



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

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Case #: ZBA # 2011-51
Site: 67 Sycamore Street
Date of Decision: July 13, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 18, 2011

ZBA DECISION

Applicant Name:	Steven and Sheila MacEachern
Applicant Address:	67 Sycamore Street, Somerville, MA 02145
Property Owner Name:	Steven and Sheila MacEachern
Property Owner Address:	67 Sycamore Street, Somerville, MA 02145
Agent Name:	N/A

Legal Notice: Applicants and Owners, Steven and Sheila MacEachern, seek a special permit to alter a nonconforming structure under SZO §4.4.1 to expand a deck and construct a roof over the rear egress in the rear of an existing two-family residence. RA zone. Ward 4.

<u>Zoning District/Ward:</u>	RA Zone / Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 13, 2011
<u>Date(s) of Public Hearing:</u>	July 13, 2011
<u>Date of Decision:</u>	July 13, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-51 was opened before the Zoning Board of Appeals at Somerville City Hall on July 13, 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 property is currently undergoing extensive renovations. As part of this project, the Applicant is proposing to remove an existing 16 foot wide by 8 foot deep deck (128 square feet) with a roof and stairs in the rear of the two-family residence to construct an approximately 20 foot wide by 12 foot deep deck (240 square feet) with stairs leading down into the backyard. The stairs would be 3 feet wide by 7 feet long and be situated along the rear wall of the structure. The deck would be enclosed with a 42" high railing and two 8 foot long sections of 6 foot high walling that would provide privacy for the proposed jacuzzi. The new deck would only be accessible from the first floor unit via the existing rear egress and the stairs that lead into the backyard. The deck would be supported by six, 6" by 6" posts and the existing dwelling. The proposal also includes a small roof that will cover the rear egress and the removal of a small window on the first floor of the rear façade (pictured in the photo in the lower right corner of sheet A-1).

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 new deck, roof, and removed window are all located in the rear of the existing structure and will not be visible from the Sycamore Street right-of-way. Additionally, the proposal will only extend the existing nonconforming rear yard setback 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 Board is requiring these items as part of Condition #3. The property will remain a 2½ 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 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 (6.1.1. 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. Currently, there is an existing 128 square foot deck entirely covered by a roof in the backyard which is in poor shape and is unsafe. The proposed deck would be approximately 240 square feet (112 square feet larger than the existing deck) with a 3



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foot by 7 foot stairway leading down into the backyard. The small proposed roof over the rear egress will actually reduce the total roof area for the entire structure and the removal of the small window on the rear façade will have minimal impacts as it is not visible from the public way. The deck and small roof would also not be visible from the Sycamore Street right-of-way and would not alter the streetscape in any manner. They are located at the rear of the existing structure and are screened by the garage for the property on the northeast property line. The proposal will extend the existing nonconforming rear yard setback 6 feet deeper into the lot, but not any closer to the properties on either side of the structure. There are similar decks in the surrounding neighborhood and the new deck would replace an unsafe structure at the rear of the dwelling. The property will remain a 2½ 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 as part of the proposal. The structure will remain a 2½ 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, Scott Darling, and Josh Safdie with Danielle Evans absent. 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	<p>Approval is to alter a nonconforming structure under SZO §4.4.1 to expand a deck and construct a roof over the rear egress in the rear of an existing two-family residence. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(June 13, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 5, 2011 (June 21, 2011)</td> <td>Plot Plan</td> </tr> <tr> <td>May 13, 2011 (June 21, 2011)</td> <td>Existing and Proposed Deck Plans, Elevations, and Photos (A-1 to A-4)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(June 13, 2011)	Initial application submitted to the City Clerk's Office	May 5, 2011 (June 21, 2011)	Plot Plan	May 13, 2011 (June 21, 2011)	Existing and Proposed Deck Plans, Elevations, and Photos (A-1 to A-4)	BP/CO	ISD/PIng.	
Date (Stamp Date)	Submission											
(June 13, 2011)	Initial application submitted to the City Clerk's Office											
May 5, 2011 (June 21, 2011)	Plot Plan											
May 13, 2011 (June 21, 2011)	Existing and Proposed Deck Plans, Elevations, and Photos (A-1 to A-4)											



2	The Applicant shall meet the Fire Prevention Bureau's requirements.	Final Sign Off	FP	
3	There shall be one exterior electrical receptacle and one exterior light fixture for the new outdoor deck space.	Final Sign Off	Wiring Inspector/ ISD	
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.
Josh Safdie (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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