



**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 # 2011-40**  
**Site: 29R Albion Street**  
**Date of Decision: June 8, 2011**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: June 16, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Fresh Start Contracting, c/o Ben O'Sullivan-Pierce
<b>Applicant Address:</b>	131 Fawcett Street, Cambridge, MA 02138
<b>Property Owner Name:</b>	Neal T. Kurfiss
<b>Property Owner Address:</b>	29R Albion Street, Unit 1, Somerville, MA 02143
<b>Agent Name:</b>	N/A

Legal Notice: Applicant, Fresh Start Contracting, & Owner Neal Kurfiss seek a special permit to alter a nonconforming structure under SZO §4.4.1 to expand a deck in the rear of an existing two-family structure.

<u>Zoning District/Ward:</u>	RA zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 10, 2011
<u>Date(s) of Public Hearing:</u>	June 8, 2011
<u>Date of Decision:</u>	June 8, 2011
<u>Vote:</u>	5-0

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Appeal #ZBA 2011-40 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 8 foot wide by 8 foot long deck with stairs at the rear of the dwelling and to construct a new deck that is 32 square feet larger than the original. The new deck will be constructed to the same specifications as the existing deck, with a small 8 foot wide by 3 foot long expanded section in the rear and an 8 foot wide by 1 foot long expanded section in the front. As part of this deck expansion, a 6.5 foot long section of the deck will extend past the rear of the dwelling, which is a 3 foot increase from what currently extends past the structure. Additionally, the existing stairway layout will be moved closer towards Albion Street by 1 foot. The deck expansion will also reduce the landing area between the bottom of the stairs and the basement door from 5 feet to 4 feet. The deck will be supported by 5 foot long, 6" by 6" support posts that will rest on 4 foot deep concrete footers. The existing footer holes will be reused and two new holes will be dug to support the rear deck expansion.

**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 expansion will be located in the rear of the existing structure and will not be visible from the Albion Street right-of-way. Additionally, the proposal will only extend the existing nonconforming left side yard setback 1 foot closer to Albion Street and 3 feet deeper into the lot. The rear yards and fence along the back of the residences at 15 and 19 Centre Street, and the Somerville Community Path and the railroad right-of-way to the north of the property will act as buffers between the proposed deck expansion and the nearby properties. Electrical code requires there to be one exterior light fixture and one exterior electrical receptacle for all decks, and Staff is proposing to require this as Condition #3. The property will remain a 2 story, two-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 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 (6.1.1. RA - Residence Districts), which is, "To establish and preserve quiet neighborhoods of one- and two-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 expand a deck in the rear of an existing two-family structure. The proposed deck expansion is only 32 square feet and the proposal will only extend the nonconforming side yard



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setback 1 foot closer to Albion Street and 3 feet deeper into the lot. The rear yards and fence along the back of the residences at 15 and 19 Centre Street, and the Somerville Community Path and the railroad right-of-way to the north of the property will act as buffers between the proposed deck expansion and the nearby properties. The property will remain a 2 story, two-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, other than a single light installation as part of proposed Condition #3 attached to this special permit. The structure will remain a 2 story, two-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 expand a deck in the rear of an existing two-family structure. 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 10, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>April 22, 2011 (May 19, 2011)</td> <td>Plot Plan</td> </tr> <tr> <td>(May 19, 2011)</td> <td>Existing and Proposed Site Plans</td> </tr> <tr> <td>(May 19, 2011)</td> <td>Existing and Proposed Elevations</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(May 10, 2011)	Initial application submitted to the City Clerk's Office	April 22, 2011 (May 19, 2011)	Plot Plan	(May 19, 2011)	Existing and Proposed Site Plans	(May 19, 2011)	Existing and Proposed Elevations
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(May 19, 2011)	Existing and Proposed Site Plans													
(May 19, 2011)	Existing and Proposed 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 light fixture and 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	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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