



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

**ZONING BOARD OF APPEALS MEMBERS**

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ELAINE SEVERINO  
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ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2016-62**  
**Site: 292 Summer Street**  
**Date of Decision: September 7, 2016**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: September 21, 2016**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Charles Zammuto
<b>Applicant Address:</b>	11 Placid Road, Newton, MA 02459
<b>Property Owner Name:</b>	DEELZ, LLC
<b>Property Owner Address:</b>	11 Placid Road, Newton, MA 02459
<b>Agent Name:</b>	Sean O'Donovan, Esq.
<b>Agent Address:</b>	741 Broadway, Somerville, MA 02144

<u>Legal Notice:</u>	Applicant, Charles Zammuto, and Owner, Deelz, seek a Special Permit under SZO §4.4.1 to finish the basement and add rear stairs to existing deck.
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<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 19, 2016
<u>Date(s) of Public Hearing:</u>	8/3, 8/17 & 9/7/16
<u>Date of Decision:</u>	September 7, 2016
<u>Vote:</u>	5-0

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Appeal #ZBA 2016-62 was opened before the Zoning Board of Appeals at Somerville City Hall on August 3, 2016. 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  
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**DESCRIPTION:**

The Applicant proposes to finish the basement and add rear egress stairs within the setback. The proposal reduces the bedroom count from seven to five.

**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 §4.4.1 of the SZO. This section of the report goes through §4.4. in detail.

**1. Information Supplied:**

The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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."***

*Section 4.4.1 states that Lawfully existing non-conforming 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](#). The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.*

In considering a Special Permit under §4.4.1 of the SZO, the Board finds that the increase in net floor area triggered by finishing the basement will not be substantially more detrimental to the structure or the surrounding neighborhood than the current, non-conforming conditions. The property is already non-conforming with regard to floor area ratio (1.1 in the RA zone where a maximum of .75 is allowed). Finishing the basement will increase the net living space by .4 for the structure.

The renovation of this property will decrease the bedroom count by two. The current structure has seven bedrooms and the proposed structure will have a total of five bedrooms divided between two units.

A second means of egress is required by code for the each unit. The external egress stairs that is proposed for the second unit will be constructed within the rear yard setback.

**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 Board finds that the proposal is consistent with the purposes of the RA district which is to "...establish and preserve quiet neighborhoods of one-and two-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."*

With the exception of the construction of the rear egress stairs the majority of the changes to the non-conformities on this property occur within the confines of the building (finishing the basement), which will have little to no impact on the site and surrounding area. The reduction in the overall number of bedrooms also negates the need for additional parking relief on an already dense street.

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

- There will be no impact on 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. 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 project will have no impact on the SomerVision Plan.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti 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										
1	Approval is to finish the basement and to construct rear egress stairs.	BP/CO	ISD/Plng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>May 19, 2016</td><td>Application submitted to City Clerk’s Office</td></tr><tr><td>July 18, 2016</td><td>Updated plans submitted to OSPCD</td></tr><tr><td>August 15, 2016</td><td>Updated plans submitted to OSPCD</td></tr><tr><td>August 16, 2016</td><td>Updated plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	May 19, 2016	Application submitted to City Clerk’s Office	July 18, 2016	Updated plans submitted to OSPCD	August 15, 2016	Updated plans submitted to OSPCD	August 16, 2016	Updated plans submitted to OSPCD
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.														
<b>Construction Impacts</b>														
2	The Applicant shall, at their 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	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	ISD/Plng.											
4	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. Construction equipment shall NOT be stored on City property.	During Construction	T&P/ ISD											
<b>Design</b>														



5	Hardie Plank or wood clapboard shall be used for cladding and shall be reviewed and approved by Planning Staff prior to installation. Trim shall be wood or composite. No vinyl of any kind shall be used on the exterior of this project.	CO	Planning Staff / ISD	
6	Any new decking or exterior stairs shall be constructed of wood or composite material and shall be reviewed and approved by Planning Staff prior to installation.	CO	Planning Staff / ISD	
7	Windows shall be simulated divided light with exterior grids and dark spacers. No reflective glass shall be used. Windows shall be two-over-one and shall be reviewed and approved by Planning Staff prior to installation.	CO	Planning Staff / ISD	
8	Any changes to the design, style, massing, form, elements, and materials of the shed dormers shall be submitted to and approved by Planning Staff (or, as necessary, the ZBA) prior to their execution on the building.	CO	Planning Staff / ISD	
<b>Site</b>				
9	All final building materials shall be reviewed and approved by Planning Staff PRIOR TO their installation.	CO	ISD/Planning	
10	The Applicant/Owner shall submit a landscaping plan to the Planning Department for their review and approval prior to installation. Such plans shall include any changes to driveway and/or other pervious areas.	CO	ISD/Planning	
<b>Public Safety</b>				
11	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO/Perpetual	FP	
12	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
13	Any lighting shall be downcast and shall not shine onto abutting properties or the public way in any way.	CO	ISD/Planning	
<b>Final Sign-Off</b>				
14	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, *Chairman*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino  
Josh Safdie

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Dawn M. PereiraCopies 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 \_\_\_\_\_

