



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

PLANNING DIVISION

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POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2018-82**  
**Site: 80 Powder House Blvd**  
**Date of Decision:** August 8, 2018  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** August 22, 2018

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**ZBA DECISION**

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**Applicant / Owner Name:** David J. Giller  
**Applicant / Owner Address:** 59 Walpole St, 103, Canton, MA 02021  
**Alderman:** Katjana Ballantyne

**Legal Notice:** Applicant and Owner, David J. Giller, seeks a special permit to add a second story deck within the left side yard setback under SZO §4.4.1. RA zone. Ward 7.

<u>Zoning District/Ward:</u>	RA zone. Ward 7.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 12, 2018
<u>Date(s) of Public Hearing:</u>	August 8, 2018
<u>Date of Decision:</u>	August 8, 2018
<u>Vote:</u>	5-0

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Appeal #ZBA 2018-92 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, Somerville City Hall, 93 Highland Ave, Somerville, MA. 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. On August 8, 2018, the Zoning Board of Appeals took a vote.



**I. DESCRIPTION:**

The Applicant is doing a gut renovation of the property. The property will remain a two-family and the total number of bedrooms will decrease from eight to seven. Two non-conforming tandem parking spaces shall remain. The Applicant proposes adding a second-story open deck over an existing first floor deck. The proposal creates an upward extension of an existing, non-conforming left side yard setback, triggering the need for special permit relief.

**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 §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 non-conformity impacted by the Applicant’s proposal is the left side yard setback (facing the property from Powder House Boulevard). As indicated in §8.5 of the SZO, in the RA zone, a minimum side yard setback of 8 feet is required. The Applicant proposes to construct a second-story open deck above an existing first-story open deck on the rear elevation of the building. The existing deck rests three (3) feet from the left side yard setback. The proposal to create an upward extension of this non-conformity requires a Special Permit (a discretionary permit) from the ZBA.

*Section 4.4.1 states that “[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5.”*

In considering a special permit under §4.4.1 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal is a reasonable request in order to allow for future occupants of the second story unit to have access to outdoor space in a densely-built urban environment.

**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 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 provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of



population; to conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The Board also finds that the proposal is consistent with the purpose of the RA district, which is, “[t]o 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."*

Surrounding Neighborhood: There are numerous other “modified gambrel”-style houses in the immediate vicinity of 80 Powder House Boulevard, particularly along Mason Street. Several of these structures contain rear decks of varying types: open, enclosed, covered.

Impacts of Proposal (Design and Compatibility): The Board finds that the proposed open deck is designed to be well-proportioned in relation to the rear façade of the building. The proposed second-story deck will be only three feet from the property line. However, given how densely-built this West Somerville neighborhood is, the Board finds that the proposal is consistent with the proximity of other decks and porches in the area to their property lines.

**5. Housing Impact:** Will not add to the City’s stock of affordable housing.

**6. SomerVision Plan:** The overall project enhances an existing property in need of improvement. The specific deck proposal allows for unit occupants to have access to outdoor space in a densely built-out neighborhood.

**DECISION:**

**Special Permit under §4.4.1**

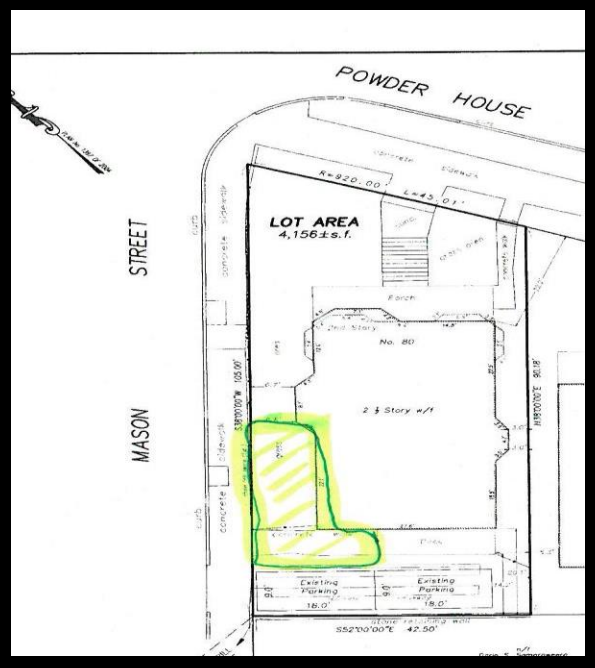
Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Anne Brockelman, and Pooja Phaltankar. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is to construct a second story open deck at the rear of the building and three feet from the left side yard property line.	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>June 12, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>July 31, 2018</td> <td>Updated plot plan submitted to OSPCD</td> </tr> <tr> <td>August 1, 2018</td> <td>Corrected plot plan submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	June 12, 2018	Initial application submitted to the City Clerk's Office	July 31, 2018	Updated plot plan submitted to OSPCD	August 1, 2018	Corrected plot plan submitted to OSPCD
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.												
<b>Construction Impacts</b>												
2	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	Plng.									
3	All construction materials, construction equipment and construction-related shall 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. Permits must be obtained for all dumpsters.	During Construction	T&P									
4	Construction shall occur from 7:30am – 5:00pm Monday-Friday ONLY. There shall be no construction or construction-related work allowed on the weekends or holidays.	During Construction	ISD									
<b>Design</b>												
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit. Vinyl siding, decking, and railings shall not be permitted	BP	Plng./ISD									
<b>Site</b>												
6	The property shall be re-landscaped. A full landscaping plan shall be submitted to Planning Staff for their review and approval prior to the installation of any landscaping. Type and number of plantings and path materials shall be included in the landscaping plan.	Prior to installation/CO	ISD / Plng.									
7	All bituminous material shall be removed from the property. Pervious material shall be installed in the location where the two existing, non-conforming, tandem parking spaces are currently located at the rear of the property. Pervious material may include pervious pavers, pea stone or similar. Proposed materials shall be submitted to Planning Staff for their review and approval prior to installation	Prior to installation/CO	ISD / Plng.									



8	All garbage and recycling areas shall be screened from public view. Screening materials shall be submitted to Planning Staff for their review and approval prior to installation. Location of garbage and recycling areas shall be indicated on the landscaping plan.	Prior to installation/ CO	ISD / Plng.	
9	<p>The areas indicated on the site plan in green shall be landscaped. Type and number of plantings for this area shall be included in the landscaping plan noted in Condition #6 above.</p> 	CO/Perpetua l	ISD/Pln g	
10	This property shall be limited to two (2) parking spaces (standard and or compact).	CO/Perpetua l	ISD/Pln g	
<b>Miscellaneous</b>				
11	Granting of the applied for use or alteration does <u>not</u> include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Perpetual	ISD / Plng.	
<b>Public Safety</b>				
12	The Fire Prevention Bureau's requirements shall be met.	CO	FP	
13	The existing chain-link fence shall be removed from the perimeter of the property. If a new fence or plantings are installed at along the property along the Powder House/Mason Street frontages, they shall be no taller than 3 ½-feet per City regulations.	CO/Perpetua l	ISD / Plng.	
14	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	

15	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.	
<b>Final Sign-Off</b>				
16	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*  
Elaine Severino  
Daniel Evans  
Anne Brockelman (*Alt.*)

Attest, by City Planner: \_\_\_\_\_  
Sarah White

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 \_\_\_\_\_

