



CITY OF SOMERVILLE, MASSACHUSETTS
ZONING BOARD OF APPEALS
JOSEPH A. CURTATONE, MAYOR

MEMBERS

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T. F. SCOTT DARLING, III, ESQ.
DANIELLE FILLIS
ELAINE SEVERINO (ALT.)

Case #: ZBA 2008-12
Site: 7A Partridge Avenue
Date of Decision: April 16, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: April 30, 2008

ZBA DECISION

Applicant Name: Kathleen McGilvray
Applicant Address: 7A Partridge Avenue, Somerville, MA 02145
Property Owner Name: Kathleen McGilvray & David Edwards
Property Owner Address: 7A Partridge Avenue, Somerville, MA 02145
Agent Name: N/A

Legal Notice: Applicant Kathleen McGilvray, Applicant/Owner: Kathleen McGilvray & David Edwards) seek a special permit §4.4.1 to extend an existing handrail on the second story to encompass the entire deck area. RA zone. Ward 5.

Zoning District/Ward: RA zone/Ward 5
Zoning Approval Sought: §4.4.1
Date of Application: March 11, 2008
Date(s) of Public Hearing: April 16, 2008
Date of Decision: April 16, 2008
Vote: 5-0

Appeal #ZBA 2008-12 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 seeks to extend an existing handrail on the second story so that it encompasses the entire deck area. The deck on the second story would then match the railing on the first story. The Applicant is intending to stain and paint the entire deck to match or complement the house.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

1. Information Supplied: The Staff 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.

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 railing extension is consistent with the general purposes of the Ordinance, including "to conserve the value of land and structures".

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."

Extending the railing would make the porch more symmetrical and improve the appearance of the front of the house.

DECISION:

Present and sitting were Members Acting Chairperson, Orsola Susan Fontano, Acting Clerk, Richard Rossetti, Danielle Fillis, Scott Darling and Elaine Severino. Upon making the above findings, Richard Rossetti 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 extension of an existing handrail on the second story so that it encompasses the entire deck area. This approval is based upon the following application materials and the plans submitted by the Applicant and/or its contractor:	Building Permit	Plng.					
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>March 11, 2008</td><td>Initial application submitted to the City Clerk’s Office</td></tr></table>	Date	Submission	March 11, 2008	Initial application submitted to the City Clerk’s Office			
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March 11, 2008	Initial application submitted to the City Clerk’s Office							
	Any changes to the approved site plan or elevations must receive ZBA approval.							
2	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:

Orsola Susan Fontano, *Acting Chairperson*
Richard Rossetti, *Acting Clerk*
Danielle Fillis
T.F. Scott Darling, III, Esq.
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 _____