



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

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Case #: ZBA 2017-31-R1-7/19
Site: 34-38 Dane Street
Date of Decision: September 18, 2019
Decision: Approved with Conditions
Date Filed with City Clerk: September 25, 2019

ZBA DECISION

Site: 34-38 Dane Street

Applicant / Owner Name: Paulo DaSilva and Cassia Silva
Applicant / Owner Address: 34-38 Dane Street, Somerville, MA 02143
City Councilor: J.T Scott

Legal Notice: Applicants and Owner, Paulo DaSilva and Cassia Silva, seeks a special permit under SZO §5.3.8 to revise a previously approved special permit (ZBA 2017-31) to construct a roof deck on the rear of the proposed three family dwelling. RC Zone. Ward 3*. **The property is located in Ward 2.*

<u>Zoning District/Ward:</u>	RC Zone. Ward 2.
<u>Zoning Approval Sought:</u>	SZO §5.3.8
<u>Date of Application:</u>	July 18, 2019
<u>Date(s) of Public Hearing:</u>	September 18, 2019
<u>Date of Decision:</u>	September 18, 2019
<u>Vote:</u>	5-0

Case number ZBA 2017-31-R1-7/19 was opened before the Zoning Board of Appeals in the Council Chambers of City Hall at 93 Highland Avenue. 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. On September 18, 2019, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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I. PROJECT DESCRIPTION

The proposal is to revise the previously approved plans for the triple decker at 34 Dane Street. The approved plans included a three-story rear porch and the proposal is to continue those stairs to the roof and create a roof deck.

II. FINDINGS FOR SPECIAL PERMIT (SZO §5.3.8):

Revisions that are not *de minimis* shall be subject to the full notice and hearing provisions of §5.3.2 of this Ordinance, but shall not be subject to review by additional boards, departments, city agencies or commissions except as requested by the SPGA or upon the recommendation of the Planning Director. Applicable findings shall be made in accordance with the type of permit(s) being revised.

The findings made under the previous Special Permit approved by the ZBA in June of 2017 (ZBA 2017-31) are not applicable to this proposal. The proposed structure conforms to all dimensional requirements as does the proposed roof deck. The proposal does not alter or increase any preexisting nonconformities.

III. DECISION

Present and sitting were, Susan Fontano, Danielle Evans, Anne Brockelman, Elaine Severino, and Drew Kane. Upon making the above findings, Danielle Evans made a motion to approve the requested revision to special permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of a roof deck. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Pln g.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 18, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 10, 2019</td> <td>Modified plans submitted to OSPCD (title page, A1.0, X2.0, and A2.0)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 18, 2019	Initial application submitted to the City Clerk's Office	September 10, 2019	Modified plans submitted to OSPCD (title page, A1.0, X2.0, and A2.0)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.										
2	All conditions of approval from ZBA 2017-31 remain in effect.	BP	Housing							



Attest, by the Zoning Board of Appeals:

Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Anne Brockelman
Elaine Severino
Drew Kane (Alt.)

Attest, by Planner:

Alexander Mello

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 _____

