



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 #2009-38
Site: 18 Fellsway West #2
Date of Decision: September 2, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: September 8, 2009

ZBA DECISION

Applicant Name:	Ginhee Sohn & Peter Unger
Applicant Address:	18 Fellsway West #2, Somerville, MA 02145
Property Owner Name:	Ginhee Sohn & Peter Unger
Property Owner Address:	18 Fellsway West #2, Somerville, MA 02145
Agent Name:	Chiong Lin
Agent Address:	38 Bigelow Street, Apt. B, Cambridge, MA 02139

Legal Notice: Applicant & Owner Ginhee Sohn & Peter Unger seek a special permit under §4.4.1 to expand a nonconforming two-family residential structure by constructing a 222± sf addition and roof deck to the rear of the house within the required side yard setback. RB zone. Ward 4.

<u>Zoning District/Ward:</u>	RB zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 28, 2009
<u>Date(s) of Public Hearing:</u>	September 2, 2009
<u>Date of Decision:</u>	September 2, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-38 was opened before the Zoning Board of Appeals at Somerville City Hall on September 2, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to construct a second story over the existing one-story portion of the house for a 195 net square foot family room. The proposal also includes a deck over the second story. An existing dormer with a window would be converted to a door to access the roof deck. The deck railing would wrap around the addition to the dormer; it would not affect the slate roof.

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 proposal would increase the mass of the structure in the rear; however, the rear yard setback would remain conforming and the side yard would not be reduced further. There appears to be minimal impact to the abutting property. The addition would not have any windows facing the neighboring structure and it is not expected to further impact shadows on this structure.

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 maintain the uniquely integrated structure of uses in the City. 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 in a manner that is compatible with the built and unbuilt surrounding area. The placement of the windows and the siding would add character to the rear portion of the house. The deck railing would not destroy the slate roof. A branch of a tree in the yard may have to be cut; however, the health of the tree should not be damaged.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis 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 222± sf addition and roof deck to the rear of the house. 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 28, 2009)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>June 9, 2009</td><td>Plans submitted to OSPCD (plot plan)</td></tr><tr><td>June 9, 2009 (Aug 17, 2009)</td><td>Plans submitted to OSPCD (E1: existing floor plans, E2: existing elevations,</td></tr><tr><td>July 28, 2009 (Aug 17, 2009)</td><td>Plans submitted to OSPCD (A2-3 proposed elevations)</td></tr><tr><td>August 15, 2009 (Aug 17, 2009)</td><td>Plans submitted to OSPCD (A1: proposed floor plans)</td></tr></table>				Date (Stamp Date)	Submission	(July 28, 2009)	Initial application submitted to the City Clerk's Office	June 9, 2009	Plans submitted to OSPCD (plot plan)	June 9, 2009 (Aug 17, 2009)	Plans submitted to OSPCD (E1: existing floor plans, E2: existing elevations,	July 28, 2009 (Aug 17, 2009)	Plans submitted to OSPCD (A2-3 proposed elevations)	August 15, 2009 (Aug 17, 2009)	Plans submitted to OSPCD (A1: proposed floor plans)
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Any changes to the approved plans that are not <i>de minimis</i> must receive ZBA approval.																
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	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*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Danielle Fillis

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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