



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

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Case #: ZBA 2017-26
Site: 85-87 Gilman Street
Date of Decision: June 21, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: June 29, 2017

ZBA DECISION

Applicant Name:	James Bolan
Applicant Address:	86 Gilman Street, Somerville, MA 02145
Property Owner Name:	Xiaomin Song
Property Owner Address:	87 Gilman Street, Somerville, MA 02145
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant, James Balan, and Owner, Xiaomin Song, seek a Special Permit under SZO §4.4.1 to perform alterations within the required front and left side yard setbacks of a nonconforming structure by adding a third story to the two-family dwelling.
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<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	March 30, 2017
<u>Date(s) of Public Hearing:</u>	5/17, 6/7 & 6/21/17
<u>Date of Decision:</u>	June 21, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2017-26 was opened before the Zoning Board of Appeals at the Somerville High School Auditorium on May 17, 2017. 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.



DESCRIPTION:

The proposal is to add a story to create a three-story structure and construct a three-story addition on the right side. The structure will remain a two-family dwelling. The basement will remain unfinished, the first floor will contain one unit, and the second and third floor will be combined to form the second unit.

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 §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. **Information Supplied:**

The Board 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."*

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, front yard setback, left and right side yard setbacks, and the number of parking spaces.

The proposal will impact the nonconforming dimensions of front and left side yard setback. The current dimensions are 7.6 feet for the front yard and 7.5 feet for the left side yard and the requirements are 10 feet and 10 feet respectively. This alteration to increase the height of a nonconforming dimension requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal has been designed with setbacks that minimally impact the neighbors and the dimensions for lot area per dwelling unit (2,152.5 sf), ground coverage (32.4%), landscaped area (44%), pervious area (44%), floor area ratio (0.97), building height (34 ft.), rear yard setback (20.9 feet), and street frontage (57.59 feet) will continue to be conforming to the requirements of the SZO.

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 promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.



The proposal is consistent with the purpose of the RB district, which is, “to 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."*

Surrounding Neighborhood: The locus is located on the northern side of Gilman Street between the blocks of Jasper Street and Aldrich Street. Structures within the vicinity of the locus include one-, two-, three-, and multi-family dwellings and range from two to three stories. The roof types within the vicinity of the locus include mostly gable and flat roofs.

Impacts of Proposal (Design and Compatibility): The proposal will be compatible with the characteristics of the built and unbuilt surrounding area as there are two triple deckers across the street so this proposal will not be the only three-story structure within the vicinity. The proposed addition in the right side yard may add unnecessary bulk as it is just a stairwell. However, windows have been added to this portion to break up the blank wall effect that would have been created. The back corner on the right of the proposed third story will be notched to comply with the requirement of a ten foot side yard setback for a three-story structure.

6. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.

7. SomerVision Plan: Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods, transform key opportunity areas, and preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. 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. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the construction of a third story and an addition within the right side yard. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 30, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 14, 2017</td> <td>Floor plans and elevations submitted to OSPCD (A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-10, A-11, A-12, and A-13)</td> </tr> <tr> <td>September 8, 2016</td> <td>Proposed location plan submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 30, 2017	Initial application submitted to the City Clerk's Office	June 14, 2017	Floor plans and elevations submitted to OSPCD (A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-10, A-11, A-12, and A-13)	September 8, 2016	Proposed location plan submitted to OSPCD
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September 8, 2016	Proposed location plan submitted to OSPCD											
Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.												
Construction Impacts												
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.									
3	The Applicant shall at their 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									
4	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												
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.									



6	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				
7	Landscaping shall be installed and maintained in compliance with the American Nurserymen’s Association Standards;	Perpetual	Plng. / ISD	
Miscellaneous				
8	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				
9	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
Final Sign-Off				
10	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.	



Attest, by the Zoning Board of Appeals:

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

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

