



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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RICHARD ROSSETTI  
DANIELLE EVANS  
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JOSH SAFDIE (ALT.)

**Case #: ZBA 2014-123**  
**Site: 9-11 Aberdeen Road**  
**Date of Decision: February 4, 2015**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: February 18, 2015**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Paul Lavelle, ULS Aberdeen Realty Trust
<b>Applicant Address:</b>	P.O. Box 400334, Cambridge, MA 02140
<b>Property Owner Name:</b>	Paul Lavelle, ULS Aberdeen Realty Trust
<b>Property Owner Address:</b>	P.O. Box 400334, Cambridge, MA 02140
<b>Agent Name:</b>	N/A

Legal Notice: Applicant, Paul Lavelle, and Owner, ULS Aberdeen Realty Trust, seeks a Special Permit under SZO §4.4.1 to alter a non-conforming, three-family dwelling to create a three-story rear deck with egress. RB zone. Ward 5.

<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Date of Application:</u>	December 18, 2014
<u>Date(s) of Public Hearing:</u>	1/21, 1/29 & 2/4/15
<u>Date of Decision:</u>	February 4, 2015
<u>Vote:</u>	5-0

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Appeal #ZBA 2014-123 was opened before the Zoning Board of Appeals at Somerville City Hall on January 21, 2015. 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.



**DESCRIPTION:**

The proposal is to construct a 3-story deck that will be in the rear and side yards. The second means of egress is currently inside of the building and does not meet the current building code. The second means of egress will be moved outside to this deck and windows on the second and third floors will be converted to doors. The existing landscaping will also be improved as part of this application.

**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."*

Under SZO §4.4.1, a three-family dwelling may only alter a nonconformity through the granting of a Special Permit. Therefore, the addition of rear decks require Special Permit approval. 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 encroach less into the nonconforming right side yard and retain a conforming 20' rear yard 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 promoting the safety of the inhabitants of the City of Somerville and providing for and maintaining the uniquely integrated structure of uses in the City.

The proposal is consistent with the purpose of the RB district, §6.1.2, 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." The proposal is consistent with the purpose of the RB district by improving the egress and providing an outdoor amenity for residents while providing a more appropriate right side yard setback of 3.5'.

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."*

This neighborhood is just beyond Davis Square and is primarily residential, consisting of similarly scaled single-, two- and three-family homes. Aberdeen Road is a one-way residential street with on-street parking on both sides of the street.

The proposal will improve the egress and provide an outdoor amenity for residents while providing a more appropriate right side yard setback of 3.5'.



5. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.

The use of the property will remain as three residential units.

6. SomerVision Plan: Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.

<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	3	3
<i>Affordable Units:</i>	0	0
<i>Parking Spaces:</i>	1	1

The use of the property will remain as three residential units and the appearance of the front of the house will improve as a result of the application.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 to alter a non-conforming, three-family dwelling to create a three-story rear deck with egress. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Png.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(December 18, 2014)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 17, 2014 (January 14, 2015)</td> <td>Plans submitted to OSPCD (plot plan, A-1, &amp; A-2)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(December 18, 2014)	Initial application submitted to the City Clerk's Office	December 17, 2014 (January 14, 2015)	Plans submitted to OSPCD (plot plan, A-1, & A-2)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
<b>Design</b>										
2	An exterior light and electrical receptacle is required for all levels of the porch .	Final sign off	Wiring Inspector							
<b>Site</b>										
3	There shall be a minimum of one tree planted upon improving the landscaping within the rear yard.	CO	Png.							
<b>Public Safety</b>										
4	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
5	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Png.							
<b>Final Sign-Off</b>										
6	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	Png.							

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Danielle Evans  
Elaine Severino

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 \_\_\_\_\_

