



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

PLANNING DIVISION

***ZONING BOARD OF APPEALS MEMBERS***

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DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2012-43**  
**Site: 17 Vinal Avenue**  
**Date of Decision: June 20, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: June 26, 2012**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Patrycja Missiuro & Dmitry Vailyeu
<b>Applicant Address:</b>	17 Vinal Avenue, #2, Somerville, MA 02143
<b>Property Owner Name:</b>	Patrycja Missiuro & Dmitry Vailyeu
<b>Property Owner Address:</b>	17 Vinal Avenue, #2, Somerville, MA 02143
<b>Agent Name:</b>	N/A

Legal Notice: Applicant and Owner Patrycja Missiuro, seeks a Special Permit under SZO §4.4.1 to expand a nonconforming three-family residential structure by constructing a 3-story rear deck with stairs and installing a door to provide access to the new rear deck for each of the 2nd and 3rd stories of the structure.

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 18, 2012
<u>Date(s) of Public Hearing:</u>	June 20, 2012
<u>Date of Decision:</u>	June 20, 2012
<u>Vote:</u>	5-0

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Appeal #ZBA 2012-43 was opened before the Zoning Board of Appeals at Visiting Nurses Association on June 20, 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 is proposing to construct a 13' deep x 14' wide, three story rear deck with stairs. A doorway will be installed for each of the second and third stories of the structure to permit egress onto the new decks. An integrated stair case will permit access from the ground level to each deck. The third story deck will be open to the sky. An ornamental door canopy and transom windows will be removed from over the existing ground floor rear doorway. The new stairs are being constructed between each level of the proposed deck to mitigate complications caused by existing and extremely narrow front and rear staircases within the structure.

**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 or 4.5 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 rear decks would be built within the side and rear setbacks established for the lot. Electrical code requires there to be one exterior light fixture and one electrical outlet for all decks, and the Board has included that requirement as condition #2.

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 conserve the value of land and buildings; and to encourage housing for persons of all income levels."

The proposal is consistent with the purpose of the district, which is, "To establish and preserve medium density neighborhoods of one-, two- and three-family homes".

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 on the surrounding neighborhood. The structure will remain a 2.5 story, 3 unit residential land use. Rear decks are common extensions of structures in the area and throughout Somerville.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling 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 3-story rear deck with stairs at the rear of an existing three-unit structure. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Stamp Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May 18, 2012</td> <td>Initial application and plans submitted to the City Clerk's Office</td> </tr> <tr> <td>June 11, 2012</td> <td>Modified plans submitted to OSPCD</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>	Stamp Date	Submission	May 18, 2012	Initial application and plans submitted to the City Clerk's Office	June 11, 2012	Modified plans submitted to OSPCD	BP/CO	ISD/PIng.	
Stamp Date	Submission									
May 18, 2012	Initial application and plans submitted to the City Clerk's Office									
June 11, 2012	Modified plans submitted to OSPCD									
2	The Applicant shall install a new exterior light fixture and a new exterior electrical receptacle for each of the new outdoor decks in compliance with the National Electrical Code 2011 and any required emergency lighting in compliance with building code.	Final sign off	Wiring Inspector/ ISD							
3	To every extent possible, exterior lighting shall be confined to the subject property and shall not intrude, interfere, or spill onto neighboring properties. Light fixtures that direct light downward are recommended.	Final sign off	PIng.							
4	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	PIng.							



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
Danielle Evans

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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