



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

**Planning Department**  
**MEMORANDUM**

**TO: ZBA Members**

**FROM: Christopher DiIorio, Senior Planner**

**DATE: March 5, 2008**

**SUBJECT: 131 Willow Avenue Special Permit Revision Request**  
**– ZBA 2004-05-R0208**

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Applicant and Owner 131 Willow Avenue, LLC, is requesting a Special Permit Revision to Special Permit ZBA 2004-05. The applicant is requesting this Special Permit Revision in order to allow the issuance of certificates of occupancy for Units 3, 7 and 10 at the Premises.

In June 2004 the applicant was granted a Special Permit to demolish an existing garage and construct a ten unit building under SZO §7.11.1.c. The applicant also received variances from side yard setback requirements (SZO §8.5.H), rear yard setback requirements (SZO §8.5.I) and front yard setback requirements (SZO §8.5.G).

In December 2004 the applicant was granted a Minor Revision for revised plans for the development, which were the result of a legal challenge to the original Special Permit and a subsequent Settlement Agreement. This agreement, dated December 15, 2004, was also incorporated into the revised approval.

In April 2007 the applicant requested a Minor Revision and received approval to modify plumbing; the number and placement of windows; the number, size, and placement of doors, closets, condenser locations, and other ADA and safety-related changes to the plans approved under the Special Permit. Other changes requested in that application were not granted, being found to be "major", and are presently sought.

**The present application seeks to:**

- 1. Revise the Special Permit Revision previously approved by the ZBA in order to allow the continued existence of the third floor porch roof on the northeastern corner of the development.**

The applicant/owner contends that the plans agreed to in the legal settlement, and previously approved by the ZBA, depict a roof over said third floor porch. The applicant/owner does not believe that any revision, permit or variance is required regarding this matter because in their opinion the building was constructed according to the approved plans. A statement from John McConnell, Architect supporting this argument is attached to this memo.

The applicant contends that due to the design and construction of the building it would be “practically impossible” to remove the roof of the porch without compromising the structural integrity of the building. Statements from Mr. McConnell and Reginald Roome II, P.E. supporting this argument are attached to this memo.

- 2. Revise the Special Permit Revision previously approved by the ZBA in order to allow a change in location of doors and windows providing visual and physical access to the second and third floor porches (units 7 and 10).**

Two sets of doors were designed for access onto the decks. It was determined that the second set of doors would not fit into the intended locations for structural reasons. The second doors were each replaced with a window matching the other windows at the relevant locations.

**Planning Staff Findings:**

Planning Staff does not support the contention that the plans and settlement agreement are ambiguous. Staff finds the east elevation to clearly depict an open third floor porch/deck, and questions the statement from Mr. McConnell due to the fact that his architecture firm drew the plans. In addition, paragraph 2 in the settlement agreement states, “The revision shown is to move the eastern exterior wall on the second and third floors westerly eight feet from the eastern side adjacent to the building at 102 Morrison Avenue, and also southerly from the northern side approximately thirty feet, creating a covered deck on the second floor and an open deck on the third floor.”

Though Planning Staff does not support the applicant’s argument regarding the ambiguous nature of the settlement agreement and approved plans, staff finds that the removal of the porch roof would not be an improvement to the appearance and may affect the integrity of the structure. Staff finds that mitigation measures could be implemented that would visually reduce the scale while improving the appearance of the structure. Other mitigations could provide improvements to the adjacent community path.

Planning Staff finds the change in the location of the doors and windows facing the two porches to be acceptable alterations, having minimal impact on the appearance of the structure.

Planning Staff also notes that the city's negotiations with the applicant regarding the affordable component of the proposal have been positive. The city had an immediate need to house an "affordable unit family" and requested the applicant to designate a unit along the bike path as the affordable unit instead of the original affordable unit which did not have a Certificate of Occupancy. Although the two units were comparable, the bike path unit had a higher market value. This request was agreed to and the location of the affordable component was moved at a cost to the applicant.

Planning Staff finds that the third floor porch roof and the change in location of several windows and doors would not create substantial detriment to the surrounding neighborhood if mitigation measures were undertaken. Suggested measures outlined in the following conditions provide for increased and improved landscaping elements that will visually counteract the increase in scale created by the porch roof and improve the appearance of the entire project.

Prior to granting any Special Permit Revision, Planning Staff recommends the following changes to the application and plans:

- A. The landscaping plan stamped May 35, 2007 [sic] and approved by Planning Staff shall be updated, and new plans and renderings submitted to Planning Staff, incorporating the following improvements:
  - 1. Planters shall be installed along the second and third floor porches.
  - 2. Trellises or wires shall extend from the ground to the roof line to enable climbing plants to grow parallel to the side of the building along Morrison Avenue and the bike path.
  - 3. The entrance to the parking ramp shall be improved with planters along the top of the fences in this area and visually appealing treatment of the concrete foundation where publicly visible.
  - 4. The transformer shall be screened to the extent possible with landscaping. Any landscaping in the plan that has been lost to the transformer shall be located elsewhere on the site.
  - 5. Landscaping in the bike path right-of-way lost during construction of the building shall be restored subject to Planning Staff approval and in consultation with the Friends of the Bike Path.
- B. All landscape construction must be completed as illustrated in the new landscaping plans and renderings prior to CO issuance.

**Once Planning Staff receives and reviews updated landscaping plans illustrating mitigations to be undertaken, a recommendation will be forwarded to the ZBA. Without mitigation of the type recommended above, the plan revision is not recommended for approval.**