



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

PLANNING DIVISION

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**Case #: ZBA # 2012-11**  
**Site: 88 Pearl Street**  
**Date of Decision: February 29, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: March 2, 2012**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Shamsuddin Karim, Trustee
<b>Applicant Address:</b>	98 LaGrange Street, Chestnut Hill, MA 02467
<b>Property Owner Name:</b>	88 Pearl Street Realty Trust
<b>Property Owner Address:</b>	98 LaGrange Street, Chestnut Hill, MA 02467
<b>Agent Name:</b>	N/A

Legal Notice: Applicant, Shamsuddin Karim, Trustee, and Owner, 88 Pearl St. Realty Trust, seek a special permit to alter a nonconforming structure under SZO §4.4.1 by expanding an existing third story deck.

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	January 30, 2012
<u>Date(s) of Public Hearing:</u>	February 29, 2012
<u>Date of Decision:</u>	February 29, 2012
<u>Vote:</u>	5-0

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Appeal #ZBA 2012-11 was opened before the Zoning Board of Appeals at Somerville City Hall on February 29, 2012. 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.



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**DESCRIPTION:**

The Applicant proposes to modify and expand the emergency egress from the third story unit to include a new roof deck (9'7" – 13'11") that will also maintain the existing accessibility to the rear fire escape. The existing portion of the egress that will lead to the new deck will be maintained and a new 4'11" wide section will connect the new roof deck to the rear fire escape. A portion of the existing egress that runs along the rear elevation of the building will be removed, setting the new roof deck back from the rear elevation of the building approximately six (6) feet.

**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, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The deck will be located above the roof of the neighboring property such that the deck will not be at the level of nearby windows. Also, the railings of the deck will not intersect and negatively impact the mansard roof. The Applicants intent to partially furnish the deck with plant material that will buffer and partially screen the heat vents that are projecting well above the roof.

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 secure safety from fire, panic and other dangers; 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 encourage housing for persons of all income levels; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the district (6.1.2. RB - Residence Districts), 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."

The project is compatible with the characteristics of the surrounding neighborhood. The Applicant is proposing to alter a nonconforming structure to expand an existing fire escape egress to include a new roof deck on top of an existing two story rear portion of the principal three unit structure. The property will remain a three (3) story, three (3)-family structure which is consistent with the surrounding neighborhood.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.



No adverse environmental impacts are anticipated from this project. The Applicant is required to install a new exterior light fixture and a new exterior electrical receptacle, but any increased levels of noise, light, and/or glare generated through use by residents is expected to be minimal. Residents of 88 Pearl Street are required to comply with the City of Somerville Noise Control Ordinance.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie with Herbert Foster and Scott Darling absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a special permit. Danielle Evans 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	<p>Approval is to alter a nonconforming structure under SZO §4.4.1 to construct a rear deck, altering but continuing to provide agrees to a rear fire escape for residents of the third floor dwelling unit. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(January 30, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(February 22, 2012)</td> <td>Existing and Proposed Fire Escape Plan</td> </tr> <tr> <td>(February 22, 2012)</td> <td>Existing and Proposed Elevations</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(January 30, 2012)	Initial application submitted to the City Clerk's Office	(February 22, 2012)	Existing and Proposed Fire Escape Plan	(February 22, 2012)	Existing and Proposed Elevations	BP/CO	ISD/Plng.	
Date (Stamp Date)	Submission											
(January 30, 2012)	Initial application submitted to the City Clerk's Office											
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(February 22, 2012)	Existing and Proposed Elevations											
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
3	There shall be one exterior electrical receptacle and one exterior light fixture for the new outdoor deck space.	Final Sign Off	Wiring Inspector/ISD									
4	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.									
5	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, *Acting Chairman*  
Richard Rossetti, *Acting Clerk*  
Danielle Evans  
Elaine Severino (Alt.)  
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 \_\_\_\_\_



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