



Town of Lexington  
**PLANNING BOARD**  
1625 Massachusetts Avenue  
Lexington, MA 02420  
Tel (781) 698-4560  
[planning@lexingtonma.gov](mailto:planning@lexingtonma.gov)  
[www.lexingtonma.gov/planning](http://www.lexingtonma.gov/planning)

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Robert D. Peters, Chair  
Michael Schanbacher, Vice Chair  
Melanie Thompson, Clerk  
Robert Creech, Member  
Charles Hornig, Member  
Michael Leon, Associate Member

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**DECISION OF THE LEXINGTON PLANNING BOARD  
MODIFICATION OF SPECIAL PERMIT WITH SITE PLAN REVIEW**

**65 Paul Revere Road  
(fka 63 Paul Revere Road)  
Map 50 & Lot 175B**

**August 3, 2022**

The Lexington Planning Board at a meeting on August 3, 2022 and voted to *approve* the Modification of the Special Permit with Site Plan Review and Special Permit Subdivision originally approved on September 24, 2008. The modification changes the minimum setback to any lot line to any structure required in the 2008 Condition of Approval #2 from 25 feet to 20 feet granting relief of five (5) feet allowing the proposed deck and arbor pergola to be 20-feet from the lot line.

**APPLICANT:** Christopher Patzke - Zen Associates  
10 Micro Drive, Suite 200  
Woburn, MA 01801

**PROPERTY OWNERS:** Dan Ostrower & Coreen McCool  
65 Paul Revere Road  
Lexington, MA

**PROPERTY LOCUS:** 65 Paul Revere Road  
Lexington, MA 02420  
Assessor's Map 50 and Lot 175B

**PUBLIC HEARING NOTIFICATION:** Advertised in Lexington Minuteman July 14, and July 21, 2022  
Posted with the Town Clerk on July 7, 2022

**BACKGROUND AND PROJECT SUMMARY**

The Applicant submitted a request for a modification to the previously approved Special Permit with Site Plan Review and Special Permit Site Sensitive Subdivision which was originally granted by the Planning Board on September 24, 2008 for a two (2) lot site sensitive subdivision; creating a new rear lot behind an existing house. The purpose of this modification is to permit a decrease in the side yard setback so the homeowners can build a deck and pergola in place of an existing patio. The 2008 Decision contained a condition of approval in Condition #2 requiring a 25-foot minimum setback from any lot line to any structures.

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When the house in 2010 was built on the new lot the foundation plan showed a setback of 26.3 feet. However, the final as-built after construction dated November 29, 2010 showed a final setback of 24.4 feet to the side lot line measured from the side rear corner of the house. The Building Commissioner and the Planner at the time determined that since the foundation was outside the required yard, the roof overhang encroachment was allowable.

### STATEMENT OF FINDINGS

After having reviewed all the plans and reports filed by the Applicant, the Lexington Planning Board has determined that the Application complies with the requirements of the Zoning Bylaw, the Planning Board makes the following procedural findings and project findings:

#### FINDINGS:

1. The yard definition in 2008 and today's Zoning Bylaw similarly describes the setback as being measured from the "lot line to the nearest point on a building". As in 2008 and today the setback is measured from the deck or pergola as they are considered projections from the building.
2. The 25-foot yard setback imposed by the 2008 special permit is more than the 15-foot required yard setback in the RS Zoning District in which this house is located.
3. The deck and pergola do not materially increase the use activity as the applicant proposes to replace the existing patio with a deck and pergola.
4. The 2008 Special Permit limited the allowed gross floor area (GFA). There are no changes to the existing GFA proposed with this application. Decks do not count towards GFA.
5. The public hearing was held in-person in the Select Board meeting room at the Town Office Building, 1625 Massachusetts Avenue, Lexington, MA 02420 and held remotely. The public was offered the opportunity to ask questions and comments in-person and virtually. The public hearing was opened and closed on August 3, 2022.
6. Lexington Planning Board members Charles Hornig, Robert Peters, Michael Schanbacher, Melanie Thompson, and Associate Member Michael Leon deliberated on the Application at a duly authorized meeting and public hearing on August 3, 2022. Mr. Leon was called by the Chair to sit as a voting member due to the absence of the fifth member.

### DECISION

At a meeting on August 3, 2022, the Planning Board evaluated the request in relation to the above findings, by a vote of five (5) in favor and none (0) opposed, voted to **approve** the modification request to modify condition #2 of the 2008 special permit approval to grant relief of five (5) feet and impose a 20-foot setback to any lot line and permit the construction of a deck and pergola as substantially shown on the plans submitted.

### APPLICATION AND PLANS

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The Planning Board evaluated the request for the Modification which application was originally filed by or on behalf of the Applicant in the Planning Office through the permitting system and stamped by the Town Clerk on June 28, 2022 and the following related submissions filed in View Point Project Number 25684 ("Project"):

1. General Application for Approval of a Plan Development, Special Permit Modification, dated June 16, 2022, submitted by Christopher Patzke on behalf of the homeowners.
2. Original Special Permit with Site Plan Review for 63 Paul Revere Road , Recorded in Book 53372 Page 398, granted by the Planning Board on September 28, 2000, Certified Copy from Town Clerk dated November 20, 2008.
3. Memorandum from Aaron Henry, Senior Planner dated October 22, 2010.
4. Project Narrative - revised
5. Existing and Proposed Plot Plan prepared by James R. Keenan RLS #30751 dated April 21, 2010 revised with proposed annotations on April 27, 2022 by Zen Associates.
6. Existing Approved Definitive Subdivision Plan prepared by Fredrick Russell RPE # 35713 dated June 12, 2009.
7. Three photographs of the project area.
8. Architectural plans prepared by Zen Associates Architects and Planners, submitted to the Lexington Building Department, dated May 26, 2022 with sheets L3.00, L3.01.
9. Sheet L3.00 with hand drawn dimensions.
10. Foundation Survey prepared by James R. Keenan RLS #30751 dated April 21, 2010
11. Final As-built prepared by James R. Keenan RLS #30751 dated November 29, 2010
12. Letter to Mr. Rhodes, Building Commissioner re: 2010 GFA Calculation dated December 14, 2010
13. Planning Staff Memo from Sheila Page to Planning Board, Re: Project Review for 65 Paul Revere Road: Modification to Special Permit with Site Plan Review, dated July 29, 2022.

### RECORD OF VOTE

The following members of the Planning Board voted to approve the Modification of the Special Permit with Site Plan Review: Charles Hornig, Robert Peters, Michael Schanbacher, Melanie Thompson, and Michael Leon, Associate Member.

The following members of the Planning Board voted to deny the Minor Modification Request: None.



August 8, 2022

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Robert D. Peters, Planning Board Chair

DATE