



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2013-85-R1(12/2015)

Date: January 14, 2016

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 35 Cutter Street

Applicant Name: Boston XUZ, LLC

Applicant Address: 36 Summerset, Lexington, MA 02420

Owner Name: Boston XUZ, LLC

Owner Address: 36 Summerset, Lexington, MA 02420

Agent Name: Richard G. Di Girolamo

Agent Address: 424 Broadway, Somerville, MA 02145

Alderman: Matthew McLaughlin

Legal Notice: Applicant and Owner, Boston XUZ, LLC, seeks a revision to Special Permit (ZBA 2013-85) under SZO §5.3.8 in order to modify the number of dwelling units and make minor modifications to the design as specified in the Order of Remand from the Massachusetts Land Court. The original proposal was to substantially alter a nonconforming structure under §4.4.1 and construct a three-family dwelling with nonconforming front and right side yards. Five parking spaces will be located in a garage. Zone RB. Ward 1.

Dates of Public Hearing: January 20, 2016

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a 6,000 square foot lot in which sits a 1 ½ story single family dwelling and a 5-car concrete block garage at the rear of the property line.
2. Proposal: The Zoning Board of Appeals approved a Special Permit for the site in April of 2014. The approval was to substantially demolish the structure and build a three-family dwelling. Each unit



was to be multi-story. All units had two bedrooms and a study. The units were approximately 1390, 1255, and 1236 square feet. There is an unfinished basement that served as storage space.

The garage in the rear would be renovated. The green roof originally proposed has been removed from the plan. The garage encroached on the abutting property by 1.9 feet. The wall was rebuilt on the property line. Landscaping was planned be installed around the building and the portion of the driveway in front of the garage will be made of pervious pavers.

An abutter appealed the case to the Middlesex County Superior Court. On November 16, 2015 the Court remanded the case back to the ZBA for further proceedings.

The most significant change to the plan is that the proposed number of units was reduced to two. Each unit has three-bedrooms and the internal configuration changed such that the units are considered townhouses. The exterior changes are minor and include the following:

1. Changed the front set back from 14 feet to 15 feet.
2. Only save the existing wall on the right side.
3. Changed the left side set back from 11 feet to 10 feet.
4. Shortened the length of the back portion from 19'-9" to 12'-6".
5. Changed the right side set back of the back portion from 10 feet to 8 feet.
6. Changed the width of the back portion from 22'-6" to 28'-0" in order to make the back portion to be symmetric to the front portion of the building.
7. Eliminated dormers on the back portion of the building.
8. Rearranged windows accordingly based on the needs from the new floor plan.
9. The landscaped area will be increased from 22.1% to 25.7%.
10. The pervious area will be increased from 38.1% to 42.6%.
11. Basement egress for both units proposed on the back of the house, where the approved plan had not designed for the egress yet.



35 Cutter St: (top) front, (middle) view of garage in rear yard, (bottom) view of streetscape

The abutter that appealed the case submitted a letter to the ZBA stating that she does not object to the ZBA issuing the permit pursuant to the remand order.

3. Green Building Practices: None listed on application form.
4. Comments: These comments are from the original approval. Since the site plan is essentially the same and less units are proposed, the comments are still applicable.

Fire Prevention: Has reviewed the plans and is not opposed to the proposal. The building will be required to have a sprinkler system.

Wiring Inspection: An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).

Engineering: Has received plans indicating the size and type of utilities. City regulations require all cut and caps must be done at the main. The City is currently in the winter moratorium (Nov 1 – April 1) and no road opening permits will be issued prior to April 1. An Operations and Maintenance plan will not be required; however, in the event previous pavers do not perform as expected the property owner will be responsible to remedy the situation. A licensed soil evaluator or professional engineer must be on site during test pit excavation and all results shall be submitted to this office including observed soil conditions, observed ground water elevation, infiltration rate, etc.

The Applicant's engineer submitted the following information: Rim and invert data has been provided for the roof infiltration system, inverts and slopes have been added to the utility connections. The SCS Soils map was utilized to determine the soil conditions. The Rawls rate published in the DEP Stormwater handbook was used to determine the infiltration rate of 1.02 in/hr. The rawls rate appears very conservative given the SCS Soils description. The contractor will excavate a test pit during construction to verify the ground water elevation and soils.

Historic Preservation: The Historic Preservation Commission and the Owner signed a memorandum of agreement on November 20, 2013. The agreement states that prior to the building being demolished, the Owner will let Staff take picture of the property to document it. The agreement also includes a list of specifications that should be met in the design of the new development. The list includes:

- The new structure shall have a form and massing that retains the Cutter Street streetscape. The replacement structure shall be side-gable, 2 ½ story structure with one front entry door;
- The front yard setback shall be consistent with the existing at 14 feet;
- The windows shall have simulated two over one divided lights; and,
- Siding material shall be solid (front to back) with no false texture or imitation grain.

The plans for the structure before the Zoning Board of Appeals need to be reviewed again by the HPC because the specifications of the front door and windows have changed.

Ward Alderman: Planning Staff sent Alderman McLaughlin the revised plans.

II. FINDINGS FOR REVISION TO SPECIAL PERMIT (SZO §4.4.1 & 5.3.8):

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 Staff 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."

Under SZO §5.3.8 a revision to a special permit is allowed if the final signoff and certificates of occupancy have not yet been issued which is the case for this project that is not yet under construction. Changes that are not de minimis must go back to the permit granting authority for approval. Staff deemed this revision to be greater than the de minimis requirements and the Court remanded the case back to the ZBA for review.

Lawfully existing nonconforming one- or two-family structures may be enlarged, extended, renovated or altered by special permit authorized by the SPGA in accordance with the procedures of Article 5. The building is nonconforming in terms of the front and side yard setbacks as well as landscaping and pervious surface requirements. In considering a special permit under §4.4 of the SZO, Staff find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The revisions bring the property even more in conformity than the last proposal. The neighbor that appealed the original proposal is in agreement that the current proposal is not objectionable to her.

The parking requirements are met. There are five spaces will be hidden from view in the garage and the requirement is for four spaces.

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 providing for and maintaining the uniquely integrated structure of uses in the City and encouraging the most appropriate use of land throughout the City.

As a proposal for a two-family dwelling it 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.

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 comprised of a mix of one-, two-, and multi-family homes. The East Somerville Community School and Prospect Hill Academy are within close proximity.

The proposal has been designed to be compatible with the neighborhood and with the Historic Preservation Commission's request for the new structure to retain the existing streetscape; however, the changes will require another review by the HPC because not all of the specifications in the Memorandum of Agreement were met. The house will continue to have a side gable and one front entrance along the street which is consistent with the existing structure and many of the structures on the street. The house will have elements that are typical of houses in Somerville such as a front porch, bay windows, small gable dormers, and a rear "addition" or mass that is smaller in scale than the main structure of the house.

Fixing the existing block garage will allow for all five of the required parking spaces to be enclosed. A neighbor had concerns about the structural integrity of the garage and so the Applicant supplied a letter from a structural engineer stating that after renovation, the existing garage structure will be structurally sound to the requirements of the building code.

In order to make up for the large amount of the site that will have to be a hard surface to make this garage function, some of the pavement will be pervious pavers. This portion of the driveway could function as a patio space if residents do not need parking spaces for 5 cars.

III. RECOMMENDATION

Special Permit Revision under §4.4.1 & 5.3.8

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **REVISION TO THE SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the construction of a nonconforming two-family dwelling with 5 parking spaces in a garage. 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>December 14, 2015</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Nov 19, 2015</td><td>Modified plans submitted to OSPCD (A1 cover sheet, A3 basement floor plan, A4 1st fl floor plan, A5 2nd fl floor plan, A6 attic roof plan, A7 attic roof plan, A8 front elevation, A9 back elevation, A10 left side elevation, A11 right side elevation, A12 3D views)</td></tr><tr><td>Jan 6, 2016</td><td>Modified plans submitted to OSPCD (A2 site plan of land)</td></tr></table>				Date (Stamp Date)	Submission	December 14, 2015	Initial application submitted to the City Clerk's Office	Nov 19, 2015	Modified plans submitted to OSPCD (A1 cover sheet, A3 basement floor plan, A4 1 st fl floor plan, A5 2 nd fl floor plan, A6 attic roof plan, A7 attic roof plan, A8 front elevation, A9 back elevation, A10 left side elevation, A11 right side elevation, A12 3D views)	Jan 6, 2016	Modified plans submitted to OSPCD (A2 site plan of land)
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Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.												
Pre-Construction												

2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Engineering	
3	The Applicant shall contact the Engineering Department to determine the regulations regarding opening a street that is under a moratorium.	BP	Engineering	
4	A licensed soil evaluator or professional engineer must be on site during test pit excavation and all results shall be submitted to Engineering including observed soil conditions, observed ground water elevation, infiltration rate, etc.	BP	Eng.	
5	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	
6	The revision must be reviewed and approved by the Somerville HPC prior to building permits.	BP	HPC	
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	
Design				
9	Applicant shall provide final material samples for siding, trim, windows, and doors (to the Design Review Committee for review and comment and) to Planning Staff for review and approval prior to construction.	BP	Plng.	
10	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
Site				
11	A landscape plan shall be submitted to Planning Staff for review and approval. There shall be a minimum of 2 trees (1 tree for each 1,000 sf of required landscaped area under SZO §10.3).	BP	Plng.	
12	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	

13	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	
Miscellaneous				
14	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				
15	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
16	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.	

