



City of Somerville

ZONING BOARD OF APPEALS

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

DECISION

PROPERTY ADDRESS: 42-44 Hamilton Road

2023 FEB 23 A 9:37

CASE NUMBER: P&Z 22-111

OWNER/APPLICANT: Jusan Yang

ADDRESS: 42-44 Hamilton Road, Somerville, MA 02144

CITY CLERK'S OFFICE
SOMERVILLE, MA

DECISION: Approved with Conditions (Special Permit)

DATE OF VOTE: February 15, 2023

DECISION ISSUED: February 23, 2023

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the application for a Group Living principal use Special Permit submitted for 42-44 Hamilton Road.

LEGAL NOTICE

Jusan Yang seeks to establish a Group Living Use in the Neighborhood Residence District, which requires a Special Permit.

RECORD OF PROCEEDINGS

On December 14, 2022, the Zoning Board of Appeals held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Vice-Chair Anne Brockelman, Clerk Katherine Garavaglia, Ann Fullerton, and Alternates Sisia Daglian and Brian Cook. The Applicant presented their case and reviewed the application process. After the presentation by the Applicant, the Board went into discussion with the Applicant and Staff. The Board asked questions around what qualifies as a bedroom, building and fire code requirements, if the Board can limit the number of unrelated persons living in the unit, and whether approval can be limited to an individual property owner. After discussion between the Board, Applicant, and Staff, Chair Fontano opened public testimony. Testimony provided was in both support and opposition of the Special Permit request. After public testimony was provided, Chair Fontano left written testimony open until January 3, 2023. The Board asked Staff to follow-up on several requests for additional information and continued the public hearing.

On January 4, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Vice-Chair Anne Brockelman, Clerk Katherine Garavaglia, Zachary Zaremba, and Alternates Sisia Daglian and Brian Cook. The Board and Staff discussed the submitted plan set and responses to the Board's questions. Acting Executive Director of OSPCD Thomas Galligani addressed the Board and stated that the administration is concerned about the potential impacts off-campus student housing on neighborhoods. Mr. Galligani asked

that the Board continue the hearing for a month to allow the administration to review policy implications. After a discussion between the Board, Applicant, and Staff, the Board agreed and continued the public hearing to February 15, 2023.

On February 15, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Vice-Chair Anne Brockelman, Clerk Katherine Garavaglia, Ann Fullerton, Zachary Zaremba, and Alternates Sisía Daglian and Brian Cook. Chair Fontano asked for public testimony, and none was provided. The Chair closed public testimony. Staff stated the administration is reviewing broader policies related to off-campus student housing but is not providing any recommendations related to this application. The Board discussed condition language, and then voted to approve the Special Permit for a Group Living Principal use with Staff recommended conditions, and revised condition language around bike parking location.

PLANS & DOCUMENTS

Application plans, documents, and supporting materials submitted and incorporated are identified below.

Document	Pages	Prepared By	Date	Revision Date
42-44 Hamilton Road Narrative	1	Jusan Yang [42-44 Hamilton Road, Somerville, MA 02144]	Submitted on October 6, 2022	n/a
42-44 Hamilton Road Neighborhood Meeting Report	2	Jusan Yang [42-44 Hamilton Road, Somerville, MA 02144]	Submitted on October 6, 2022	n/a
42-44 Hamilton Road Site and Floor Plans	2	Jusan Yang [42-44 Hamilton Road, Somerville, MA 02144]	Submitted on October 6, 2022	n/a
42-44 Hamilton Road Accessibility Exhibit	2	Jusan Yang [42-44 Hamilton Road, Somerville, MA 02144]	Submitted on December 19, 2022	n/a
42-44 Hamilton Road Plan Set	4	LDC [7 Brandon Street, Lexington, MA 02420]	Submitted on December 19, 2022	n/a

SPECIAL PERMIT FINDINGS

In accordance with the Somerville Zoning Ordinance, the Board may approve or deny a special permit upon making findings considering, at least, each of the following:

1. *The comprehensive plan and existing policy plans and standards established by the City.*

The Board finds the proposal is compatible with the values of SomerVision 2040, the City's Comprehensive Master Plan, including supporting a diverse array of housing options.

2. *The intent of the zoning district where the property is located.*

The Board finds the proposal is consistent with the intent of the NR zoning district which is, in part, "[T]o conserve already established areas of detached and semi-detached residential buildings."

3. *The suitability of the site for a group living principal use compared to other potential principal uses.*

The Board finds this site is suitable for a group living principal use. This site is located in a residential neighborhood in the NR zoning district, which is mostly residential in character and use. The parcels in the direct vicinity of the site are mostly characterized by the detached house building type, which the subject property is consistent with. This property is also located in close proximity to Tufts University, multiple transit options, and amenities provided by nearby squares, making it a good location for housing.

4. *The increase or decrease in the number or price of any previously existing ADUs.*

There are no previously existing ADUs on the site.

5. *The number of motor vehicle parking spaces proposed for development within a Transit Area.*

The property is not located within a Transit Area; therefore, the Board finds that this finding is not applicable to the proposal.

6. *Mitigation proposed to alleviate any impacts attributable to the proposed development.*

The Board finds the Applicant will take the appropriate measures to mitigate any impacts attributable to the proposed Group Living use, and that, as conditioned, no additional mitigation is necessary.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Ms. Brockelman moved to approve the Group Living Special Permit with the conditions included in the staff memos and as revised during the hearing. Ms. Fullerton seconded. The Board voted **5-0** to approve the permit, subject to the following conditions:

Perpetual

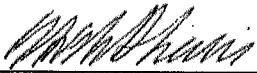
1. This Decision must be recorded with the Middlesex South Registry of Deeds.
2. Approval is limited to Jusan Yang and is not transferrable to any successor in interest.
3. A copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation & Zoning Division for the public record.

Prior to Certificate of Occupancy

4. A written narrative or descriptive checklist identifying the completion or compliance with permit conditions must be provided to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.
5. The Applicant shall provide secure long-term bicycle parking for the tenants of 42-44 Hamilton Road, including a minimum of eight (8) long-term bicycle parking spaces to be located in the either the garage or basement of the building. Location of the bicycle spaces in the home must be reviewed and approved by the Mobility Division.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Anne Brockelman, *Vice-Chair*
Katherine Garavaglia, *Clerk*
Ann Fullerton
Zachary Zaremba



Sarah Lewis, Director of Planning, Preservation, & Zoning
Office of Strategic Planning & Community Development

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. 15.5.3.

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.

FOR SITE PLAN APPROVAL(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 _____