



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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AMIE SCHAEFFER, *PLANNING INTERN*

Case #: ZBA 2012-36
Date: May 31, 2012
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 76 Boston Street

Applicant Name: Anne Slater
Applicant Address: 12 Williams Street, Newton, MA 02464
Property Owner Name: Anne Slater
Property Owner Address: 12 Williams Street, Newton, MA 02464
Alderman: Thomas Taylor

Legal Notice: Applicant and Owner, Anne Slater, seeks a Special Permit to alter a nonconforming structure under SZO §4.4.1 to construct a third story deck at the rear of an existing two-family dwelling.

Zoning District/Ward: RA District / Ward 3

Zoning Approval Sought: Special Permit

Date of Application: May 8, 2012

Dates of Public Hearing: Zoning Board of Appeals – Wednesday, June 6, 2012

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a two-family dwelling on a 2,916 square foot lot in the Prospect Hill neighborhood near Prospect Hill Park. The structure is 2½ stories in height with a gable roof that faces Boston Street and 2,228 square feet of living space. The building is located within an RA district and abuts residential properties on either side.

There has been no prior relief given to the subject property.

2. Proposal: Applicant, Anne Slater, proposes to alter her nonconforming two-family dwelling to construct a third story deck at the rear of the building.



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The proposed deck was constructed during a 2006-2007 renovation by the previous owners who failed to acquire all the appropriate permits for their modifications at that time. The property is currently being offered for sale by the Applicant. Per the request of a potential purchaser, a search of the records at the Inspectional Services Division did not produce a Building Permit or a Special Permit for the construction of the third story deck. Therefore, the Applicant, who is also the current owner, seeks a Special Permit to legalize the existing third story deck prior to the sale of the building.

The deck, located above the second story of the rear addition, is approximately 17 feet in length by 11 feet in width with 42 inch high balustrades on all sides. The deck is accessible only through the attic and the surface of the deck lies approximately one foot above the floor of the attic. According to the current owner, during the 2006-2007 renovation, the flat roof above the second story addition was reinforced. The present owner has also had a structural engineer analyze the integrity of the third floor deck. A memo from the engineer, dated April 25, 2012, states that the deck is composed of 2" x 8" pressure-treated joists that connect with galvanized hangers to either a ledger board on the face of the house or to a continuous 2" x 10" pressure-treated beam that spans 5'-10" between posts. The 4" x 4" posts extend beyond the exterior walls below the roofing membrane. The memo also explains that the analysis was done according to present load requirements. In the professional opinion of David Brosnan, P.E., Structural Integrity Engineering Group, Inc., the conclusions and recommendations are as follows:

- 1) The construction of the exterior wood deck at the third floor level can safely support the loads required by the Massachusetts State Building Code, 8th edition (residential), except as noted below.
- 2) The existing wood ledger to the face of the gable wall needs to be supplemented with two new "Ledger-Lok" screws engaging each stud.

The Applicant, and current owner, has followed through with the engineer's recommendations and a licensed contractor supplemented the attachment of the wood ledger to the face of the gable wall with two Ledger-Loc screws engaging each stud. The Applicant has provided an invoice from the contractor and pictures that illustrate this recommendation was completed in May 2012.



76 Boston Street, primary and right side elevation



76 Boston Street, third story deck

3. Nature of Application: The structure is currently nonconforming with respect to several dimensional requirements including the front and side yard setbacks, and the minimum lot size. Under the Somerville Zoning Ordinance (SZO) §4.4.1 nonconforming two-family dwellings may alter a nonconformity only through a Special Permit. The side yard setback requirement is a minimum of eight feet; however, the right side of the subject property has only a 2.1 foot setback. Therefore, construction of a third story deck at the rear of the building requires a Special Permit.

4. Surrounding Neighborhood: The subject property is located in an RA district within the Prospect Hill neighborhood. The property abuts residential properties of sizable massing on either side and the neighborhood presents a moderate level of density. There are other residential buildings within the immediate area that also have rear decks, though they vary in size and placement on the building itself.

5. Impacts of Proposal: The construction of a third story deck at the rear of this two-family dwelling would not be detrimental to the existing structure. The deck has been in existence for five years and does not appear to negatively impact the immediate abutters or the surrounding Prospect Hill neighborhood. While a portion of the deck is visible from Boston Street, the majority of the deck is located behind the main massing and the design of the deck has left architectural details, such as the brackets beneath the gable, intact.

6. Green Building Practices: No green building practices were indicated on the application.

7. Comments:

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

Ward Alderman: In an email to Staff on May 17, 2012, Alderman Taylor stated his support for this project.

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 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 design of the third story deck has left the architectural details of the gable intact. Although the deck is somewhat visible from Boston Street, the majority of the deck is located behind the main massing of the building. Therefore, the deck does not greatly impact the view the Boston Street streetscape.

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 secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; and to preserve and increase the amenities of the municipality.”

The proposal is consistent with the purpose of the district (6.1.1. RA - Residence Districts), which is, “To 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 proposed third story deck has been existent for five years and is compatible with the neighborhood and the RA district as it is located at the rear of the structure. The deck does not negatively impact abutters or the character of the streetscape.

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 proposed third story deck has been designed to be compatible with the built and unbuilt surrounding area. The design of the third story deck has left the architectural details of the gable intact. Although the deck is somewhat visible from Boston Street, the majority of the deck is located behind the main massing of the building. The proposed deck has been existent for five years and is compatible with the neighborhood and the RA district. The deck does not negatively impact abutters or the character of the streetscape.

III. RECOMMENDATION

Special Permit under §4.4.1

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	<p>Approval is for a Special Permit to alter a nonconforming structure to construct a third story deck at the rear of an existing two-family dwelling. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1" data-bbox="248 478 886 1024"> <thead> <tr> <th data-bbox="248 478 565 516">Date (Stamp Date)</th> <th data-bbox="565 478 886 516">Submission</th> </tr> </thead> <tbody> <tr> <td data-bbox="248 516 565 617">(May 8, 2012)</td> <td data-bbox="565 516 886 617">Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td data-bbox="248 617 565 718">May 8, 2012 (May 29, 2012)</td> <td data-bbox="565 617 886 718">Plot plan submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 718 565 819">April 17, 2012 (May 29, 2012)</td> <td data-bbox="565 718 886 819">Photographs of existing deck submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 819 565 919">April 25, 2012 (May 29, 2012)</td> <td data-bbox="565 819 886 919">Structural Assessment Letter submitted to OSPCD</td> </tr> <tr> <td data-bbox="248 919 565 1024">May 16, 2012 (May 29, 2012)</td> <td data-bbox="565 919 886 1024">Letter of Supplemented Deck Support submitted to OSPCD</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(May 8, 2012)	Initial application submitted to the City Clerk's Office	May 8, 2012 (May 29, 2012)	Plot plan submitted to OSPCD	April 17, 2012 (May 29, 2012)	Photographs of existing deck submitted to OSPCD	April 25, 2012 (May 29, 2012)	Structural Assessment Letter submitted to OSPCD	May 16, 2012 (May 29, 2012)	Letter of Supplemented Deck Support submitted to OSPCD	BP/CO	ISD/Plng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP													
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.													



76 Boston Street