



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

PLANNING DIVISION

***ZONING BOARD OF APPEALS MEMBERS***

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DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA #2010-38**  
**Site: 26 Wheatland Street**  
**Date of Decision: September 1, 2010**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: September 15 2010**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Michael Lidano & Sandra Evangelista
<b>Applicant Address:</b>	26 Wheatland Street, Somerville, MA 02145
<b>Property Owner Name:</b>	Michael Lidano & Sandra Evangelista
<b>Property Owner Address:</b>	26 Wheatland Street, Somerville, MA 02145
<b>Agent Name:</b>	Richard G. DiGirolamo, Esq.
<b>Agent Address:</b>	424 Broadway, Somerville, MA 02145

Legal Notice: Applicants/Owners, Michael Lidano and Sandra Evangelista, seek a Special Permit under SZO §4.4.1 in order to extend and enclose a deck within the non-conforming side yard.

<u>Zoning District/Ward:</u>	RB zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 8, 2010
<u>Date(s) of Public Hearing:</u>	September 1, 2010
<u>Date of Decision:</u>	September 1, 2010
<u>Vote:</u>	5-0

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Appeal #ZBA 2010-38 was opened before the Zoning Board of Appeals at Somerville City Hall on September 1, 2010. 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 hearing of deliberation, the Zoning Board of Appeals took a vote.



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## **DESCRIPTION:**

The applicant is proposing to legalize and completed he work for the addition. The project will provide an enclosed sitting area off the kitchen and will maintain the small deck that has been built. The total built area of the addition is 120 square feet of enclosed area and a 33 square foot deck with new steps

## **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."

In considering a special permit under §4.4 of the SZO, The board find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure since the addition is not immediately adjacent to any structures on adjacent lots and that the site retains a 46 foot rear setback.

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 general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to providing for and maintain the uniquely integrated structure of uses in the City and purpose of the RB district to establish and preserve medium density neighborhoods of one-, two- and three-family homes . . . ". The applicant is investing in the existing one-family home, and expanding it by 121 square feet.

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."

As conditioned, the increased size of the structure would not have an effect on the site.

## **DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Evans, Scott Darling and Richard Rossetti. Upon making the above findings, Susan Fontana 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:



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#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to legalize an addition and deck that have begun construction. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(7/8/2010)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>5/28/2010</td><td>As-built plan of land submitted to OSPCD</td></tr><tr><td>6/1/2010</td><td>Plans of new addition</td></tr></table>				Date (Stamp Date)	Submission	(7/8/2010)	Initial application submitted to the City Clerk's Office	5/28/2010	As-built plan of land submitted to OSPCD	6/1/2010	Plans of new addition
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	5/28/2010				As-built plan of land submitted to OSPCD							
6/1/2010	Plans of new addition											
Any changes to the approved plans that are not <i>de minimis</i> must receive ZBA approval.												
2	There shall be no more than one dwelling unit within the structure.	CO	ISD.									
3	The applicant shall pay the triple-fee for building permits as is required by ISD for all work begun before securing a permit.	BP	ISD									
4	Construction work shall be limited to the hours of 8am to 5pm Monday through Friday, 9am to 5pm Saturday.	Continuous until CO	ISD									
5	The applicant shall note increase the extent of paved surface or parking area in the rear yard.	Continuous	Plng.									
6	Any outdoor lighting shall be directed downward and shall not shine onto abutting properties	Continuous	Plng.									
7	Applicant shall provide screening material to cover the area between the ground and the floor of the structure along the rear yard and the side with the deck and shall ensure that the area is not used to harbor rodents.	CO	Plng.									
8	Applicant shall use shingles on the addition similar to those on the main house and shall paint them to match. Windows shall also be trimmed to match existing windows on the house.	CO	Plng.									
9	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 Evans

Attest, by the 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 \_\_\_\_\_



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