



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

PLANNING DIVISION

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**Case #: ZBA # 2011-34**  
**Site: 1 Howe Street**  
**Date of Decision: May 18, 2011**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: May 19, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Joanna Koustomiris
<b>Applicant Address:</b>	1 Howe Street, Somerville, MA 02145
<b>Property Owner Name:</b>	Joanna Koustomiris
<b>Property Owner Address:</b>	1 Howe Street, Somerville, MA 02145
<b>Agent Name:</b>	Angelica Cortez
<b>Agent Address:</b>	170 School Street, Somerville, MA 02145

Legal Notice: Applicant and Owner, Joanna Koustomiris, seeks a special permit to alter a nonconforming structure under SZO §4.4.1 to construct a deck over an existing one story structure in the rear of an existing two-family residence.

<u>Zoning District/Ward:</u>	RB zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	April 19, 2011
<u>Date(s) of Public Hearing:</u>	May 18, 2011
<u>Date of Decision:</u>	May 18, 2011
<u>Vote:</u>	5-0

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Appeal #ZBA 2011-34 was opened before the Zoning Board of Appeals at Somerville City Hall on May 18, 2011. 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 proposal is to construct a 10 foot by 16 foot deck on top of the existing one story volume in the rear of the two-family residence. A 4 foot by 10 foot section of the deck would overhang the one story structure on the Marshall Street side of the property. This overhang would be supported by a 4 inch by 4 inch post that would sit on top of a 12" wide by 4 foot deep concrete footing. The deck would have 3.5 foot high railings with 1" by 1" square balusters set 3" apart on center. A trellis would also be constructed in the northwest corner of the deck. The trellis would have a vegetative cover and be 8 feet high by 4 feet long and 4 feet wide. The deck would only be accessible via a proposed new 30" by 80" doorway from the second story of the existing structure. The Applicant is also proposing to add one new light fixture to illuminate the deck as part of the project.

## **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 alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The deck will mostly be located on top of an existing one story volume in the rear of the structure and will only minimally increase the width of the existing rear setback nonconformity.

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 maintaining "the uniquely integrated structure of uses in the City; to provide adequate light and air; and to encourage the most appropriate use of land throughout the City."

The proposal is also consistent with the purpose of the district (6.1.2. RB - Residence Districts), which is, "To establish and preserve medium density neighborhoods of one-, two- and three-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 project is compatible with the characteristics of the surrounding neighborhood. The Applicant is proposing to alter a nonconforming structure to construct a deck over an existing one story volume in the rear of an existing two-family residence. There are decks on other structures in the surrounding area that are similar to this proposal. The property will remain a 2½ story, two-family residential use which is consistent with the surrounding neighborhood.

5. **Adverse environmental impacts:** The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area;



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2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

No adverse environmental impacts are anticipated from this project. The Applicant is only proposing to add one new light fixture as part of the proposed new deck project. The structure will remain a 2½ story, two-family dwelling and will continue to be used for residential purposes.

**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie with Danielle Evans absent. 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	<p>Approval is to alter a nonconforming structure under SZO §4.4.1 to construct a deck over an existing one story structure in the rear of an existing two-family residence. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(April 19, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>October 4, 2010 (May 2, 2011)</td> <td>Plot Plan</td> </tr> <tr> <td>(May 2, 2011)</td> <td>Plans submitted to OSPCD (#1 – #6)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(April 19, 2011)	Initial application submitted to the City Clerk's Office	October 4, 2010 (May 2, 2011)	Plot Plan	(May 2, 2011)	Plans submitted to OSPCD (#1 – #6)	BP/CO	Png.	
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(May 2, 2011)	Plans submitted to OSPCD (#1 – #6)											
2	The Applicant shall meet the Fire Prevention Bureau's requirements.	CO	FP									
3	The Applicant shall install one new exterior light fixture and one new exterior electrical receptacle for the new outdoor deck space.	Final Sign Off	Wiring Inspector									
4	To the extent possible, all new exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	Final Sign Off	Png.									



5	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services 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.	
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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 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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