



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

GEORGE J. PROAKIS  
EXECUTIVE DIRECTOR

PLANNING DIVISION  
**ZONING BOARD OF APPEALS MEMBERS**  
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DANIELLE EVANS, *CLERK*  
RICHARD ROSSETTI  
ELAINE SEVERINO  
JOSH SAFDIE  
ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2019-03**  
**Site: 88 Marshall Street**  
**Date of Decision:** March 6, 2019  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** March 12, 2019

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**ZBA DECISION**

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**Site:** 88 Marshall Street

**Applicant / Owner Name:** Pedro Alvarado  
**Applicant / Owner Address:** 88 Marshall Street, Somerville, MA 02145  
**City Councilor:** Jesse Clingan

Legal Notice: Applicant/Owner, Pedro Alvarado, seeks a Special Permit to renovate and expand existing rear decks, including reconfiguring exterior staircases and adding a roof to the second floor deck. Zone RB. Ward 4.

<u>Zoning District/Ward:</u>	Zone RB. Ward 4.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	January 15, 2019
<u>Date(s) of Public Hearing:</u>	3/6
<u>Date of Decision:</u>	March 6, 2019
<u>Vote:</u>	5-0

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Case # ZBA 2019-03 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall. 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 March 6, 2019 the Zoning Board of Appeals took a vote.



## **I. PROJECT DESCRIPTION**

The Applicant proposes to reconfigure the existing staircases to the first and second floor decks and extend both decks to reclaim the space previously occupied by the staircases. The reconfigured staircase from the second story deck will extend 4’ beyond the decks towards the rear lot line. The proposal also includes some minor changes to the foundation to accommodate the reoriented staircase.

## **II. FINDINGS FOR SPECIAL PERMIT (§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."*

The structure is currently nonconforming with respect to the following dimensional requirements: landscaped area, pervious area, and left side yard setback.

The proposal will impact the nonconforming left side yard setback. The RB district requires a minimum of an 8’ side yard setback on each side, but the property currently has only a 4.6’ setback on the left side; the right side yard setback is conforming at 18’. The proposal will extend the nonconforming left yeard setback towards the rear of the property by extending the rear decks towards the left property line until they are flush with the main structure. This will not increase the non-conforming nature of the structure. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that “[I]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming 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.”

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. Renovating and expanding the currently existing deck will provide the residents with more useable outdoor space. The area that will be covered by the expanded deck and staircase is currently paved with bituminous material, and so expanding the deck will not reduce the amount of pervious or landscaped area on the lot. The reconfigured staircase will allow residents on the second floor to reach the ground without needing to use the first floor deck. The slightly expanded decks are not expected to affect the neighbors more than the existing decks. The proposal has been designed with setbacks that minimally impact the neighbors and the ground coverage, rear and right side yard setbacks, and FAR will continue to be conforming to the requirements of the SZO.



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: to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to provide adequate light and air; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RB district, 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."*

*Surrounding Neighborhood:* The subject parcel is on Marshall Street in Gilman Square, near the intersection of Pearl and Medford Streets. The neighboring buildings on Marshall Street are predominantly 2½ and 3 story buildings, most of which are two- or three-family residential houses. There is also a 6-unit apartment building on Marshall Street. The buildings on Pearl and Medford Streets are a mixture of commercial and residential buildings, mostly between 2 ½ and 4 stories in height. The rear and side yards of many neighboring residential lots are paved. A number of properties in the area also have rear decks, although none of the directly abutting properties have them.

*Impacts of Proposal (Design and Compatibility):* There are few to no impacts of the proposal. The portion of the deck within the left yard setback is expanding only slightly, and the largest change is the orientation of the staircase from the second story deck to the ground. The new staircase will reduce the rear yard setback from 63' to just over 58'.

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

The proposal will not impact the existing stock of affordable housing.

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.*

**III.DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, Josh Safdie, and Anne Brockelman. Upon making the above findings, Danielle Evans made a motion to approve the request for a 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 renovated rear decks and staircase. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.	
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>January 15, 2019</td> <td>Initial application and plans submitted to the City Clerk's Office</td> </tr> </tbody> </table>			
Date	Submission			
January 15, 2019	Initial application and plans submitted to the City Clerk's Office			
Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.				
<b>Construction Impacts</b>				
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.	
3	All construction materials and equipment must 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 Department must be obtained.	During Construction	T&P	
4	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 or holidays.	During Construction	ISD	
<b>Design</b>				
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit. Vinyl siding, decking, and railings shall not be permitted.	BP	Plng.	
6	An exterior light and electrical receptacle is required for all levels of the porch.	Final sign off	Wiring Inspector	
<b>Miscellaneous</b>				
7	Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng.	



8	Granting of the applied for alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
<b>Public Safety</b>				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
10	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
<b>Final Sign-Off</b>				
11	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.	



Attest, by the Zoning Board of Appeals:

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

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Monique Baldwin

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 \_\_\_\_\_

