



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 2010-03
Site: 32-34 Fenwick Street
Date of Decision: March 17, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 18, 2010

ZBA DECISION

Applicant Name:	Bernard Breen
Applicant Address:	34 Fenwick Street, Somerville, MA 02145
Property Owner Name:	Bernard Breen
Property Owner Address:	34 Fenwick Street, Somerville, MA 02145
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant and Owner, Bernard Breen, seeks a Special Permit under SZO §4.4.1 in order to enclose a second floor porch in the non-conforming side yard. RB zone. Ward 4.
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<u>Zoning District/Ward:</u>	RB zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	February 8, 2010
<u>Date(s) of Public Hearing:</u>	March 17, 2010
<u>Date of Decision:</u>	March 17, 2010
<u>Vote:</u>	5-0

Appeal #ZBA 2010-03 was opened before the Zoning Board of Appeals at Somerville City Hall on March 17, 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 extend the second floor 5 ft by enclosing the second floor deck. The addition would extend to a distance of 10 ft from the front lot line. The new construction would total 123 sq ft and would enable the owner to expand an existing living room and bedroom.

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 applicant has worked closely with Staff to refine the design. Certain design elements have been incorporated into this proposal that create a more appealing second story deck enclosure than is traditionally found throughout the city. These elements include window style and placement on both the front and side of the addition, a 1 ft setback of the addition from the front deck edge, the sloping roof and eave above and below the addition, the substantial size of the brick columns that support the addition, and the replacement of the faux brick façade with new vinyl siding to match the rest of the 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 and purpose of the RB district in altering this two-family home.

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."

With the front addition the structure would remain consistent with the character of other 2 ½ story structures on the street. While the Board typically would not encourage this type of second floor addition, the Board finds the design to be acceptable as both adjacent structures have enclosed second floor porches/decks and it is an architectural feature common in many structures in the surrounding area.

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:



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#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of an approximately 5 ft by 24.5 ft second-story deck enclosure. 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>(2/8/10)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>1/30/10</td><td>Plans and elevations submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	(2/8/10)	Initial application submitted to the City Clerk's Office	1/30/10	Plans and elevations submitted to OSPCD
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	(2/8/10)				Initial application submitted to the City Clerk's Office					
1/30/10	Plans and elevations submitted to OSPCD									
Any changes to the approved plans and elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	The siding and color shall match that of the existing house.	CO	Plng.							
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.
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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