



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

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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ELAINE SEVERINO  
JOSH SAFDIE  
ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2016-01**  
**Site: 39 Oxford Street**  
**Date of Decision: March 16, 2016**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: March 29, 2016**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Kevin Emery & Eamon Fee
<b>Applicant Address:</b>	9 Gregory Lane, Reading, MA 01867
<b>Property Owner Name:</b>	William Chambers & Gail Chambers
<b>Property Owner Address:</b>	39 Oxford Street, Somerville, MA 02143
<b>Agent Name:</b>	Richard G. DiGirolamo, Esq.
<b>Agent Address:</b>	424 Broadway, Somerville, MA 02145

<u>Legal Notice:</u>	Applicants, Kevin Emery & Eamon Fee, and Owners, William & Gail Chambers, seek a Special Permit under SZO §4.4.1 to substantially alter a non-conforming structure to construct a townhouse.
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<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	January 14, 2016
<u>Date(s) of Public Hearing:</u>	March 16, 2016
<u>Date of Decision:</u>	March 16, 2016
<u>Vote:</u>	

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Appeal #ZBA 2016-01 was opened before the Zoning Board of Appeals at Somerville City Hall on March 16, 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  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The proposal consists of retaining and renovating the c.1850 structure and creating an addition on the rear of that building. A second structure, similar in design to the historic building is proposed. The street-facing front of this second structure will be set further back on the lot and will be connected to the original structure. The roofline of the connecting portion will be slightly lower than those of the two principal structures. The existing garage will be demolished and four parking spaces create on the rear of the lot. The large, specimen persimmon trees will be retained.

**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.

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 with regard to the left side yard setback which is 7 feet at its smallest point.

*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 of the SZO, the Board finds that the alterations proposed to this legal two-family residence would not be substantially more detrimental to the neighborhood than those present on the existing structure. SZO allows for the construction two single-family residences (under §7.2.1a) on the same lot with a special permit or the construction of a townhouse, which is what the Applicants propose.
- Constructing a townhouse required the Applicant to have side yards that are at least fifty (50) percent greater than the minimum widths prescribed in the RA, RB, RC, and OS zoning districts (SZO §8.6.6.9) . For a 2-story building in the RA zone, the minimum side yard setback must be 8 feet. The Applicant's side yard setback for the new townhouse is 12 feet,



meeting the side yard + 50% requirement. The Applicant meets front and rear setbacks for the new unit.

- All additions to the existing c.1850 building conform with side and rear setback requirements.

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 general purposes 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."*

- Oxford Street is a mix of one- and two-family houses of similar, gable-ended styles built roughly within a 60-year period. The exception to the streetscape is 27 Oxford Street, approximately 4 houses from the subject property, which has an out-of-context addition to what was originally a late 19<sup>th</sup> century cottage-style house (see below)

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 contribute to the metrics of SomerVision.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Josh Safdie and Anne Brockelman with Richard Rossetti and Elaine Severino absent. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Anne Brockelman 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 to add an addition to the existing c.1850 house and construct a townhouse on the same lot.	BP/CO	ISD/ Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>January 4, 2016</td><td>Initial submission to City Clerk</td></tr><tr><td>March 7, 2016</td><td>Final submission to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	January 4, 2016	Initial submission to City Clerk	March 7, 2016	Final submission to OSPCD
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	January 4, 2016				Initial submission to City Clerk					
March 7, 2016	Final submission to OSPCD									
Any changes to the approved plan that are not determined to be <i>de minimis</i> by Planning Staff must receive ZBA approval.										
Pre-Construction										
2	The Applicant must petition the Somerville Condo Review Board for permission to convert this property into two condos prior to obtaining any building permits and prior to the start of construction.	BP	BP/ISD/ Plng/ CondoReview Board							
3	The Applicant will be required to demonstrate that the project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.							
4	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City’s stormwater policy.	BP	Eng.							
5	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							
Construction Impacts										
6	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							



7	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.	
8	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	
<b>Design</b>				
9	The size, form, massing and design of additions, dormers, decks and all other alterations shall be exactly as approved by the ZBA. ANY changes to the approved plans MUST be submitted to Planning Staff for review and approval <u>prior</u> to executing them on site.	ISD	ISD/Plng	
10	An exterior light and electrical receptacle is required for the first (or all) level of porches and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
<b>Site</b>				
11	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
12	Pervious pavers or pervious asphalt shall be used for the driveway and parking areas	Perpetual	Plng. / ISD	
13	Garbage and recycling areas shall be screened and shall be placed behind the buildings.	Perpetual	Plng. / ISD	
14	Vehicles shall not be parked in tandem in the driveway but shall be parked in designated spaces behind the buildings.	Perpetual	Plng. / ISD	
15	The persimmon trees shall be retained and a certified arborist shall be hired by the Applicant(s) to provide a means to prevent any damage to the persimmon tree closest to the c. 1850 house during the entire construction process.	Perpetual	Plng. / ISD	
16	Natural wood clapboarding shall be used for the circa 1850 house.	Perpetual	Plng. / ISD	
17	HardiePlank or similar cementitious siding shall be used on the new construction.	CO	Plng. / ISD	
18	Azek or similar material shall be used on the new construction for trimwork on new construction.	CO	Plng. / ISD	
19	Street-facing doors shall be made of solid wood.	Perpetual	Plng. / ISD	
20	A wood fence, no taller than 4-feet off of sidewalk grade shall be installed along the Oxford Street property frontage.	Perpetual	Plng. / ISD	
21	The Applicant shall work with abutters to determine ownership of side yard chain-link fencing. Should ownership be determined to belong to 39 Oxford Street on either side of the lot, the 4-foot fencing shall continue up from the street and gradually transition to 6-foot wood fencing along the remainder of the side yard run. 6-foot fencing shall not directly abut the 4-foot front fence.	CO	Plng/ISD	

22	Front patio and walk areas shall be brick or pervious pavers whose color and texture are complimentary to the period and style of the houses.	Perpetual	Plng. / ISD	
23	Railings along the front steps of the circa 1850 structure shall be black metal with a lamb's tongue finish end.	Perpetual	Plng. / ISD	
<b>Miscellaneous</b>				
24	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and property.	Perpetual	ISD	
<b>Public Safety</b>				
25	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
26	All smoke detectors shall be hard-wired.	CO	FP	
27	A common firewall shall be built between the two dwelling units.	CO	FP	
<b>Final Sign-Off</b>				
28	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*  
Danielle Evans  
Josh Safdie  
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.
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**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 \_\_\_\_\_

