



CITY OF SOMERVILLE, MASSACHUSETTS
ZONING BOARD OF APPEALS
JOSEPH A. CURTATONE, MAYOR

MEMBERS

HERBERT F. FOSTER, JR., *CHAIRMAN*
ORSOLA SUSAN FONTANO, *CLERK*
RICHARD ROSSETTI
T. F. SCOTT DARLING, III, ESQ.
DANIELLE FILLIS
ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA#2009-10
Site: 28 Billingham Street
Date of Decision: August 19, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 25, 2009

ZBA DECISION

Applicant Name:	Denis Stacke & Denise Bethel-Stacke
Applicant Address:	28 Billingham Street, Somerville, MA 02144
Property Owner Name:	Denis Stacke & Denise Bethel-Stacke
Property Owner Address:	28 Billingham Street, Somerville, MA 02144
Agent Name:	Peter Sachs, Architect
Agent Address:	20 Hunter Street, Newton, MA 02465

Legal Notice: Applicants & Owners Denis Stacke and Denise Bethel-Stacke seeks a special permit under §4.4.1 in order to construct a two story addition within a non-conforming side yard. RA zone. Ward 6.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	March 24, 2009
<u>Date(s) of Public Hearing:</u>	5/6, 5/20, 6/3, 6/24, 7/15, 8/5 & 8/19/09
<u>Date of Decision:</u>	August 19, 2009
<u>Vote:</u>	4-0

Appeal #ZBA 2009-10 was opened before the Zoning Board of Appeals at Somerville City Hall on May 6, 2009. 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.

DESCRIPTION:

The Applicant is proposing to construct a two-story addition in the right side yard. The first story would be approximately 9.2' wide by 10.1' deep. The second story would be approximately 9.2' wide by 3.9' deep with a small gable roof. The applicant is proposing to remove an existing 3.9' by 6.0' wide first floor porch in the area where the new addition is proposed. The remainder of the addition would be built in the area above the existing concrete patio. The total floor area proposed would equal approximately 110 n.s.f.

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 Permit.

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 design of the structure is appealing and complimentary to the existing structure due to its shape, size, façade materials and gable roof that mimics the orientation and angles of the existing roof. Furthermore, the proposed addition will be located behind the front of the building effectively screening the addition from the public way. The addition will not reduce the landscaping percentages on the property as it proposed in an area that is currently a concrete patio.

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 Board finds the addition to be in accordance with with the purposes of the SZO and of the RA district. The Board finds any impacts to the community from this proposal to be negligible. There was discussion regarding a neighbor's claim that an illegal Bed and Breakfast was being operated out of the home. The applicant claimed that there was no longer a Bed and Breakfast facility operating at the premises, but that they were renting less than three rooms to foreign exchange students that were studying at local schools. The Board finds that this would be allowed under the current zoning regulations.

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 Board finds that the design of the building is consistent with the character of the neighborhood and the historical qualities of the house.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Fillis and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Danielle Fillis seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** 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 an approximately 10' by 10' first addition and 4' by 10' second floor addition. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(3/24/09)</td><td>Initial application submitted to OSPCD</td></tr><tr><td>12/15/08(4/14/09)</td><td>Proposed Site Plan and Materials marked A1-A9.</td></tr></table>				Date (Stamp Date)	Submission	(3/24/09)	Initial application submitted to OSPCD	12/15/08(4/14/09)	Proposed Site Plan and Materials marked A1-A9.
	Date (Stamp Date)				Submission					
	(3/24/09)				Initial application submitted to OSPCD					
12/15/08(4/14/09)	Proposed Site Plan and Materials marked A1-A9.									
Any changes to the approved elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	A code compliant fire alarm system shall be installed.	CO	FP							
3	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit 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*
Danielle Fillis
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 _____