



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2015-21

Date: April 30, 2015

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 78 Bay State Avenue

Applicant Name: Moses Ortiz

Applicant Address: 44 Marathon Street, Arlington MA 02474

Owner Name: James McCarthy

Owner Address: 78 Bay State Avenue, Somerville MA 024

Alderman: Rebeka Gewirtz

Legal Notice: Applicant, Moses Ortiz, and Owner, James McCarthy, seek a Special Permit to expand a rear nonconforming deck. RA zone. Ward 6.

Dates of Public Hearing: May 6, 2015

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a two-family, 2 ½ story house on a 3,800 square foot lot. There is a 18 by 7 foot two story porch in the rear of the property.
2. Proposal: The proposal is to demolish the two-story rear porch and build a larger one in its place. The first floor of the porch would be 12 by 18 and the second floor would be slightly larger at 14 by 20 and be cantilevered over the first floor.



3. Green Building Practices: None.

4. Comments:

Fire Prevention: Has reviewed the proposal and does not have comments at this time.

Wiring Inspection: An exterior light and electrical receptacle is required for all levels of the porch.

Ward Alderman: Alderman Gewirtz has been made aware of the proposal.

II. FINDINGS FOR SPECIAL PERMIT:

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 structure is currently nonconforming with respect to dimensional requirements, including left side yard setback. The proposed porch will be slightly larger than the existing porch which is in the side yard setback. The existing porch is 2.8 feet to the side property line and 26 feet to the rear property line. The proposed porch is 2.8 feet to the side property line and 22 feet to the rear property line. The required setbacks are 8 feet for the side yard and 20 feet for the rear yard. This alteration to a nonconforming structure requires 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 one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."

In considering a special permit under §4.4 of the SZO, Staff find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. There is an existing two-story porch at this property and the proposed porch will only be slightly larger. The rear yard will continue to have a conforming rear yard setback.

The Mayor's Office of Strategic Planning and Community Development has submitted an ordinance to the Board of Alderman to overhaul the current zoning ordinance. The re-advertised date of the legal notice was February 17. Massachusetts General Law 40a, Section 6 states that a zoning ordinance shall apply to a special permit issued after the first notice of the public hearing for such an ordinance. Therefore, staff and boards should evaluate all applications based on the current and proposed ordinances so that there are no issued posed under either ordinance.

Under the proposed zoning ordinance, the house is a house building type. The side setback for the house is 5 feet and the rear yard setback is 20 feet. In the proposed code, the nonconforming deck could be altered by Special Permit. Therefore if the Special Permit is granted the proposal could move forward under the current and proposed codes.

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 general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to maintaining the uniquely integrated structure of uses in the City.

The proposal is consistent with the purpose of the district, which is, "[t]o establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." The porch expansion will improve the usability of it and retain a compliant rear yard.

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."*

Many of the houses in the neighborhood have two-story rear decks. The proposed will be slightly unique in having a cantilevered second floor; however, it will not be out of character with a traditional rear porches.

5. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

The improvements to the two-family dwelling will not significantly impact the affordability of it.

6. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

This property is marked as an area to conserve and the proposal meets this goal.

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	2	2

III. RECOMMENDATION**Special Permit**

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the construction of a rear porch. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Pln g.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>April 6, 2015</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>(April 30, 2015)</td><td>Modified plans submitted to OSPCD (elevation, footings/landing, 1st & 2nd floor framing)</td></tr><tr><td>March 22, 2015</td><td>Plans submitted to OSPCD (Plot plan)</td></tr></table>				Date (Stamp Date)	Submission	April 6, 2015	Initial application submitted to the City Clerk's Office	(April 30, 2015)	Modified plans submitted to OSPCD (elevation, footings/landing, 1 st & 2 nd floor framing)	March 22, 2015	Plans submitted to OSPCD (Plot plan)
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March 22, 2015	Plans submitted to OSPCD (Plot plan)											
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	An exterior light and electrical receptacle is required for all levels of the porch.	Final sign off	Wiring Inspector									
Final Sign-Off												
3	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.									

