



**City of Somerville, Massachusetts**  
**STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE, MAYOR**

**STAFF**

MADELEINE MASTERS, *DIRECTOR OF PLANNING*  
CHRISTOPHER DI IORIO, *PLANNER/ZONING ADMINISTRATOR*  
LORI MASSA, *PLANNER/ZONING ADMINISTRATOR*  
FREDERICK J. LUND, *SENIOR DRAFTSMAN*

**Case #:** 2008-05  
**Site:** 209 Cedar Street  
**Date:** February 7, 2008  
**Recommendation:** Conditional Approval

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## PLANNING STAFF REPORT

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**Applicant Name:** Ryan Evans and Darcy Duke  
**Applicant Address:** 209 Cedar Street, Somerville, MA 02145  
**Property Owner Name:** Ryan Evans and Darcy Duke  
**Property Owner Address:** 209 Cedar Street, Somerville, MA 02145  
**Agent Name:** Josh Fenollosa  
**Alderman:** Rebekah Gewirtz

Legal Notice: The applicant seeks Special Permit approval under SZO §4.4.1 for the alteration of a non-conforming structure in order to build a two level deck with stairs. The applicant seeks Special Permit approval under SZO §8.5H to build 4.5' into the required sideyard.

Zoning District/Ward: RB / 5

Zoning Approval Sought: Special Permit under SZO §4.4.1 and SZO §8.5H

Date of Application: January 14, 2008

Date(s) of Public Hearing: ZBA: February 20, 2008

Date of Decision: N/A

Vote: N/A

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### I. PROJECT DESCRIPTION

1. Subject Property: The subject property is an approximately 6,022 square foot lot on which sits a two and a half story wood frame two-family dwelling.

2. Proposal: The Applicant is seeking a special permit under SZO §4.4.1 to add a two-story unenclosed deck at the rear of the property. The deck would be 18' 3" wide by 17' 11" deep and would align with the side of the house. There is an existing 6' by 11' roofed, two-story unenclosed deck that is proposed to be removed in the same side yard location where the proposed deck would be. The proposed deck will be partially roofed and constructed of mahogany. New windows and doors will be added to the second floor kitchen along the sides and rear of the building.

3. Nature of Application: The existing structure is nonconforming with respect to side yard setback requirements.

These existing nonconformity allows the Applicant to apply for a special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO). Section 4.4.1 states: "lawfully existing one- and two- family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated, or altered by special permit granted by the SPGA in accordance with the procedures of Article 5, when any such enlargement, extension, renovation or alteration increases the nonconforming nature of the structure or the Gross Floor Area of the dwelling is increased by more than twenty-five percent. The SPGA, as a condition of granting a special permit under this Section must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming structure."

The location of the home and the existing rear deck are both nonconforming with respect to the side yard requirements. The structure lies three and a half feet from the side yard property line, a four and a half foot violation of SZO §8.5.H. The proposed deck will replace the existing deck in location for about four feet and then shifts away to provide a six foot side yard (a two foot violation of SZO §8.5.H) as it extends into the rear yard for a distance of 17'11".

4. Surrounding Neighborhood: The property is located in a Residence B (RB) zone. The immediate neighborhood is predominantly residential, with a mix of one-, two- and three-family homes. About 100 feet northeast of the rear lot line, and visible from the rear yard, is a 22,000 s.f. warehouse.

5. Impacts on Abutting Properties: There should be minimal impact on the abutting property. The house and existing deck are currently three and a half feet from abutting property. The reconfiguration of the deck would add 11'11" to the depth of the deck extending into the rear yard. All of the added depth to the deck would be at least six feet away from the side property boundary, creating a nonconformity of only two (2) feet into the required side yard. Of the two existing windows along the 3'6" foot side yard, one will be removed and the other will be reduced in size to accommodate changes to the kitchen.

5. Green Building Practices: None specified.

6. Comments from Fire Prevention Bureau: Pending

7. Comments from Alderman: Alderman Gewirtz has not provided comments.

## **II. 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 Staff 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."

The Applicant requires a special permit under §4.4.1 of the SZO. Under §4.4.1, “the SPGA, as a condition of granting a special permit under this Section must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming structure.”

Staff finds that the Applicant’s proposal **would not be substantially more detrimental** to the surrounding neighborhood than the existing structure, as required under §4.4.1 of the SZO. The proposal is not more detrimental in visual effects or privacy concerns. While the deck is extending in depth, most of the proposed deck would be further away from the property boundary than the existing home and the existing deck.

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.”

Staff finds that the proposal **is consistent** with the purposes set forth in Article 1 of the Zoning Ordinance, and with, to the extent possible for a lawful pre-existing nonconforming structure, those purposes established for the Residential A (RA) zoning district in which the property is located, namely “(t)o 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.”

Staff finds that the proposal **is compatible** with the site and area. The deck and the modification of windows and doors would not be visually intrusive within the neighborhood.

### **III. RECOMMENDATION**

#### **Special Permit under §4.4.1**

Based on the above findings, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

Staff finds that this application complies with the requirements for granting a special permit as set forth under §5.1.4 and that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

Although the Planning Staff is recommending approval of the requested Special Permit, the following conditions should be added to the permits:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for the construction of a 18' 3" wide x 17' 11" deep partially covered deck that will be dimensionally nonconforming in terms of the side yard setback under SZO §8.5.H. This approval is based upon the following application materials and the plans submitted by the Applicant and/or the Agent:	Building Permit	Plng.	
2	The color of the deck shall match that of the house.	CO	Plng.	
3	No future enclosure of the deck shall be allowed.	Cont.	Plng.	
4	"Privacy" wall on second level deck shall be removed.	CO	Plng.	
5	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.	CO	Plng. / ISD	



209 Cedar Street