



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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MAYOR

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DANA LEWINTER, ALT.

Case #: ZBA 2011-10
Date: February 17, 2011
Recommendation: Conditional Approval

PLANNING BOARD RECOMMENDATION

Site: 76 Church St

Applicant Name: Carlos Amaral

Applicant Address: 90 Ferncraft Rd, Tewksbury, MA 01876

Property Owner Name: Rui Amaral

Property Owner Address: 226 River Rd, Winthrop MA

Alderman: Maryann Heuston

Legal Notice: Applicant Carlos Amaral and Owner Rui Amaral seek a special permit to alter a nonconforming 3-family house (SZO §4.4.1) to add a second means of egress to the third¹ floor unit by converting a window to a door, construct a deck on the roof of an existing one-story portion of the structure and construct stairs in the side and rear yard setbacks.

Zoning District/Ward: RB / 2

Zoning Approval Sought: Special Permit SZO §5.1 & 4.4.1

Date of Application: Jan 19, 2011

Dates of Public Meeting • Hearing: Planning Board 2/16/11 • Zoning Board of Appeals 3/2/11

Dear ZBA members:

At its regular meeting on February 17, 2011 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:

¹ The egress is for the third unit in the building on the second floor.



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I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a 3240 sf parcel at the corner of Church and Summer Streets on which is a 2 ½ story structure. The Zoning Board of Appeals issued a special permit in 1964 for the property to be converted from a one-family to a four-family dwelling. Despite this, it appears that a fourth unit was never developed, and the house was converted for three families. The house is still used as a three-family dwelling.

While the structure is primarily 2 ½ stories, there is a one-story portion of the house with a flat roof that projects off of the back and is located two feet from the property line.



76 Church St: View from Church St (proposed location of stairs to the left of the house (L), View from rear yard (R), View from Summer St (below)



2. Proposal: The Applicants seek to add a second means of egress for the second floor unit. ISD has indicated that this is required to provide legal access and continue to occupy all three units of the structure. To meet this requirement, the proposal includes changing a window on the second story to a door, constructing a deck on the existing one-story portion of the building, and constructing stairs into the rear and side yards. The deck will be located eight feet from the rear property line. The stairs will be three feet from the rear property line and only one foot from the side property line. Since the stairs will be closer than three feet from the property line, the stairs must be constructed out of a noncombustible material. The

Applicants are proposing to use an aluminum decking that meets fire prevention requirements. The Applicant has indicated that this particular product stays cool in the sun and does not make a “ping” sound (a negative quality to most aluminum products). The Applicants submitted an image of the material (see below).



In order to continue to access the rear yard, and to provide egress to the street, the applicant is proposing to bring stairs down to a landing in the side yard that will then provide access to both the front of the house, via the side yard, and the rear yard area, via the rear steps.

The applicants considered, and staff reviewed, an alternative concept that would place steps along the Summer Street façade of the house. Generally, the Board and the applicants agreed that this design would be more detrimental to the neighborhood.

3. Nature of Application: The structure is currently nonconforming with the following dimensional requirements: minimum lot size, lot area per dwelling unit, and rear and side yard setbacks.

The change of the window to a door is along the rear façade, which is 17 feet from the rear property line. The proposed deck and stairs will affect the nonconforming rear and side yards. The deck will be setback 8 feet from the rear property line. It will be located on a structure that is 2 feet from the rear property line. The stairs will be located 3 feet from the rear property line. The minimum rear yard in the district is 10 feet with the reduction for shallow lots. The stairs will be located 0.5 feet from the side yard. The side yard is currently 4.3 feet and the minimum in the district is 8 feet. These nonconformities require the applicant to obtain a special permit under §4.4.1 of the SZO.

4. Surrounding Neighborhood: The surrounding area is comprised of mostly two-, three- and multi-family homes. Many of the surrounding homes appear to have nonconforming side yards.

5. Impacts of Proposal: The proposal will add a deck and stairs to the rear yard which is already a small space. The stairs were not proposed to be in the larger side yard because they would have to wrap around a bay window and would be very visible from the street. The stairs, as designed, will not block

access to the rear of the house. The adjacent neighbors along Summer Street will have a deck located approximately 12 feet from their house, which is within the rear yard setback area, but not uncommon for typical Somerville lots. Only stairs and deck will be built in setbacks.

6. Green Building Practices: None listed on the application form.

7. Comments:

Fire Prevention: Has been contacted but has not provided comments.

Ward Alderman: Has been contacted but has not provided comments.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & 5.1):

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. The existing house currently has minimal setbacks and the proposal only increases the nonconformities in the side and rear yards to accommodate the stairs.

The proposed deck in the rear yard will be located approximately 12 feet from the second story of the neighboring property. Many of the houses in the area are within close proximity of each other. At this time, the legal notice has been recently sent, and so far the staff have not heard a concern from this abutter, or any other abutter. The Board recommends that the applicant review the plan with abutters. If there is concern from the abutting property owner, the Board recommends that the ZBA review options of providing upgraded fencing, providing additional screening on the abutter's property or reviewing the alternative design that would place the stairs along Summer Street. Otherwise, the Board feels that this design does its best to minimize neighborhood impact and, while it does have some impacts on the abutting property, is not substantially more detrimental than the existing condition on the lot.

The material chosen for the decking and stairs adequately addresses issues that arise with being close to the property line. The aluminum material chosen is noncombustible, will not get hot in the sun, and does not emit a loud when something hits against it.

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 to add a second means of egress for the second floor residential unit is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting the health, safety, and welfare of the inhabitants of the City of Somerville and providing for and maintain the uniquely integrated structure of uses in the City. The proposal is also consistent with the RB district to preserve the three-family home.

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."

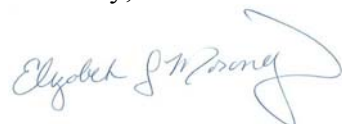
The stairs will encompass a portion of the backyard, and complicate access to the back yard, although the design does express how to provide that access. If the the stairs were located along the Summer Street side of the house, this alternative would be very visible and disruptive to the appearance of the house.

III. RECOMMENDATION**Special Permit under §4.4.1 & 5.1**

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

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the alteration of a nonconforming 3-family house to add a second means of egress to the second floor unit by converting a window to a door, construct a deck on the roof of an existing one-story portion of the structure and construct stairs in the side and rear yard setbacks. 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>1/19/11</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>9/8/10</td><td>Plans submitted to OSPCD (C-1 Plot Plan, A-1 Lower Roof Plan, A-2 Elevation, S-1 Details)</td></tr></table>				Date (Stamp Date)	Submission	1/19/11	Initial application submitted to the City Clerk's Office	9/8/10	Plans submitted to OSPCD (C-1 Plot Plan, A-1 Lower Roof Plan, A-2 Elevation, S-1 Details)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
3	The maximum number of dwelling units in the structure shall be three.	Perpetual	ISD							
4	The deck and stairs shall be made of Versadeck Aluminum Decking, as proposed, or a similar product or wrought iron.	Final sign off	Plng.							
5	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.							

Sincerely,



Elizabeth Moroney
Acting Chair

Cc: Applicant: Carlos Amaral
Owner: Rui Amaral

