

Present were: McDonough (Acting Chair), Brown, Baime, Batchelder (Acting Clerk)

McDonough gave an overview of the Board's procedure & public hearing process.

Petition No: 3827

Premises: 85 Summer Street

Petitioner: Ford

Map: 22 Lot: 67

Zoning District: SRA

Colin Callahan, petitioners' contractor, represented the Fords request for a variance from Section 4.1.2 &/or a special permit under Section 3.3.5 to construct a front stairway that will not meet the minimum front setback. Tim and Kerri Ford were also present. Callahan explained that the existing stairs go off the side of the porch, on the opposite side of the house from the front door and driveway. They wish to move them to the front door and driveway side of the house. The Fords showed some digital pictures depicting the existing conditions. Other houses in the neighborhood have front porches and stairs similarly setback from the street as proposed at 85 Summer Street. The stairs will be uncovered. Brown submitted some photos he took of neighboring houses and the subject house. The house was built in 1920. The current minimum front setback is 35'. No one else was present at the hearing to speak for or against the petition. The Board waived a site view. Brown made a motion to close the public hearing. Batchelder seconded the motion & the Board voted unanimously to close the hearing. The Board then deliberated the case. Batchelder asked if it is a variance or special permit. Brown & McDonough feel it's a special permit. Brown noted the lack of a viable hardship argument. As for a special permit, the house predates zoning and the porch is pre-existing non-conforming. The steps do not create a new non-conformity and the By Law gives some leeway for steps to encroach 10' into the front setback already. Baime agreed that it's a special permit. McDonough agreed adding that the house and porch are grand fathered. Batchelder asked for a hardship. No one suggested a hardship and Batchelder asked for arguments for a special permit. McDonough reiterated that the house was built prior to zoning and as such is pre-existing non-conforming. Therefore, it is allowed to extend under a special permit. Brown pointed to Section 4.1.3.2.b regarding the allowance of a 10' encroachment of stairs into the front setback. Batchelder suggested it is an alteration, rather than an extension. The Board discussed what an extension would be (i.e. second story) under 4.1.3.2.b in conjunction with a special permit under 3.3.5. Brown made a motion to find that the existing structure is a non-conforming structure as it predates the by law and that the proposed alteration of the existing porch by adding front steps to it increases the non-conforming nature of the structure, but the proposed alteration is not substantially more detrimental to the existing structure or neighborhood, but is consistent with the structure and therefore grant a special permit under 3.3.5. Baime seconded the motion & the Board voted unanimously to grant the special permit. Brown will write the decision.

Baime made a motion to approve the minutes. Brown seconded the motion. The Board approved the minutes of February 5, 2009.