



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-189
Site: 42 Henderson Street
Date of Decision: August 21, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 27, 2019

ZBA DECISION

Applicant / Owner Name: XYZ32MP, Inc.
Applicant / Owner Address: 115 Boston Avenue, Medford, MA 02155
Agent Name: Richard DiGirolamo
Agent Address: 424 Broadway, Somerville, MA 02145
City Councilor: Mark Niedergang

Legal Notice: Applicant and Owner, XYZ32MP, Inc., seeks Special Permits under §4.4.1 for alterations to a non-conforming property including adding a dormer and deck* within the left side yard setback, increasing the non-conforming FAR through renovations. Parking relief under Article 9 of the SZO**. RB zone. Ward 5.

* There will be no deck proposed for the left elevation, a deck is proposed on the right elevation.
**After further analysis, it has been determined that parking relief is not needed.

<u>Zoning District/Ward:</u>	RB zone. Ward 5
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	December 27, 2018
<u>Date(s) of Public Hearing:</u>	4/3, 4/17, 5/1, 5/15, 6/5, 6/19, 7/17, 8/21
<u>Date of Decision:</u>	August 21, 2019
<u>Vote:</u>	4-0

Appeal # **ZBA 2018-89** was opened before the Zoning Board of Appeals in the City Council Chambers at Somerville City Hall on April 3, 2019. Notice of the Public Hearing was given to persons affected and



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was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. On August 21, 2019, the Zoning Board of Appeals took a vote.

I. PROJECT DESCRIPTION

1. Subject Property: The locus presents a 2 ½-story gable-fronted, two-family residential structure This RB-zoned property is found at the terminus of a dead-end street on a 1,573 square foot lot. The property has no driveway and there is no curb cut to this parcel.

2. Proposal: While the project includes a gut-renovation of the building from basement through top floor, the only trigger for special permitting is the construction of a dormer within the left side yard setback.

3. Green Building Practices:

The application states that the project will meet and not exceed the stretch code.

II. 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.

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 of the SZO

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."

Left side yard setback

The RB zone requires a left side yard setback of 8 feet. The existing setback in the proposed dormer location is 2.5 feet. The Applicant proposes retaining this setback. The new dormer will be visible from the left and rear-abutting properties.



Though this left setback is very narrow, the lots on this street are all extremely small with tight setbacks providing limited space for additions and outdoor space. The proposed dormer will provide additional indoor space to the second-to-third-story unit.

In response to the Board’s concerns regarding the originally-proposed left elevation basement egress window and well, the Applicant has moved the location of the basement-level bedroom to the right elevation. For egress, a right elevation areaway is proposed.

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 Board finds that the proposal is consistent with the purposes of the RB zone which are “[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."*

Henderson Street is a dead-end street containing four structures. The street terminates at an active railroad track. Across the track is Maxwell’s Green. The other gable-fronted structures in the immediate area do not present dormers with the exception of two very unfortunately-designed and executed rear dormers on a property at the corner of Hinckley and Berwick Streets.

5. 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.

6. SomerVision:

The proposal will improve the exterior appearance of this property.



III. DECISION

Present and sitting were Members Orsola Susan Fontano, Elain Severino, Drew Kane, and Anne Brockelman. Upon making the above findings, the Zoning Board of Appeals voted **4-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of a dormer within the left side yard setback.	BP/CO	ISD/PIng.							
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>December 27, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>August 13, 2019</td> <td>Updated plans received at OSPCD.</td> </tr> </tbody> </table>				Date	Submission	December 27, 2018	Application submitted to City Clerk's office.	August 13, 2019	Updated plans received at OSPCD.
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August 13, 2019	Updated plans received at OSPCD.									
<p style="color: red;">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.</p>										
Engineering										
2	<p>The Applicant must comply with the "Policy for new connections to and modifications to existing connections to the municipal sewer and drainage system stormwater management and infiltration/inflow mitigation."</p> <p>The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.</p>	BP	Engineering/ISD							
Design										
3	All materials, including, but not limited to windows, exterior finishes, siding, and similar shall be submitted to, reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/PIng							
4	Though the yard is small, a landscaping plan shall be submitted to planning staff through the Zoning Review Planner for staff approval prior to the issuance of a building permit. No cement or bituminous material shall be used on the site except for AC condenser pads where needed.	BP	ISD/PIng							
5	An updated site plan shall be provided to the Zoning Review Planner indicating the location of covered garbage and recycling as well as the location of AC condensers. AC condensers must provide a 3-foot radius on all sides and must be a minimum of 3 feet from the property line.	BP	ISD/PIng							
Construction Impacts										



6	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	
7	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/ISD	
8	<u>The name(s) and contact information of all entities working on the site shall be posted in an area easily-visible from the public way for the passing public to read.</u>	During Construction	ISD	
9	<u>Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.</u>	During Construction	ISD	
Public Safety				
10	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
11	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.			
12	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches.	CO/Perpetual	ISD/PlngFP	
Miscellaneous				
13	Approvals do not allow for use of this property as an AirBnB or any other short-term rental.	Perpetual	ISD	
14	AC condensers are not allowed within 3 feet of any property line	Perpetual	ISD	
Final Sign-Off				
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	ISD/Plng.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Anne Brockelman, *Acting Clerk*
Elaine Severino
Drew Kane, (Alt.)

Attest, by the Planner:

Sarah White

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 _____

