



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #:** ZBA 2011-36  
**Date:** May 18, 2011  
**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 363 Highland Ave

**Applicant Name:** J. Calnan & Associates, Inc.  
**Applicant Address:** 1250 Hancock St, 302 North Quincy, MA 02169  
**Property Owner Name:** Spy Pond Associates, Inc.  
**Property Owner Address:** 3755 Glenhurst Ave, St. Louis Park, MN 55416  
**Alderman:** Gewirtz

Legal Notice: Applicant, J. Calnan & Associates, Inc., and Owner, Spy Pond Associates, Inc., seek a Special Permit to alter a nonconforming structure under SZO §4.4.1 to install windows on the northwest side of an existing single-story commercial building.

Zoning District/Ward: CBD / 6  
Zoning Approval Sought: Special Permit SZO §4.4.1  
Date of Application: April 19, 2011  
Dates of Public Hearing: Zoning Board of Appeals May 18, 2011

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is comprised of four parcels, one of which is a small sliver of land. The property contains 120 feet of frontage along Highland Avenue and 320 feet along Whipple Street. The Community Path abuts the rear property line. A one-story commercial building sits on the site that was built in two phases. The front section was constructed in 1922 and the rear portion was constructed in 1974. The building houses a few different businesses. Consignment Galleries and Highland Laundromat are the tenants that are located along Highland Avenue. Q Division Records, a recording studio and Altitude Inc, a product innovation company, is located in the rear of the building.



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There is also a vacant commercial space. The front entrance to Altitude Inc and the parking area is located off of Whipple Street.

The Zoning Board of Appeals issued special permits for the site in the past. In 1991, a Special Permit (#1991-40) allowed for a nonconforming wholesale distribution use to change to a nonconforming moving storage use; however that use did not remain for a long time as a Special Permit (#1992-41) was issued to convert the storage space into a theater scenery company in 1992. In 1999 the ZBA issued a Special Permit (#1999-22) to alter the nonconforming structure and demolish a portion of the structure to convert a portion to office space and a recording studio. A condition of the permit was that the Applicant shall work with the City and the owners of Whipple Street to plan and maintain two trees in front of the new fence and parking area. Finally in 2001, the ZBA issued a special permit to convert 11,600 sf of commercial space into office for a total of 16,575 sf of office space. The proposal included renovating the interior space and replacing windows to allow for more natural light to enter the building. The permit limited the number of parking spaces to 26 to provide space for additional landscaping onsite. The conditions also stated that the entire building should be painted an attractive red brick color.



*Entrance to Altitude, Inc off of Whipple Street (top), Location of proposed windows (below)*



2. Proposal: The proposal is to continue the work started in 2001 to add windows to the building to allow for daylight harvesting. Nine windows would be installed on the northwest side of the building. The style of the windows would match that of the windows on the rear and southeast side of the building. The windows would be 8 feet by 6 feet, one-hour rated aluminum storefront systems. One window would be 9 feet wide and another would be 3 feet wide. The windows would be installed in Altitude, Inc's space as well as in a 3,000 sf space that is currently vacant. The evergreen shrubs along the side of the building where the windows will be installed will remain. The shrubs will be protected during the course of construction and if any damage is incurred, they will be replaced.

3. Nature of Application: The structure is currently nonconforming with respect to landscaped area, rear yard setback and right side yard setback from the abutting Residence C district.

The windows are proposed on the left side of the building where no side yard setback is required. The proposal does not affect the nonconforming aspects of the building; however, as a nonconforming commercial structure, a Special Permit is required to alter the building under §4.4.1 of the Somerville Zoning Ordinance (SZO).

4. Surrounding Neighborhood: The windows would look out onto a parking lot of the Highland Commons Apartments, a multi-unit residential structure abutting the property. There is approximately ninety feet between the location of the proposed windows and the residential structure. The property abuts Open Space, Neighborhood Business, and Residence C Districts and several different types of uses including a gas station, electrical substation, the Community Path, and residential structures.

5. Impacts of Proposal: The installation of windows will break up with façade of the 212 foot long blank wall. Privacy is not anticipated to be a concern as a parking lot abuts the windows and the residential apartment building is ninety feet from the structure. The windows will be inoperable so noise will not emanate from them. The evergreen trees will be replaced if they are damaged as a result of construction.

6. Green Building Practices: The windows will provide natural light into the office space, reducing the need to turn on lights and reducing the electrical usage of the building.

7. Comments:

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

*Ward Alderman:* Alderman Gewirtz thought that the proposal sounded reasonable and inquired about if any neighbors expressed concerns. Neighbors have not yet submitted comments to Planning Staff.

## **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 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."

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. The windows will be located on the side of the structure that does not require a setback. The use of the abutting parcel is a parking lot and the evergreen trees along the parking lot will be replaced if damaged as a result of construction. The abutting property is an established multi-family building and the site will not likely redevelop in the near term. The windows would not preclude a building to be constructed on the property line in the future. The windows would simply not receive light and they could be closed again if the situation arose.

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 providing adequate light and air and adequately protecting the natural environment. The windows will provide light into the office space, reducing the electrical usage of the building. The proposal is also consistent with the Central Business District as this proposal will improve the appearance and utilization of the professional office building.

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 windows will be the same style as the existing windows on the back (north) and southeast side of the building. The windows are visually appealing and appropriate for this building that is industrial in nature. They will break up the façade of the building that is a 212 foot long blank wall. Privacy is not anticipated to be a concern and may provide for a safer parking lot if office tenants can see if something suspicious is happening in the lot. A parking lot abuts the windows and the residential structure is ninety feet from the structure. The evergreen trees will be replaced if they are damaged as a result of construction.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

Altitude, Inc is typically open on Monday through Friday from 9am to 5pm so light spillover is not expected in the middle of the night. The other space where three windows would be located is currently vacant. The windows will be inoperable so noise is not an issue.

### III. RECOMMENDATION

#### Special Permit under §4.4.1 & 5.1

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 installation of nine windows along the northwest façade of the building. 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>April 19, 2011</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>Nov 3, 2010</td><td>Plans submitted to OSPCD (A 0.0, A 0.3 Existing Plan, A 2.0 Partition Plan, A 6.0 Elevations, A 12.0 3D Views, A 12.1 3D views)</td></tr><tr><td>Mar 23, 2011</td><td>Modified plans submitted to OSPCD (Plot Plan with Window Location)</td></tr></table>				Date (Stamp Date)	Submission	April 19, 2011	Initial application submitted to the City Clerk’s Office	Nov 3, 2010	Plans submitted to OSPCD (A 0.0, A 0.3 Existing Plan, A 2.0 Partition Plan, A 6.0 Elevations, A 12.0 3D Views, A 12.1 3D views)	Mar 23, 2011	Modified plans submitted to OSPCD (Plot Plan with Window Location)
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Any changes to the approved 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 evergreen shrubs along the side of the building where the windows will be installed shall be protected during the course of construction. If any damage to the trees occurs, the Applicant shall replace them with shrubs of a similar size.	Final sign off	Plng.									
4	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.									



