



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

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ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2016-109
Site: 89 Josephine Avenue
Date of Decision: October 19, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 2, 2016

ZBA DECISION

Applicant Name:	KTA Construction, LLC
Applicant Address:	4 Gemma Drive, Peabody, MA 01960
Property Owner Name:	KTA Construction, LLC
Property Owner Address:	4 Gemma Drive, Peabody, MA 01960
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant an Owner, KTA Construction LLC, seeks to add additional living space in the basement of a two family structure under SZO §4.4.1.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 1, 2016
<u>Date(s) of Public Hearing:</u>	October 19, 2016
<u>Date of Decision:</u>	October 19, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2016-109 was opened before the Zoning Board of Appeals at Visiting Nurse Association on October 19, 2016. 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 applicants are proposing to add 657sf of net floor area to the basement. The total Net floor area is going from 3116 to 3773. The removed garage will add additional permeable and landscaped space. The number of parking spaces will not change from the existing three (3) tandem spaces.

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.

Information supplied is sufficient to make a full zoning review.

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 maximum allowed FAR for this lot is 2,520sf of finished living space. As the structure currently has 3,116sf of finished living space it is nonconforming pursuant to SZO 8.5. Under SZO 4.4.1 nonconforming structures may be altered with a special permit.

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 facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.*

The proposed project conforms with the purpose of the RA zoning as the work be proposed is only in the basement.

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 surrounding neighborhood consists of single and multi-family dwellings in 2.5 story structures. The proposed work requiring a special permit is in the basement of the structure and will not impact the surrounding neighborhood, and is generally in keeping with the character of the existing structures.



5. Vehicular and pedestrian circulation: *There should be no change to current vehicular traffic.*
6. Fast food establishments: *N/A*
7. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*
8. Impact on Affordable Housing: *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

No Impacts to Affordable Housing.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Anne Brockelman 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 **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
	This approval is based upon the following application materials and the plans submitted by the Applicant: <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>9.1.16</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>8.18.16</td> <td>Modified plans submitted to OSPCD (page numbers)</td> </tr> <tr> <td>8.8.16</td> <td>Modified plans submitted to OSPCD (page numbers)</td> </tr> </tbody> </table> Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.	Date (Stamp Date)	Submission	9.1.16	Initial application submitted to the City Clerk's Office	8.18.16	Modified plans submitted to OSPCD (page numbers)	8.8.16	Modified plans submitted to OSPCD (page numbers)	BP/CO	ISD/PInG	
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8.8.16	Modified plans submitted to OSPCD (page numbers)											
1	Final material samples shall be provided prior to permitting	BP	ISD									
2	The basement shall not be used as a residence unless zoning changes	CO/Cont	ISD/PInG									
3	There shall not be a bedroom in the basement											
4	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									



5	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	
Final Sign-Off				
	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
Anne Brockelman (Alt.)

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 _____

