



CITY OF SOMERVILLE, MASSACHUSETTS
*MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY
DEVELOPMENT*
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Case #: ZBA 2012-67

Date: September 13, 2012

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 28-30 Newberne Street

Applicants and Property Owners Names: Andrew H. Kim & Jo Eun Choi

Applicants and Property Owners Address: 28 Newberne Street, Somerville, MA 02144

Agent Name: Richard G. Di Girolamo, Esq.

Agent Address: 424 Broadway, Somerville, MA 02145

Alderman: Rebekah Gewirtz

Legal Notice: Applicants and Owners Andrew H. Kim and Jo Eun Choi, seek a Special Permit to alter a nonconforming structure under SZO §4.4.1 to enclose private outdoor space on the first floor of the north and south facades of an existing six unit residential building. RC zone. Ward 6.

Zoning District/Ward: RC zone / Ward 6

Zoning Approval Sought: Special Permit under SZO §4.4.1

Date of Application: July 30, 2012

Dates of Public Hearing: Zoning Board of Appeals – **September 19, 2012**

I. PROJECT DESCRIPTION

1. Subject Property: The property is a 15,737 square foot lot, which is a conglomeration of five parcels (MBL: 24-C-9, 10, 11, 12 and 24-M-4) near the intersection of Willow Avenue and Morrison Avenue. The property has frontage onto both Newberne Street and Willow Avenue via a 250 foot long segment of the parcel that runs parallel to the Community Path. In July of 2009, the Applicant at that time, 128 Willow Avenue, LLC, received approval from the Zoning Board of Appeals to construct a seven unit residential development and two approximately 500 net square foot studio office spaces. This

three story, 40 foot high building was completed and occupied in 2011, but only 6 units were created as Units # 3 and # 4 were sold to the same buyers and combined into one dwelling unit.

2. Proposal: This particular proposal focuses on the unit that was created when Units # 3 and # 4 were combined into one dwelling. The Applicant is looking to take approximately 137 gross square feet of private outdoor deck space and enclose it to create additional living space for the unit. On the southern façade there is currently a 50 gross square foot deck space that has two doors, both of which lead into the master bedroom. There is a 4.5 foot high solid wall railing that shields views into this space from the walkway at the rear of the property and from the Community Path. This space would be entirely enclosed and included into the space of the master bedroom. Two new side by side windows would be installed that would look out towards the Community Path. On this side of the dwelling unit the Property Owners would still have substantial private outdoor space in the form of an at grade patio that is surrounded with substantial landscaping. On the north elevation there is a good sized L-shaped deck with a solid wall railing that faces out towards the rear of the homes with frontage onto Morrison Avenue. The Applicant is proposing to enclose the 87 gross square foot area of deck that steps in towards the building. This newly enclosed square footage would be added to one of the secondary bedrooms in the dwelling. The remaining outdoor deck space would be rectangular in shape and the two existing windows on the façade would simply be pushed out towards the main exterior wall of the unit.

3. Nature of Application: The existing three story, six unit building was constructed via approval of a Special Permit under Somerville Zoning Ordinance (SZO) §4.4.1 in 2011. This newly constructed multi-family dwelling maintained some of the existing dimensional nonconformities of the previous structure, including its side yard setbacks. Since the existing structure is nonconforming multi-family dwelling, any alteration to the outside of the structure requires the Applicant to obtain a new Special Permit under SZO §4.4.1. In this case, to enclose the private outdoor space on the first floor of the north and south facades would require new Special Permit approval from the Zoning Board of Appeals.

4. Surrounding Neighborhood: The subject property is located in an RC and OS District. The surrounding neighborhood is generally composed of single-, two-, and three-family dwellings. An industrial/commercial building used for J.P. Moriarty's Millwork operations is directly across Newberne Street and the Community Path abuts the property to the south.

5. Impacts of Proposal: The proposal to enclose 137 square feet of private outdoor deck space on the first floor of the north and south facades of the existing six unit residential building would have a minimal impact, if any, on the abutters and surrounding neighborhood. Both of the newly enclosed spaces would be within the existing footprint of the building and would not extend the living space outward from the existing structure. Both of the outdoor deck spaces also currently have solid wall railings that limit visibility into and out of the units. On the north façade this railing would be maintained, but on the southern façade this would be replaced with a solid wall with two windows. This particular dwelling unit is at the back of the building and is a substantial distance from Newberne Street, Morrison Avenue, and Willow Avenue. In fact, the outdoor deck spaces for this unit are located on the interior of the neighborhood block. On the south façade, the two doors out to the deck space would be replaced with two windows which is somewhat of an improvement aesthetically to the building and would not impact views from the Community Path. On the north façade, the five foot high solid parapet wall would maintain the existing look of the façade and the changes would most likely not be noticeable to the abutters on Morrison Avenue. The east elevation would only see minimal changes as the solid façade of that wall would simply be extended both north and south.

Each of the outdoor spaces that would be enclosed are set well back from the roadways in the area, as well as the Community Path. Additionally, the reduction of outdoor space would potentially reduce the

amount of noise that might be generated from these spaces when being used, as reducing the amount of outdoor space would reduce the occupant capacity for each area. Furthermore, private outdoor space would still be retained on both the north and south sides of the unit with patio space on the south side and deck space on the north side. This would still leave open the possibility that if the unit was ever to be converted back into two separate dwelling units, each of the units would still retain private outdoor space. The overall property will remain a three story, multi-family residential use with a small commercial space component in a separate structure, which is consistent with the surrounding neighborhood.

6. Green Building Practices: The Applicant has indicated that “there will be no green practices being utilized.”

7. Comments:

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

Ward Alderman: Alderman Gewirtz has been contacted but has not yet provided comments.

Wiring Inspector: Has been contacted but has not yet provided comments.



Existing Conditions: View of Deck on the South Façade from the Community Path



II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §5.1):

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 Permit.

In considering a Special Permit under §4.4 of the SZO, Staff finds that the proposed alterations, which would enclose an existing deck on the south façade and a portion of a deck on the north façade, would not be substantially more detrimental to the neighborhood than the existing structure. Both of the newly enclosed spaces would be within the existing footprint of the building and would not extend the living space outward from the existing structure. On the south façade, the two doors out to the deck space would be replaced with two windows which is somewhat of an improvement aesthetically to the building and would not impact views from the Community Path. On the north façade, the five foot high solid parapet

wall would maintain the existing look of the façade and the changes would most likely not be noticeable to the abutters on Morrison Avenue. The east elevation would only see minimal changes as the solid façade of that wall would simply be extended both north and south. The reduction of outdoor space would potentially reduce the amount of noise that might be generated from these spaces when being used, as reducing the amount of outdoor space would reduce the occupant capacity for each area. Furthermore, private outdoor space would still be retained on both the north and south sides of the unit with patio space on the south side and deck space on the north side. The overall property will remain a three story, multi-family residential use with a small commercial space component in a separate structure, which is consistent with the surrounding neighborhood.

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 promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels."

The proposal is also consistent with the purpose of the district in which the residential building is located, (6.1.3. RC - Residence Districts), which is, "To 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."

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 project is compatible with the characteristics of the surrounding neighborhood. The proposal to enclose 137 square feet of private outdoor deck space on the first floor of the north and south facades of the existing six unit residential building would have a minimal impact, if any, on the abutters and surrounding neighborhood. Both of the newly enclosed spaces would be within the existing footprint of the building and would not extend the living space outward from the existing structure. Both of the outdoor deck spaces also currently have solid wall railings that limit visibility into and out of the units. On the north façade this railing would be maintained, but on the southern façade this would be replaced with a solid wall with two windows. This particular dwelling unit is at the back of the building and is a substantial distance from Newberne Street, Morrison Avenue, and Willow Avenue. In fact, the outdoor deck spaces for this unit are located on the interior of the neighborhood block. On the south façade the two doors out to the deck space would be replaced with two windows which is somewhat of an improvement aesthetically to the building and would not impact views from the Community Path. On the north façade, the five foot high solid parapet wall would maintain the existing look of the façade and most likely not be noticeable to the abutters on Morrison Avenue. The east elevation would only see minimal changes as the solid façade of that wall would simply be extended both north and south.

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outdoor space would reduce the occupant capacity for each area. Furthermore, private outdoor space would still be retained on both the north and south sides of the unit with patio space on the south side and deck space on the north side. The overall property will remain a three story, multi-family residential use with a small commercial space component in a separate structure, which is consistent with the surrounding neighborhood.

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.

No adverse environmental impacts are anticipated from this proposal. No new noise, glare, dust, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception are anticipated as part of the project. The overall property will remain a three story, multi-family residential use with a small commercial space component in a separate structure, which is consistent with the surrounding neighborhood.

III. RECOMMENDATION

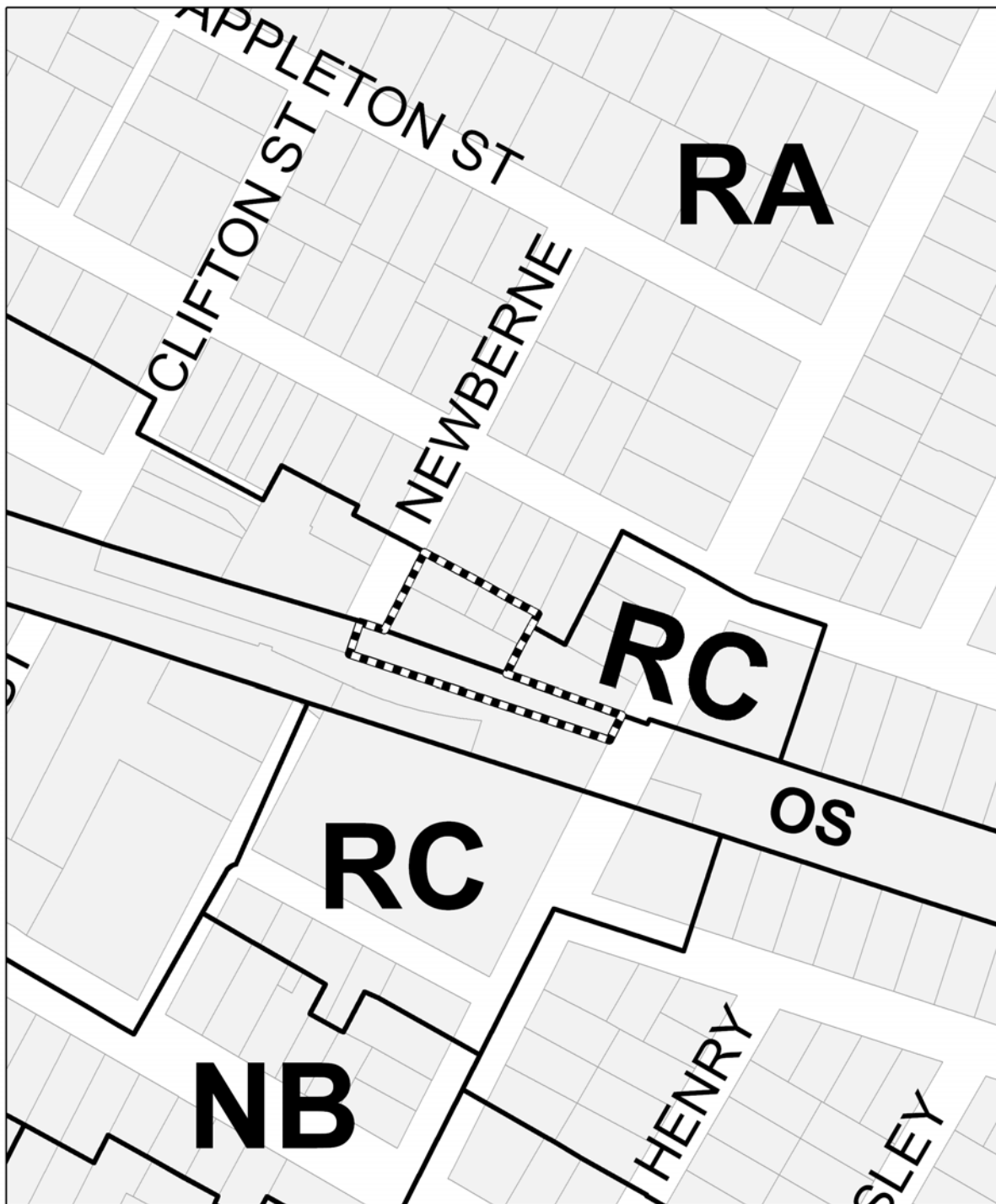
Special Permit under §4.4.1 and §5.1

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 materials 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 to alter a nonconforming structure to enclose private outdoor space on the first floor of the north and south facades of an existing six unit residential building under SZO §4.4.1. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(July 30, 2012)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>September 10, 2012 (September 11, 2012)</td><td>Orientation Plan and Zoning Table, South Deck Enclosure, North Deck Enclosure, Existing and Proposed South Elevation, Existing and Proposed East Elevation, and Existing and Proposed North Elevation (A0 – A5)</td></tr><tr><td>June 16, 2009 (September 11, 2012)</td><td>Architectural Site Plan (A-1)</td></tr></table>				Date (Stamp Date)	Submission	(July 30, 2012)	Initial application submitted to the City Clerk’s Office	September 10, 2012 (September 11, 2012)	Orientation Plan and Zoning Table, South Deck Enclosure, North Deck Enclosure, Existing and Proposed South Elevation, Existing and Proposed East Elevation, and Existing and Proposed North Elevation (A0 – A5)	June 16, 2009 (September 11, 2012)	Architectural Site Plan (A-1)
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June 16, 2009 (September 11, 2012)	Architectural Site Plan (A-1)											
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P									
3	The Applicant shall meet the Fire Prevention Bureau’s requirements.	CO	FP									
4	The Applicant shall at their expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW									
5	The Applicant shall install one exterior light fixture and one electrical receptacle on the outdoor deck space.	CO	Wiring Inspector									

6	New siding type and color, roofing, trim, and materials of the enclosed spaces shall match or be complimentary to the rest of the existing structure.	CO	Plng.	
7	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.	



28-30 NEWBERNE ST