



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

ORSOLA SUSAN FONTANO, CHAIRMAN
RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2018-61
Site: 17 Fremont Street
Date of Decision: November 7, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 14, 2018

ZBA DECISION

Applicant Name: Yinhai Yang & Mei Bai
Applicant Address: 15 Stevens Street, Winchester, MA 01890
Owner Name: Yinhai Yang & Mei Bai
Owner Address: 15 Stevens Street, Winchester, MA 01890
Alderman: Jesse Clingan

Legal Notice: Applicants & Owners, Yinhai Yang & Mei Bai, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming structure by increasing the GFA by more than 25%, constructing an addition within the left side yard setback. Parking relief under Article 9.*

<u>Zoning District/Ward:</u>	4
<u>Zoning Approval Sought:</u>	§4.4.1 and Article 9
<u>Date of Application:</u>	April 23, 2018
<u>Date(s) of Public Hearing:</u>	10/24, 11/7
<u>Date of Decision:</u>	November 7, 2018
<u>Vote:</u>	5-0

*Since the publication of this legal ad, it has been determined that parking relief is not needed for this project. The explanation for this determination appears in the staff report below.

Appeal #ZBA 2018-61 was opened before the Zoning Board of Appeals at the East Somerville Community School on October 24, 2018. 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. On October 24, 2018 the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

DESCRIPTION:

The Applicant proposes retaining the original portion of the 1840s residential structure. The existing rear addition and associated rear porches will be removed and a new, larger addition with a flat roof will be constructed. The new addition will be differentiated from the original structure in terms of general style and materials. The number of units will increase from two (2) to three (3). The parcel will be re-landscaped.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & Article 9):**1. Information Supplied:**

The Board finds that, generally, the information provided by the Applicant with regard to the interior arrangement of the structure and exterior elevations 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."**Regarding §4.4.1**

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."

Gross Floor Area (GFA)

Section 4.4.1 of the SZO requires a special permit when the Gross Floor Area (GFA) of a property increases by more than 25%. The current GFA for 17 Fremont is 1,322 square feet. The proposed GFA is 1,866 square feet, a total increase of 544 square feet.

Left side yard setback

As noted earlier in this report, the existing, non-conforming left side yard setback is 4.0 feet (at the front left corner of the house), sliding to 3.8 feet (at the rear left corner of the house) in a zone where a minimum of 8.0 feet is required for a 2 ½-story building. The new rear addition will improve this non-conforming left side yard setback by 2.3 feet, with the left façade of the addition coming to rest at 6.3 feet from the property line. An upward extension of the non-conforming left side yard setback will also be created due to the new addition.

Like the existing rear addition, the proposed rear addition will present a flat roof. The Board finds that a flat, rather than pitched, roof mitigates some of the shadowing and massing impact that a large rear addition could have on abutting properties.

Additional determinations

In addition to the considerations discussed above, the Board does not anticipate that this proposal will increase noises or odors in this neighborhood. Regular construction-related noise can be expected on this site as the project is underway. However, this uptick in noises will be temporary in nature. The Board anticipates that any odors associated with this project will be construction-related and, post-construction, will be in keeping with those typically experienced by residents living in close proximity to each other.

The Board finds that the changes proposed to the existing single family house currently extant on the property will significantly improve the visual appearance of this structure by providing it with a symmetrical, unified façade and upgrading the materials used to skin the building.

Lastly, impacts on municipal water supply and sewer capacity will be examined by the Engineering Department prior to the issuance of any building permit for this project. The Applicant is required to submit full engineering plans to the Engineering Department for their assessment, feedback and approval or denial.

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." The one-to-three unit proposal is consistent with what is allowed in the RB zone from a site density perspective.

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."*

This property has been in need of revitalization for some time. It is one of the earliest houses remaining in this vicinity. Its current style, scale, and massing are consistent with that of surrounding properties. The proximity of the structure to the public way is in keeping with that of surrounding residential structures, helping to create a consistent visual line down the street.

The Applicant's proposal will refurbish the original portion of the existing structure while allowing for new construction at the rear of the building. The proposed addition will step in from the right and left facades of the existing, original building. The roofline of the addition will be subservient to that of the main building. This report includes the condition that Planning Staff must review and approve the materials to be used on the project, including the new addition, prior to the issuance of a building permit.

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 visual appearance of an existing property and will add one more dwelling unit to the City's housing stock.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with Site Plan Review and Variance. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
---	-----------	--------------------------------	-----------------------	-------



1	Approval is to increase the GFA by more than 25% through the construction of a large, rear addition; construction of a rear addition within the non-conforming left side yard setback.	BP/CO	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>April 23, 2018</td><td>Application submitted to City Clerk’s office.</td></tr><tr><td>August 14, 2018</td><td>Updated plans submitted to OSPCD</td></tr><tr><td>October 31, 2018</td><td>Updated sheets EX-100 and A-100 submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	April 23, 2018	Application submitted to City Clerk’s office.	August 14, 2018	Updated plans submitted to OSPCD	October 31, 2018	Updated sheets EX-100 and A-100 submitted to OSPCD
	Date (Stamp Date)				Submission							
	April 23, 2018				Application submitted to City Clerk’s office.							
	August 14, 2018				Updated plans submitted to OSPCD							
October 31, 2018	Updated sheets EX-100 and A-100 submitted to OSPCD											
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.												
Design												
1	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/Plng									
Construction Impacts												
2	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									
3	All construction materials and equipment must be stored <u>on the project site</u> . 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									
4	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 see.	During Construction	ISD									
5	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend/holiday construction or construction-related work shall occur.	During Construction	ISD									
6	Prior to the issuance of a building permit, the Applicant shall submit full engineering plans to the Engineering Department for their review and approval.	BP	ISD/Plng/Eng.									

7	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." The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.	BP	Engineering/ISD	
Public Safety				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
9	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
10	The building shall be sprinkled.	CO	Fire Prevention/ ISD	
11	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO	ISD/Plng.	
12	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches. These requirements shall be written into any rental agreements or condo documents. Proof of the inclusion of this language shall be shown to Planning Staff prior to the issuance of a CO.	CO/Perpetual	ISD/PlngFP	
Site				
13	All plantings and their locations along with all hardscaping materials, design and location for driveways, walkways, fencing, etc., shall first be reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/Plng	
14	No vents shall exit on the front façade of the structure. All venting, pipes, conduits and the like shall be painted or wrapped the same color as the exterior of the structure from which they protrude.	CO	ISD/Plng	
15	Utility meters shall not be installed on the front façade of the building.	CO	ISD/Plng	
16	All bituminous material shall be removed from the site.	CO	ISD/Plng	
17	All materials for hardscaping shall be submitted to Planning Staff for their review and approval prior to the issuance of a building permit	BP	ISD/Plng	
18	Vinyl siding, trim, fencing, or decking material shall not be used on this site	CO	ISD/Plng	
19	All mechanicals shall be screened from view from the public way. All screening materials shall be reviewed and approved by Planning Staff prior to installation.	CO	ISD/Plng	
20	The location of mechanicals (such as AC condensers) shall be first reviewed and approved by the Zoning Review Planner prior to their installation.	BP	ISD	
21	Garbage and recycling shall be stored out-of-view from the public way and shall be screened. Screening material and storage location shall first be reviewed and approved by Planning Staff	CO	ISD	

22	<p>An arborist shall be hired by the Applicant to assess the condition of the trees currently extant along the left property line. The arborist shall determine if the trees should be removed.</p> <p>If the trees are removed, at least one native species tree shall be planted for each tree removed.</p> <p>If the trees are to be retained, the arborist shall determine a trimming plan for them. The trimming plan shall be executed by the Applicant prior to the issuance of a CO.</p>	CO	ISD/Plng	
Utilities				
23	<p>Utilities shall be buried if acceptable by reviewing parties within DPW responsible for coordinating and signing off on this work. This is a specific request of abutters and that was agreed to by the Applicant during the neighborhood meeting of September 24, 2018.</p>	CO	DPW/ISD/	
Final Sign-Off				
24	<p>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.</p>	Final sign off	Plng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Anne Brockelman

Attest, by the Administrative Assistant:

Monique Baldwin

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 _____

