



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-178
Site: 39 Irving Street
Date of Decision: April 3, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: April 17, 2019

ZBA DECISION

Site: 39 Irving Street
Owner/Applicant Name: Kent & Ann Geenawalt
Owner/Applicant Address: 2 Campbell Park, Somerville, MA 02144
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.

**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.*

<u>Zoning District/Ward:</u>	RA zone. Ward 5.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	December 6, 2018
<u>Date(s) of Public Hearing:</u>	2/6, 2/20, 3/6, 3/20, 4/3
<u>Date of Decision:</u>	April 3, 2019
<u>Vote:</u>	5-0

Case # ZBA 2018-178 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on February 6, 2019. 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 April 3, 2019 the Zoning Board of Appeals took a vote.



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I. DESCRIPTION:

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.

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 left elevation bump-out originally proposed for the re-built structure has now been moved to the right elevation of the property. The entirety of the left elevation of the new building will be within the setback area. The left elevation façade will maintain the non-conforming left setback of 6.4 feet. 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. A shadow study has been provided in the updated plan set. The shadow study also includes shadowing from existing mature trees; it is easy to forget that it is not just a structure that impacts shadowing on the project site and abutting properties.

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

There is relief needed for this project. The analysis appears immediately below:

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

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

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

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

- *When this number is less than one or a negative number, no parking relief is needed. In the previous iteration of this report, the number of existing and proposed bedrooms had been erroneously recorded. After correcting the existing and proposed bedroom counts and associated number of parking spaces (above), when rounded, the total number of required spaces incidentally came out the same, and with zero new spaces required.*

Other determinations

Irving Street is a 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 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."*



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.”

There is no part of this proposal, as conditioned, that the Board 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."*

The Board 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. The Board 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:

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 the Board 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.DECISION:

Present and sitting were Danielle Evans, Josh Safdie, Anne Brockelman, Elaine Severino, and Drew Kane. Upon making the above findings, Josh Safdie 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 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.	BP/CO	ISD/PIng.											
	<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>February 28, 2019</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>March 20, 2019</td> <td>Updated plans and zoning data sheet submitted to OSPCD</td> </tr> </tbody> </table>				Date	Submission	December 6, 2018	Application submitted to City Clerk’s office.	February 14, 2019	Updated plans submitted to OSPCD	February 28, 2019	Updated plans submitted to OSPCD	March 20, 2019	Updated plans and zoning data sheet submitted to OSPCD
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<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>														
Engineering														
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											
Design														
5	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.	BP	ISD/PIng											



Construction Impacts				
6	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	
7	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	
8	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.	During Construction	ISD	
9	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend or holiday construction or construction-related work shall occur.	During Construction	ISD	
Site				
10	The driveway and parking area shall be constructed of permeable pavers or pea stone.	BP	ISD/Plng	
11	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	
12	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	
13	All garbage and recycling shall be stored out-of-view of the public way and shall be screened.	Perpetual	ISD/Plng	
14	The new garage shall be constructed of non-flammable materials.	CO	ISD	
15	All utility lines shall be buried.	CO	ISD/Electrical/Wiring	
16	No utility meters or similar shall be installed on the front façade of the structure.	Perpetual	ISD	
17	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	



18	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	
19	Permanent screening shall be installed at the rear of the new, single-story garage in order to help mask the view into the abutting rear yard from the green roof to be installed on the rooftop. Materials and associated planting for this screening shall first be reviewed and approved by Planning Staff prior to ordering and installation	Prior to ordering/installation and CO	ISD/Plng	
Public Safety				
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, barbecues, 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	
Miscellaneous				
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	
Final Sign-Off				
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.	

Attest, by the Zoning Board of Appeals:

Danielle Evans, *Acting as Chair*
Josh Safdie, *Acting as Clerk*
Elaine Severino
Josh Safdie
Anne Brockelman
Drew Kane (Alt.)

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 _____

