



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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PLANNING DIVISION  
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JOSH SAFDIE  
ANNE BROCKELMAN

**Case #: ZBA 2019-76**  
**Site: 75 Irving Street**  
**Date of Decision:** September 18, 2019  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** October 1, 2019

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**ZBA DECISION**

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**Site:** 75 Irving Street

**Applicant Name:** Erik L. Nygren & Ksenia R. Samokhvalova  
**Applicant Address:** 60 Irving Street, Somerville, MA  
**Owner Name:** same as applicant  
**Owner Address:** same as applicant

**City Councilor:** Lance Davis

**Legal Notice:** Applicants & Owners, Erik L. Nygren & Ksenia R. Samokhvalova, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming property including constructing a dormer on the left elevation roof. RA zone. Ward 6.

<u>Zoning District/Ward:</u>	RA zone, Ward 6.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	July 17, 2019
<u>Date(s) of Public Hearing:</u>	9/18
<u>Date of Decision:</u>	September 18, 2019
<u>Vote:</u>	5-0

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Case # ZBA 2019-76 was opened before the Zoning Board of at their regular meeting in City Council Chambers, 3<sup>rd</sup> Floor City Hall, 93 Highland Avenue, 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. On September 18, 2019 the Zoning Board of Appeals took a vote

## **I. PROJECT DESCRIPTION**

**1. Subject Property:** The locus presents a 2 ½-story, two-family structure with a dormered rear addition. A bituminous surface (asphalt) parking pad for two spaces exits at the front right elevation of the property. The structure is sited on a ~4,346 square foot lot in the RA zoning district.

**2. Proposal:** The applicant is converting this building from a two-family to a single-family structure. In doing so, the applicant proposes a complete overhaul of the property. However, the only zoning relief needed is for a new left elevation dormer. Key components of the project are listed below with the trigger for special permitting identified:

- Remove all bituminous material from the property and re-landscape
- Install pervious pavers for parking area and walkway
- Install 4' high wood fence separating parking pad from rear yard. New fencing will continue along right elevation of property. Fencing along the right property line may be up to 6' high.
- Construct shed in left rear corner of property
- Construct two-story addition on right rear elevation of structure
- Construct dormer within left side yard setback (**special permit**)

#### **4. Green Building Practices:**

None listed on application.

## **II. 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 §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.*

#### **1. Information Supplied:**

The Board 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 side yard setback of 8 feet. The existing left side yard setback is one (1.0) foot. The applicant proposes constructing a left elevation dormer on the front portion of the left roof plane of the house that will terminate three (3.0) feet from the property line.

#### Additional findings

The new dormer will be visible from left -abutting property as well as the public way of Irving Street. The neighborhood is a mixture of mostly one- and two-unit properties of mostly gable-fronted and Mansard styling and in various stages of repair. Overall, the proposal is not detrimental to the neighborhood but will, taken together with the other improvements on this parcel, help to upgrade an existing property.

Because this project will need to be reviewed by the Engineering Department prior to the granting of a building permit, they will determine if any measures need to be taken by the Applicant to address any impacts on the public sewer or water supply. Lastly, as the property will be converted to a single-family, the Board does not anticipate any change in traffic volume, queuing, or congestion as a result of this project.

**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 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.”

**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.”***

Irving Street is a one-way street lined on both sides largely by single- and two-family residential structures. General styles of residential structures along Irving Street include 2 ½ -story gable-fronted, Mansards, and the occasional gambrel.

The left elevation dormer will be visible from the public way and from the left-abutting structure at 79 Irving Street. Dormers of varying types and sizes are not without precedent on Irving Street. The left-abutting, two-unit property at 79 Irving Street, for example, presents three dormers. Two of these dormers, along with two inverted porches and a roof deck, all face directly onto 75 Irving Street. Other structures along the street such as 59 Irving present a single dormer addition.



**5. Housing Impact:**

The proposal will not add to the existing stock of affordable housing.

**6. SomerVision:**

The proposal will allow for a family to make a home in this property. The site itself will be significantly upgraded with new landscaping, the removal of bituminous material and new fencing. The enhanced landscaping and removal of bituminous material will also help improve the permeability of the site.

**III. DECISION**

Present and sitting were Members Orsola Susan Fontano, Drew Kane (*Alt*), Danielle Evans, Elaine Severino, and Anne Brockelman. Josh Safdie was absent and Drew Kane was voting in his place. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of a dormer within the left side yard setback.	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 17, 2019</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>August 29, 2019</td> <td>Updated plan set submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 17, 2019	Application submitted to City Clerk's office.	August 29, 2019	Updated plan set submitted to OSPCD
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August 29, 2019	Updated plan set submitted to OSPCD									
<p style="color: red;">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.</p>										
<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.</p>	BP	Engineering/ISD							
<b>Design</b>										



3	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. Materials shall be submitted to planning staff <u>through the Zoning Review Planner</u> .	BP	ISD/Plng	
<b>Construction Impacts</b>				
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/ISD	
5	The applicant shall post the name and phone number of the general contractor at the site entrance where it is easily visible to people passing by on the public way.	During Construction	ISD	
6	<b><u>Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.</u></b>	During Construction	ISD	
7	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	ISD/DPW	
<b>Public Safety</b>				
8	The Applicant or Owner shall meet all of the Fire Prevention Bureau's requirements.	CO	FP	
9	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks or porches.	CO/Perpetua l	ISD/FP	
<b>Site</b>				
10	All bituminous material shall be removed from the property.	CO	Plng/ISD	
11	The parking pad at the right front elevation of the property shall have the bituminous material removed and pervious pavers installed.	CO	Plng/ISD	
12	All materials used for hardscaping, fencing, and enclosures on the site shall be submitted to planning staff, <u>through the Zoning Review Planner</u> , for their review and approval prior to the issuance of a building permit. Vinyl and vinyl-based products will not be considered.	BP	Plng/ISD	
13	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
14	Trash and recycling shall be stored within the fenced-in area of the property and shall be screened with a cedar enclosure. The enclosure shall present a cedar roof as well. Latched doors shall secure the enclosure.	CO	Plng. / ISD	
<b>Miscellaneous</b>				



15	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like.	Perpetual	ISD / Plng.	
16	All exterior lighting shall be confined to the subject property, case light downward and must not intrude, interfere, or spill onto neighboring properties. This includes lighting on the dwelling house and on the shed.	Perpetual	ISD	
17	The shed shall not be used for living space, home office, or similar at any time. The shed shall be used for storage only.	Perpetual	ISD	
<b>Final Sign-Off</b>				
18	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.	

**ATTEST, BY THE ZONING BOARD OF APPEALS:**

Orsola Susan Fontano, *Chair*  
 Danielle Evans, *Clerk*  
 Drew Kane (*Alt*)  
 Anne Brockelman  
 Elaine Severino

Attest, by the Planner: \_\_\_\_\_  
 Sarah White

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



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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 \_\_\_\_\_

