



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 # 2011-65
Site: 1100 Broadway
Date of Decision: September 21, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: September 29, 2011

ZBA DECISION

Applicant Name:	Laurie P. Bourgeois
Applicant Address:	45 Loretta Road, Waltham, MA 02154
Property Owner Name:	Guido Musch
Property Owner Address:	1100 Broadway, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant Laurie Bourgeois and Owner Guido Musch, seek a special permit to alter a nonconforming structure under SZO §4.4.1 to construct a one story addition in the rear of an existing single-family residence.

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 2, 2011
<u>Date(s) of Public Hearing:</u>	September 21, 2011
<u>Date of Decision:</u>	September 21, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-65 was opened before the Zoning Board of Appeals at Somerville City Hall on September 21, 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 Applicant is proposing to remove an existing single story volume and concrete landing at the rear of the dwelling and to replace it with a new one story addition and landing. The proposed 336 gross square foot addition will have a flat roof with a slight pitch towards the rear of the subject property. The addition will contain a bedroom and a full bathroom with space for a washer/dryer unit. The addition will open out onto a 5.5' by 4.25' landing that will have five steps leading down into the rear yard area. The addition will have two windows on the rear façade and one on the left side that will look onto the interior of the property. As part of the project, the Applicant will also be removing a 27 by 24 foot section of asphalt paving at the rear of the property and will be installing a patio. This will increase the percentage of landscaping on the property from 17% to 30%.

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 find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. All of the construction activities will be occurring at the rear of the existing structure with the building and rear setback acting as buffers to the residences nearby. The privacy of the residences on either side of the subject property will be maintained as windows for the addition are only being proposed for the left and rear façades. No additional windows are being proposed for the right side. Furthermore, the Applicant is only extending the existing nonconforming right side yard setback deeper into the lot by 19 feet and there are no anticipated negative impacts from this proposal. In fact, the Applicant is actually pulling the addition away from the property line to the west by 0.3 feet to avoid having to construct the addition of noncombustible material. Even with the new addition there will still be a 23.5 foot rear yard setback which exceeds the minimum requirement for the RA district which is 20 feet. As part of the project, the Applicant will also be removing a 27 by 24 foot section of asphalt paving at the rear of the property and will be installing a patio. This will increase the percentage of landscaping on the property from 17% to 30%, bringing the landscaping percentage on the property into compliance.

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 prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels."

The proposal is 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."



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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. The Applicant is proposing to remove an existing single story volume and concrete landing at the rear of the dwelling and to replace it with a new one story addition and landing. The proposed 336 gross square foot addition will have a flat roof with a slight pitch towards the rear of the subject property. The addition will open out onto a 5.5' by 4.25' landing that will have five steps leading down into the rear yard area. There will be two windows on the rear façade of the addition and one on the left side that will look onto the interior of the property. The location of these windows will help to maintain the privacy of the residences on either side of the subject property. No additional windows are being proposed for the right side. Furthermore, the Applicant is only extending the existing nonconforming right side yard setback deeper into the lot by 19 feet and there are no anticipated negative impacts from this proposal. In fact, the Applicant is actually pulling the addition away from the property line to the west by 0.3 feet to avoid having to construct the addition of noncombustible material. Even with the new addition there will still be a 23.5 foot rear yard setback which exceeds the minimum requirement for the RA district which is 20 feet. The property will remain a 1½ 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, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water are anticipated as part of the proposal. The Applicant is only extending the existing nonconforming right side yard setback deeper into the lot by 19 feet and there are no anticipated negative impacts from this proposal. The structure will remain a 1½ story, single-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, 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 one story addition 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	ISD/Plng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(August 2, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 8, 2011 (September 15, 2011)</td> <td>Plot Plan</td> </tr> <tr> <td>September 16, 2011 (September 21, 2011)</td> <td>Floor Plans and Construction Drawings (A1)</td> </tr> <tr> <td>September 1, 2011 (September 21, 2011)</td> <td>Proposed Elevations (A2)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(August 2, 2011)	Initial application submitted to the City Clerk's Office	September 8, 2011 (September 15, 2011)	Plot Plan	September 16, 2011 (September 21, 2011)	Floor Plans and Construction Drawings (A1)	September 1, 2011 (September 21, 2011)	Proposed Elevations (A2)
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September 16, 2011 (September 21, 2011)	Floor Plans and Construction Drawings (A1)													
September 1, 2011 (September 21, 2011)	Proposed Elevations (A2)													
Any changes to the approved site plans, elevations, or use 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	New siding type and color, roofing, and materials of the addition shall match those on the existing structure.	CO	Plng.											
4	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											
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.											
6	The Applicant shall submit a landscape plan for Planning Staff approval that establishes a planted buffer along the right (north) side and rear property lines.	BP	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 _____

