



**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**

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RICHARD ROSSETTI  
DANIELLE EVANS  
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JOSH SAFDIE (ALT.)  
BRANDY BROOKS (ALT.)

**Case #: ZBA 2014-51**  
**Site: 44 Hall Avenue, #1**  
**Date of Decision: July 16, 2014**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: July 25, 2014**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Anthony W. Case
<b>Applicant Address:</b>	44 Hall Avenue, #1, Somerville, MA 02144
<b>Property Owner Name:</b>	Anthony W. Case
<b>Property Owner Address:</b>	44 Hall Avenue, #1, Somerville, MA 02144
<b>Agent Name:</b>	N/A

Legal Notice: Applicant & Owner Anthony W. Case seeks a Special Permit under SZO §4.4.1 to alter a nonconforming structure by extending the rear porch.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 12, 2014
<u>Date(s) of Public Hearing:</u>	July 16, 2014
<u>Date of Decision:</u>	July 16, 2014
<u>Vote:</u>	5-0

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Appeal #ZBA 2014-51 was opened before the Zoning Board of Appeals at Somerville City Hall on July 16, 2014. 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.



**DESCRIPTION:**

The proposal is to extend the rear porch 5 feet north to the edge of the existing stairs and 4 feet east toward the basement entry, creating a total deck area of 9'x20' (including stairs). The proposal maintains the existing nonconformity in proximity to the side property line.

**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."*

Lawfully existing two-family dwellings, which are nonconforming with respect to dimensional requirements, may be enlarged, expanded, renovated, or altered by special permit granted by the SPGA in accordance with the procedures of Article 5. The structure is nonconforming in terms of lot size (5,081 square feet existing versus 10,000 square feet required), building height (2.8/3 existing stories versus 2.5 stories allowed), and side yard setback (approximately 5.5 feet versus 10 feet required).

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 providing for and maintaining the uniquely integrated structure of uses in the City and conserving the value of land and buildings.

The proposal is consistent with the purpose of the RA district as it is being done as part of a renovation to a residential property.

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 proposal is compatible with the surrounding Residential A neighborhood, made up of one, two and three-family dwellings, as many of them have large porches and decks. The proposed porch expansion is a minimal change, and will not negatively impact the character of the neighborhood. As the proposed porch would use the same materials and general dimensional parameters as the existing deck, simply filling additional deck area around the stairs, it is compatible with the existing contextual conditions.

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, 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.*

**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano 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						
	Approval is for the expansion of the rear porch. This approval is based upon the following application materials and the plans submitted by the Applicant: <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>6/12/14</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>(6/18/14)</td> <td>Plans submitted to OSPCD (Site plans showing existing and proposed porches, proposed structure perspectives.)</td> </tr> </tbody> </table> Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.	Date (Stamp Date)	Submission	6/12/14	Initial application submitted to the City Clerk’s Office	(6/18/14)	Plans submitted to OSPCD (Site plans showing existing and proposed porches, proposed structure perspectives.)	BP/CO	ISD/Plng.	
Date (Stamp Date)	Submission									
6/12/14	Initial application submitted to the City Clerk’s Office									
(6/18/14)	Plans submitted to OSPCD (Site plans showing existing and proposed porches, proposed structure perspectives.)									
<b>Final Sign-Off</b>										
	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  
Danielle Evans  
Elaine Severino

Attest, by the Administrative Assistant:

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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 \_\_\_\_\_

