



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

GEORGE J. PROAKIS  
EXECUTIVE DIRECTOR

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

**Case #: ZBA 2018-90**  
**Site: 12 Quincy Street**  
**Date of Decision:** December 12, 2018  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** December 19, 2018

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**ZBA DECISION**

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**Applicant / Owner Name:** Jennifer Park, Eric Shea, and Tatum Smigliski  
**Applicant / Owner Address:** 12-2 Quincy Street, Somerville, MA 02143; 12-3 Quincy Street, Somerville, MA 02143; and 10 Lowes Lan, Ipswich, MA 01938

**Agent Name:** Tobin Wells  
**Agent Address:** 5 Burley Street, Wenham, MA 01984  
**Alderman:** J.T Scott

Legal Notice: Applicants and Owners, Jennifer Park, Eric Shea, and Tatum Smigliski, seek a Special Permit under SZO §4.4.1 to alter a nonconforming structure by adding two decks off of the existing rear stairs. RB Zone. Ward 2.

<u>Zoning District/Ward:</u>	RB Zone. Ward 2.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 2, 2018
<u>Date(s) of Public Hearing:</u>	8/8, 8/22, 9/5, 10/3, 10/17, 10/24, 11/7, 11/28, 12/12
<u>Date of Decision:</u>	December 12, 2018
<u>Vote:</u>	5-0

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Appeal #ZBA 2018-90 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on August 8, 2018. 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 December 12, 2018 the Zoning Board of Appeals took a vote.



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

The proposal is to extend an existing second story side deck.

**II. 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."*

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, rear yard setback, and right side yard setback, which will not be impact by the proposed extension of the side deck.

The current rear yard of the rear three-story deck is 14.9 feet and the normal requirements in the district is 20 feet.

The SZO includes a provision for a reduction in the required rear yard setback for shallow lots. SZO §8.6.13 reads, "for each foot by which a lot is less than one hundred (100) feet deep on the effective date of this Ordinance, three (3) inches may be deducted from the required depth of the rear yard, provided that no rear yard shall be less than ten (10) feet." The lot is 90 feet deep; therefore, the required rear yard setback may be reduced by 30 inches to make the required setback 17.5 feet. SZO §8.6.14 also allows decks and unenclosed porches to project into a rear yard up to ¼ of the required setback but in no case within 10 feet of a rear lot line. The adjusted required rear yard setback for the deck structure becomes 13.125 feet.

The proposal to extend the decks will not encroach into the required setbacks. The extension of the side deck will be 21.9 feet from the rear property line and 16.6 feet from the left property line. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO) because it is a three-family structure, otherwise this proposal would be as-of-right.

Section 4.4.1 states that "[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

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 proposed deck extensions will allow for the second and third unit owner to expand their outdoor space. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for lot area per dwelling unit, ground coverage, landscaped area, pervious area, floor area ratio (FAR), front and left yard setback, and street frontage 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 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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; 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*: Quincy Street is a residential street located between Somerville Avenue and Summer Street. The subject property is located on the west side of the street. The neighborhood contains two-, three-, and multi-family dwellings.

*Impacts of Proposal (Design and Compatibility)*: The proposed 3.5-foot extension of the decks will be on the driveway side of the house. They will not have detrimental impact of the design and compatibility of the neighborhood.

5. Housing Impact: Will not create adverse impacts on the stock of existing 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, Josh Safdie, Danielle Evans, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Anne Brockelman 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 extension of second floor side deck. 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 (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 2, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>November 28, 2018</td> <td>Proposed Plan of Land</td> </tr> <tr> <td>November 16, 2018 (December 7, 2018)</td> <td>Deck Plans</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 2, 2018	Initial application submitted to the City Clerk's Office	November 28, 2018	Proposed Plan of Land	November 16, 2018 (December 7, 2018)	Deck Plans
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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>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									
<b>Design</b>												
4	Applicant shall provide final material samples for decking to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.									
<b>Site</b>												
5	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD									
<b>Miscellaneous</b>												
6	Granting of the applied for use or 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.									
7	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD									
<b>Public Safety</b>												
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
9	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD									



10	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	Plng.	
<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*  
Richard Rossetti, *Clerk*  
Danielle Evans  
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 \_\_\_\_\_

