



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

HERBERT F. FOSTER, JR., *CHAIRMAN*  
ORSOLA SUSAN FONTANO, *CLERK*  
RICHARD ROSSETTI  
DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE (ALT.)  
BRANDY BROOKS (ALT.)

**Case #: ZBA # 2013-44**  
**Site: 8 Fennell Street**  
**Date of Decision: July 10, 2013**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: July 18, 2013**

---

**ZBA DECISION**

---

<b>Applicant Name:</b>	Aaron Elias
<b>Applicant Address:</b>	8 Fennell Street, Somerville, MA 02145
<b>Property Owner Name:</b>	Aaron Elias
<b>Property Owner Address:</b>	8 Fennell Street, Somerville, MA 02145
<b>Agent Name:</b>	Leonardo Rabello
<b>Agent Address:</b>	P.O. Box 45432, Somerville, MA 02145

Legal Notice: Applicant and Owner, Aaron Elias, seek a Special Permit under SZO §4.4.1 to expand a non conforming structure by adding a rear second story deck.

<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 11, 2013
<u>Date(s) of Public Hearing:</u>	July 10, 2013
<u>Date of Decision:</u>	July 10, 2013
<u>Vote:</u>	5-0

---

Appeal #ZBA 2013-44 was opened before the Zoning Board of Appeals at Somerville City Hall on July 10, 2013. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The proposal is to build a two story deck in the rear yard. The existing porch roof and the concrete stairs to the yard from the side egress stairs will be demolished. The first level of the deck will be 32" above grade and will be directly accessed via the existing side door. The second level of the deck will be accessed by a spiral staircase. The second story deck will be 13' above grade mounted above the roof of the existing 1-story addition and will be the same size as the deck below. The deck will be finished with Douglas Fir flooring and railings.

**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."

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.

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 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 prevent the overcrowding of land; to conserve the value of land and buildings.

The proposal is consistent with the purpose of the Residential B 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."



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Josh Safdie and Brandy Brooks with Danielle Evans and Elaine Severino 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 for a Special Permit under SZO §4.4.1 to expand a non conforming structure by adding a rear second story deck. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>June 11, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(July 1, 2013)</td> <td>Modified plans submitted to OSPCD (Side Yard Photo, Rear Yard Photo, Plot Plan, Site Plan 5 (Existing Structure), Plan, East Elevation, Rear Elevation)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	June 11, 2013	Initial application submitted to the City Clerk's Office	(July 1, 2013)	Modified plans submitted to OSPCD (Side Yard Photo, Rear Yard Photo, Plot Plan, Site Plan 5 (Existing Structure), Plan, East Elevation, Rear Elevation)
	Date (Stamp Date)				Submission					
June 11, 2013	Initial application submitted to the City Clerk's Office									
(July 1, 2013)	Modified plans submitted to OSPCD (Side Yard Photo, Rear Yard Photo, Plot Plan, Site Plan 5 (Existing Structure), Plan, East Elevation, Rear Elevation)									
Any changes to the approved plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
<b>Construction Impacts</b>										
2	The Applicant shall at his 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							
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	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector							
5	The deck shall remain open and may not be screened.	Perpetual	ISD/PIng.							
6	Below the deck should be screened with lattice or similar material. Any access door should have a latch.	CO	ISD/PIng.							

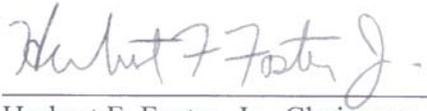


7	The spiral staircase design will be submitted to Planning Staff for approval.	CO	ISD/Plng.	
<b>Miscellaneous</b>				
8	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
<b>Public Safety</b>				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
<b>Final Sign-Off</b>				
10	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.	



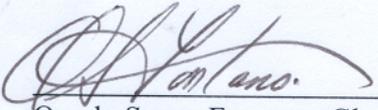
Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Josh Safdie (Alt.)  
Brandy Brooks (Alt.)



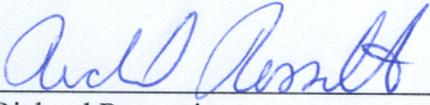
---

Herbert F. Foster, Jr., Chairman



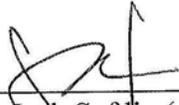
---

Orsola Susan Fontano, Clerk



---

Richard Rossetti



---

Josh Safdie (Alt.)



---

Brandy Brooks (Alt)

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 \_\_\_\_\_

