



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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JOSH SAFDIE (ALT.)

Case #: ZBA #2010-37
Site: 23-25 Cross Street
Date of Decision: August 18, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 26, 2010

ZBA DECISION

Applicant Name:	Robert Laquidera
Applicant Address:	P.O. Box 490123, Everett, MA 02149
Property Owner Name:	Peter Conti
Property Owner Address:	10 Everett Avenue, Everett, MA 02149
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant Peter Conti & Owner Robert Laquidera seek a special permit (SZO §4.4.1) to construct a 12'x 12' deck on the second story roof of a nonconforming dwelling.
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<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 12, 2010
<u>Date(s) of Public Hearing:</u>	August 18, 2010
<u>Date of Decision:</u>	August 18, 2010
<u>Vote:</u>	5-0

Appeal #ZBA 2010-37 was opened before the Zoning Board of Appeals at Somerville City Hall on August 18, 2010. 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 construct a 12' by 12' deck on a portion of the flat roof of the first story. The proposed deck is located on the rear corner of the building along Bonair Street and includes a 42" high railing with slats 4" apart.

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 will not be substantially more detrimental to the neighborhood than the existing structure. To the extent possible for a nonconforming structure, the proposal complies with the standards of the zoning ordinance. The proposed deck is located along Bonair Street and is minimally impactful to neighboring properties. The addition will add visual appeal to the structure and serve as an amenity for tenants.

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. The proposal is also consistent with the purpose of the district, which is, "[t]o establish and preserve medium density neighborhoods of one-, two-, and three-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 proposal is designed to be compatible with the existing house and surrounding area. The deck will not significantly increase the mass of the structure or deviate from the scale of neighboring properties.

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:



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#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of a 12’ by 12’ deck on the first story roof. 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>July 12, 2010</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>July 12, 2010</td><td>Plans submitted to OSPCD (Elevation and plot plan)</td></tr></table>				Date (Stamp Date)	Submission	July 12, 2010	Initial application submitted to the City Clerk’s Office	July 12, 2010	Plans submitted to OSPCD (Elevation and plot plan)
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	July 12, 2010				Initial application submitted to the City Clerk’s Office					
July 12, 2010	Plans submitted to OSPCD (Elevation and plot plan)									
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
2	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP							
3	The Applicant shall maintain the pervious front yard area and submit a landscaping plan to Planning Staff prior to certificate of occupancy.	CO	Plng.							
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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