



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

PLANNING DIVISION

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ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2016-54**  
**Site: 79 Benton Road**  
**Date of Decision: August 3, 2016**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: August 8, 2016**

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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

<u>Legal Notice:</u>	Applicant and Owner, KTA Construction, LLC, seek a Special Permit to substantially alter a non-conforming but legally-existing 3-family structure under SZO §4.4.1.
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<u>Zoning District/Ward:</u>	RA zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	April 21, 2016
<u>Date(s) of Public Hearing:</u>	August 3, 2016
<u>Date of Decision:</u>	August 3, 2016
<u>Vote:</u>	4-0

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Appeal #ZBA 2016-54 was opened before the Zoning Board of Appeals at Somerville City Hall on August 3, 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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**DESCRIPTION:**

The Applicant proposes to extend the existing roof deck within the right side yard setback and completely renovate the entire structure, increasing the net living space. No parking relief is needed; the Applicant is adding two additional parking spaces to the site for a total of four. The property will be substantially re-landscaped including the addition of pervious pavers for the parking and upper driveway areas.

**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. in detail.

1. Information Supplied:Regarding SZO §4.4.1:

- The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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."*Regarding SZO §4.4.1:

- As regards this project, the property is non-conforming in in terms of lot size (5,524 square feet of lot in a zone where a 10,000 square foot minimum lot size is required).
- This structure is located in the RA zone where one-and two-family residential structures are allowed. However, this property is a legally-existing three-family residential building.
- By converting a portion of the basement into living space, along with the reconfiguration of interior living space, the Applicant will be adding 778 square feet of living area. Other than the extension of the rear roof deck, the exterior massing remains largely unchanged.
- The maximum FAR allowed in this district is .75. The Applicant is increasing their FAR from .60 to .74, just under the allowable limit.

*Section 4.4.1 states that Lawfully existing non-conforming 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.*

Regarding SZO §4.4.1:

- In considering a Special Permit under §4.4.1 of the SZO, the Board finds that the alterations proposed to this legal three-family residence would not be substantially more detrimental to the neighborhood than those present on the existing structure.



- The existing roof deck is located at the rear of the property. Extension of this roof deck will be minimally-visible from the street, if at all.

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."*

Regarding SZO §4.4.1:

- The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.
- The proposal is consistent with the purpose of the RA residence district which is "...to 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."*

- Benton Road is a mix of gable and hip-roofed single- and two-family residential structures. None of the properties have roof decks visible from Benton Street itself and the proposal for 79 Benton Street is consistent with this aspect of the neighborhood.

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

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

6. 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.*

- The proposal will not add any new units to the city's housing stock and will not add to the overall SomerVision metrics in this manner.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, and Elaine Severino with Danielle Evans and 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 for the extension of the existing rear roof deck and increasing the net living area in this structure.	BP/CO	ISD/ Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>April 21, 2016</td><td>Initial submission to City Clerk</td></tr><tr><td>May 31, 2016</td><td>Additional materials submitted to OSPCD</td></tr><tr><td>July 27, 2016</td><td>Final materials submitted to OSPCD.</td></tr></table>				Date (Stamp Date)	Submission	April 21, 2016	Initial submission to City Clerk	May 31, 2016	Additional materials submitted to OSPCD	July 27, 2016	Final materials submitted to OSPCD.
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Any changes to the approved plan that are not determined to be <i>de minimis</i> by Planning Staff must receive ZBA approval.												
Construction Impacts												
2	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	DPW									
3	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	ISD/Plng.									
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									
Design												
5	The roof deck shall use wood and metal only. No plastic or synthetic materials shall be used in the construction/extension of the roof deck.	CO	ISD/Plng									
Site												
6	Vehicles on this property shall not be parked in tandem	Perpetual	Plng. / ISD									



7	Pervious pavers shall be used for the creation of two new parking spaces and for the area immediately in front of the existing 2-car garage.			
8	The space above the garage shall not be used for habitation in any way.			
9	The site shall be landscaped and maintained post-construction.	Perpetual	Plng. / ISD	
<b>Miscellaneous</b>				
10	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and property.	Perpetual	ISD/Plng	
<b>Public Safety</b>				
11	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
12	The building shall be sprinkled.			
13	All smoke detectors shall be hard-wired.	CO	FP	
<b>Final Sign-Off</b>				
14	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, *Chairman*  
 Richard Rossetti, *Clerk*  
 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 \_\_\_\_\_

