



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

Case #: ZBA 2018-107

RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)

Site: 3-5 Summer Street
Date of Decision: October 3, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 9, 2018

ZBA DECISION

Applicant / Owner Name: 35atSummer, LLC
Applicant / Owner Address: One Summer Street, Unit 7, Somerville, MA 02143
Agent Name: Adam Dash, Esq.
Agent Address: 48 Grove Street, Suite 304, Somerville, MA 02144
Alderman: Ben Ewen-Campen

Legal Notice: Applicant/Owner, 35atSummer, LLC, seeks a Special Permit per SZO §7.11.1.c to construct a new five-unit apartment building and a Special Permit per SZO §9.13 for parking relief. The proposed five-unit apartment building will be deed restricted at below fair-market value to create additional workforce housing in alignment with SomerVision. NB Zone. Ward 3.

<u>Zoning District/Ward:</u>	NB Zone. Ward 3.
<u>Zoning Approval Sought:</u>	§7.11.1.c, §9.13
<u>Date of Application:</u>	August 2, 2018
<u>Date(s) of Public Hearing:</u>	October 3, 2018
<u>Date of Decision:</u>	October 3, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-107 was opened before the Zoning Board of Appeals at the Visiting Nurse Association (VNA) on Lowell Street. 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 October 3, 2018, 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

DESCRIPTION:

The proposal is to construct a five unit residential structure on the vacant lot (Lot B). The Applicant/Owner is proposing to keep the new units below market value with a deed restriction in perpetuity. The proposal also includes a shared parking arrangement with the two-family dwelling lot (Lot A) at a ratio of one per unit.

II. FINDINGS FOR SPECIAL PERMIT (SZO §7.11.1.c and §9.13):

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.

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."*

Article 7: Permitted Uses

Section 7.11.1.c of the SZO requires a Special Permit for the establishment of five residential units in the Neighborhood Business zoning district.

Article 9: Off-Street Parking and Loading

<i>Lot A</i>	<i>Existing</i>		<i>Proposed</i>	
Lot A Unit #1	3 BR	2 spaces	3 BR	2 spaces
Lot A Unit #2	3 BR	2 spaces	3 BR	2 spaces
Total	4 Spaces		4 Spaces	

SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is six or fewer. Lot A will become nonconforming with respect to the number of required off-street parking spaces as four spaces are required and only two spaces will be provided. Relief is being requested from providing the additional two parking spaces.

<i>Lot B</i>	<i>Existing</i>		<i>Proposed</i>	
Lot B Unit #1	-	-	2 BR	1.5 spaces
Lot B Unit #2	-	-	3 BR	2 spaces
Lot B Unit #3	-	-	2 BR	1.5 spaces
Lot B Unit #4	-	-	1 BR	1.5 spaces
Lot B Unit #5	-	-	2 BR	1.5 spaces
Total	None		8 spaces	



SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is six or fewer. The locus will become nonconforming with respect to the number of required off-street parking spaces as eight spaces are required and only five will be provided on the site. Relief is being requested from providing the additional three parking spaces.

There will be a shared driveway with a 10 foot-side curb cut off of Summer Street between the two structures that lead to three standard-sized spaces behind the existing two-family and two compact spaces behind the new proposed building. One of the three standard sized parking spaces straddles the lot line and is being attributed to Lot A for zoning purposes to calculate relief for each lot. There will also be a curb cut on Vinal Avenue that will serve two compact spaces behind the proposed structure. The proposal also includes nine bicycle parking spaces.

In considering a special permit under §9.13 of the SZO for the number of and dimensions of the parking spaces for both lots “the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1, and upon reaching the findings and determinations set forth in Section 5.1.4”. The Board finds that granting the requested Special Permit is consistent with the purposes of SZO §9.1 and will not cause detriment to increased traffic volumes, traffic congestion of queuing of vehicles, changes in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, or unsafe conflicts of motor vehicles and pedestrian traffic.

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 protect health; to secure safety from fire, panic and other dangers; to avoid undue concentration of population; to conserve the value of land and buildings; 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 proposal is consistent with the purpose of the NB district, which is, “to establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods.”

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."*

Surrounding Neighborhood: The subject site is located at the east terminus of Summer Street where it intersects with Bow Street. It is located on the east side of the intersection with Vinal Avenue just outside of Union Square. The neighborhood is surrounding by a mix of uses that include mixed-use buildings, multi-unit dwellings, single, two-, and three-family dwellings, commercial/retail storefronts, and a park.



Impacts of Proposal (Design and Compatibility): The proposed building will be angled to follow the angle of Summer Street and the front lot line. The building will be three stories tall with a roof top deck, head house, and pergola. The proposal will follow a modern design that will use wood, cementitious panels and siding, and metal.

6. Housing Impact: The Applicant is voluntarily proposing to place a deed restriction on the five new units that will restrict the sale price of those units to not exceed 60-80% of fair market value (FMV) and the buyers must meet certain requirements for Workforce Housing Eligibility (WFHE).

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.

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.*

The Applicant is voluntarily proposing to place a deed restriction on the five new units that will restrict the sale price of those units to not exceed 60-80% of fair market value (FMV) and the buyers must meet certain requirements for Workforce Housing Eligibility (WFHE).

DECISION:

Present and sitting were Members Orsola, Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, and Anne Brockelman. 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
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1	Approval is for the construction of a new five unit residential building. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August 2, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 27, 2018</td> <td>Modified plans submitted to OSPCD (T1, Existing condition plans, Z1, Z2, Z3, A0, A1, A2, A3, A4, A5, A6, A7, A8, and A9)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 2, 2018	Initial application submitted to the City Clerk's Office	September 27, 2018	Modified plans submitted to OSPCD (T1, Existing condition plans, Z1, Z2, Z3, A0, A1, A2, A3, A4, A5, A6, A7, A8, and A9)
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Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
Affordable Housing										
2	The Applicant/Owner must provide a deed restriction on each of the five new units that is to be held by the City of Somerville in perpetuity (or to the maximum extent allowed by law) that will restrict the sale price of each unit to 60%-80% below Fair Market Value.	CO	Housing							
Pre-Construction										
3	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng.							
4	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.							
5	The Applicant shall complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City's Stormwater Management Policy.	BP	Eng.							
6	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.							
7	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.							
8	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. The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.	BP	Eng.							
Construction Impacts										



9	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.	
10	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	
11	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				
12	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.	
Site				
13	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
14	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
15	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Plng.	
16	The Applicant must coordinate with the Engineering Department of the Department of Public Works on relocating the curb cut.	CO	Eng. / Highway	
17	The Applicant must coordinate with the City Arborist on installing new street trees in the place of the existing curb cut that is proposed to be relocated.	CO	City Arborist	
18	Parking spaces 6C and 7C and the first twenty feet of the shared driveway off of Summer Street are to be of a permeable paving stone.	CO	Plng.	
Miscellaneous				
19	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	ISD	



20	Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng.	
21	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Plng.	
22	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
23	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
24	The bicycle parking spaces on Lot A shall be made available to residents of the proposed building on Lot B.	Perpetual	Plng.	
Public Safety				
25	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
26	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
27	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
Final Sign-Off				
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*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Anne Brockelman (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 _____

