



CITY OF SOMERVILLE, MASSACHUSETTS

PLANNING BOARD

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Case #: ZBA 2008-29

Site: 261 Highland Avenue

Date: July 17, 2008

Recommendation: Conditional Approval

PLANNING BOARD REPORT

Applicant Name: Natasha Onken

Applicant Address: 261 Highland Ave, Unit 4, Somerville MA 02143

Property Owner Name: Natasha Onken / 261-263 Highland Avenue Condominium Association

Property Owner Address: 261-263 Highland Avenue, Somerville MA 02143

Agent Name: Michael Nionakis

Agent Address: 3 Seminary Street Unit 1, Charlestown MA 02129

Alderman: O'Donovan

Legal Notice: The Applicant seeks a special permit under SZO §4.4.1 to construct a roof deck that is approximately 10 feet by 20 feet.

Zoning District/Ward: Residence C / 3

Zoning Approval Sought: Special Permit under §4.4.1

Date of Application: June 30, 2008

Date(s) of Public Hearing: ZBA: 7/23/08

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 property is an eight-unit brick/masonry building with three stories and a flat roof. It is on an approximately 3000 square foot parcel which is mostly covered by the building except for a 12 by 85 foot rear yard.



Front and Rear View of the Property

2. Proposal: The proposal is to construct an approximately 200 square foot roof deck on the eastern side of the building. The Applicant provided letters from the condominium association with approval and documentation for roof rights for unit 261-4. The deck would provide outdoor space to be used exclusively by this unit. No barbeques or open flames would be allowed. The Applicant also submitted a letter from an engineer stating that the deck could be supported by the existing roof.

3. Nature of Application: The structure is currently nonconforming with respect to several dimensional requirements front yard setback, rear yard setback, and side yard setbacks. The proposal increases the encroachment on the nonconforming front yard. The building is on the front lot line, the minimum in this district is 15 feet and the deck would be 10 feet from the front lot line. These existing nonconformities require the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO). Section 4.4.1 states that “[l]awfully 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.”

4. Surrounding Neighborhood: The parcel is located next to fire station and on a busy street. Residences of single family to multiple unit dwellings surround the property.

5. Impacts on Abutting Properties: There are no anticipated impacts on surrounding properties. The abutting building to the right is the same height as the building where the deck would be located so that the deck would not be adjacent to a window. The other properties abutting this lot are either lower in height or at a distance that would make the impact of the deck negligible. The Noise Control Ordinance would address concerns regarding noise.

5. Green Building Practices: None

6. Comments:

Historic: There will be no adverse effects on any of the historic fabric of the city with this proposal.

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." To the extent possible for a nonconforming structure, the proposal complies with the standards of the zoning ordinance. The deck is designed to only affect the front yard setback, which is minimally impactful along this busy street.
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 purposes of the ordinance, including, "[t]o establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district." The roof deck will provide outdoor space for a unit that does not otherwise have outdoor space.
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 deck is designed to be compatible with the surrounding area. It will be minimally visible from the street and should not impact the surrounding neighbors.

III. RECOMMENDATION

Special Permit under §4.4.1

Based on the above findings, the Planning Staff 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 an approximately 200 square foot roof deck. This approval is based upon the following application materials and the plans submitted by the Applicant and/or its contractor:	PB and CO	Plng.		
	Date				Submission
	June 30, 2008				Initial application submitted to the City Clerk’s Office
	Any changes to the approved site plan that are not <i>de minimis</i> must receive ZBA approval.				
2	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,



Elizabeth Moroney
Acting Chair

Cc: Applicant / Owner: Natasha Onken
Agent: Michael Nionakis

