



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2010-44
Date: September 2, 2010
Recommendation: Conditional Approval

PLANNING BOARD RECOMMENDATION

Site: 44 BOSTON AVENUE

Applicant Name: Kelley Brooks, Heather Brooks, Thomas Driscoll III

Applicant Address: 44 Boston Avenue, Somerville, MA 02144

Property Owner Name: same

Property Owner Address: same

Alderman: O'Donovan

Legal Notice: Applicants and Owners, Kelley Brooks, Heather Brooks, and Thomas Driscoll III, seek a Special Permit under SZO §4.4.1 to replace a previously existing deck and stairs, maintaining the previously existing size. RA zone. Ward 5.

Zoning District/Ward: RA/ Ward 5

Zoning Approval Sought: Special Permit under SZO §4.4.1

Date of Application: 8/12/2010

Date(s) of Public Meeting/Hearing: PB 9/2/10 - ZBA 9/15/10

Dear ZBA members:

At its regular meeting on September 2, 2010 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:



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I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a two-family dwelling on a 2,870 sf lot. The structure is 2 stories and contains 2320 nsf of living space.

The property is listed in the Assessors database as a two-family dwelling and is currently owner occupied. The structure had a pre-existing deck that was 176 sf. In July, the applicant filed with ISD to replace the deck with a new deck of the same size and footprint. ISD issued building permit #6166 on July 19, 2010 to "replace existing deck and stairs on first floor, maintain existing size." Upon doing an on-site inspection, ISD discovered that the previous deck that was being replaced was actually larger than indicated in previous ISD records. ISD and the owners concluded that some previous owner at a time in the past had constructed the previous deck without a required Special Permit. At that time, ISD informed the owners that a Special Permit would be required.

By this time, construction had began and the previous deck had been demolished (although the owner provided photos). The Applicant now seeks the required Special Permit to legalize and finish work on rebuilding the 16' x 11' deck (176 sf).

2. Proposal: The applicant is proposing to finish the deck and stairs construction, keeping the 16' x 11' deck size.
3. Nature of Application: The structure is currently nonconforming with respect to setbacks. The deck that is being reconstructed was non-conforming with respect to side and rear lot lines. The site is also non-conforming with regard to other setbacks and lot-lines but is not significantly different than any other structure in the neighborhood.
4. Surrounding Neighborhood: The existing structure matches the other structures in the neighborhood, which is primarily two-family homes, with similar lot sizes. The back deck at 44 Boston Avenue will remain the same size as it had been previously, so neighborhood context remains constant.
5. Green Building Practices: None.
6. Comments:

Ward Alderman: Has been contacted but 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."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure since the finished space currently exists, and Staff knows of no concerns about the current existing deck or stairs. Although the original deck was not permitted, there is no record of any complaints about the structure that had been in the same location for many years. No additional work is being proposed for the exterior of the structure.

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 proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to providing for and maintain the uniquely integrated structure of uses in the City and purpose of the RA district in altering this dwelling. The applicants purchased a dwelling with an existing deck, and proposed to rebuild that deck and stairs, keeping same size dimensions. The Board finds this to be acceptable as an initial building permit was granted in July 2010, the owners acted in good faith and supplied all information at each step of the process, and all framing was in place at the time of the first building inspection. The size of the deck at 44 Boston Avenue has received no negative comments from neighbors and all residents of the building will have access to the deck.

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 increase in legal deck size would not have an effect on the site or the area as the existing deck was the same size. No additional changes to this residence are proposed in this special permit.

III. RECOMMENDATION

Special Permit under §4.4.1

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

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to replace existing deck and stairs on first floor, maintaining existing size of 176 sf. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(8/12/2010)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>(8/10/2010)</td><td>Existing and proposed plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	(8/12/2010)	Initial application submitted to the City Clerk's Office	(8/10/2010)	Existing and proposed plans submitted to OSPCD
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	(8/10/2010)				Existing and proposed plans submitted to OSPCD					
Any changes to the approved plans that are not <i>de minimis</i> must receive ZBA approval.										

2	The deck size shall be constructed at the dimensions of 16' x 11' (maintaining original size).	CO	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.	Final sign off	Plng.	

Sincerely,



Kevin Prior
Chairman

Cc: Applicant: Kelley Brooks, Heather Brooks, Thomas Driscoll III
Owner: Same
Agent: Same



44 BOSTON AVENUE