



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

MEMBERS

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JOSH SAFDIE (ALT.)

Case #: ZBA 2008-37
Site: 69 Walnut Street
Date of Decision: October 1, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 7, 2008

ZBA DECISION

Applicant Name:	Nikhil Rangaraj
Applicant Address:	69 Walnut Street, Somerville, MA 02143
Property Owner Name:	Nikhil Rangaraj
Property Owner Address:	69 Walnut Street, Somerville, MA 02143
Agent Name:	Nick Iannuzzi, Jr., Esq.
Agent Address:	Orsi, Arone, Rothenberg, Iannuzzi & Turner, LLP 160 Gould Street, Suite 320 Needham, MA 02494

Legal Notice: Applicant & Owner: Nikhil Rangaraj seeks a Special Permit under §4.4.1 to alter a nonconforming structure in order to build a roof deck and extension stairs between porches. RA zone. Ward 3.

<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 17, 2008
<u>Date(s) of Public Hearing:</u>	8/20, 9/3 & 10/1/08
<u>Date of Decision:</u>	October 1, 2008
<u>Vote:</u>	5-0

Appeal #ZBA 2008-37 was opened before the Zoning Board of Appeals at Somerville City Hall on August 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to construct a 320 sf (20 x 16 foot) roof deck on the rear flat roof and add stairs (10 x 8.6 feet) from an existing two-story porch and the proposed deck. The purpose of the roof deck is to provide outdoor space for the

second unit. The purpose of the stairs is to allow movement from the porches to the yard. The deck would be mahogany and the railings and balusters would be painted to match the house.

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." To the extent possible for a nonconforming structure, the proposal complies with the standards of the zoning ordinance. The additional intrusion of the extension stairs and railing of a roof deck into the side yard setback would be 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 purposes of the ordinance, including "to conserve the value of land and buildings".

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 stairs and deck railing would match the existing building materials and would be in character with the existing structure. The roof deck would only be slightly visible from the street. The Board notes that the changes are part of a larger project that is restoring this property. Opening the rear porch that was once closed has reduced the bulk of the building.

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 a new 320 sf (20 x 16 foot) roof deck on the existing rear flat roof and new stairs (10 x 8.6 foot) from an existing two-story porch and the proposed deck. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.							
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>July 17, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>September 9, 2008</td><td>Revised plans (right elevation, back elevation, plot plan, detailed right elevation of stairs, plan view)</td></tr></table>				Date	Submission	July 17, 2008	Initial application submitted to the City Clerk's Office	September 9, 2008	Revised plans (right elevation, back elevation, plot plan, detailed right elevation of stairs, plan view)
	Date				Submission					
	July 17, 2008				Initial application submitted to the City Clerk's Office					
	September 9, 2008				Revised plans (right elevation, back elevation, plot plan, detailed right elevation of stairs, plan view)					
Any changes to the approved plans that are not <i>de minimis</i> must receive ZBA approval.										
2	The use of the property shall remain as a two-family dwelling.	Perpetual	ISD							
3	No roof shall be constructed over the roof deck.	Perpetual	ISD							
4	The Applicant shall make efforts to follow the work plan submitted.	May 2009	Plng.							
5	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	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 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 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 _____