



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.)

**Case #: ZBA 2008-14**

**Site: 14 Oakland Avenue**

**Date of Decision: May 7, 2008**

**Decision: *Petition Approved with Conditions***

**Date Filed with City Clerk: May 19, 2008**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Holly & John Simione
<b>Applicant Address:</b>	14 Oakland Avenue, Somerville, MA 02145
<b>Property Owner Name:</b>	Holly & John Simione
<b>Property Owner Address:</b>	14 Oakland Avenue, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant & Owner Holly & John Simione seek Special Permit approval under SZO §4.4.1 to alter a non-conforming structure in order to construct a wheelchair accessible two (2) story rear addition. RA zone. Ward 4.
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<u>Zoning District/Ward:</u>	RA zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	March 24, 2008
<u>Date(s) of Public Hearing:</u>	4/16 & 5/7/08
<u>Date of Decision:</u>	May 7, 2008
<u>Vote:</u>	5-0

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Appeal #ZBA 2008-14 was opened before the Zoning Board of Appeals at Somerville City Hall on April 16, 2008. 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 (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

**DESCRIPTION:**

The Applicant is proposing to remove an existing 15' by 15' kitchen in the rear of the house and construct a first floor 31' deep by 21.8' wide addition with a handicapped accessible bedroom, bathroom, eat-in kitchen and side yard deck. On the second floor of the addition the applicant is proposing to construct a

20' by 21' master bedroom and bathroom. The applicant is proposing to relocate the handicapped chair lift from the front yard to the rear of the structure.

**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."

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."

The Board finds that the 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 Board finds that since the addition is in the rear of the structure and a full story lower than the existing structure visual impacts will be limited. In addition, the existing kitchen in the rear of the building has a shape and style that is mimicked in the design of the proposed addition. The Board finds that this handicapped accessible addition is necessary in order to accommodate the applicant's daughter and create a safer environment for her in the home.

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 Board 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 RA 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."

The Board finds that the proposed addition is compatible with the site and area. The additional floor area and ground coverage created by this addition are still far within the dimensional requirements under the SZO. In addition, the extended structure when finished will still be compatible with many of the other properties in the area that also feature larger homes. Adding to site compatibility, the exterior of the

proposed addition will be made to look like it was a part of the original construction by using similar style materials and paints.

### **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 to construct a two-story, handicapped accessible addition in the rear yard. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent:	Building Permit	Plng.									
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>March 24, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>March 28, 2008</td><td>Site plan submitted to OSPCD</td></tr><tr><td>April 15, 2008</td><td>Building elevations submitted to OSPCD</td></tr></table>				Date	Submission	March 24, 2008	Initial application submitted to the City Clerk's Office	March 28, 2008	Site plan submitted to OSPCD	April 15, 2008	Building elevations submitted to OSPCD
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April 15, 2008	Building elevations submitted to OSPCD											
Any changes to the approved site plan and elevations must receive ZBA approval.												
2	Fire detection protection shall be extended into the proposed addition.	CO	FP									
3	Exterior materials and paints should be used to make the addition match the existing structure.	CO	Plng.									
4	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed of concrete subject to DPW approval.	CO	DPW									
5	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P									

6	Any trees removed shall be documented and every effort should be made to replace the trees according to National Nurseryman's Standards, and in accordance with SZO §10.2.2 and §10.6.2.	CO	Plng.	
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 Building Permit Signoff	Plng. / ISD	

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
Danielle Fillis  
Elaine Severino, (Alt.)

Attest, by the Zoning Board of Appeals 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 \_\_\_\_\_