



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

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Case #: ZBA 2015-42
Site: 79 Thurston Street
Date of Decision: August 5, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 18, 2015

ZBA DECISION

Applicant Name:	Jonathan Ryan
Applicant Address:	232 Lake Street, Brighton, MA 02135
Property Owner Name:	Chikuo Chen & Lin Li Lin
Property Owner Address:	79 Thurston Street, Somerville, MA 02145
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02143

Legal Notice: Applicant, Jonathan Ryan, and Owner, Chikuo Chen and Lin Li Lin, seek a Special Permit per SZO §4.4.1 to alter a nonconforming structure to add dormers on a 3-family.

<u>Zoning District/Ward:</u>	RA zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 2, 2015
<u>Date(s) of Public Hearing:</u>	August 5, 2015
<u>Date of Decision:</u>	August 5, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-42 was opened before the Zoning Board of Appeals at Somerville City Hall on August 5, 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

DESCRIPTION:

The proposal is to add two dormers on the rear of the home. The home has been modified several time since its construction. The area examined by this special permit request may be an addition or a contextual stepdown original to the home. The rear porch on the building has been enclosed and there have been other side additions that have previously altered the home.

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 because it is a 3 family in an RA zoning district. Dimensionally, the house is nonconforming because it has a narrow side yard.

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."

The proposal will extend an existing dormer on the right side of the home and add a new dormer in the left side yard setback. There are other windows changing in size to accommodate interior changes. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations to the right side dormer not to be substantially more detrimental to the neighborhood than the existing structure. The dormer is less than 50% of the length of the ridgeline and has more than 50% glazing. Staff finds that the alterations to create a dormer on the left side of the home to be more substantially more detrimental to the neighborhood than the existing structure. This is because the dormer has no windows and further mutilates a home with several peculiar additions. Staff has worked with the architect and they have submitted the design with panels to mimic windows. The reasoning for no windows being that building code does not allow the kitchen range to be in close proximity to windows. Staff is not supportive of this dormer since the area of the home was previously used as a kitchen. Staff believes that a redesign could accommodate the head height desired at the dormer but also include windows. A condition of this report is that the left dormer be submitted to planning staff with at least 50% glazing or that the dormer is omitted.

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.”

As conditioned, 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 conserve the value of land and buildings; and to preserve the historical and architectural resources of the City.

The proposal, as conditioned, is consistent with the purpose of the district, 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.” Although the use is nonconforming, there are several 3-family homes in the RA district that can maintain the traditional Somerville context while having an additional residential unit which this property achieve as conditioned.

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 surrounding neighborhood is a mix of one-, two-, and three-family homes in close proximity to the Broadway corridor in Winter Hill.

As conditioned, the property will not be impactful on the neighborhood. The improvements proposed that are by-right including residing the house will improve the house.

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

The project will not have an impact on existing affordable housing.

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.*

The project will not contribute to the metrics of SomerVision but will allow a homeowner, as conditioned, to make minor modifications to the property.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Josh Safdie and Anne Brockelman with Danielle Evans absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the addition of dormers and window alterations. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 2, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 4, 2015</td> <td>Modified plans submitted to OSPCD (Cover, A002b Site Plan, EX-101 Existing Plans, EX-300 Existing Elevations, A-102b Sections, A-300b North & West Elev, A-301b East & South Elev, AV-1 Massing Diagram)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 2, 2015	Initial application submitted to the City Clerk's Office	August 4, 2015	Modified plans submitted to OSPCD (Cover, A002b Site Plan, EX-101 Existing Plans, EX-300 Existing Elevations, A-102b Sections, A-300b North & West Elev, A-301b East & South Elev, AV-1 Massing Diagram)
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Any changes to the approved plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										
2	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							
3	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							
Design										
4	The dormers shall match or be complementary to the proposed siding.	CO	Plng							
Miscellaneous										



5	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
Public Safety				
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
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.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Elaine Severino
Josh Safdie
Anne Brockelman, (Alt.)

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 _____

