



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2016-30

**Date:** May 4, 2016

**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 165 Lowell Street

**Applicant Name:** Zev Fisher  
**Applicant Address:** 165 Lowell Street, Somerville,  
MA 02143  
**Owner Name:** Zev Fisher  
**Owner Address:** 165 Lowell Street, Somerville,  
MA 02143  
**Alderman:** Robert McWatters

**Legal Notice:** 165 Lowell Street. Applicant and  
Owner, Zev Fisher, seeks a Special Permit per SZO  
§4.4.1 to extend the landing of an existing deck  
within the rear side yard setback. RA Zone. Ward3.

**Dates of Public Hearings:** May 4, 2016



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**I. PROJECT DESCRIPTION**

1. **Subject Property:** The subject property is a 2 3/4 –story c.1920 three-family residential structure situated on a 3,485 square foot lot in the RA district.
2. **Proposal:** The Applicant proposes to increase the size of the rear deck such that the rear yard setback is reduced by two feet. The required rear setback in the RA zone is 20 feet. However, because

the existing structure is already within the required rear yard setback, the extension of the existing deck triggers the need for a Special Permit.

**3. Green Building Practices:** As indicated in the application: “The owner intends to use green materials for the construction of the new deck.”

**4. Comments:**

Fire Prevention: Grills are not allowed on decks or porches. See the attached memo from Fire Prevention.

Ward Alderman: Alderman McWatters has been advised of this project.

**II. 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 §4.4.1 in detail.*

**1. Information Supplied:**

Staff 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 “[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. 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, Staff finds that the proposed alterations would not be substantially more detrimental to the neighborhood than those already present on the existing structure. The enlargement of a small, existing deck is a reasonable accommodation to allow for residents to enjoy usable outdoor space in an otherwise densely-built and densely populated area.

**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."*

Staff finds that the proposal is consistent with the purpose 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."***

In considering a special permit under §4.4.1 of the SZO, Staff finds that the alterations proposed are compatible with the surrounding neighborhood which is comprised of 2- and 3-family houses of similar size, scale, massing, and design as 165 Lowell on similarly-sized lots.

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

The proposal will not add to the existing stock of affordable housing.

### III. RECOMMENDATION

**Special Permit under §4.4.1**

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	Approval is for the enlargement of an existing rear deck.	BP/CO	ISD/Plng.					
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>March 31, 2106</td><td>Initial application submitted to the City Clerk's Office</td></tr></table>				Date (Stamp Date)	Submission	March 31, 2106	Initial application submitted to the City Clerk's Office
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March 31, 2106	Initial application submitted to the City Clerk's Office							
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.								
Design								
2	The proposed deck shall be constructed of wood (not pressure-treated wood and not synthetic materials).	CO	Planning Staff / ISD					
3	Neither the deck nor any portion thereof shall be allowed to be enclosed now or at any time in the future.	In perpetuity	Planning Staff / ISD					
Construction Impacts								
4	The Applicant shall, at his 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					

5	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.	During Construction	T&P	
<b>Electrical</b>				
6	Any exterior lighting installed must first receive a permit from the Electrical/Wiring Inspector prior to installation	Installation of Utilities	Wiring Inspector	
<b>Public Safety</b>				
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements including, but not limited to the prohibition on storing and using grills on porches and decks.	CO	FP	
8	Any exterior lighting that is installed must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
<b>Final Sign-Off</b>				
9	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.	