



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

***PLANNING BOARD***

***MEMBERS***

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JOSEPH FAVALORO  
ELIZABETH MORONEY  
JAMES KIRYLO  
DANA LEWINTER, ALT.

**Case #:** ZBA 2009-18  
**Date:** August 5, 2009  
**Recommendation:** Conditional approval

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**PLANNING BOARD REPORT**

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**Site:** 65 Lowden Avenue

**Applicant Name:** Steven Saltman

**Applicant Address:** 65 Lowden Avenue #2, Somerville, MA 02144

**Property Owner Name:** same

**Alderman:** Gewirtz

**Legal Notice:** The Applicant seeks a special permit under §4.4.1 in order to alter a non-conforming garage by constructing a deck on the roof and a stairway leading to the deck.

**Zoning District/Ward:** Residence A / 6

**Zoning Approval Sought:** Special Permit under SZO §

**Date of Application:** June 2, 2009

**Date(s) of Meetings/Public Hearing:** PB: June 25, 2009 / ZBA: July 15, 2009

**Date of Decision:** N/A

**Vote:** N/A

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Dear ZBA members:

At its regular meeting on June 25, 2009 the Planning Board heard the above-referenced application. Based on materials submitted by the Applicant and the Staff recommendation, the Board voted (4-0, with Kevin Prior and Michael Capuano absent), 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 4,037 s.f. lot on which sits a 2.5 story wood frame three-family dwelling. A single-story, cement block garage with a wooden hip roof is located in the rear left corner of the lot and is less than 3' to the property line on the left side and rear.

2. Proposal: The Applicant is seeking a special permit under SZO §4.4.1 to construct a wood 20' by 20' deck above the existing 20' by 20' garage. The proposal includes an exterior stairway which leads from the rear yard up to the deck. The highest section of the deck is proposed to be 15' in height.

3. Nature of Application: The garage structure is nonconforming with respect to side and rear yard setback requirements because it is not of "fireproof" construction and less than three feet from the property line. The proposed deck atop the garage would alter the non-conforming structure. The stair would alter the non-conforming structure and also expand the existing non-conforming rear yard setback, as a portion of the stair would be located within the three-foot rear yard setback requirement.

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 non-conforming structures other than one- and two-family dwellings may be enlarged, expanded, renovated, or altered only 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.

6. Green Building Practices: The deck will be constructed of recommended composite or untreated decking material to reduce waste and ensure longevity.

7. Comments:

Fire Prevention: Deputy Chief Steve Keenan has been contacted and has yet to provide comments.

Alderman: Alderman Gewirtz has been contacted and has yet to provide 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 Board finds that any negative impacts associated with the appearance and/or privacy of the neighbors to be minimal. The deck would be located above an existing garage where there is currently a hip roof. The Board finds that the increased outdoor area would be beneficial to the three families living in the dwelling.

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 to the surrounding neighborhood.

### **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:**

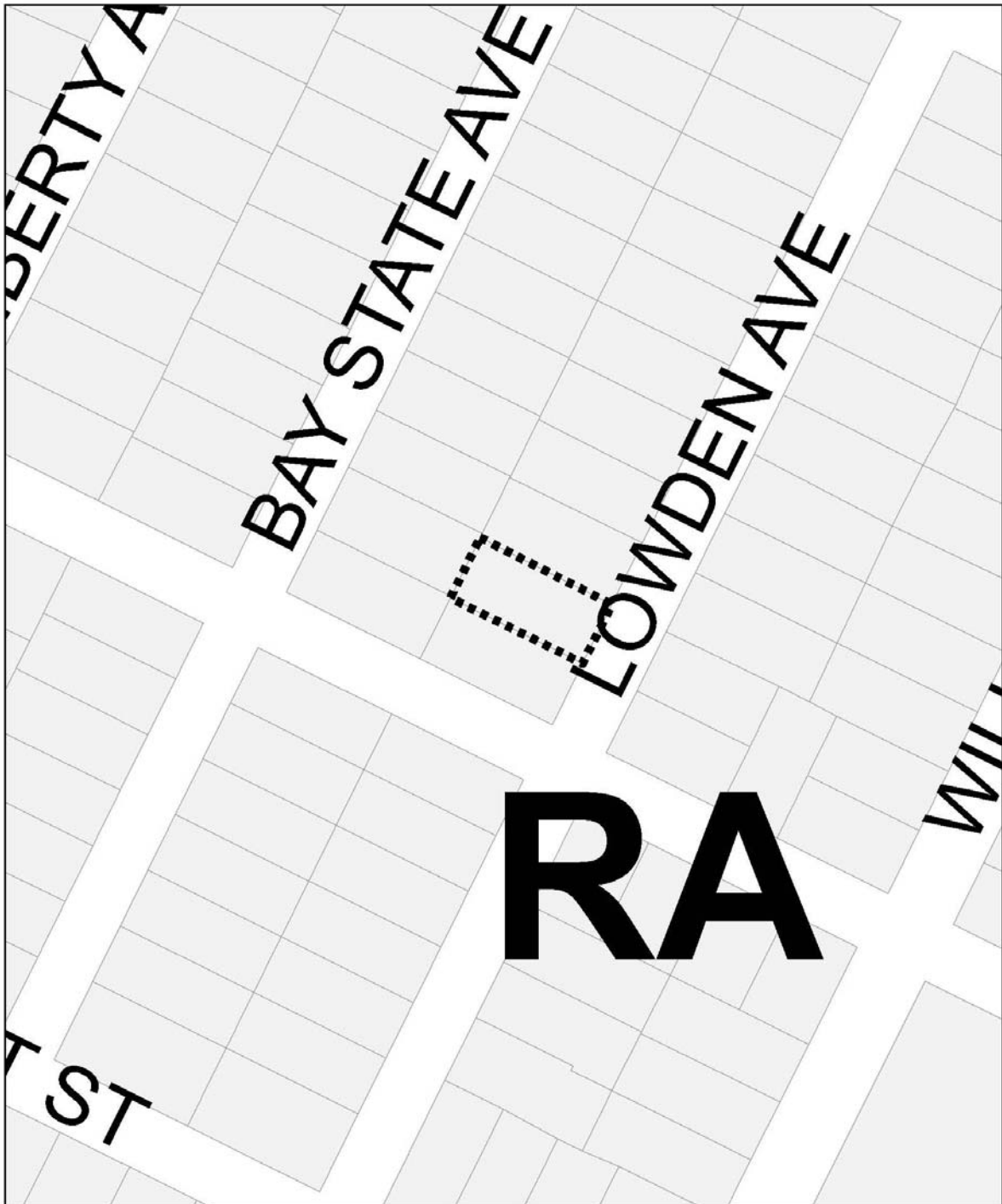
#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for the construction of a 20 foot by 20 foot	Building	Plng.	

	<p>deck above a rear yard garage and an stairway to the deck on the exterior structure. This approval is based upon the following application materials and the plans submitted by the Applicant and/or the Agent:</p> <table><tr><th>Date(OSPCD stamp)</th><th>Submission</th></tr><tr><td>(6/2/09)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>5/3/09 (6/15/09)</td><td>Plans and elevations A1-A6</td></tr></table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.</p>	Date(OSPCD stamp)	Submission	(6/2/09)	Initial application submitted to the City Clerk's Office	5/3/09 (6/15/09)	Plans and elevations A1-A6	Permit		
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2	The deck shall not be connected to the primary residence; access to the deck shall only be from the yard area or from within the garage structure itself unless approved by SPGA	Cont.	ISD							
3	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,



Elizabeth Moroney  
Acting Chair



**65 LOWDEN AVE**