



CITY OF SOMERVILLE, MASSACHUSETTS
STRATEGIC PLANNING AND COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE, MAYOR

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Case #: ZBA 2007-45 –R0808
Site: 161-163 ELM STREET
Date: August 8, 2008
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Applicant Name: 161-163 Elm St, LLC
Applicant Address: 311 Highland Ave, Somerville MA
Property Owner Name: same
Agent Name: Richard G. Di Girolamo
Agent Address: 424 Broadway, Somerville MA 02145
Alderman: Gewirtz

Legal Notice: The Applicant/Owner seeks a revision to Special Permit ZBA 2007-45 to remove existing windows and install sliding doors, wood stairs, and railings on the west and east sides of the dwelling.

Zoning District/Ward: RB / 6
Zoning Approval Sought: Revision to Special Permit 2007-45
Date of Application: July 25, 2008
Date(s) of Public Hearing: ZBA: August 20, 2008
Date of Decision: N/A
Vote: N/A

I. PROJECT DESCRIPTION

1. Subject Property/Surrounding Neighborhood: As described in the Planning Board report dated November 15, 2007, the subject property is recorded as a 6,651 square foot lot on which sits a 5,746 net square foot six-family wood-framed dwelling. Also on the lot is a 232 square foot masonry structure with framed lean-to additions that was formerly used as a garage and now contains a seventh residential unit. The property is at the corner of Elm Street and St. James Avenue, both two-way streets with parking on both sides.

In 2007, the site received special permits under SZO §4.5.1 & §4.5.3 in order to alter and expand a dimensionally nonconforming structure by constructing two dormers and decks onto an existing six-family dwelling and to expand and change the nonconforming six-family use by converting an existing seventh dwelling in a detached structure to a detached accessory office use.

2. Proposal: The proposal is to revise the approved plans to remove existing windows and install sliding doors and wood stairs and railings to the west and east sides of the dwelling.

3. Nature of Application: The Applicant is seeking a revision to Special Permit #ZBA2007-45. Staff have determined that the changes are not de minimis – notice and a public hearing are required under SZO §5.3.8. The Inspectional Services Division has not yet issued a certificate of occupancy for the altered structure.

4. Impacts on Abutting Properties: The proposed door along St. James Avenue would be located directly across from the side yard of the two houses on the opposite side of the street. The proposed door on the left side of the house would face the front yard of the abutting property; however, there would be a fence between the properties. The additional doors have no foreseen negative impacts on the abutting properties.

5. Comments:

The Ward Alderman has not commented on the revised plans.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 and §4.5.3):

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 Staff 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 and §4.5.3 of the SZO. Under §4.4.1, "The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building ... the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character." Under §4.5.3, the SPGA may consider the above, as well as "type of traffic, change in traffic patterns and access to the site...[and] glare."

In considering the requested special permits, the Planning Staff finds that the proposed modifications to the previously approved permits are beneficial to the project and are do not increase any detriment to the neighborhood of the nonconforming structure and use.

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 project site is located within an RB district, the purposes of which include "[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 the district.”

The proposed modification of the permit would not impact the use of the property nor exacerbate its nonconformity.

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 proposed changes would be compatible with the surrounding area. The revision of the two doors would not impact the design of the structure or compatibility with the surrounding area.

III. RECOMMENDATION

Special Permit under §4.4.1 and §4.5.3

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

Staff finds that this application complies with the requirements for granting a special permit as set forth under §5.1.4 and that the alterations and use proposed would not be substantially more detrimental to the neighborhood than the existing structure and use. The proposed alterations are sensitive to and complement the design of the existing building.

Although the Planning Staff is recommending approval of the requested Special Permit, the following conditions should be added to the permits. For clarity, the original conditions of the special permit are copied below, with added or revised conditions shown in italics.

(Updated Recommendations for 08/20/2008 meeting)

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	<i>Approval is to modify earlier permits for alteration and expansion of a dimensionally nonconforming structure and expansion of a nonconforming use</i> by constructing two dormers and decks onto an existing six-family dwelling. In addition, the approval is for expansion and change of the nonconforming six-family use by converting an existing seventh dwelling in a detached structure to a detached accessory office use. <i>Revised plans illustrate sliding doors where windows were originally approved, and new stairs and railings.</i> This approval is based upon the following application materials and the plans submitted by the Applicant and/or agent:	Building Permit / CO	ISD / Plng.	

	Date	Submission			
	Aug 16, 2007	Initial application submitted to the City Clerk's Office			
	Oct 12, 2007 - OSPCD	floor plans and elevations, sheets A1-A4			
	Nov 5, 2007 - OSPCD	accessory building proposed plan and elevations, sheet A-6			
	Aug 7, 2008 - OSPCD	<i>Revision to right & left elevations, landing & stair detail, SK2-SK4</i>			
	Aug 7, 2008 - OSPCD	<i>Site plan, sheet SK1</i>			
	Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.				
2	The Applicant shall remove the deck and wood fence at the front of the concrete accessory structure and replace them replaced with landscaping materials.		CO	Plng.	
3	All new sidewalks in relation to the proposed curb cut will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete.		CO	Plng.	
4	Prior to issuance of a certificate of occupancy, the Applicant shall submit for review and approval by the City Solicitor an appropriate legal instrument limiting the accessory office to use by a resident of the principal structure; upon approval by the City, the instrument shall be recorded in the Middlesex County Registry of Deeds.		CO	ISD	
5	A code compliant fire alarm and suppression system will be required. Fire Prevention permits will be required before work begins.		Building Permit	FP	
6	The Applicant is responsible for notifying the Planning Staff at least five (5) working days in advance of a request for a final sign-off on a building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.		Final Building Permit Signoff	Plng. / ISD	

Map of 161-163 Elm Street

