



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE (ALT.)

**Case #: ZBA 2015-22**  
**Site: 263 Highland Avenue, Unit #4**  
**Date of Decision: June 10, 2015**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: June 18, 2015**

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**ZBA DECISION**

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|--------------------------------|--|
| <b>Applicant Name:</b>         | Christopher & Abbey Lewis                          |
| <b>Applicant Address:</b>      | 263 Highland Avenue, Unit #4, Somerville, MA 02143 |
| <b>Property Owner Name:</b>    | Christopher & Abbey Lewis                          |
| <b>Property Owner Address:</b> | 263 Highland Avenue, Unit #4, Somerville, MA 02143 |
| <b>Agent Name:</b>             | N/A  |

Legal Notice: Applicants and Owners, Christopher and Abbey Lewis, seek a Special Permit to construct an approx. 180sf roof deck and access stairs on a nonconforming structure.

|                                   |                |
|-----------------------------------|----------------|
| <u>Zoning District/Ward:</u>      | RC zone/Ward 3 |
| <u>Date of Application:</u>       | April 30, 2015 |
| <u>Date(s) of Public Hearing:</u> | June 10, 2015  |
| <u>Date of Decision:</u>          | June 10, 2015  |
| <u>Vote:</u>                      | 4-0            |

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Appeal #ZBA 2015-22 was opened before the Zoning Board of Appeals at Somerville City Hall on June 10, 2015. 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 construct an approximately 180 square foot roof deck on the western side of the building. There is an existing penthouse with stairs to the roof that would be used to access the roof deck. The deck would provide outdoor space to be used exclusively by this unit. The unit currently does not have outdoor space. No barbecues or open flames would be allowed.

**FINDINGS FOR SPECIAL PERMIT:**

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 several dimensional requirements including front yard setback, rear yard setback, and side yard setbacks. The proposed deck is with the nonconforming side and rear yard. The deck is approximately 6 feet from the side lot line, the building is 3.6 feet and the minimum in this district is 10 feet. The deck is approximately 14 feet to the rear lot line, the building is 11 feet and the minimum in this district is 20 feet. These existing nonconformities require the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO). 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."

To the extent possible for a nonconforming structure, the proposal complies with the standards of the zoning ordinance. The deck is designed to only affect the side and rear yard setback, which is minimally impactful along this busy street.

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 purposes of the ordinance, including, "[t]o establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district." The roof deck will provide outdoor space for a unit that does not otherwise have outdoor space.

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 parcel is located next to fire station and on a busy street. Residences of single family to multiple unit dwellings surround the property.

There are no anticipated impacts on surrounding properties. The abutting building to the left is the fire station which is setback from the street and the deck would not be adjacent to a window. The other properties abutting this lot are



either lower in height or at a distance making the impact of the deck negligible. The Noise Control Ordinance would address concerns regarding noise.

The deck is designed to be compatible with the surrounding area. It will be minimally visible from the street and should not impact the surrounding neighbors.

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

The roof deck will have a minimal impact on the affordability of the unit, which is owner occupied and not restricted as an affordable unit.

7. 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. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

The proposal enhances the Highland Avenue corridor by providing a residential unit with outdoor space.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Danielle Evans , Elaine Severino and Josh Safdie with Richard Rossetti absent. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

| #  | Condition  | Timeframe for Compliance | Verified (initial) | Notes |  |            |                |  |                                   |   |                                    |  |
|--|--|--------------------------|--------------------|-------|--|------------|----------------|--|-----------------------------------|---|------------------------------------|--|
| 1  | Approval is for the construction of an approx. 180sf roof 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>April 30, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>July 22, 2005<br/>(April 30, 2015)</td> <td>Modified plans submitted to OSPCD (roof plan)</td> </tr> <tr> <td>April 24, 2015<br/>(April 30, 2015)</td> <td>Modified plans submitted to OSPCD (A-100 Framing plan, A-101-102 roof deck, A-103 Sections, A-104 specs)</td> </tr> </tbody> </table> |                          |                    |       | Date (Stamp Date)  | Submission | April 30, 2015 | Initial application submitted to the City Clerk's Office | July 22, 2005<br>(April 30, 2015) | Modified plans submitted to OSPCD (roof plan) | April 24, 2015<br>(April 30, 2015) | Modified plans submitted to OSPCD (A-100 Framing plan, A-101-102 roof deck, A-103 Sections, A-104 specs) |
|  | Date (Stamp Date)  |                          |                    |       | Submission   |            |                |  |                                   |   |                                    |  |
|  | April 30, 2015   |                          |                    |       | Initial application submitted to the City Clerk's Office |            |                |  |                                   |   |                                    |  |
| July 22, 2005<br>(April 30, 2015)  | Modified plans submitted to OSPCD (roof plan)  |                          |                    |       |  |            |                |  |                                   |   |                                    |  |
| April 24, 2015<br>(April 30, 2015)   | Modified plans submitted to OSPCD (A-100 Framing plan, A-101-102 roof deck, A-103 Sections, A-104 specs)   |                          |                    |       |  |            |                |  |                                   |   |                                    |  |
| Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval. |  |                          |                    |       |  |            |                |  |                                   |   |                                    |  |
| 2  | An exterior electrical receptacle is required for the deck.  | Final sign off           | Wiring Inspector   |       |  |            |                |  |                                   |   |                                    |  |
| <b>Final Sign-Off</b>  |  |                          |                    |       |  |            |                |  |                                   |   |                                    |  |
| 3  | 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.              |       |  |            |                |  |                                   |   |                                    |  |
| 4  | The entry way to the roof deck must be locked at all times when not in use. Access to the roof deck will be exclusive to occupants of Unit 4 and invited guests.   | Perpetual                | ISD                |       |  |            |                |  |                                   |   |                                    |  |



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Danielle Evans  
Elaine Severino  
Josh Safdie (Alt.)

Attest, by the Administrative Assistant:

\_\_\_\_\_   
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 \_\_\_\_\_

