



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

MEMBERS

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JOSH SAFDIE (ALT.)

Case #: ZBA 2008-44
Site: 23 Whitman Street
Date of Decision: October 15, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 22, 2008

ZBA DECISION

Applicant Name:	Kevin Roy
Applicant Address:	161 Arnold Street, Revere, MA 02151
Property Owner Name:	Michael Bavaro
Property Owner Address:	23 Whitman Street, Somerville, MA 02144
Agent Name:	Peter Sandone
Agent Address:	9 Foster Street, Wakefield, MA 01880

Legal Notice: Applicant: Kevin Roy & Owner: Michael Bavaro seek a variance for number of stories §8.5.f and a special permit §4.4.1 to add a third story to the dwelling. RA zone. Ward 7. (The Applicant changed the plans and withdrew the variance request.)

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 26, 2008
<u>Date(s) of Public Hearing:</u>	October 15, 2008
<u>Date of Decision:</u>	October 15, 2008
<u>Vote:</u>	5-0

Appeal #ZBA 2008-44 was opened before the Zoning Board of Appeals at Somerville City Hall on October 1, 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 revised proposal is to add a gable dormer to the left side of the dwelling that mimics the dormer on the right side. The dormer would be 16.5' in length. The Applicant is also proposing to add a two story deck into the rear yard.

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 finds that the deck alterations and dormer proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposed deck would not be directly adjacent to the house next door. The proposed dormer would be above the adjacent house which is 1 ½ stories.

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 deck and dormer proposal is consistent with the general purposes of the Ordinance and with the purpose of the RA district, which is, "[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."

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 deck would be compatible with the site. It would not be visible from the front of the structure and the site would conform to the rear yard setback and landscaping requirements. The dormer would have the same design as the dormer on the right side of the house. It would be ten feet back from the front of the enclosed deck. The roof line and character of the house would not be changing dramatically. The window configuration on the proposed dormer would ideally mimic the existing dormer. A condition below would allow for this change to the window configuration with staff review and approval.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie. 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 of a 9' x 12', 2-story deck in the rear and a 16.5' gable dormer on the left side of the dwelling. 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>August 26, 2008</td><td>Initial application submitted to the City Clerk's Office and/or OSPCD (1: proposed basement & first floor, 7: existing elevations & floor plans)</td></tr><tr><td>September 30, 2008</td><td>OSPCD Stamp (2: 2nd & 3rd floor plans, 3: right & front elevation, 4: left & rear elevation)</td></tr></table>				Date	Submission	August 26, 2008	Initial application submitted to the City Clerk's Office and/or OSPCD (1: proposed basement & first floor, 7: existing elevations & floor plans)	September 30, 2008	OSPCD Stamp (2: 2 nd & 3 rd floor plans, 3: right & front elevation, 4: left & rear elevation)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	The window configuration on the proposed dormer may be revised to match that of the existing dormer (2, one-over-one windows spaced proportionally) without requiring additional approval.	BP	Plng.							
3	A code compliant fire alarm system shall be installed.	CO	FP							
4	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.
Josh Safdie (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 _____