



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-71
Site: 71 Bow Street
Date of Decision: September 4, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: September 18, 2019

ZBA DECISION

Site: 71 Bow Street
Applicant/Owner Name: Kevin Gorham, Goodwin Berkeley, LLC
Applicant/Owner Address: 77 Willard St., Quincy, MA 02169
City Councilor: Ben Ewen-Campen

Legal Notice: Applicant, Scott Zink, and Owner, Leins Family Realty Trust with Luis E. Leins, Trustee, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming structure, a Special Permit with Site Plan Review (SPSR) to construct a mixed-use building with 24 residential units and ground floor commercial space, Variances including height, number of stories, FAR, and parking relief under Article 9. NB zone. Ward 3.

<u>Zoning District/Ward:</u>	NB zone, Ward 3.
<u>Zoning Approval Sought:</u>	SZO §4.4.1, SPSR, 5.5, 8.5, Article 7 Article 9
<u>Date of Application:</u>	May 16, 2019
<u>Date(s) of Public Hearing:</u>	
<u>Date of Decision:</u>	September 4, 2019
<u>Vote:</u>	5-0

Case # ZBA 2019-71 was opened before the Zoning Board of Appeals in the 3rd Floor Community Room, Visiting Nurses Association (VNA), 259 Lowell Street, Somerville, MA. 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 September 4, 2019 the Zoning Board of Appeals took a vote.



I. PROJECT DESCRIPTION

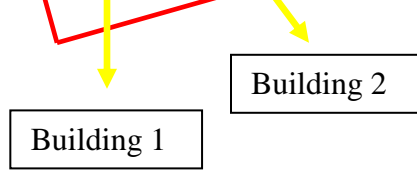
1. Subject Property: The locus is the site of Leins Auto. The site is completely covered with bituminous material (asphalt) and three CBS (concrete/brick/stucco) buildings. The lot is oddly shaped in that the left rear corner extends behind the abutting property and terminates at an angle behind 35 Church Street and 381 Bow Street (see site survey). The lot is 10,781 square feet and is located in the NB district.

Building 1: The building on the front left of the property is the single-story hip-roofed former *Cities Service Refining Company Fuel Station* constructed c.1925.

Building 2: In the middle of the lot sits the 1 ½-story main autobody building complete with a large, two-vehicle service bay and accompanying business office on the ground level. Additional business-related space is present on the ½-story along the front and right elevations of the building.

Building 3: Running nearly the length of the rear lot line is a structure housing multiple vehicle bays.





2. Proposal: The applicant proposes the following:

- Retain Building 1 which will be incorporated into the new design of the building as a vestibule/lobby entrance for the residential portion of the project. Exterior of building to be restored. This is in keeping with the Union Sq. School plan.
- Demolish Building 2 and Building 3
- Remove all bituminous material from the site
- Construct a 5-story mixed-use building with ground floor commercial. Floors 2-5 will be residential.
- Partial green roof
- Solar panels on roof
- Green wall
- Passivhaus construction
- Parking behind and under building (14 standard and compact spaces)
- Outdoor space to right of building for use by commercial tenants
- 24 bike spaces provided
- Of the 24 total residential units provided, four (4) will be inclusionary units and a .8 fractional payment will be made to the Somerville Affordable Housing Trust Fund.
- The property will be re-landscaped
- Common roof deck
- Condensers placed on roof

The general programming for the residential units and associated parking requirements are as follows:

Unit #	Square Feet (nsf)	BDR Count	PKG Req.
First Floor			
Commercial space	1,825	n/a	n/a
Second Floor			
1	1,152	2	1.5
2	882	1	1.5
3	892	2	1.5
4	912	2	1.5
5	1,210	2	1.5
6	606	1	1.5
Third Floor			
7	1,152	2	1.5
8	882	1	1.5
9	892	2	1.5
10	912	2	1.5
11	1,210	2	1.5
12	606	1	1.5
Fourth Floor			



13	1,152	2	1.5
14	882	1	1.5
15	892	2	1.5
16	912	2	1.5
17	1,210	2	1.5
18	606	1	1.5

Fifth Floor			
19	1,153	2	1.5
20	882	1	1.5
21	892	2	1.5
22	517	1	1.5
23	667	1	1.5
24	867	2	1.5

The triggers for zoning relief are as follows:

Dimension	Required/Allowed	Existing	Proposed	Relief Needed
Lot area per dwelling unit	1,000	n/a ¹	449	Variance
Number of stories	4	1, 1 & 1.5	5	Variance
Building height	42 ft.		58	Variance
FAR	2.0	n/a ¹	2.6	Variance
Total number of dwelling units	n/a	n/a	24	SPSR
Rear yard setback	18 ft	0.4	10	Special Permit
Parking	36	Unknown	14	Special Permit ²
Parking (size of spaces)	Standard size (9x18)	Unknown	13 standard and 1 Compact (8x16)	Special Permit

3. Green Building Practices:

¹ Lot area per dwelling unit ratio is only applicable to residential units. The current structure presents commercial units. Therefore, the lot area per d.u. ratio is not applicable under existing conditions.

² Even if the number of spaces of relief needed would, under all other circumstances, trigger the need for a Variance, because Article 13, Inclusionary Housing, is being exercised, all parking relief may be granted under the rubric of a Special Permit. No parking variance is needed.



The building will be constructed according to Passivhaus³ building principles.

4. Comments:

Ward Councilor: Council Ben Ewen-Campen has been involved with this project. His written comments were forwarded to the ZBA via email.

II. FINDINGS FOR SPECIAL PERMITS (SZO §4.4.1 and Article 9 and SPECIAL PERMIT WITH SITE PLAN REVIEW (SPSR)):

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." Further, Section 4.4.1 of the SZO states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."*

Section 4.4.1 of the SZO allows for legally-existing, non-conforming one- and two-family residences to be enlarged by Special Permit as long as the proposed changes do not create a situation that is more detrimental to the site or surrounding neighborhood than current conditions.

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 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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to

³ From Wikipedia as follows: "Passive house (German: Passivhaus) is a rigorous, voluntary standard for energy efficiency in a building, which reduces the building's ecological footprint. It results in ultra-low energy buildings that require little energy for space heating or cooling. A similar standard, MINERGIE-P, is used in Switzerland. The standard is not confined to residential properties; several office buildings, schools, kindergartens and a supermarket have also been constructed to the standard. Passive design is not an attachment or supplement to architectural design, but a design process that integrates with architectural design.^[8] Although it is principally applied to new buildings, it has also been used for refurbishments..."
https://en.wikipedia.org/wiki/Passive_house

provide adequate light and air; to prevent the overcrowding of land; 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; and to preserve and increase the amenities of the municipality.

The Board also finds that the proposal is consistent with the purpose of the NB district, which is, “[t]o 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.”

The NB district also has specific standards and guidelines as follows:

1. *When a fourth floor is included, provide a minimum five (5) foot deep setback from the front lot line building wall, such as a balcony or deck, for the purpose of promoting a scale appropriate to surrounding neighborhoods.*

Board assessment: The entire fourth floor of this building is not stepped back; however, the left- and right-most elevations of the second, third, and fourth floors are stepped back further from the front lot line. The entire fifth floor of the building is stepped back from the front lot line. Staff notes that the design guidelines for the NB district are just that – guidelines, not requirements. Staff finds that the proposed design of this building, with large portions multiple floors protruding and others receding, successfully provides a visual and physical reduction of building mass along the front elevation of the structure.

2. *Give preference to locating on-site, off-street parking at the rear of the lot, behind the building or below street level, providing vehicular access from either a side street or alley where possible.*

Board assessment: The applicant has proposed 14 on-site parking spaces on a site that is a quick walk to the future Green Line Union Square “T” station. Due to the location of the project site, surrounded by buildings to the left and right, it is not possible to provide access to the property from side streets.

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:

71 Bow Street is surrounded by residential neighborhoods to the rear, and mixed-use and commercial structures along Bow Street and Somerville Avenue in the heart of Union Square. At five (5) stories, this building would be the tallest building in this immediate area. Though less congruous with some of the existing building stock fronting the major arteries of this portion of Union Square, the proposal is in keeping with the increased massing and density anticipated with the zoning overhaul.

Impacts of Proposal (Design and Compatibility):

The proposal is more compatible with existing, mixed-use, multi-story structures along Bow Street and Somerville Avenue than with other new construction in the immediate area.



Applications for Special Permits with Site Plan Review in Residence Districts must meet the design guidelines under SZO §5.2.4. The design guidelines for residential districts are as follows:

- a. *Buildings should be generally of the same size and proportions as those existing in the neighborhood. This shall apply in cases of multi-family development as well as one-, two-, and three-family units. For example, if relatively small two- and three-family structures are common in a neighborhood where multi-family development is proposed, the multi-family development should be physically broken into components that, from a design perspective, are housed in buildings of similar width, depth, and height as those typically found in the neighborhood.***

The proposed structure is larger in overall size, scale and massing the buildings found on the abutting residential streets (Bow Street Place, Church Street) and the immediate left- and right-abutting structures. (see “Site and Area Compatibility” comments above)

However, the double flat-iron building immediately across the street (fronting on Bow Street and Somerville Avenue) is larger in overall massing and density, though it presents four stories rather than the five proposed at 71 Bow Street. As seen in the aerial view of the area at the outset of this report, the building housing Stanhope Framers (55 Bow Street) may be only single-story, but it presents a very long, inactive street wall along church Street, covers nearly the entire lot and provides no meaningful green/pervious space. Other multi-story structures dot the landscape around the Union Square commercial core.

- b. *Use of traditional and natural materials is strongly encouraged (e.g. wood clapboard, wood shingles, brick).***

The new building will be clad in materials both modern and traditional. The final materials to be used on the structure will be reviewed and approved by Planning Staff, as conditioned, prior to their ordering and installation.

The existing historic structure, the c.1925 fuel station building, will be retained and restored in accordance with the Memorandum of Agreement (MOA) executed between the applicant and the Historic Preservation Commission (HPC). This building will retain its façade of “traditional” (brick) material.

- c. *Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines etc.***

N/A

- d. *Although additions should not clash with or be incompatible to the existing structure, it is acceptable and even desirable for the new construction to be distinguishable from the existing building, perhaps by maintenance of design elements of the original building that would otherwise be lost (e.g. false rakes, fasciae, and the like).***

N/A



- e. *Where practical, new or infill building construction should share the same orientation to the street as is common in the neighborhood. When not contrary to any other zoning law, front and side yards should be of similar dimensions as those typical in the area.*

The main façade of the proposed building is oriented toward the street.

- f. *Driveways should be kept to minimal width (perhaps a maximum of twelve (12) feet), and be designed so that no vehicle parked on the drive may straddle the public sidewalk in any way. Low barriers or plantings may be required to separate the parking area from the pedestrian space.*

The driveway is proposed at 12 feet wide.

- g. *Transformers, heating and cooling systems, antennas, and the like, should be located so they are not visible from the street or should be screened.*

This staff report has been conditioned such that items such as this shall be screened and that trash and recycling shall be picked up by private contractor. Trash and recycling shall be required to be stored inside until trash/recycling day.

- h. *Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.*

There is no overlay zoning district in this area and the Board finds that the proposal meets with the general purposes of the NB zoning district.

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

Based upon feedback received to-date from various City departments, the project meets accepted standards and criteria for the functional design of facilities, structures, and site construction. Any necessary mitigation or minor design changes have been incorporated into the recommended conditions section of this report. If any further mitigation or design changes are needed once work on the site is in-progress, it will be addressed by appropriate City departments as-needed at that time.

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 site currently is nearly 100% covered by pavement or structures. All of this will be removed as part of this proposal. Where walk areas and vehicular access are required, pervious material will be installed. Impacts on the sanitary sewer system are likely, due to the number of units proposed. Significant work is

currently being conducted on the sewer lines in Union Square. It is a condition that if the minimum threshold is met, the Applicant shall make an I/I payment.

There will be some increase in the utilization of the City's street system due to the up-tick in number of units on the site. In order to determine the specific impact that the proposed project will have on traffic operations, Traffic & Parking may wish to request a traffic study.

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."*

The proposed mixed use will not adversely impact the environment. No new noise, glare, smoke, vibration, nor emissions of noxious materials, nor pollution of water ways or ground water, nor transmission of signals that interfere with radio or television reception are anticipated as part of the proposal. There is a greater risk of environmental pollution with the continued operation of an auto repair business on the site.

Typical construction noise for a project this size can be expected. Further, the application states that the Applicant will submit all necessary 21E reports as required. Ultimately, oversight and enforcement of environmental issues on the site rests with the Commonwealth of Massachusetts and not with the City of Somerville.

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 Board finds that the proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to 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 provide adequate light and air; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; 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.

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.”

The site currently contains three structures, all of which are used for the existing auto repair business on the site. The site is entirely covered with bituminous material and buildings. The site is flat and completely devoid of natural features. The lot is largely square except for the angled extension of the lot at the left rear corner.

The site is proposed to have increased permeability and to increase the landscaping from 0 (zero) to 13%. Overall, the proposal is designed to enhance the attractiveness the site and the neighborhood.

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 proposed mixed use of the site is compatible in with the majority of the uses in the surrounding Bow Street/Union Square core. The front of the building will face the Bow Street public way as do the other mixed-use buildings on the street. Solar panels will be installed on the roof and a partial green roof will be created. Abutters on the right and left sides of the property will find that some of their light is obscured by a taller building. Overall, this proposal is compatible with the scale and design of more recent, larger-scale developments in the heart of Union Square, specifically along portions of Prospect and Washington Streets.

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 powered 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.”*

The proposed project improves the permeability of this site through the installation of permeable hard surfaces and landscaping. The project further includes substantial pre-construction site work that will address water flow through the site itself. As is typical of a project of this scale, this report is conditioned to require the Applicant to submit their civil engineering plans to the City’s Engineering Department for their review, comment, and sign-off.



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.”*

The buildings on the site have already been through the Historic Preservation Commission’s (HPC) demolition review process. The HPC determined that Building #1 is historically significant. A Memorandum of Agreement (MOA) has been signed between the applicant and the HPC allowing for this c.1925 building to be moved forward and to the left on the project site. According to the MOA, the building will be restored and adaptively-reused as part of the programming of the new building.

Building 2 and Building 3 were determined to not be historically significant and can be demolished at any time in accordance with the requirements for demolition set forth by the Inspectional Services Division (ISD).

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 overall appearance of the site – which is now mostly a very large bituminous-covered surface parking lot – and auto garage will improve as a result of the proposed development. Improvements will come in the form of well-designed residential units, landscaping, adaptive re-use of a restored historic structure, and left elevation traffic flow.

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.”*

The Board has included a condition that all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.

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.”*

Emergency personnel will have access to the building from the front, right and left sides. The building is also required to meet state fire code, including full sprinkling. The City’s Fire Prevention personnel are responsible for inspecting and approving the building according to fire regulations.



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.”*

A curb cut will exist at the left elevation of the property for vehicle entry/exit.

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 Applicant is required to present their electrical/utility plan to Lights & Lines and Highways. There is a condition that any new lines would be placed underground in accordance with the SZO and the policies of the Superintendent of Lights and Lines.

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.”*

The site will be improved through new drainage systems, landscaping, and pervious material. Furthermore, there will not be machinery that emits heat, vapor, light or fumes beyond those of a typical multi-unit residential use. Some abutters are concerned about the proposed height and scale of the building. The Board finds that the proposed building is appropriately scaled for a mixed-use structure sited along a key street in one of the City’s main urban cores.

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.”*

N/A

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.”*

The Board has conditioned this report to require interior storage of trash/recycling and private pick-up. Private snow removal is also required. Trash and recycling storage will be in/under the building.

21. Screening of Parking: *The Applicant must ensure that “the parking areas should be screened or partitioned off from the street by permanent structures except in the cases where the entrance to the parking area is directly off the street.”*

All parking will be located largely underneath the building. This parking area will be visible from the rear-abutting property, from a portion of Bow Street Place, and from some properties on Church Street.

§7.11 of the SZO

When 7 or more units are proposed for a site in the NB zone, a Special Permit with Site Plan Review (SPSR) is required (7.11.c). Further, when an SPSR project is proposed, Article 13 of the SZO is triggered. This section of the SZO requires that 20% of the residential units for an SPSR project such as this be inclusionary (affordable). The Applicant is proposing a total of 24 units at 71 Bow Street. Twenty percent (20%) of 24 equates to 4 units plus a fractional payment of 0.8. This requires the Applicant to provide four (4) of these 24 units as inclusionary units. The City of Somerville’s Housing Office will select which units will be deemed inclusionary and at what rate.

The proposal does not comply with the lot area per dwelling unit requirements for 24 residential units.

The application includes a request for a Special Permit for relief from the number of required parking spaces. Pursuant to SZO §9.13.g, projects incorporating inclusionary housing may reduce the total number of parking spaces if the Applicant submits documentary evidence that parking is adequate to serve the development. The requirements of Article 9 shall be considered met if approval is granted for the requested Special Permit under SZO §9.13.

§9.13 of the SZO

As noted earlier in this report, when inclusionary units are being provided under Article 13 of the SZO, parking parking relief can be requested as a Special Permit, regardless of the number of spaces of relief that are needed. Pursuant to §9.13 of the SZO, the Board provides the following assessment:

1. Increase in traffic volumes: Given that 24 residential units will be provided on the 71 Bow Street site there may be some increase in traffic volume due to the increased density on the site.
2. Increased traffic congestion or queuing of vehicles: The project site is in the heart of Union Square. This area of Union Square is being significantly transformed over the next several years. There are and will continue to be traffic impacts because of all of these private and public projects.

Changes to the Union Square area include infrastructure upgrades, a recent change in traffic pattern on Webster Avenue, future mixed-use and office buildings as part of the Union Square Redevelopment Plan, and a new Green Line T stop. It is certainly possible that there will be increased traffic congestion and queuing of vehicles during the lengthy transformation of this area. It is possible that there may be increased congestion or queuing of vehicles in this area, especially during the construction phase of this project. However, the proximity of public buses and the future opening of the Green Line stop will help to mitigate some of this increase.

3. Change in the type(s) of traffic: Other than during the construction phase of the project when construction-related vehicles will be approaching and retreating from the site, all other traffic going to and from this site will be residential vehicular save for trash/recycling pickup and snow removal.
4. Change in traffic patterns and access to the site: There will be no changes to the traffic patterning approaching or exiting the site.
5. Reduction in on-street parking: The Applicant is providing 14 on-site, mostly under-building parking spaces. The applicant needs relief for 22 spaces. It is certainly possible that some residential units will have more than one car associated with them and that those vehicles will find off-site parking arrangements or will be parked on the public street.

This building is designed to encourage pedestrian traffic with its ground floor commercial space. Further, this building is but a short walk from the soon-to-be-built Green Line “T” station. The expectation is that dependency on cars will be reduced due to the building’s proximity to the new station.

6. Housing Impact:

The proposal provides for four (4) on-site inclusionary housing units and twenty (20) market-rate residential units. A fractional payment of 0.8 will be made into the Somerville Affordable Housing Trust Fund.

7. SomerVision Plan:

The proposal significantly rehabilitates a run-down in one of our core urban neighborhoods. The proposal provides for four (4) on-site inclusionary housing units and twenty (20) market-rate residential units. A fractional payment of 0.8 will be made into the Somerville Affordable Housing Trust Fund. Commercial space will be provided on the ground floor level. The landscaped area will be increased from essentially 0% to 13% and all bituminous material will be removed from the site. Passivhaus principles will be applied, a partial green roof installed, a green wall, and solar panels, all of which are positive impacts on SomerVision goals for sustainability. The proposal meets SomerVision goals for preservation and specifically Union Square Neighborhood Plan goals by on-site retention, restoration, and adaptive re-use of the c1925 filling station structure currently extant on the lot.

III. FINDINGS FOR VARIANCE: (§5.5, §8.5):



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 Statement: This area of Bow Street in Union Square suffers from a very high water table thus necessitating careful planning and loss of any usable subterranean space for living or parking. Additionally, the site was the City's first filling station dating back several decades when regulations were lax. The Applicant is concerned of the soil conditions in addition to the known urban infill contaminates. Further, this site has 3 electrical conduits crossing it to the Eversource substation behind the site which required planning a building around the lines as shown on the site plan, causing additional hardship in the development programming. The reposition and moving of historical building on the site as negotiated with the Historical [sic] Preservation Commission and Planning Staff has also added high costs to the development.

Board Response: A Phase 1 Environmental Site Assessment Report for the property dated August, 2018, noted that there was a release of petroleum hydrocarbons to the soil. This release was identified in 1999. This discovery resulted in 17 tons of petroleum-impacted soil being removed from the site. Subsequent testing of soil and groundwater revealed that, as a result of the mitigation efforts, the site achieved a condition of "No Significant Risk" from the prior contamination.

Relocating or reusing the existing historic, c.1925 filling station building has been a known requirement for any redevelopment of 71 Bow Street. This requirement has been part of the Union Square Neighborhood Plan since its inception.

The existing and required easement for the Eversource electrical conduits precludes the applicant from utilizing a portion of this site for development.

(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 Statement: A Variance approval will allow this passive house [sic] programming to be achieved while respecting the proposed new zone of MR5. It will also allow the developer to build on the site in light of the hardships such as a high water table, urban infill covering the site and potentially contaminated soil from the filling station as noted in the Phase I and in addition to the 3 large electrical conduits crossing the property and last the cost moving and relocating the historical building on site.

Board Response: The proposal will improve a site that, currently, with its jam-packed lot of vehicles in various states of disrepair, is incongruous with the direction in which Union Square is headed. The Applicant's proposal of a mixed-use building, inclusion of a partial green roof, solar array, inclusionary housing, fractional payment, along with the re-use and restoration of an historic structure

meeting multiple goals of the Union Square Neighborhood Plan and with SomerVision overall. That Passivhaus principles are being applied is an additional benefit to the community and to the City's sustainability goals.

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 Statement: The application is in harmony with the SZO as it achieves new housing units including affordable deed restricted units in a TOD site within walking distance to GLX Green Line and in the heart of Union Square. The Ward Councilor held several meetings with the neighborhoods and developer to achieve this passive housing program in light of the many hardships facing this site.

Board Response: The property in question is located in the NB zone, not in the TOD zone as indicated in the applicant's statement. As noted in the previous Board Response, the proposal ticks numerous boxes in terms of the City's goals for Union Square and in terms of SomerVision/Union Square Neighborhood Plan goals. See Board Response to criterion "b" above.

III. DECISION

Present and sitting were Members Orsola Susan Fontano, Drew Kane (*Alt*), Danielle Evans, Elaine Severino, and Anne Brockelman. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	<p>Approval including the construction of a mixed-use Passivhaus building with ground floor commercial space, 24 residential units (including 4 inclusionary, 20 market-rate, and a .8 fractional payment into the Somerville Affordable Housing Trust Fund); moving existing historic c.1925 gas station building to the front left elevation of the lot and the incorporation of said building into the design of the new structure; 14 on-site parking spaces provided; partial green roof; solar panels on roof; green wall; common roof deck; special permit for a non-conforming rear yard setback and variances for height, number of stories, lot area per d.u. ratio, and FAR.</p> <table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May16, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> </tbody> </table> <p>Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date	Submission	May16, 2019	Initial application submitted to the City Clerk's Office	BP/CO	ISD/Plng.	
Date	Submission							
May16, 2019	Initial application submitted to the City Clerk's Office							
Affordable Housing								
1	Affordable Housing Implementation Plan (AHIP) shall be approved by the OSPCD Housing Division and executed prior to issuance of Building Permit. Affordable units shall be provided on-site.	BP	Housing					
2	Written certification of the creation of affordable housing units, any fractional payment required, or alternative methods of compliance, must be obtained from the OSPCD Housing Division before the issuance of a Certificate of Occupancy (C.O.). No C.O. shall be issued until the OSPCD Housing Division has confirmed that the Affordable Housing Restriction has been approved and recorded and the developer has provided the promised affordable units on-site.	CO	Housing					
3	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					
4	The OSPCD Housing Division shall determine which units shall be inclusionary and at what rate.	CO	Housing					
Construction Impacts								
2	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. This information shall be posted to be easily readable from the public sidewalk along Prospect Street.	During Construction	ISD					



3	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	
4	<u>Construction shall occur from 7:30am – 5:00pm Monday-Friday ONLY. There shall be no construction or construction-related work allowed on the weekends or holidays or after hours. This includes deliveries.</u>	During Construction	ISD	
Design				
5	Applicant shall provide 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./ISD	
6	Building constructed according to Passivhaus principles.	CO	Sustainability/Plng/ISD	
Site				
7	The property shall be re-landscaped. All landscaping materials including those used for plantings, hardscape and fencing shall first be submitted to and approved by Planning Staff prior to ordering or installation.	Prior to ordering/installation / CO	Plng./ISD	
8	All bituminous material and/or cement shall be removed from the site and be replaced with pervious pavers, pea stone or similar. All materials to be used shall be submitted to Planning Staff for their review and approval prior to ordering/installation.	Prior to ordering/installation / CO	Plng./ISD	
9	The location of transformers and any mechanicals shall be included on an updated landscaping plan that shall be submitted with the building permit application. Location of all mechanicals and transformers shall be reviewed and approved by Planning Staff.	BP	Plng./ISD	
10	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.	
Engineering				
11	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng	
12	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.	
13	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.	



14	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.	CO	Eng.	
15	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.	
16	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 1 st to April 1 st and there is a list of streets that have additional opening restrictions.	BP	Eng	
17	The Applicant shall conduct a survey of the houses of the abutting property owners prior to excavation of the site, and document their findings. These findings shall be submitted to the Planning Department as public record. The Applicant then shall survey any damage to the abutting property owner’s houses after excavation and reimburse the property owners for any damages.	BP/CO	Eng.	
Miscellaneous				
18	Granting of the applied for use or alteration does <u>not</u> include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Perpetual	ISD / PIng.	
19	Trash and recycling shall be stored in or under the building until trash/recycling night.	Perpetual	ISD	
20	Trash shall be picked up by a private contractor.	Perpetual	ISD	
21	Snow removal shall be undertaken by a private contractor and all shoveled/plowed snow shall be removed from the site.	Perpetual	ISD	
22	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	



23	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	
24	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.	
25	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.	Perpetual	ISD	
26	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	At time of release	OSE/FP/B OH	
27	Any suspected or identified underground fuel tanks on this site must be removed under the supervision of the Fire Prevention Bureau. Permits will be required for these removals.	CO	FP	
28	Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any demolition permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division: a) a copy of the Response Action Outcome (RAO) Statement, signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or b) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.	Demolition Permit	Plng/ISD	



29	A Green Line payment of \$2.50 per gross square foot is required due to the proximity of the property to the future Union Square Green Line "T" stop.	CO	Mobility/ Plng/ISD	
30	All signage for future tenants of the commercial space(s) shall be reviewed and approved by Planning Staff prior to purchase and installation. Planning Staff review and approval of signage shall include, but not be limited to location, design, style, illumination, materials. This shall include signs in the sign band, doors, and storefronts.	Perpetual	Planning/I SD	
31	An required transformers that are visible from the public way shall be required to be wrapped with a material presenting an historic image or display other forms of public art as reviewed and approved by Planning Staff.	Perpetual	Planning/I SD.	
Public Safety				
32	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
33	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches. This shall be written into condo/rental documents. Proof thereof shall be provided to Planning Staff prior to the issuance of a CO.	CO/Perpetua l	FP/ISD	
34	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.	
35	Indicators shall be installed alerting pedestrians and occupants of the below-building parking area of vehicles entering and existing the site. The indicators installed shall be reviewed by Planning Staff and Traffic & Parking prior to acquisition and installation.	CO	Plng/ISD/ T&P	
Final Sign-Off				
36	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, *Chair*
Danielle Evans, *Clerk*
Drew Kane (*Alt*)
Josh Safdie
Anne Brockelman
Elaine Severino

Attest, by the Planner: _____
Sarah White

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 _____

