



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

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Case #: ZBA 2015-82-E1-2/2018
Site: 88 Dover St
Date of Decision: April 4, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: April 18, 2018

ZBA DECISION

Applicant & Owner Name: Nam Cheung, Sing Cheung, & So Ling Sheung
Applicant & Owner Address: 88 Dover Street, Somerville, MA 02143
Agent: Adam Dash
Agent Address: 48 Grove Street, Suite 304, Somerville, MA 02144
Alderman: Lance Davis

Legal Notice: Applicant, Sing Cheung, and Owners, Nam Cheung, Sing Cheung, and So Ling Sheung, seek to extend a Special Permit by one year under §5.3.10 of the SZO. RB zone. Ward 6.

<u>Zoning District/Ward:</u>	RB Zone. Ward 6
<u>Zoning Approval Sought:</u>	§5.3.10
<u>Date of Application:</u>	February 28, 2018
<u>Date(s) of Public Hearing:</u>	April 4, 2018
<u>Date of Decision:</u>	April 4, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2015-82-E1-2/2018 was opened before the Zoning Board of Appeals in the Visiting Nurse Association, 3rd Floor Community Room, 259 Lowell Street, Somerville, MA. 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.



I. DESCRIPTION:

The proposal is to construct a 3-family residence with 6 parking spaces, 3 of which are compact.

II. EVALUATION & FINDINGS FOR EXTENSION

In SZO §5.3.10 good cause for an extension of a special permit shall be determined by the SPGA, and only upon a finding of demonstrated hardship (e.g. financing problems, labor strike, bad weather conditions, or act of God) and that there has been good faith effort to overcome the hardship and expedite progress.

Demonstration of Hardship

The Applicant submitted the following information as part of their application to support of their application to extend their special permit by one year:

“The property contained a two family residential structure and a garage, which have been demolished in order to construct a three family structure in accordance with the February 17, 2016 decision in ZBA#2015-82. The property is now a vacant lot. Applicant went through the Historic Preservation Commission demolition review process, applied for a demolition permit on August 4, 2017, obtained a demolition permit on September 28, 2017, and then demolished the existing structures. On September 13, 2017, his contractor applied for a building permit.

Applicant needs an extension of time for the special permits granted by the ZBA in 2016. Applicant had to go through the demolition review process a second time for the garage, had to obtain financing, and had to change one of the tradespersons due to a lack of a license. As a result, Applicant needs an extension. Applicant has been trying to move this project ahead as expeditiously as possible, but has run out of time. If granted the extension, Applicant will continue with the project. All of the rest of the information contained in this application are from the prior application, and no new plans or other documents have been filed. The most recent plans were filed with ISD.”

Good Faith Effort to Overcome Hardship and Expedite Progress

Despite the setbacks that the Applicant has experienced, the Applicant appears to have worked to move the project forward with respect to financing and obtaining properly-licensed personnel.

Based on the above, the Board finds that the Applicant is making good faith efforts to overcome the demonstrated hardships. The project approved by the ZBA in 2016 went through numerous design iterations due to Planning Staff review and community input. Community input was provided through meetings sponsored by the previous ward alderman. The Board prefers to see this approved project constructed rather than to see this property continue as a vacant, underutilized lot just outside of Davis Square.



DECISION:

Special Permit under SZO §5.3.10

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Josh Safdie, Anne Brockelman and Pooja Phaltankar. 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.

The Board granted the extension of the special permit until **February 17, 2019**, which is one year beyond the expiration date of the original Special Permit.



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Elaine Severino
Daniel Evans
Josh Safdie

Attest, by City Planner: _____
Alexander Mello

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 _____

