



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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Case #: ZBA 2018-178

Date: February 20, 2019 **March 6, 2019**

**Recommendation:** Conditional Approval

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**Updated PLANNING STAFF REPORT - ZBA**

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**Site:** 39 Irving Street

**Applicant Name:** Kent & Ann Geenawalt  
**Applicant Address:** 2 Campbell Park, Somerville, MA 02144

**Owner Name:** same as above  
**Owner Address:** same as above

**City Councilor:** Lance Davis

**Legal Notice:** Applicants & Owners, Kent & Ann Greenawalt, seek special permits to alter a non-conforming property including, but not limiting to, demolishing the existing two-family residential structure and building a replacement two-family residential structure within the non-conforming left side yard setback. Parking relief under Article 9\*. RA zone. Ward 5.

**Dates of Public Hearing(s):** February 20, 2019 – ZBA

*\*Since the publication of this legal ad, it has been determined that no parking relief is needed. The formula explaining this appears in the staff report below.*



## **I. PROJECT DESCRIPTION**

**1. Subject Property:** The locus presents a 2 ½-story, two-family residential structure situated on a 4,250 square foot lot in the RA zoning district. There is a three-bay, cement block garage sited along the rear right corner of the property.

**2. Proposal:** The existing residential structure and garage will be demolished. In order to build a new residential structure on the property, the Applicant must maintain a non-conforming line and build the new structure off of that line.

The Applicant proposes constructing a replacement 2 ½-story, two-family residential structure in its place using green, sustainable practices. One unit will be located solely in the basement area. The remaining floors will house the second residential unit. The design of the replacement structure is such that it will blend in with the traditional building styles found in the area. The height of the existing building is 27.3 feet while the proposed building will increase to a height of 34.7 feet.

A single-car garage will be constructed along the right property line. The garage is proposed to have a green roof. One additional surface parking space will be provided on the site for a total of two on-site parking spaces.

### Left side yard setback

The main left façade of the existing structure lies within the left side yard setback as it rests roughly 4.5 feet from the left property line. The single-story bay protruding from the left façade further reduces the left side yard setback to 1.1 feet in this location. The minimum left side yard setback requirement in the RA zone is 8.0 feet.

~~The Applicant proposes increasing the shortest point of the setback from 1.1 feet to 1.8 feet with the construction of a two-story bay in roughly the same location as the existing single-story bay.~~

Since the last ZBA hearing on February 20, 2019, the Applicant has altered their proposal such that the second story of this left elevation bump-out will be removed. The bump-out will be only one story in height as is the bump-out on the existing structure. The one-story bump-out will be positioned further back along the left façade elevation of the replacement structure than the existing one-story bump-out.

Lastly, the Applicant proposes a dormer on the left roof plane. This dormer will be constructed within the left side yard setback.

### **3. Green Building Practices:**

The application states the following: “High performance, super insulated building designed with Passivhaus<sup>1</sup> principles, low/no-VOC building materials, FSC-certified wood products. The building will

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<sup>1</sup> From Wikipedia as follows: “Passive house (German: Passivhaus) is a rigorous, voluntary standard for energy efficiency in a building, which reduces the building's ecological footprint. It results in ultra-low energy buildings that require little energy for space heating or cooling. A similar standard, MINERGIE-P, is used in Switzerland. The standard is not confined to residential properties; several office buildings, schools, kindergartens and a supermarket have also been constructed to the standard. Passive design is not an attachment or supplement to architectural design, but a design process that integrates with architectural design.<sup>[8]</sup> Although it is principally applied to new buildings, it has also been used for refurbishments...”

[https://en.wikipedia.org/wiki/Passive\\_house](https://en.wikipedia.org/wiki/Passive_house)

also target net-zero with a solar PV array, use no fossil fuels, and incorporate native plantings and on-site infiltration and storm water management, as well as a green roof on the garage.”

#### 4. Comments:

*Ward Councilor:* Councilor Davis is aware of this project. A neighborhood meeting on this proposal was held on February 12, 2019 which was well-attended. A second meeting was held on February 14, 2019 but no-one attended.

*Historic Preservation Commission (HPC):* The residential structure currently extant on the property was determined to be both “historically significant” and “preferably preserved” by the HPC in 2017. The 9-month demolition delay period was instituted. That delay period expired and the Applicant is free to demolish the structure in accordance with ISD building demolition regulations. The cement block garage was not determined “historically significant” and therefore can be demolished at any time in accordance with ISD procedures.

*Planning Staff:* The HPC imposed the 9-month demolition delay period on the principal structure at 39 Irving Street on September 19, 2017. The demolition delay period expired on September 19, 2018. The prior owners of the second-floor unit at 39 Irving Street rented their unit back from the current owner through the end of October, 2018. The first floor unit (owned by another family member of the second-floor unit owners) had been vacant for about a year prior to the sale. The Applicants for the project at 39 Irving Street have always been forthcoming about their intent to demolish the existing principal structure and construct a new building based on *Passivhaus* principles. During the demolition delay period, Planning Staff met with the project architect several times regarding this project.

In addition to removing the second story of the left elevation bump-out, the Applicant has made the following changes to their proposal:

- Moved the second floor programming that was originally incorporated in the second story portion of the previously-proposed two-story bump-out to the left rear of the house. This change at the rear of the new structure will still respect the rear yard setback .
- The four corners of the house have now been angled. The previous proposal depicted the main body of the house as a rectangle.
- The property Owner has agreed to build a new fence in the existing location per the request of the rear abutting neighbors on Wallace Street. The attorney for the Owners of 39 Irving will be drafting a document for the review and signature of the abutting Wallace Street neighbors releasing the Owners of 39 Irving Street from any liability. Staff emphasizes again that property line disputes are not the purview of the ZBA or of the City. These disputes must be resolved privately between the parties in conflict. It is not the purview of the ZBA or the City to review and compare contrasting property line claims. That is a private matter and not for the City to debate or decide in any fashion.
- The Applicant has provided context elevations with photos of left and right abutting properties to 39 Irving as well as photos of several properties across the street from the site.

**II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & Article 9):**

*In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.*

**1. Information Supplied:**

Staff finds that the information provided by the Applicant 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."***

**Section 4.4.1 of the SZO**

*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.”*

**Left side yard setback**

The RA zone requires a left yard setback of 8 feet. The Applicant proposes improving the most severe non-conforming portion of the setback from 1.1 feet to 1.8 feet. The proposed ~~two-story bay~~ **one-story bay (bump-out)** in this location will increase the massing along the left elevation of the property. The entirety of the left elevation of the new building will be within the setback area. As the new structure will be 7.4 feet taller than the existing structure, there is the possibility for increased shadowing on the left-abutting property.

The dormer that is proposed on the main left roof plane will also be situated within the left side yard setback. Because this is the RA zone, the dormer length is limited to no more than 50% of the roof plane to which it is attached.

**Parking**

Staff noted at the outset of this report that no parking relief is needed for this proposal. The analysis appears immediately below:

Unit #	Existing BDR	Existing Req. Pkg.	Proposed BDR	Proposed Req. Pkg.
1	1	1.5	3	2.0
2	3	2.0	4	2.0

**TOTAL: 3.5** (rounded to 4.0)

**TOTAL: 4.0**

**Formula:** *new parking requirement – old parking requirement = # additional spaces needed*

*39 Irving: 4.0 – 4.0 = 0 spaces of relief needed*

**Other determinations**

Irving Street is a ~~two-way~~ one-way street lined on both sides largely by single- and two-family residential structures. Styles of residential structures along Irving Street include 2 ½-story gable-fronted, Mansards, and some gambrel. The two-story bay that the Applicant proposes constructing along the left elevation is consistent with that of existing gable-fronted structures across the street from 39 Irving.

Abutters can expect typical noises and odors associated with the construction phase of a project. There may be some up-tick in noises, odors, and dust during the demolition phase of the project. However, there are protocols that the Applicant must follow during the demolition process that is governed by ISD.

It is possible that the increase in the number of ~~bathrooms to five~~ bedrooms could add an additional burden on the City's water and sewer systems. Because this project will need to be reviewed by the Engineering Department prior to the granting of a building permit, Engineering will determine if any measures need to be taken by the Applicant to address any impacts, including, but not limited to, payments.

The number of residential units is remaining the same at two. As there is no increase in the number of residential units, no increase in traffic volume is anticipated. Due to residents coming and going from any property at staggering times, additional traffic congestion is not anticipated. It is certainly possible that at some times there may be additional cars parked along Irving Street.

**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."***

Staff finds that the proposal is consistent with the purposes of the RA zone which are "[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."

There is no part of this proposal, as conditioned, that Staff finds to be inconsistent with the purposes of the RA district.

**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."***

Staff has addressed the question of site and area compatibility in other sections of this report.

Irving Street contains numerous 2 ½-story, gable-fronted residential structures with one- or two-story "bump-outs" on either the right or left elevations and within the side yard setbacks, and within very close proximity to property lines. Staff finds the proposal to rebuild the (now single-story) bump-out in a similar location with similar proximity to the property line as the existing bump-out is consistent with the historic development patterns evidenced by similarly-situated 2 ½-story gable-fronted structures on Irving Street. The following Irving Street properties and their side bump-outs are noted below:



*45 Irving St.*



*47 Irving St.*



*71 Irving St.*



*5 Irving St.*



*25 Irving St.*



*30 Irving St.*



*34 Irving St.*



*36 Irving St.*



*44 Irving St.*

**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:**

Though Staff finds that **while** the demolition of the property will unfortunately add a significant amount of waste material tonnage to landfills, the proposed new structure aligns well with SomerVision's goals of constructing green and sustainable buildings (see Passivhaus footnote and "Green Building Practices item earlier in this report).

The bituminous material will be removed from the property allowing water to better percolate through the parcel. Of further benefit is the green roof to be installed on the single car garage. Lastly, ~~tw~~ **while** the existing structure has had its first- and second-story front porches enclosed, the new structure will present a first story open porch. This is in compliance with one of the SomerVision aims of reducing the massing along the front of residential properties by not enclosing front porches. The open front porch also allows for more interplay between public and private spaces in this residential setting.

### **III. RECOMMENDATION**

#### **Special Permit under §4.4.1 and Article 9**

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMITS**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is to demolish the existing two-family structure and three bay garage, construct a 2 ½-story, two-family residential structure and single car garage with a green roof. Extension of the non-conforming left side yard setback.</p> <table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>December 6, 2018</td> <td>Application submitted to City Clerk’s office.</td> </tr> <tr> <td>February 14, 2019</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td><b>February 28, 2019</b></td> <td><b>Updated plans submitted to OSPCD</b></td> </tr> </tbody> </table> <p><i>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.</i></p>	Date	Submission	December 6, 2018	Application submitted to City Clerk’s office.	February 14, 2019	Updated plans submitted to OSPCD	<b>February 28, 2019</b>	<b>Updated plans submitted to OSPCD</b>	BP/CO	ISD/PIng.	
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<b>Engineering</b>												
2	<p>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.”</p> <p>The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation including, but not limited to I/I payments.</p>	BP	Engineering/ISD									
3	The Applicant must comply with all Engineering requirements pertaining to finishing basements.	BP/CO	Engineering/ISD									



4	The Applicant shall submit plans to Engineering and comply with the City's stormwater management requirements.	BP/CO	Engineering/ISD	
<b>Design</b>				
5	<b><u>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. Vinyl-based products will not be considered.</u></b>	BP	ISD/Plng	
6	In order to keep the proposed left elevation dormer, the eave line must be continued for the length of the building. The plans shall be modified to reflect this change and submitted to Planning Staff for review prior to the issuance of a building permit.	BP	ISD/Plng	
<b>Construction Impacts</b>				
7	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	
8	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/ISD	
9	<b><u>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 read.</u></b>	During Construction	ISD	
10	<b><u>Construction shall be limited to M-F 7:30am – 5:00pm. No weekend or holiday construction or construction-related work shall occur.</u></b>	During Construction	ISD	
<b>Site</b>				
11	The driveway and parking area shall be constructed of permeable pavers or pea stone.	BP	ISD/Plng	
12	All hardscaping to be used on the property shall first be reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/Plng	
13	All bituminous material and/or cement used for driveways, walkways, parking areas, patios, and the like shall be removed from the property.	CO	ISD/Plng	
14	All garbage and recycling shall be stored out-of-view of the public way and shall be screened.	Perpetual	ISD/Plng	

15	The new garage shall be constructed of non-flammable materials.	CO	ISD	
16	All utility lines shall be buried.	CO	ISD/Electrical/Wiring	
17	No utility meters or similar shall be installed on the front façade of the structure.	Perpetual	ISD	
18	The location of AC condensers or similar shall be identified on an updated site plan. All such mechanicals shall be screened from public view and from the view of abutting properties. Location and screening shall be reviewed and approved by Planning Staff.	BP	ISD/Plng	
19	A new, 6-foot wood fence shall be installed in the location of the existing fence separating 39 Irving Street from the rear-abutter Wallace Street residence. Planning Staff shall review and approve the proposed fence prior to ordering and installation.	CO	ISD/Plng	
<b>Public Safety</b>				
20	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
21	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO	ISD	
22	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches. This shall be written into any rental agreements or condo documents. Proof thereof shall be presented to Planning Staff/ISD prior to the issuance of a Certificate of Occupancy (CO)	CO/Perpetual	ISD/Plng/FP	
23	The Applicant shall file demolition permits with ISD and provide ISD with a demolition plan including proper notification to abutting properties, for ISD's review and approval.	Prior to demolition	ISD	
<b>Miscellaneous</b>				
24	Venting and piping shall be painted or wrapped the same color as the exterior of the house from which they protrude.	CO	ISD/Plng	
25	Utility meters shall not be installed on the front façade of the structure.	CO	ISD/Plng	
26	All new or enlarged window openings that are located 3 feet or less from a property line are required to be fire-rated, inoperable per building code. The Applicant shall work with ISD to ensure compliance.	CO	ISD	
<b>Final Sign-Off</b>				

27	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	ISD/Plng.	
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