



CITY OF SOMERVILLE, MASSACHUSETTS

PLANNING BOARD

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Case #: ZBA2008-31

Site: 50 Church Street

Date: July 18, 2008

Recommendation: Conditional Approval

PLANNING BOARD REPORT

Applicant Name: Alexander Keyes

Applicant Address: 48-50 Church Street #3, Somerville, MA 02143

Property Owner Name: same

Property Owner Address: same

Alderman: Heuston

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 two-story deck.

Zoning District/Ward: RB / 2

Zoning Approval Sought: Special Permit under SZO§4.4.1

Date of Application: June 10, 2008

Date(s) of Meeting/Public Hearing: [Planning Board: July 17, 2008 / ZBA: July 23, 2008]

Date of Decision: N/A

Vote: N/A

Dear ZBA members:

At its regular meeting on July 17, 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), with Kevin Prior 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 3,600 s.f. lot on which sits a three-story wood frame three-family dwelling.

2. Proposal: The Applicant is seeking a special permit under SZO §4.4.1 to add second and third floor unenclosed wood decks extending from the rear of the structure. The decks would be 15 feet wide by 8 feet deep and extended 2 feet from the side of the house. The applicant is proposing latticework on the side of the second floor deck. Existing windows on the second and third floors will be reconstructed into doorways.

3. Nature of Application: The existing structure is nonconforming with respect to side yard setback requirements. The structure lies one and a half feet from the side yard property line, a 7' 8" foot violation of SZO §8.5.H.

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 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."

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

5. Impacts on Abutting Properties: There should be minimal impact on the abutting properties. The deck would be located on the side of the house that exceeds the dimensional requirements under the SZO. Several other abutting structures have open and enclosed decks in the rear yards.

5. Green Building Practices: None specified.

6. Comments from Fire Prevention Bureau: Fire Prevention has not provided comments.

7. Comments from Alderman: Alderman Heuston 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. Though allowed under the SZO, the deck will not be extending into any required set backs on the property.

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 B (RB) zoning district in which the property is located, namely "(t)o establish and preserve medium density neighborhoods of one-, two- and three-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 and the modification of windows into doors would not be visually intrusive within the 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 second and third floor 15' wide by 8' deep decks. 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>June 30, 2008</td><td>Initial application, plot plan and elevation submitted to the City Clerk's Office</td></tr></table>				Date	Submission	June 30, 2008	Initial application, plot plan and elevation submitted to the City Clerk's Office
	Date				Submission			
June 30, 2008	Initial application, plot plan and elevation submitted to the City Clerk's Office							
Any non-de minimis changes to the approved site plan or elevation must receive ZBA approval.								
2	The color of the deck shall match that of the house.	CO	Plng.					
3	No future enclosure of the deck shall be allowed.	Cont.	Plng.					
4	No latticework on second floor deck shall be allowed.	CO	Plng.					
5	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					



Elizabeth Maroney
Acting Chairman

Cc: Applicant/Owner: Alexander Keyes



48-50 CHURCH STREET