



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #: ZBA 2016-78**  
**Site: 104 Beacon Street/5 Smith Avenue**  
**Date of Decision: January 18, 2017**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: January 19, 2017**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Moons Realty Trust & Treat Realty Trust
<b>Applicant Address:</b>	320 Washington Street, Suite 3FF, Brookline, MA 02445
<b>Property Owner Name:</b>	Richard A. Mauser
<b>Property Owner Address:</b>	103 Beacon Street, Somerville, MA 02143
<b>Agent Name:</b>	Sean T. O'Donovan, Esq.
<b>Agent Address:</b>	741 Broadway, Somerville, MA 02144

Legal Notice: Applicant, Moons Realty Trust and Treat Realty Trust, and Owner, Richard Mauser, seek Variances for rear yard setback and parking under SZO §5.5, §9.5, and §4.4.1, a Special Permit with Site Plan Review (SPSR) to increase the number of dwelling units under SZO §7.11.c\*\*, and Special Permits under SZO §4.4.1 for pervious area, left and right side yard setbacks and to alter an existing, non-conforming structure.

<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§5.5, §9.5, §4.4.1 & §7.11.c
<u>Date of Application:</u>	July 7, 2016
<u>Date(s) of Public Hearing:</u>	8/17/16-
<u>Date of Decision:</u>	January 18, 2017
<u>Vote:</u>	Variance (4-1), Special Permit (4-1)

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Appeal #ZBA 2016-78 was opened before the Zoning Board of Appeals at Somerville City Hall on August 17, 2016. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by



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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 proposal is two-fold:

The 2-family structure at 5 Smith Avenue will be restored on the exterior. In addition, a third unit will be added to the rear of this building.

A new, 2-family structure is proposed to be built on the portion of the L-shaped lot that is currently covered with the two cherry trees and vegetation and faces Beacon Street. This two-family construction will have the appearance of a typical Somerville triple-decker.

**FINDINGS FOR VARIANCE (SZO §5.5, §9.5 & §4.4.1)**

*5.5.3. Authorization and Conditions for Variances. A variance from the requirements of this Ordinance may be authorized by the Board of Appeals only for reasons of practical difficulty and substantial hardship, and only where the Board finds that all of the following conditions apply*

(a)

There are special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing a substantial hardship, financial or otherwise.

**Applicant Narrative:** (*As-stated on the application*): The topography of the land is such that it is shaped in the form of an "L". As a result thereof, the existing structures on the land delineate an existing yard set back, therefore the applicant is required to build in the set back in order to maintain the streetscape on Beacon Street.

**Board Response:** The shape of this lot is particularly unusual to the area and to the City as a whole. This unusual lot shape provides reason for which a variance is granted. While this lot, like the majority\* of those in the City of Somerville, is non-conforming, Staff finds that what qualifies this lot as a candidate for a variance is the unusual L-shape in which it is found. Further, as noted earlier in this report, there are several other properties in the immediate vicinity of the proposed 104 Beacon Street project that contain residential dwellings within very close proximity to each other. The 104 Beacon proposal is in keeping with this historic building pattern in the immediate area.

\*only about 22 lots in the City of Somerville are conforming



(b)

The specific variance as may be granted by the Board is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.

**Applicant Narrative:** (*As-stated on the application*): The relief requested is in filling with Somervision and Mayor's calling for additional housing units in Somerville. The relief requested is to minimal relief necessary to achieve the additional housing units while maintaining the streetscape on Beacon Street.

**Board Response:** It is reasonable, within an RC district, to suppose that an owner in the future can implement RC uses. Those uses could include up to 3 units as well as offices, beauty salons, dry cleaning, bank, convenience store, deli, garden supply store and commercial nursery.

To do any combination of these would be disruptive to the quiet houses on Smith Street. Instead, the variance will allow the lot to be used for dwelling units only. While this is more dwelling units that would otherwise be allowed in a by-right project, it is less intense than many permitted uses – uses which could also meet parking requirements.

Finally, the other economical option for this applicant is to remove the current house and the one next door – and build one convenient building. While this will be able to meet parking requirements in an efficient manner, it is being resisted by Planning Staff and the neighbors.

It is not unreasonable to be able to establish allowed uses under the code. To establish a minimum of those uses (only the residential ones, without any of the commercial ones) requires a variance, and it should be granted. It is the minimum necessary grant of reasonable relief.

The Board finds that the granting of a variance for the rear yard setback will allow the Applicant to exercise the ability to add another principal structure to a lot in the RC zone.

**With regard to parking:** This property is located along a busy thoroughfare (Beacon Street) with easy access to public transportation. When new, ground-up construction is involved, parking relief can only be granted through the issuance of a variance. The Board finds, again, that the unusual "L" shape of the land makes it challenging to provide all of the parking required under current zoning for the occupants of the existing and proposed structures and therefore qualifies the parcel for parking relief via a variance. The Board would not be supportive of filling the available space on the parcel with parking in lieu of the decks, patios or green spaces that could instead be provided for future residents of this property.



According to §9.4.1 of the SZO, because the Applicant is increasing the net floor area of the property with the addition to 5 Smith and the new construction at 104 Beacon, parking relief in the form of a variance must be requested.

The Board finds that, due to the particular circumstances of lot shape, parking relief should be allowed for this proposal. Currently, there are 3 parking spaces provided and the Applicant proposes that 4 total spaces be provided under the redevelopment of this property or, one parking space for each unit. Ultimately, the Applicant needs 3.25 parking spaces of relief from the ZBA

The formula for the parking relief as based on bedroom count as outlined in §9.5 of the SZO is as follows:

Old parking requirement x .5 = P\* [3.5 x .5 = 1.75]

New parking requirement – P = no. of spaces required to be provided [9 – 1.75 = 7.25]

No. of spaces required – no. of spaces proposed = amt. of parking relief sought [7.25 – 4.0 = 3.25 spaces relief]

Under the current application, the Applicant proposes 4 total parking spaces for the project or, one parking space for each of the units in this proposal. Under the parking formula, the applicant should be providing 3.25 additional spaces on-site. Due to the unusual shape of the land, it is not possible for the Applicant to provide these additional parking spaces complete with their required 20-foot turn radius. The Board finds that relief for 3.25 parking spaces is a reasonable request for the Applicant to make particularly given that one space per unit will be provided on-site and because the project site is on a busy thoroughfare with easy access to public transportation.

(c) The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of the nearby buildings, the Board, in making its findings, shall take into account the number of persons residing or working in such buildings or upon such land, and the present and probable future traffic conditions.

**Applicant Narrative:** (*As-stated on the application*): The relief requested seeks to create similar structures on Beacon Street while maintaining the historical nature and integrity of the existing structure thereon. This application will not be injurious to the neighborhood because it creates similar heights and set backs as the surrounding buildings.

**Board Finding:** The Board finds that the proposal is consistent with the overall goals of the City, including SomerVision. The proposal is consistent with the character of the existing streetscape. Further, this proposal will add three additional dwelling units to the city housing stock and provide for the



careful restoration of the exterior of 5 Smith Avenue. The proposed new structure is consistent in style, height, massing and form with the housing stock in surrounding area and in the City as a whole.

**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 in detail.*

**1. Information Supplied:**

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 presented, this proposal requires the Applicant to seek relief to extend an existing non-conformity along the left property line. 5 Smith Avenue, the existing structure on the development site, sits 4' 2" from the left side property line at its shortest point, thus making it non-conforming with regarding to the left side yard setback.

The proposal includes adding two bedrooms into the existing basement space. Both of these bedrooms will require window wells for emergency egress purposes per building code. While the proposed window well at the front portion of the basement does not require relief, the proposed window well at the rear portion of the basement does. This proposed window well will fall within about a foot of the lot line. Staff is requiring the installation of a 6-foot wood fence along this left property line meaning that the window well will never be seen from the abutting property, 9 Smith Avenue.

The Board finds that the inclusion of the window well would not be substantially more detrimental to the property or the surrounding neighborhood than the existing conditions currently extant on the site. The window well will be blocked from the view of the abutting property and will be used only in emergencies. Because the window well does not increase actual massing of the existing building in this area, the Board finds that its further incursion into the left side yard setback is a reasonable request for the Applicant to make in order to accommodate the activation of the basement area.

**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 Board finds that the proposal 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."***



**Surrounding Neighborhood:**

Taking into account both the Smith Avenue and Beacon Street neighborhoods, the Board finds that the proposed alterations to 5 Smith Avenue and the new construction proposed for 104 Beacon are both in keeping with the characteristics of the surrounding built and unbuilt environment.

**Regarding 5 Smith Avenue:**

It is consistent with historic structures to have additions added to the rear of a residential dwelling. The proposal, which adds a third unit to the existing 2-family structure, is to construct such an addition at grade (there will only be a crawl space under the addition area). When considering additions to the rear of existing buildings, the Board requires that such additions be stepped back from the main/original portion of a dwelling so that the addition reads as being less dominance and architecturally less important than the original structure. The proposal for 5 Smith Avenue accomplishes this goal.

**Regarding 104 Beacon Street:**

The proposed new construction for 104 Beacon Street is for a 2-family structure that mimics the look of a traditional Somerville triple-decker. The style, form, design, and massing of the proposed structure are harmonious with the surrounding neighborhood.

With regard to the proximity of the proposed new structure to that of the existing triple-decker at 106 Beacon Street, the Board finds that the proposed proximity of these buildings is consistent with other, existing premises in the immediate neighborhood surrounding this parcel. A few examples include:

- 109 and 111 Beacon Street,
- 105 and 103 Beacon Street,
- 97 Beacon Street and abutters.

The above-mentioned properties that also comprise part of this neighborhood are immediately across the street from the planned development site and demonstrate that buildings of varying sizes and uses have historically been built in very close proximity to each other. Note the images that follow highlighting the close distance between existing houses of the same/similar form as that proposed for 104 Beacon Street.

***Below:** 111 & 109 Beacon Street. Of note is the proximity between these two structures, one a classic triple-decker form and the other a traditional gable-fronted dwelling. This is immediately across the street from the proposed site of 104 Beacon Street.*



The image below shows 105 Beacon and 103 Beacon. Again, these structures are across the street from the proposed 104 Beacon Street development site. Note the proximity of these structures of two different styles.

***Below:*** 105 and 103 Beacon Street. Across the street from the proposed 104 Beacon development site.



Lastly, the following image shows the proximity between 97 Beacon Street and its abutters. The proposed distance from 104 and 106 Beacon Street is consistent overall with the residential development patterns in the neighborhood.

***Below:*** 97 Beacon Street and abutters.



***Impacts of Proposal (Design and Compatibility):***

The Board finds that the proposed development would bring residential dwelling unit styles that are compatible with those already present on Beacon Street. As noted earlier, the inclusion of a rear addition to 5 Smith Avenue is consistent with historic building patters. All of the structures in this immediate area have been two- or more family units since their creation in the latter half of the 19<sup>th</sup> century. The current proposal does not differ from that trend.

- 5. Adverse environmental impacts: *The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.***

***Impacts of Proposal (Environmental):***

The Board does not anticipate adverse environmental impacts from this proposal. As noted in the conditions, there shall be no pervious material permitted on this site in perpetuity which should help allow for stormwater to percolate through the property as opposed to the City sewer system and neighboring properties.

With regard to illumination, the Board has conditioned the proposal such that all lighting shall be downcast and shall not spill onto neighboring properties in any way. Because this is a condition of the Certificate of Occupancy (CO), the Applicant must demonstrate compliance with the condition prior to the CO being issued.

- 6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.***

***Impacts of Proposal (Circulation):***

As proposed, this development will not alter the circulation of traffic in any way. Smith Avenue will continue to be a one-way street heading from Beacon Street toward the Cambridge line. Currently, there are



three parking spaces on the site for this property. The proposal calls for an additional two spaces to be provided, for a total of 4 on-site parking spaces for these two properties.

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

This project will not add any additional affordable housing units to the City's affordable housing stock.

**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.***

This proposal will add three new residential units to the City's housing stock.

**FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §7.11.c):**

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §7.11.c of the SZO. This section of the report goes through §§7.11.c in detail.

**1. Information Supplied:**

The Board finds that the information provided by the Applicant conforms to the requirements of §7.11.c of the SZO and allows for a comprehensive analysis of the project.

**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 with site plan review."**

**3. Purpose of District: The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".**

The Board finds that the proposed project is consistent with the intent of the RC district which is, as stated in §6.1.3 of the SZO, 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." The proposal is to increase the number of total units on the property from two to five. Multi-unit residential housing is a characteristic the RC residential zone. Further, Smith Avenue and Beacon Street have long been filled with multi-family housing, including in this particular neighborhood. Increasing the number of units present on this lot is consistent with the historic development patterns of the area.

**4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area".**

The proposed development, both the additional unit to be added to 5 Smith Avenue and the 2-unit dwelling with the look of a triple-decker to be constructed at 104 Beacon Street, are compatible with both the site and the surrounding area. The massing and detailing of these buildings are proposed as to blend with such details of surrounding structures.

**5. Functional Design: *The project must meet "accepted standards and criteria for the functional design of facilities, structures, and site construction."***



The proposed project is harmonious with the design of similar structures in the surrounding neighborhood. The triple-decker style of house proposed for 104 Beacon is one that is readily found in the immediate neighborhood and is ubiquitous across the City.

**6. Impact on Public Systems:** The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”

The Board finds that the proposed project will not negatively impact the public services in this area. The Applicant is required to provide an engineering report to the city’s Engineering Department for their review and approval prior to the start of the project. The Board has also conditioned the proposal to ensure that the majority of water percolates through the property rather than running off into the city sewer system or abutting properties.

The properties are found along a busy thoroughfare (Beacon Street). The project has been designed such that all vehicles belonging to residents of the property enter and exit the location from Smith Avenue rather than from or onto the busy thoroughfare. The entry and exit point of this development is in the same location as existing entrance/exit points for the existing structures in this area (5 Smith Avenue and 102 Beacon).

**7. Environmental Impacts:** *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”*

Construction noise and related dust, etc. can be expected during the construction process. Any hazardous materials found on the property are required, by law, to be removed and disposed of with proper oversight from local/state agencies. The proposed plan opens up more pervious and permeable surfaces than those currently extant on the property.

**8. Consistency with Purposes:** *“Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”*

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 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.”

**9. Preservation of Landform and Open Space:** *The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of*



*steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”*

As the property in question is flat in its nature, the Board finds that the natural land form is being maintained with this project proposal. There will be no stripping or re-grading of any slopes or other natural features of the site. The Board has conditioned this proposal to include the saving of the two cherry trees currently extant on the Beacon Street side of this property.

**10. Relation of Buildings to Environment:** *The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”*

The Board finds that the erection of the proposed 104 Beacon Street 2-family residential dwelling sets this new building in line with the abutting properties along the street. This location is preferable from a streetscape compatibility standpoint than having the front façade of any new construction facing Smith Avenue. 5 Smith Avenue will remain in the same orientation as present. Both properties will have portions of their roofing surfaces in locations acceptable for the installation of solar energy equipment, should the Applicant or later owners choose to install them.

**11. Stormwater Drainage:** *The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and paved area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”*

As noted earlier in this report and in the Conditions section, the Applicant is required to present an engineering plan to the city engineer for their review and approval prior to the granting of any building permits.

**12. Historic or Architectural Significance:** *The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”*

5 Smith Avenue has been determined to be historically significant and preferably preserved by the Somerville Historic Preservation Commission (HPC). 5 Smith and the adjoining 102 Beacon Street have recently come off their 9-month demolition delay period. 5 Smith along with 102 Beacon and 9 Smith Avenue are “triplet” Italianate structures, largely intact from the time they were all built between 1869 and



1874. It cannot be underscored how very unusual it is for these three properties to still exist in a largely unaltered exterior state. That said, this does not mean that historic structures cannot or should not undergo some degree of change in order for them to be able to accommodate the changing life needs of their inhabitants. These structures have been multi-family residences since they were originally build as working class housing for laborers and similarly-employed residents of Somerville during the latter half of the 19<sup>th</sup> century. This property is in an area proposed as an extended Local Historic District (LHD). It is key to recall that LHDs cannot prevent new development from happening within their boundaries and are not intended to create areas that simply remain in a state of stasis, resulting in “museum-like” neighborhoods.

The Board finds that the proposed alterations to 5 Smith Avenue do not fundamentally change the historicity of the building. The original form and style of the Italianate building remain under this proposal. The addition of dormers and the erection of rear additions are consistent with the type of changes families would make to dwelling houses throughout history in order to accommodate growing families and other life changes. The Board has conditioned this project such that all changes to the structure shall be guided by the Secretary of the Interior’s Standards and shall be first reviewed and approved by the Planner-Preservation Planner prior to installation.

**13. Enhancement of Appearance: *The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non-residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”***

The project is not considered a higher-density residential development as only 2 units are being constructed at 104 Beacon Street and an additional unit added to 5 Smith Avenue.

**14. Lighting: *With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”***

This is a residential project. However, the Board has conditioned this project such that all exterior lighting shall be downcast and Planning Staff shall review and approve all lighting material prior to their installation on the site.

**15. Emergency Access: *The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”***

The orientation of the addition to 5 Smith Street and the location of 104 Beacon Street allow for enough access to the rear of each building by emergency personnel. 104 Beacon Street can also be access from Beacon Street itself. 5 Smith Avenue can be accessed from the right elevation of the property as well.

**16. Location of Access: *The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”***

The entry point for 5 Smith Avenue will remain the same as current. 104 Beacon Street will share the same entry/exit points. The Board finds that the retention of the same, known entry/exit point to the property will not result in additional traffic congestion in the area.

**17. Utility Service: *The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”***

The Board has conditioned this project to require underground placement of all such utilities, including for 5 Smith Avenue and not solely just for the proposed new construction at 104 Beacon Street.



**18. Prevention of Adverse Impacts:** *The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development.”*

To-date there have been no engineering reports submitted for this project. However, the Applicant is required to submit engineering plans to the Engineering department for their review. As proposed, there should be no impacts of heat island effect caused by this project as all surfaces not covered by the footprint of the dwellings shall be covered in pervious material or vegetation. The impact of construction noise and related nuisances/disruption have been identified in the Conditions section of this report.

**19. Signage:** *The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”*

There is no proposed signage for this property. However, the Board has included a condition that requires the Applicant/Owner to install an historic plaque on 5 Smith Avenue that depicts the history of the property. The Planner-Preservation Planner shall review and approve all information, style, design, materials, etc. to be used on this plaque.

**20. Screening of Service Facilities:** *The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”*

Currently, there are no plans to have transformers, dumpsters or other items mentioned above on the site on a permanent basis. (Construction dumpsters are not included in this criterion.) It has been included in the Conditions for this project that the Board shall approve the screening of all items – mechanicals, parking, trash/recycling – prior to their installation. Should the need for a transformer become necessary after the analysis of Lights & Lines/Wiring, the Board shall work with the Applicant as to appropriate location and screening.

**21. Screening of Parking:**

As stated above, there are currently no plans for the screening of parking in the plan. As noted in the Conditions, the Board shall work with the Applicant to determine appropriate screening materials for the parking areas.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Variance. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-1** to **APPROVE** the request with Josh Safdie voting in opposition. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit and a Special Permit with Site Plan Review. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-1** to **APPROVE** the request with Josh Safdie voting in opposition.. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the construction of a 2-family residence and the addition of a second unit to an existing 2-family residence. Approval also includes parking relief.	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>7/7/2016</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>10/5/2016</td> <td>Final Plan set submitted to OSPCD</td> </tr> <tr> <td>1/12/2017</td> <td>Updated final plan set submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	7/7/2016	Initial application submitted to the City Clerk's Office	10/5/2016	Final Plan set submitted to OSPCD	1/12/2017	Updated final plan set submitted to OSPCD
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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. Planning Staff shall determine whether said changes are <i>de minimis</i> in their nature.												
<b>Pre-Construction</b>												
2	The Applicant must contact the Engineering Department to obtain a formal street address prior to a building permit being issued.	BP	Eng.									
3	The Applicant/Owner of the property must sign a covenant with the City of Somerville ensuring that neither now nor at any point in the future shall the buildings at 5 Smith Avenue or 102 Beacon Street ever be demolished. This shall occur prior to the issuance of a building permit. If this covenant goes unsigned, no building permit for this project shall be issued.	BP	City Solicitor									
4	The Applicant shall be required to demonstrate that the updated 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 before a building permit will be issued.	BP	Eng.									



5	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. This plan shall be reviewed and approved by the Engineering Department prior to the issuance of a building permit.	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	The Applicant shall present their electrical plan to lights and lines/wiring for their review and approval prior to the issuance of a Building Permit.	BP	Lights & Lines/wiring	
8	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.	
9	The Applicant shall provide their parking plan to the Traffic & Parking division for their review and approval prior to receiving a building permit.	BP	T&P	
10	The Applicant shall provide the Traffic & Parking Division with a plan for construction traffic management for that division’s review and approval prior to the issuance of a building permit. This plan will include delivery windows for construction equipment (see earlier condition in this table).	BP	T&P	

**Construction Impacts**

11	The applicant shall post the name and phone number of the general contractor and all sub-contractors at the site entrance where it is visible to people passing by.	During Construction	Plng./ISD	
12	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than <del>6pm</del> 5pm Monday through Friday. There shall be no construction work performed on weekends.	During Construction	Plng./ISD	
13	Deliveries to the construction site shall be limited to 9am to 3pm so as not to interfere with the comings and goings of neighborhood residents during peak commute times.	During Construction	ISD/T&P	
14	There shall be NO PARKING of construction vehicles along Smith Avenue AT ANY TIME.	During Construction	ISD/T&P	



15	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont./Perpetual	Plng.	Deed submitted & application formed signed
16	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	
17	All construction materials and equipment shall 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 Division must be obtained.	During Construction	T&P	
18	The Applicant shall provide the Traffic & Parking Division with a plan for construction traffic management for that division's review and approval prior to the issuance of a building permit.	BP	Plng.	
<b>Design</b>				
19	Applicant shall provide material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. Planning Staff shall have final determination and approval over all materials used on the exterior of 104 Beacon. Lighting styles, location and design along with roofing/gutter samples shall also be provided for Staff approval.	BP	Plng.	
20	The exterior of 5 Smith Avenue shall be restored as guided by the Secretary of the Interior's Standards. Planning Staff (the Planner-Preservation Planner) shall determine and approve all materials and design for 5 Smith. As per the HPC's recommendation, the new addition 5 Smith Avenue shall be stepped in one foot from the right elevation plane of the historic portion of the house.	Pre-and during construction/Final Sign-off/CO	Plng./ ISD	
21	All exterior lighting on the site shall be downcast and shall not, in any way, spill onto abutting properties.	Final sign off/perpetual	Wiring Inspector	
22	All windows proposed for the façade of 104 Beacon Street that faces 106 Beacon Street shall be off-set such that no windows from 104 Beacon are able to look directly nor indirectly into the windows at 106 Beacon.	CO	ISD	
23	The Applicant shall construct and maintain a solid wood, 6-foot privacy fence that runs along the property line between 104 Beacon and 106 Beacon. Planning Staff shall approve the material and style prior to installation.	CO-construction/perpetual maintenance	Plng./ISD	
24	The Applicant shall construct and maintain a solid wood, 6-foot privacy fence that runs along the property line between 5 Smith Avenue and 9 Smith Avenue. Planning Staff shall approve the material and style prior to installation.	C CO-construction/perpetual maintenance	Plng./ISD	





25	5 Smith Avenue shall be required to install a plaque on the front façade of the building detailing the history of the property and its relationship to the street. This shall be done in consultation with and the approval of the Planner-Preservation Planner.	CO	Plng/ISD	
26	Windows shall not present a reflective quality in any way.	Final sign off/CO	ISD/Plng.	
27	Windows for 104 Beacon shall be 2-over-1 with dark sash and dark spacers between the glass. Grids shall be applied to the exterior of the glass.	CO	ISD/Plng.	
28	All windows, trim, doors and other exterior elements used on both structures involved in this project shall be reviewed and approved by the Planner-Preservation Planner prior to their installation.	CO	Plng./ISD	
29	The Applicant shall work with the Planner-Preservation Planner to make minor adjustments to the right elevation dormer on 5 Smith to slightly modify scale and design.	CO	V	
<b>Site</b>				
30	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards. Final approval for all landscaping shall be provided by Planning Staff. Planning Staff shall review and approve all landscaping proposals prior to installation.	CO- installation/ perpetual- maintenance	Plng./ISD	
31	The two cherry trees extant on the Beacon Street side of the property shall have their root balls properly dug and protected so that they can be re-planted in another spot on the property. At least one of these trees shall be re-planted on the property. If both trees cannot fit on the parcel, then the Applicant shall work with Planning Staff to find a suitable location in the City for the replanting of the second tree. The replanted trees shall be consistently and properly tended to according to the American Nurseryman's Association standards to ensure their survival.	CO	Plng./ISD	
32	There shall be no asphalt or any pervious material whatsoever used on this project. Either pea stone or grasscrete shall be used for all drivable and parkable areas. Any walkways shall be made of natural stone or pea stone. This shall be written into any condo docs that are created.	CO & Perpetual	ISD	
33	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. This shall be the case for both 104 Beacon and 5 Smith Avenue.	Installation of Utilities	Wiring Inspector	
34	All mechanical equipment shall be screened with evergreen vegetation ( <b>no arborvitae</b> ). Planning Staff shall approve vegetative screening prior to installation.	CO	ISD/Plng.	
35	All trash and recycle areas shall be screened with cedar wood lattice or similar screening. Planning Staff shall approve such screening. This shall be written into any condo docs for the properties.	CO	ISD/Plng.	
36	The Applicant shall work with the Planner-Preservation to create an additional landscaping plan that shall help screen the 5 Smith Avenue addition from the street.	CO	ISD/Plng.	



<b>Traffic &amp; Parking</b>				
37	It shall be written into the condo docs and/or rental agreements that of both buildings shall only park in designated spaces on the parcel or off-site spaces privately procured by the residents shall be permitted.	CO (proof of condo doc/rental agreement) Perpetual for enforcement	T&P/ISD	
38	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
39	Any transformers shall be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO	Lights & Lines	
40	The buildings shall be sprinkled.	CO	FP/ISD	
41	All trash and recycling shall be removed from the premises through a private hauling company.	Perpetual	ISD	
42	All snow shall be removed from the site and this shall be written into the condo docs should the property be converted into condos.	Perpetual	ISD	
43	As per Somerville regulations, no grills shall be permitted on decks. Condo docs or rental agreements shall state as such.	Perpetual	ISD	
44	Parking shall be screened, to the extent possible, from abutting properties by vegetation. Planning Staff shall review and approve all parking screening prior to installation.	CO	Plng./ISD/Condo Review Board	
<b>Miscellaneous</b>				
45	If the units on this property are to become condo units, the Applicant shall appear before the Somerville Condo Review Board to formally convert the units to condos.	CO	Plng./ISD	
46	In an effort to reduce construction waste, the Applicant shall retain all historic building materials from the 5 Smith Avenue site for re-use. For items not to be re-used, the Applicant agrees to allow Planning Staff to identify historic items for salvage/re-use/education purposes that would otherwise end up in the dumpster/landfill.	CO	Plng.	
<b>Final Sign-Off</b>				
47	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  
\_\_\_\_\_ 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 \_\_\_\_\_

