MA 02143
<b>Agent Name:</b>	N/A

Legal Notice: Applicants/Owners Mark & Randi Soltysiak seek a Special Permit under SZO §4.4.1 to alter the single-family dwelling by constructing stairs in the nonconforming side and rear yard.

<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	February 22, 2011
<u>Date(s) of Public Hearing:</u>	4/6 & 4/20/11
<u>Date of Decision:</u>	April 20, 2011
<u>Vote:</u>	5-0

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Appeal #ZBA 2011-18 was opened before the Zoning Board of Appeals at Somerville City Hall on April 6, 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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**DESCRIPTION:**

The proposal is to remove the existing staircase in the backyard, relocate a door from the back of the house to the eastern side of the house and construct a new staircase close to the eastern property line. The purpose is to have more usable space in the backyard. The Owners will also be improving the condition of the backyard by regrading the soil, installing permeable pavers, a new planting area, and a low (approximately 4 feet) fence that allows for the transference of light. They will retain an existing garden box and grass in the side yard.

**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. The nonconforming side yard will become slightly more conforming and the nonconforming rear yard will only be reduced 0.5 feet.

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 district in improving the site plan of this single-family property.

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 stairs will be located in the side yard that currently does not provide sufficient space to access the back yard. The new stairs will be less obtrusive to the backyard and provide more open space. Relocating the stairs is part of a larger project to improve the appearance and usability of the back yard.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino with Herbert Foster and Josh Safdie absent. Upon making the above findings, Richard Rossetti 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 construction of stairs in the nonconforming side and rear yards. 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>2/22/11</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(3/14/11)</td> <td>Plans submitted to OSPCD (existing &amp; proposed site plan, east, south, west elevations)</td> </tr> <tr> <td>4/20/11</td> <td>Plans submitted to OSPCD (proposed site plan, east, south, west elevations)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	2/22/11	Initial application submitted to the City Clerk's Office	(3/14/11)	Plans submitted to OSPCD (existing & proposed site plan, east, south, west elevations)	4/20/11	Plans submitted to OSPCD (proposed site plan, east, south, west elevations)
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Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.												
2	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:

Orsola Susan Fontano, *Acting Chairman*  
Richard Rossetti, *Acting Clerk*  
T.F. Scott Darling, III, Esq.  
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 \_\_\_\_\_



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