



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

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**Case #: ZBA 2017-16**  
**Site: 9 Richardson Street**  
**Date of Decision: April 5, 2017**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: April 7, 2017**

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**ZBA DECISION**

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<b>Applicant Name:</b>	James & Marissa Cummins
<b>Applicant Address:</b>	9 Richardson Street, Somerville, MA 02145
<b>Property Owner Name:</b>	James & Marissa Cummins
<b>Property Owner Address:</b>	9 Richardson Street, Somerville, MA 02145
<b>Agent Name:</b>	Andrea Morton
<b>Agent Address:</b>	561 Windsor Street, Suite #A404, Somerville, MA 02143

Legal Notice: Applicant Marissa Cummins and James Cummins seek a special permit per SZO 4.4.1 to modify an existing single family home with a renovation that includes a rear addition, modification to window locations and additional ceiling height.

<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	March 2, 2017
<u>Date(s) of Public Hearing:</u>	April 5, 2017
<u>Date of Decision:</u>	April 5, 2017
<u>Vote:</u>	5-0

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Appeal #ZBA 2017-16 was opened before the Zoning Board of Appeals at Somerville City Hall on April 5, 2017. 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 Applicants propose to add rear addition to the house as part of a project to enlarge the kitchen and existing master bedroom. The proposed work will also allow the Applicants to raise the ceiling height on the top floor. The ridge line will not change. By removing an existing deck as part of the renovation, the Applicants will be increasing their rear yard setback from 59.5 square feet to 62.5 square feet. The proposal will add a total of seventy-nine (79) square feet of net floor area to the building, increasing the FAR by .03%. The net living area of the property will increase from 782 square feet to 861 square feet. Side yard setbacks will be maintained.

**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 of the SZO. This section of the report goes through §5.1 in detail.

**1. Information Supplied:**

The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permit.

**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."***

*Section 4.4.1 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are non-conforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."*

The property is non-conforming in several ways, but the non-conformities triggering the need for special permit are the side yard setbacks. This property is a lawfully-existing single-family home in a zoning district where one-, two-, and three-family structures are allowed.

**Regarding §4.4.1 of the SZO**

The left elevation of the structure is 1.5 feet from the property line and the right elevation of the structure is 7.3 feet from the property line. The minimum side yard setback allowed in this zone is 8 feet. The Applicants propose maintaining these existing side yard setbacks, but extending them a few feet toward the rear of the property in order to realize their renovation goals. The Board finds that the modest extension of the side yard setbacks complies with the goals of the RB zone and the procedures outlined in Article 5 of the SZO and allows a property owner to make very modest alterations to their property in order to acquire an additional 79 square feet of living space.

The Board finds that the additional massing of the proposed addition will minimally impact the side abutting properties. The abutting residential structures extend further into their own rear yards than will the proposed addition to 9 Richardson Street. The property located at 7 Richardson has no windows on the side elevation facing the subject property, thus there will be no visual impact from the proposed alterations. 11 Richardson's rear windows (save for one casement window) are



located well to the end of the side elevation and sightlines from these windows will not be impacted by the proposed addition.

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, as conditioned by the Board, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; and to encourage the most appropriate use of land throughout the City.

The proposal is also consistent with the purposes of the RB zoning district which are "...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 Board finds that the rear addition is compatible with the surrounding neighborhood. The proposed addition will not be visible from Richardson Street and will only be viewable from rear-abutting properties. The property presents an extremely deep backyard that is well-landscaped and well-maintained. The proposed addition will be set further away from the rear yard lot line than the existing deck. The Board finds that the depth of the rear hard will further minimize any visual impact from the addition on rear-abutting neighbors.

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

The proposal does not add to the City's affordable housing stock.

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 proposal contributes to SomerVision in that it improves a property in this neighborhood.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino 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 add a small rear addition and increase the net living area by 79 square feet.	BP/CO	ISD/ PIng.	
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 2, 2017</td> <td>Initial application submitted to city clerk's office</td> </tr> </tbody> </table> <p>ANY changes to the approved plans, other than those changes made specifically to conform with the conditions below, must first be submitted to the Planning Division to determine whether or not they are <i>de minimis</i> in nature or whether they require review by the SPGA.</p>			
Date (Stamp Date)	Submission			
March 2, 2017	Initial application submitted to city clerk's office			
2	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1 <sup>st</sup> to April 1 <sup>st</sup> and there is a list of streets that have additional opening restrictions.	BP	Eng/ISD	
3	The Applicant shall present their electrical plan to wiring for their review and approval prior to the issuance of a Building Permit.	BP	Wiring/ISD	
4	The Applicant shall provide the Traffic & Parking Division with a plan for construction traffic management for that division's review and approval prior to the issuance of a building permit. This plan shall include delivery windows for construction equipment and materials.	BP	T&P / ISD	
5	The Applicant shall present a demolition plan to the Inspectional Services Division (ISD) and shall follow that department's procedures for demolition and neighborhood notification thereof exactly.	BP	ISD	
6	ALL exterior materials including, but not limited to, siding, windows, trim, fencing, hardscape, decking, etc., shall be submitted to Planning Staff for their review and approval PRIOR TO the issuance of a building permit and prior to their installation.	BP	Planning/ISD	
<b>Construction Impacts</b>				
7	The Applicants shall post the name and phone number of the general contractor and all sub-contractors at the site entrance where it is visible to people passing by.	During Construction	ISD	



8	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends.	During Construction	ISD	
9	Deliveries to the construction site shall be limited to 9am to 3pm so as not to interfere with the comings and goings of neighborhood residents during peak commute times.	During Construction	ISD/T&P	
10	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont./perpetual	Plng.	Deed submitted & application formed signed
11	The Applicant shall, at their expense, replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc.) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW/ISD	
12	All construction materials and equipment shall be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Division must be obtained.	During Construction	T&P	
<b>Design</b>				
13	NO vinyl shall be used for clapboard, trim, decking, or the like.	CO	ISD/Plng	
14	All exterior lighting on the site shall be downcast and shall not, in any way, spill onto abutting properties.	Final sign off / Perpetual	Wiring Inspector	
15	Windows that are installed on any portion of the building that is 3 feet or less from a lot line shall be inoperable, fire-rated windows that comply exactly with ISD / building code requirements. The Applicant shall work directly and closely with ISD to ensure compliance.	CO/Perpetual	ISD/Plng	
16	All venting shall be painted or wrapped to match the color of the portion of the building from which it exits.			
<b>Site</b>				
17	All trash and recycle areas shall be screened with cedar wood lattice or similar screening. Planning Staff shall approve such screening. No dumpsters shall be permitted on site (after the construction period is complete).	CO/Perpetual	ISD/Planning	
<b>Public Safety</b>				
18	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
19	All smoke/fire detectors shall be hard-wired.	CO	FP/ISD	
20	As per Somerville regulations, no grills or similar cooking/heating apparatus shall be permitted on decks.	Perpetual	ISD/FP	
<b>Final Sign-Off</b>				



21	The Applicant shall contact Planning Staff at least five (5) 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	ISD/Plng.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino  
Josh Safdie

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 \_\_\_\_\_

