



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 2008-03  
Site: 7 Prospect Hill Avenue  
Date of Decision: March 5, 2008  
Decision: Petition Approved with Conditions

Date Filed with City Clerk: March 13, 2008

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ZBA DECISION

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**Applicant Name:** Kevin Whalen  
**Applicant Address:** 7 Prospect Hill Avenue, Somerville, MA 02143  
**Property Owner Name:** Kevin Whalen  
**Property Owner Address:** 7 Prospect Hill Avenue, Somerville, MA 02143  
**Agent Name:** N/A  
**Agent's Address:** N/A

**Legal Notice:** Applicant & Owner Kevin Whalen seek special permits (SZO §4.4.1 & §4.5.3) to construct a one-story addition in the back and steps on the side of the dwelling to extend the residential use. RA zone. Ward 3.

**Zoning District/Ward:** Residence A (RA) zone/Ward 3  
**Zoning Approval Sought:** §4.4.1 & §4.5.3  
**Date of Application:** January 14, 2008  
**Date(s) of Public Hearing:** 2/20 & 3/5/08  
**Date of Decision:** March 5, 2008  
**Vote:** 5-0

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Appeal #ZBA 2008-03 was opened before the Zoning Board of Appeals at Somerville City Hall on February 20, 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 proposes constructing a one-story addition to the family room in the rear of the property that is 5' by 10'9". The applicant also proposes to construct steps on the west side of the dwelling that are 3' by 12'.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §4.5.3):**

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 and §4.5.3 of the SZO. "The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building ... the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, type of traffic, change in traffic patterns and access to the site, adequacy of municipal water supply and sewer capacity, noise, odor, glare, scale, on-street parking, shading, visual effects and neighborhood character."

Board finds that the proposal would not be substantially more detrimental than the existing structure with the redesigned staircase and attached conditions. The fire department access would become limited with the addition of the proposed stairs; however, the Applicant redesigned the stairs so that they do not project as much into the side yard, and they are shifted away from the irregularly shaped side yard to allow for more space to access the rear yard. The visual effect of the addition would be a reduction of the backyard that is currently small and cluttered with an outbuilding and shed. The Applicant agreed to remove the plastic shed and landscape the rear yard to mitigate this impact. The Applicant stated that the stucco shed is sufficient to store belongings. The redesigned stairs are much smaller in bulk due to the size reduction in width and depth and the change to a hip roof above the stairs. Also, the alignment of these elements with existing windows improves the appearance of the alterations.

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 to construct a staircase and addition to the family room is consistent with the purposes of the Ordinance.

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 proposal is compatible with the site or area.

**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Danielle Fillis with Scott Darling absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Danielle Fillis 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 one-story addition in the back and steps on the side of the dwelling to extend the residential use. 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>January 14, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>February 15, 2008</td><td>Modified plans submitted to OSPCD (proposed elevations and proposed plan)</td></tr></table>				Date	Submission	January 14, 2008	Initial application submitted to the City Clerk's Office	February 15, 2008	Modified plans submitted to OSPCD (proposed elevations and proposed plan)
	Date				Submission					
	January 14, 2008				Initial application submitted to the City Clerk's Office					
	February 15, 2008				Modified plans submitted to OSPCD (proposed elevations and proposed plan)					
Any changes to the approved site plan and elevations must receive ZBA approval.										
2	The Applicant must install a smoke detector in or near the family room in accordance with M.G.L., Chapter 148, section 26B, 26D, and 26E.	CO	FP							
3	The Applicant shall remove the plastic shed in the rear yard.	CO	Plng. / ISD							
4	The Applicant shall landscape the rear yard in compliance with the National Nurserymen's Standards.	CO	Plng. / ISD							
5	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  
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  
ZBA 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 \_\_\_\_\_