



## CITY OF SOMERVILLE, MASSACHUSETTS

### PLANNING BOARD

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**Case #:** ZBA2008-47

**Site:** 49 Electric Avenue

**Date:** September 26, 2008

**Recommendation:** Conditional Approval

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## PLANNING BOARD REPORT

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#### **Site: 49 Electric Avenue**

**Applicant Name:** Mathias Neuber

**Applicant Address:** 49 Electric Avenue, Somerville, MA

**Property Owner Name:** same

**Property Owner Address:** same

**Alderman:** Trane

Legal Notice: The applicant seeks Special Permit approval under SZO §4.4.1 for the alteration of a non-conforming structure in order to construct a deck on the roof of an existing garage.

Zoning District/Ward: RA/ 7

Zoning Approval Sought: Special Permit under SZO§4.4.1

Date of Application: August 20, 2008

Date(s) of Public Hearing: [PB: September 18, 2008 / ZBA: October 1, 2008]

Date of Decision: N/A

Vote: N/A

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Dear ZBA members:

At its regular meeting on September 18, 2008 the Planning Board heard the above-referenced application. Based on materials submitted by the Applicant and the Staff recommendation, the Board voted (5-0), to recommend **conditional approval** of the requested **Special Permit**.

In conducting its analysis, the Planning Board found:

## **I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is an approximately 3,564 s.f. lot on which sits a 2.5 story wood frame two-family dwelling. A garage is located in the rear right corner of the lot and immediately abuts the rear of the principal structure.

2. Proposal: The Applicant is seeking a special permit under SZO §4.4.1 to construct a wood 16 foot by 16 foot deck above an existing 19 foot by 19 foot garage that extends from the rear of the structure. The proposal includes a stairway linking an existing rear porch to the new deck. The deck is proposed to be 36" in height.

3. Nature of Application: The garage is considered part of the principal structure because it abuts the house; therefore it is subject to setback requirements for the principal structure. The structure is nonconforming with respect to side and rear yard setback requirements and the proposed deck atop the garage would increase those non-conforming aspects.

The existing nonconformity allows the Applicant to apply for a special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO). Section 4.4.1 states: "Lawfully existing one- and two-family dwellings which are used only as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, expanded, renovated, or altered by special permit granted 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."

4. Surrounding Neighborhood: The property is located in a Residence A (RA) zone. The immediate neighborhood is predominantly residential, with a mix of one- and two-family homes.

5. Impacts on Abutting Properties: The deck would be visible from the rear of several abutting structures. Several other abutting structures have open or enclosed decks in the rear yards.

6. Green Building Practices: None specified.

7. Comments:

Fire Prevention: Deputy Chief Steve Keenan stated that no fires, barbeques, etc are allowed on decks in the city.

Alderman: Alderman Trane has not provided comments.

## **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 Applicant requires a special permit under §4.4.1 of the SZO. Under §4.4.1, "the SPGA, as a condition of granting a special permit under this Section must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming structure."

The Board finds that the Applicant's proposal **would not be substantially more detrimental** to the surrounding neighborhood than the existing structure, as required under §4.4.1 of the SZO. The proposal is not more detrimental in visual effects or privacy concerns. The deck will be located above an existing garage and the Board finds that the appearance of the garage will be improved with the deck and associated wooden railings.

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 set forth in Article 1 of the Zoning Ordinance, and with, to the extent possible for a lawful pre-existing nonconforming structure, those purposes established for the Residence A (RA) zoning district in which the property is located, namely "(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."

The Board finds that the proposal **is compatible** with the site and area. The deck would not be visually intrusive within the neighborhood. In addition, there are other decks that have been built above garages in the surrounding area.

### **III. RECOMMENDATION**

#### **Special Permit under §4.4.1**

Based on the above findings, the Planning Board recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

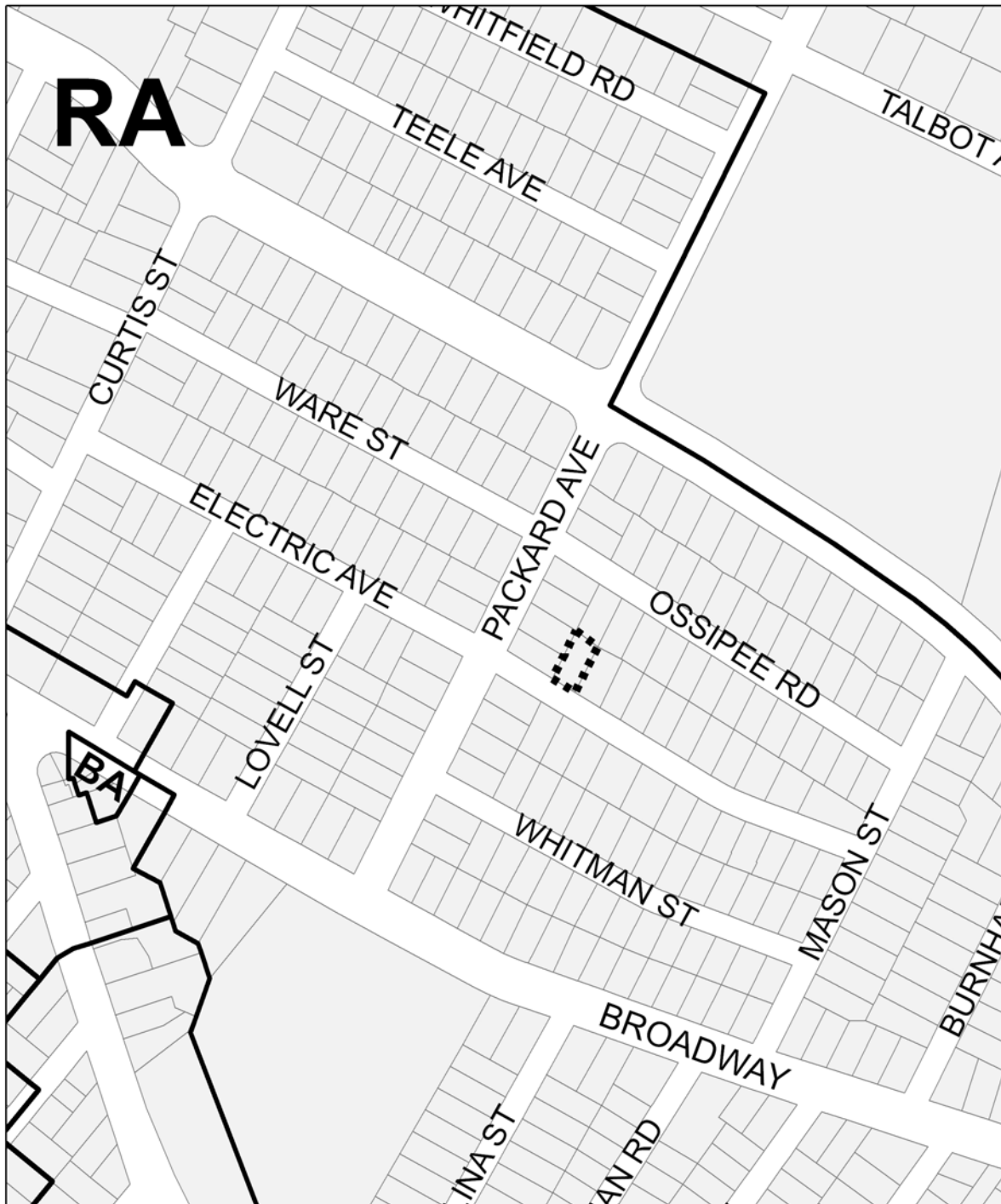
The Board finds that this application complies with the requirements for granting a special permit as set forth under §5.1.4 and that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

**Although the Planning Board is recommending approval of the requested Special Permit, the following conditions should be added to the permits:**

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	Approval is for the construction of a 16 foot by 16 foot deck above a rear yard garage. This approval is based upon the following application materials and the plans submitted by the Applicant and/or the Agent:	Building Permit	Plng.					
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>August 20, 2008</td><td>Initial application, plot plan, site plan and elevation submitted to the City Clerk's Office</td></tr></table>				Date	Submission	August 20, 2008	Initial application, plot plan, site plan and elevation submitted to the City Clerk's Office
	Date				Submission			
August 20, 2008	Initial application, plot plan, site plan and elevation 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 ZBA approval.								
2	No fires, barbeques, etc. shall be allowed on the deck	Cont.	Fire					
3	The deck shall be painted to match the existing rear yard deck.	CO	Plng.					
4	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	CO	Plng. / ISD					

Sincerely,

Kevin Prior  
Chairman



## 49 ELECTRIC AVENUE