



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

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ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2015-82
Site: 88 Dover Street
Date of Decision: February 17, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: February 23, 2016

ZBA DECISION

Applicant Name:	Sing Cheung
Applicant Address:	88Dover Street, Somerville, MA 02144
Property Owner Name:	Mui Sin Chow & Nam Cheung
Property Owner Address:	88Dover Street, Somerville, MA 02144
Agent Name:	Adam Dash, Esq.
Agent Address:	48 Grove Street, Suite 304, Somerville, MA 02144

<u>Legal Notice:</u>	Applicant, Sing Cheung, seeks a Special Permit per SZO §4.4.1 to substantially alter an existing, non-conforming 2-family building to construct a 3-family structure. Applicant seeks a Special Permit per SZO §9.13 for relief from parking space dimensions.
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<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.13
<u>Date of Application:</u>	September 17, 2015
<u>Date(s) of Public Hearing:</u>	11/18, 12/9/15, 1/6, 1/20, 2/3 & 2/17/16
<u>Date of Decision:</u>	February 17, 2016
<u>Vote:</u>	4-0

Appeal #ZBA 2015-82 was opened before the Zoning Board of Appeals at the Argenziano School Cafeteria on November 18, 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 construct a 3-family residence with 6 parking spaces, 3 of which are compact.

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 §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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."*

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 triple-decker will be taller than the existing 1 ½ story house. However, the triple-decker will be pulled back from the left property line and better centered on the parcel.

The existing property is non-conforming with respect to lot size. The lot is 7,100 square feet in a zoning district where a minimum of 7,500 square feet is required. Additionally, because the project involves the teardown of two structures, the Applicant must retain an existing non-conformity in order to construct a new building. The Applicant proposes to retain one of the exterior walls of the historic harness shop to serve as the existing non-conformity off of which the new structure can be built.

For units with 3 or more bedrooms, Applicants are required to provide two spaces per unit. The Applicant has altered their proposal to include six full-sized spaces (two per unit) with sufficient turning room.

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 to construct a three-family house is consistent with the purpose of the RB district, which is, "[t]o establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts."



Considering the changes that have been made to the parking plan to include 6 full-sized spaces, Staff finds that the need for a special permit for parking relief is now moot.

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 Board finds that the significant changes made to the proposed project now make it more compatible with the characteristics of the surrounding area.

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

The proposal will not add to the existing stock of 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.*

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	1	3
<i>Parking Spaces:</i>	3	6



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Anne Brockelman with Elaine Severino and Josh Safdie absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Danielle Evans seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes																				
1	Approval is for the construction of a 3-unit triple decker with 6 parking spaces. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.																					
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>September 17, 2015</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>September 24, 2015</td><td>Updated plans submitted to OSPCD</td></tr><tr><td>October 14, 2015</td><td>Updated plans submitted to OSPCD</td></tr><tr><td>October 28, 2015</td><td>Updated documents submitted to OSPCD</td></tr><tr><td>November 18, 2015</td><td>Updated architectural plans received by OSPCD</td></tr><tr><td>November 25, 2015</td><td>Updated plans submitted to OSPCD</td></tr><tr><td>December 3, 2015</td><td>Updated proposal submitted to OSPCD</td></tr><tr><td>January 21, 2016</td><td>Updated plans submitted to OSPCD</td></tr><tr><td>February 8, 2016</td><td>Final proposal submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	September 17, 2015	Initial application submitted to the City Clerk’s Office	September 24, 2015	Updated plans submitted to OSPCD	October 14, 2015	Updated plans submitted to OSPCD	October 28, 2015	Updated documents submitted to OSPCD	November 18, 2015	Updated architectural plans received by OSPCD	November 25, 2015	Updated plans submitted to OSPCD	December 3, 2015	Updated proposal submitted to OSPCD	January 21, 2016	Updated plans submitted to OSPCD	February 8, 2016	Final proposal submitted to OSPCD
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.																								
Pre-Construction																								



1	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage report and plans stamped by a registered PE in Massachusetts must be submitted to the Engineering Department for review and approval.	BP	Eng.	
2	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
3	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.	
4	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	
5	New sanitary connection flows over 2,000 GPD require a 4:1 removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment to the City based on the cost per gallon of I/I to be removed from the sewer system. The Applicant shall work with Engineering to meet this condition before a certificate of occupancy is issued.	CO	Eng.	
6	The Applicant MUST submit an application to the Historic Preservation Commission (HPC) to demolish the former harness repair shop on the property. The execution of the plans for this property, as proposed, is dependent on the demolition of both this and the existing historic house on this parcel (the historic house has already been through the demolition delay process).	Prior to demolition and construction	HPC/ISD/Plng	
Construction Impacts				
7	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	
8	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	
Electrical				



9	An exterior light and electrical receptacle is required for the levels of the porch that have access to the ground and an electrical receptacle is required for the levels that do not have access to the ground.	Final sign off	Electrical Inspector	
Site				
10	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
11	There shall be a minimum of two trees as required under SZO §10.3.	CO	Plng.	
12	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.	Installation of Utilities	Wiring Inspector	
13	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				
14	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
15	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.	
16	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
17	The building shall be sprinkled.	CO	Fire Prevention/ ISD	
18	A warning system shall be installed to indicate when a vehicle is exiting the underground parking area.	CO	Traffic & Parking / ISD/Plng	
Final Sign-Off				
19	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*
Danielle Evans
Anne Brockelman (Alt.)

Attest, by the Administrative Assistant:

Dawn M. PereiraCopies 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 _____

