



**CITY OF SOMERVILLE, MASSACHUSETTS**  
***MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT***  
**JOSEPH A. CURTATONE**  
**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

***ZONING BOARD OF APPEALS MEMBERS***

ORSOLA SUSAN FONTANO, CHAIRMAN  
RICHARD ROSSETTI, CLERK  
DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE  
ANNE BROCKELMAN, (ALT.)  
POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2016-139**  
**Site: 19 Kent Court**  
**Date of Decision: February 1, 2017**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: February 14, 2017**

---

**ZBA DECISION**

---

<b>Applicant Name:</b>	Eamon Fee
<b>Applicant Address:</b>	6 Richardson Street, Winchester, MA 01890
<b>Property Owner Name:</b>	Gurmit Singh
<b>Property Owner Address:</b>	19 Kent Court, Somerville, MA 02143
<b>Agent Name:</b>	Richard G. DiGirolamo, Esq.
<b>Agent Address:</b>	424 Broadway, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant, Eamon Fee, and Owner, Gurmit Singh, seek Special Permits under §4.4.1 of the SZO to substantially alter a non-conforming property, a Variance under §5.5 of the SZO for parking relief, and §7.11 of the SZO to construct 4 units.
----------------------	---

<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1, §5.5 & §7.11
<u>Date of Application:</u>	November 15, 2016
<u>Date(s) of Public Hearing:</u>	1/18 & 2/1/17
<u>Date of Decision:</u>	February 1, 2017
<u>Vote:</u>	5-0

---

Appeal #ZBA 2016-139 was opened before the Zoning Board of Appeals at Somerville City Hall on January 18, 2017. 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  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The proposal is to substantially alter the single-family property by razing the existing structure and constructing a new, 4-unit structure by building off of 19 feet worth of an existing non-conforming along the left side setback. The proposal also consists of 1 parking space of relief. 4 bike spaces will be provided. In their updated submission, the Applicant added the following summary of changes made to the proposal since the January 18, 2017 ZBA hearing:

- a. "We reduced the amount of units in the building from 4 to 3 units."
- b. "We reduced the overall length of the structure by 14 feet."
- c. "We reduced the overall mass of the structure by 6,300 cubic feet."
- d. "We reduced the parking required from four spaces to three spaces, and located all spaces on-site."
- e. "We located the front entrance to all three units on Kent Court for Fire Department easy access."

**FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §7.11):**

*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 §4.4.1 and §7.11 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."***

The existing structure is currently non-conforming with regard to frontage, lot size, and left side yard setback.

*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."*

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the current conditions. The multi-family proposal is consistent with the RC district and the triple-decker form is consistent with a common Somerville building style. The volume and massing of the structure at this property will be increasing, but such an increase is not inconsistent with other structures found in the immediate area as well as with the new construction projects that have been proposed or approved on this street. Since the January 18, 2017 ZBA hearing, taking into consideration comments from the ZBA, the Applicant now proposes three units instead of four. Additionally, the Applicant has removed a rear extension to the building that was originally



proposed to house the fourth unit. The reduction in unit number reduces the proposed density associated with the project and the removal of the rear extension reduces the proposed massing of the structure.

Despite the increase in building size, no new dimensional non-conformities are created: at 1.03, the FAR remains under the allowable limit of 2.0 for the RC zone, the front yard setback remains consistent and, with the removal of the rear addition, the rear yard setback will be increased to 38.3 feet. The height of the building will be 31.9 feet, well under the maximum of the 40-foot limit in the RC zone. The proposed landscaping plan will provide a much-needed facelift to the site's landscaping.

**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 current structure to be demolished is a single-family. In order to increase the number of units on the property, the Applicant must obtain a Special Permit from the ZBA to do so as per the SZO use table found in §7.11. The Applicant proposes increasing the number of units from one to three.

Both the increase in units and the extension of the existing non-conformities are consistent with the general purposes of the Ordinance as set forth under §1.2, which includes but are not limited to, promoting "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 provide adequate light and air; to conserve the value of land and buildings."

The proposal to construct a multi-unit residential structure is consistent with the purpose of the RC district which is "to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the 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."***

Kent Court has undergone a significant amount of change in a scant few years. Several buildings (former workers' cottages) have been demolished to make way for a large single-family and a 5-plex. The 19 Kent Court proposal follows this trend. The proposed design of a triple decker is in keeping with other structures on the street, in the immediate neighborhood and throughout the City where this building form is ubiquitous. The Applicant now proposes three units instead of four and the rear addition which was to house the fourth unit has been removed from the proposal.

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

The proposal will not add to the City's stock of affordable housing.

**7. 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.***

This project contributes to SomerVision metrics by adding three additional residential units to the City's housing stock.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Danielle Evans 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								
1	Approval is for the construction of a 3-unit residential (no parking relief needed)	BP/CO	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>11/15/2016</td><td>Application and plans submitted to City Clerk's office</td></tr><tr><td>12/6/2016</td><td>Updated plan set submitted to OSPCD</td></tr><tr><td>1/26/2017</td><td>Updated Plans sent to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	11/15/2016	Application and plans submitted to City Clerk's office	12/6/2016	Updated plan set submitted to OSPCD	1/26/2017	Updated Plans sent to OSPCD
	Date (Stamp Date)				Submission							
	11/15/2016				Application and plans submitted to City Clerk's office							
	12/6/2016				Updated plan set submitted to OSPCD							
1/26/2017	Updated Plans sent to OSPCD											
<b>Any changes to this Special Permit must first be reviewed by Planning Staff to determine whether the changes are <i>de minimis</i> in nature. If they are not <i>de minimis</i>, then additional SPGA relief shall be required.</b>												
<b>Pre-Construction</b>												
2	The Applicant must sign the Memorandum of Agreement (MOA) with the Historic Preservation Commission and register the signed MOA with the Middlesex County Registry of Deeds.	BP	HPC									
3	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD									
4	The Applicant must contact the Engineering Department to obtain street addresses for all of the units prior to a building permit being issued	BP	Eng.									
5	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.									



6	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng	
7	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	BP	Eng.	
8	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
<b>Construction Impacts</b>				
9	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	
10	All construction materials and equipment shall be stored onsite.	During Construction	ISD	
11	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	Plng.	
12	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application form signed
<b>Design</b>				
13	The design and materials used in the new building shall follow the MOA exactly.	CO / Final sign off	ISD/Plng. Staff	
14	Design and materials shall be as rendered on the submitted plans.	CO / Final sign off	ISD/Plng. Staff	
15	Wood clapboarding/shingling or cementitious clapboarding/shingling shall be installed. No vinyl, aluminum or pressure-treated wood shall be used.	CO / Final sign off	ISD/Plng. Staff	

16	Windows shall be one-over-one or two-over one double-hung. Window sashes shall be dark. Mullions (window grids) shall be dark and shall be applied to the glass. <u>No between-glass grids shall be allowed.</u> Dark spacers shall be used between the glass. No reflective or tinted glass shall be used.	CO / Final sign off	ISD/Plng. Staff	
17	Trim materials shall be of wood or a composite material such as Azek, Wyton or similar. No vinyl, aluminum or pressure-treated wood shall be used such that it is visible.	CO / Final sign off	ISD/Plng. Staff	
18	All venting shall be painted or covered to match the portion of the building from which they exit.	CO / Final sign off	ISD/Plng. Staff	
19	Air-conditioning condensers shall be screened. To the greatest extent possible.	CO / Final sign off	ISD/Plng. Staff	
20	Any fencing installed on the property shall be made of wood and the style, height and design of such shall be reviewed and approved by planning staff prior to installation.	CO / Final sign off	ISD/Plng. Staff	
<b>Site</b>				
21	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
22	If stored outside, all trash and recycling receptacles shall be screened from the public way.	Perpetual	Plng. / ISD	
23	The driveway shall be made of permeable pavers.	Perpetual / CO	Plng. / ISD	
<b>Public Safety</b>				
24	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
25	All fire alarms shall be hard-wired.	CO	FP	
26	The building shall be sprinkled.	CO	FP	
27	All exterior lighting shall be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
<b>Miscellaneous</b>				
28	No Certificate of Occupancy shall be issued until the OSPCD Housing Division has confirmed that: (for Condominium Projects) the Condominium Documents have been approved and the Developer has agreed to a form of Deed Rider for the Affordable Unit(s), or (for Rental Projects) the Developer has agreed to and executed a Memorandum of Understanding for Monitoring of the Affordable Unit(s).	CO	Housing	
29	All utilities shall be buried.	CO	Lights & Lines	
<b>Final Sign-Off</b>				
30	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  
Josh Safdie

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



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)



\_\_\_\_\_ 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 \_\_\_\_\_

