



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2015-52
Site: 14 Kent Court
Date of Decision: November 4, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 10, 2015

ZBA DECISION

Applicant Name:	Shangzhe Xuyu & Baoqing Yu
Applicant Address:	35 Spring Street, Lexington, MA 02421
Property Owner Name:	Shangzhe Xuyu & Baoqing Yu
Property Owner Address:	35 Spring Street, Lexington, MA 02421
Agent Name:	Adam Dash, Esq.
Agent Address:	48 Grove Street, Suite 304, Somerville, MA 02144
<u>Legal Notice:</u>	Applicant & Owners, Shangzhe Xuyu & Baoqing Yu, seek a Special Permit under SZO §4.4.1 to substantially alter a non-conforming single-family house to construct a larger single family residence.
<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 16, 2015
<u>Date(s) of Public Hearing:</u>	November 4, 2015
<u>Date of Decision:</u>	November 4, 2015
<u>Vote:</u>	4-1

Appeal #ZBA 2015-52 was opened before the Zoning Board of Appeals at Somerville City Hall on November 4, 2015. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to substantially alter the non-conforming single-family structure in order to construct a larger, single-family residence. The new, 2 ½ - story gambrel-style structure will utilize a rear portion of the existing foundation to form the basis of the rear entryway. Three individual gabled dormers will be installed on the left elevation and a small shed dormer on the right elevation. The front elevation proposed a covered porch. The rear of the building proposes a small second-floor balcony. A hatchway to the basement and a/c condensers are proposed on the right elevation.

The Applicant proposes an asphalt driveway along the left of the property. A 1'6"-wide band of crushed stone will be installed along the foundation on the right elevation of the property for drainage. A pervious paver patio will be installed in the rear of the property and grass, shrubs and a tree will be planted around the remainder of the site.

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 Board 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."*

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, left, right, and rear yard setbacks, and street frontage.

The rear yard setback will be retained to keep the non-conforming aspect of the building. It is this setback which required the Applicant to seek a Special Permit.

Section 4.4.1 states that "[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The single-family proposal is not incongruous with the mixed type of properties along this street and provides a hard-to-find yet desired option in the city. The left and right side yard setbacks will become conforming, with the right side being provided the reduction allowance due to the frontage being less than 50'.

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 provide adequate light and air; to conserve the value of land and buildings.”

The proposal to construct a single-family house is consistent with the purpose of the RC district 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 has been designed to be compatible with the surrounding area. The building form is consistent with other building forms on the street, particularly with respect to historic architectural styles extant on the street. The Historic Preservation Commission has worked closely with the Applicant to achieve the design, dimensions, form, materials, and massing presented in this proposal and are conditions of this approval.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

The proposal will have no impact on affordable housing stock.

7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	1	1
<i>Parking Spaces:</i>	2	2

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion with Josh Safdie voting in opposition. Wherefore the Zoning Board of Appeals voted **4-1** to **APPROVE** the request. In addition the following conditions were attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes																						
	<p>Approval is for the substantial alteration of a non-conforming structure by constructing a larger single-family dwelling. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 16, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>July 20, 2015</td> <td>Plans submitted to OSPCD</td> </tr> <tr> <td>August 6, 2015</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>August 11, 2015</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>September 3, 2015</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>September 17, 2015</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>October 1, 2015</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>October 15, 2015</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>October 27, 2015</td> <td>Final plans submitted to OSPCD</td> </tr> <tr> <td>October 28, 2015</td> <td>Final Certified Plot Plan 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	July 16, 2015	Initial application submitted to the City Clerk's Office	July 20, 2015	Plans submitted to OSPCD	August 6, 2015	Updated plans submitted to OSPCD	August 11, 2015	Updated plans submitted to OSPCD	September 3, 2015	Updated plans submitted to OSPCD	September 17, 2015	Updated plans submitted to OSPCD	October 1, 2015	Updated plans submitted to OSPCD	October 15, 2015	Updated plans submitted to OSPCD	October 27, 2015	Final plans submitted to OSPCD	October 28, 2015	Final Certified Plot Plan submitted to OSPCD	BP/CO	ISD/PIng.	
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Pre-Construction																										
2	The Applicant must sign the Memorandum of Agreement (MOA) with the Historic Preservation Commission and register the signed MOA with the Middlesex County Registry of Deeds.	BP	HPC																							



3	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
Construction Impacts				
4	The Applicant shall, at his 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	All construction materials and equipment must be stored onsite.	During Construction	ISD	
Design				
6	The basement shall have a large, arched doorway dividing the family room from playroom with no door. <u>No area of the basement shall be used as a bedroom, ever.</u>	CO / Final Sign-off	ISD/Plng Staff	
7	The design and materials used in the new building shall follow the MOA exactly.	CO / Final sign off	ISD/Plng. Staff	
Site				
8	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
9	The Applicant shall, at his expense, retain a certified/licensed arborist to inspect the front yard tree to determine viability. If the tree is not viable, it shall be replaced with a tree of similar type with a minimum 6-inch diameter trunk at the time of planting.			
10	A ribbon driveway shall be installed and maintained. The path of travel (aka "ribbons") shall be of a pervious paver or asphalt. The portions to the left, right and center of these ribbons shall be pervious pavers. The Applicant also has the option to cover the entire the entire driveway pervious pavers. The entire driveway shall not be paved in asphalt or cement, ever.	Perpetual / CO	Plng. / ISD	
11	<u>The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.</u>	Installation of Utilities	Wiring Inspector	
Public Safety				
12	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
13	All fire alarms shall be hard-wired.	CO	FP	
14	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
Final Sign-Off				



2009

15	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.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

Attest, by the Administrative Assistant:

Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or



_____ any appeals that were filed have been finally dismissed or denied.
FOR SPECIAL PERMIT(S) WITHIN
_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

