



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 2007-68
Site: 103 Thurston Street
Date of Decision: January 23, 2008

Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: January 30, 2008

ZBA DECISION

Applicant Name:	Masha Shoykhet
Applicant Address:	103 Thurston Street, Somerville, MA 02145
Property Owner Name:	Masha Shoykhet
Property Owner Address:	103 Thurston Street, Somerville, MA 02145
Agent Name:	Mikhail Deychman
Agent's Address:	41 Saybrook Street, Brighton, MA 02135

Legal Notice: Applicant & Owner Masha Shoykhet seek a special permit (SZO §4.4.1) to expand a dimensionally nonconforming deck that will be dimensionally nonconforming in terms of the rear yard setback under SZO §8.5.I. RA zone. Ward 4.

<u>Zoning District/Ward:</u>	Residence A (RA) zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1 & §8.5.I
<u>Date of Application:</u>	December 21, 2007
<u>Date(s) of Public Hearing:</u>	January 23, 2008
<u>Date of Decision:</u>	January 23, 2008
<u>Vote:</u>	4-0

Appeal #ZBA 2007-68 was opened before the Zoning Board of Appeals at Somerville City Hall on January 23, 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 seeking a special permit under SZO §4.4.1 to expand an unenclosed deck at the rear of the property that would be seven and one-half feet (7.5') from the side yard property line, a twelve and one-half foot (12.5') violation of SZO §8.5.I. The deck would be 21' x 16.3' and is at a height of one-story.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §8.5.I):

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 must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building."

Board finds that the Applicant's 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 proposal with the attached conditions is not more detrimental in visual effects or privacy concerns. The addition of a trellis with climbing plants under the deck will provide a place for items on the property to be screened from neighbors and improve the landscaping of the site. Also, the deck should be scaled back if it interferes with the trees in the backyard.

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."

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 Residential A (RA) zoning 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."

The extension of the deck will allow the owner use of the backyard near to the kitchen.

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."

Board finds that the proposal **is compatible** with the site and area. The deck with the attached conditions would not be visually intrusive within the neighborhood.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, 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 (4-0) to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the expansion of an unenclosed deck at the rear of the property that will be nonconforming in terms of rear yard setback under SZO §8.5.I. The rear yard setback shall be no less than 11 feet and the Applicant will work with the Planning staff to redesign the deck in accordance with this approval. This approval is based upon the following application materials and the plans submitted by the Applicant and/or the Agent:	Building Permit	Plng.							
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>December 21, 2007</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>January 28, 2008</td><td>Revised plot plan and elevations</td></tr></table>				Date	Submission	December 21, 2007	Initial application submitted to the City Clerk’s Office	January 28, 2008	Revised plot plan and elevations
	Date				Submission					
	December 21, 2007				Initial application submitted to the City Clerk’s Office					
	January 28, 2008				Revised plot plan and elevations					
Any changes to the approved site plan must receive ZBA approval.										
2	The Applicant will make every effort to maintain the existing tree by the deck; however, any trees that are lost shall be replaced. The Applicant agreed to provide additional landscaping along the back fence pursuant to SZO §10.3;	Building Permit	Plng.							
3	The area below the deck must be screened with a trellis and climbing plants to mitigate the visual impact of the deck and block view of items stored under the deck from abutting properties;	Final Building Permit Sign-off	Plng. / ISD							
4	The yard shall not be used for storage;	Perpetual	Plng. / ISD							
5	Landscaping should be installed and maintained in compliance with the American Nurserymen’s Association;	Perpetual	Plng. / ISD							
6	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 Sign-off	Plng. / ISD							

Attest, by the Zoning Board of Appeals:

Herbert Foster, Chairman
Orsola Susan Fontano, Clerk
Richard Rossetti
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
ZBA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty (20) 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 special permit, or any extension, modification or renewal thereof, 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. The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services is 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 either

_____ 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.

Signed _____

City Clerk Date _____