



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 #2009-32**  
**Site: 7 Harrison Street**  
**Date of Decision: August 19, 2009**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: August 27, 2009**

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**ZBA DECISION**

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<b>Applicant Name:</b>	John Downie
<b>Applicant Address:</b>	125 Wedgewood Lane, Manchester, NH 03109
<b>Property Owner Name:</b>	Angel Saenz
<b>Property Owner Address:</b>	7 Harrison Street, Somerville, MA 02143
<b>Agent Name:</b>	N/A

<b><u>Legal Notice:</u></b>	Applicant John Downie & Owner Angel Saez-Badillos seek a special permit under §4.4.1 to expand a nonconforming single-family residential structure by adding a 110 s.f. second story addition over an existing structure on the side and a deck with a 140 s.f. addition over it in the back of the dwelling. RB zone. Ward 2.
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<b><u>Zoning District/Ward:</u></b>	RB zone/Ward 2
<b><u>Zoning Approval Sought:</u></b>	§4.4.1
<b><u>Date of Application:</u></b>	July 30, 2009
<b><u>Date(s) of Public Hearing:</u></b>	August 19, 2009
<b><u>Date of Decision:</u></b>	August 19, 2009
<b><u>Vote:</u></b>	5-0

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Appeal #ZBA 2009-32 was opened before the Zoning Board of Appeals at Somerville City Hall on August 19, 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.

**DESCRIPTION:**

The proposal is to construct a second story over the existing one-story portion of the house in order to enlarge an existing bedroom and add a bathroom. The new floor area would be approximately 140 square feet. The proposal also includes removing a rear deck and replacing it with a larger porch and an approximately 110 square foot addition above it. This space would be used as an extension of a 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. To the extent possible for a nonconforming structure, the proposal complies with the standards of the zoning ordinance. The addition is minimally impactful.

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 conserving the value of land and buildings; and the purpose of the district, to preserve one-family homes.

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 addition would be compatible with the style of the house. The addition over the porch would have a gable roof that matched the slope of the existing house. The windows would be centered proportionally. The addition that wraps around the side of the house would have a shallow pitched roof that ended below the existing eave of the house and the eave of the addition in the back. The windows would be lined up with existing windows. The siding of both portions of the proposal would match the existing shingles on the house.

**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:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the construction of an addition to the second floor totaling 250± s.f. and a first floor porch. This approval is based upon the following application materials and the plans submitted by the Applicant:	PB/CO	Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>July 30, 2009</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>February 23, 2009 (July 30, 2009)</td><td>Modified plans submitted to OSPCD (plot/site plan)</td></tr><tr><td>July 26, 2009 (July 30, 2009)</td><td>Modified plans submitted to OSPCD (existing floor plans: A1-3, cross section: S4, elevations, E1-3)</td></tr></table>				Date (Stamp Date)	Submission	July 30, 2009	Initial application submitted to the City Clerk's Office	February 23, 2009 (July 30, 2009)	Modified plans submitted to OSPCD (plot/site plan)	July 26, 2009 (July 30, 2009)	Modified plans submitted to OSPCD (existing floor plans: A1-3, cross section: S4, elevations, E1-3)
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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 roof pitch of the addition that wraps around the northwesterly corner of the house shall be 4/12 or greater.	PB	Plng.									
4	The siding of the addition shall be composite or similar siding of shingles and trim to match the look of the existing siding and trim on the house. The Applicant shall remove the vinyl siding on the first floor of the addition.	PB/CO	Plng.									
5	Gutters and downspouts shall be installed on the northwest portion of the addition to prevent water from running onto neighboring properties.	CO	Plng./IS D									
6	The porch and bedroom addition, exclusive of steps leading off of the porch to the ground, shall not extend more than 10 feet from the current rear exterior wall of the bedroom in the northeasterly corner of the house.	PB/CO	Plng./IS D									
7	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 \_\_\_\_\_