



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE

**Case #: ZBA 2015-41**  
**Site: 259-261 Willow Avenue**  
**Date of Decision: July 15, 2015**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: July 23, 2015**

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**ZBA DECISION**

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|                                |                                    |
|--------------------------------|------------------------------------|
| <b>Applicant Name:</b>         | KTA Construction, LLC              |
| <b>Applicant Address:</b>      | 7 Gemma Drive, Peabody, MA 01960   |
| <b>Property Owner Name:</b>    | KTA Construction, LLC              |
| <b>Property Owner Address:</b> | 7 Gemma Drive, Peabody, MA 01960   |
| <b>Agent Name:</b>             | Richard G. DiGirolamo, Esq.        |
| <b>Agent Address:</b>          | 424 Broadway, Somerville, MA 02145 |

Legal Notice: Applicant, KTA Construction, LLC, and Owner, KTA Construction, seek a Special Permit to alter a nonconforming two-family to add living space in the basement.

|                                   |                |
|-----------------------------------|----------------|
| <u>Zoning District/Ward:</u>      | RA zone/Ward 6 |
| <u>Date of Application:</u>       | June 30, 2015  |
| <u>Date(s) of Public Hearing:</u> | July 15, 2015  |
| <u>Date of Decision:</u>          | July 15, 2015  |
| <u>Vote:</u>                      | 4-0            |

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Appeal #ZBA 2015-41 was opened before the Zoning Board of Appeals at Somerville City Hall on July 15, 2015. 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 basement was built out as living space and the Applicant is seeking a Special Permit to legalize the space.

**FINDINGS FOR SPECIAL PERMIT:**

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: side yard setback, floor area ratio and frontage.

The proposal will impact the nonconforming floor area ratio. The current FAR is 0.92, the proposal is 1.05, and the requirement in the district is .075. This alteration to a nonconforming structure 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 basement will supply a living room, bathroom and office for the two-bedroom unit and there will continue to be what appears to be sufficient storage and utility space.

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 I, 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 providing for and maintaining the uniquely integrated structure of uses in the City and conserving the value of land and buildings.

The proposal to add living space to a two-family house is consistent with the purpose of the RA district, which is, “[t]o establish and preserve quiet neighborhoods of one- and two-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.”*

Adding living space in the basement is often less disruptive to neighbors than adding living space by putting on an addition and increasing the massing of a house.



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

Adding living space will make the residential unit more expensive; however, no affordable units will be impacted by the proposal.

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, 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; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.

| <u>SomerVision Summary</u> | <i>Existing</i> | <i>Proposed</i> |
|----------------------------|-----------------|-----------------|
| <i>Dwelling Units:</i>     | 2               | 2               |



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie absent. 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 **4-0** to **APPROVE** the request. In addition the following conditions were attached:

| #  | Condition   | Timeframe for Compliance | Verified (initial) | Notes |  |            |               |  |              |                                      |              |  |                 |                                      |
|--|---|--------------------------|--------------------|-------|--|------------|---------------|--|--------------|--------------------------------------|--------------|--|-----------------|--------------------------------------|
| 1  | Approval is to having living space in the . 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>June 22, 2014</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>Aug 28, 2014</td> <td>Plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>Mar 10, 2015</td> <td>Plans submitted to OSPCD (Floor Plans)</td> </tr> <tr> <td>(June 30, 2015)</td> <td>Plans submitted to OSPCD (Site Plan)</td> </tr> </tbody> </table> |                          |                    |       | Date (Stamp Date)  | Submission | June 22, 2014 | Initial application submitted to the City Clerk’s Office | Aug 28, 2014 | Plans submitted to OSPCD (Plot Plan) | Mar 10, 2015 | Plans submitted to OSPCD (Floor Plans) | (June 30, 2015) | Plans submitted to OSPCD (Site Plan) |
|  | Date (Stamp Date)   |                          |                    |       | Submission   |            |               |  |              |                                      |              |  |                 |                                      |
|  | June 22, 2014   |                          |                    |       | Initial application submitted to the City Clerk’s Office |            |               |  |              |                                      |              |  |                 |                                      |
|  | Aug 28, 2014  |                          |                    |       | Plans submitted to OSPCD (Plot Plan)                     |            |               |  |              |                                      |              |  |                 |                                      |
| Mar 10, 2015   | Plans submitted to OSPCD (Floor Plans)  |                          |                    |       |  |            |               |  |              |                                      |              |  |                 |                                      |
| (June 30, 2015)  | Plans submitted to OSPCD (Site Plan)  |                          |                    |       |  |            |               |  |              |                                      |              |  |                 |                                      |
| Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval. |   |                          |                    |       |  |            |               |  |              |                                      |              |  |                 |                                      |
| <b>Final Sign-Off</b>  |   |                          |                    |       |  |            |               |  |              |                                      |              |  |                 |                                      |
| 2  | The Applicant shall remove the doors to the basement office and the office closet.  | CO                       | Plng.              |       |  |            |               |  |              |                                      |              |  |                 |                                      |
| 3  | 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

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 \_\_\_\_\_

