



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2017-88
Site: 118-124 College Ave
Date of Decision: April 18, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 2, 2018

ZBA DECISION

Applicant Name: Lacourt Realty, LLC
Applicant Address: 30 College Avenue, Somerville, MA 02143
Owner Name: Lacourt Realty, LLC
Owner Address: 30 College Avenue, Somerville, MA 01243
Alderman: Lance Davis

Legal Notice: Owner, Lacourt Realty, LLC, c/o Mouhab Rizkallah, seeks a Special Permit with Site Plan Review under §7.3 of the SZO to increase the number of dwelling units from four to seven (including one affordable unit), §4.4.1 to extend existing non-conformities, and relief under Article 9 including special permits for parking on a separate lot and shared driveway access to parking. RB zone. Ward 4.

<u>Zoning District/Ward:</u>	RB Zone. Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1, §7.3, Article 9
<u>Date of Application:</u>	August 6, 2017
<u>Date(s) of Public Hearing:</u>	9/6/17, 9/27/17, 10/4/17, 10/18/17, 11/8/17, 11/29/17, 12/13/17, 1/17/18, 1/31/18, 2/14/18, 3/7/18, 3/21/18, 4/4/18, 4/18/18
<u>Date of Decision:</u>	April 18, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-88 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, City Hall, 93 Highland Avenue, 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 April 18, 2018, the Zoning Board of Appeals (ZBA) took a vote.



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I. PROJECT DESCRIPTION

1. **Subject Property:** The subject property presents one structure that is comprised of two formerly independent residential structures that are now connected on the ground level with an office space. The property currently contains one commercial space and four residential dwelling units. The property is an 11,326 square foot parcel located in the RB zone.

2. **Proposal:** The Applicant proposes adding a second and third floor addition to the rear of the single-level connector between the two former single houses that anchor the right and left street-facing sides of the parcel. A total of four roof decks facing College Avenue are also proposed. The area where the addition will be located is indicated in the photo immediately below:



The portions of the Applicant’s proposal that trigger the need for Special Permits are described as follows:

Dwelling Units:

The property currently contains four dwelling units. The Applicant proposes adding three more dwelling units to the property for a total of 7 dwelling units. One of the 7 dwelling units will be affordable (an affordable rental unit for an individual or family at 50% of AMI). Somerville’s Housing Office will determine which unit will be the affordable unit.

The subject property is currently non-conforming with regard to the number of dwelling units that it has. In the RB district a maximum of three dwelling units is allowed. A property owner may petition for a special permit with site plan review to increase the number of dwelling units under §7.3 of the SZO if one of those units on the property is made affordable. But, to use this provision, the property must meet FAR and lot area per dwelling unit requirements. Therefore, the completed project must meet an FAR of 1.0 and include no more than 7 residential dwelling units.¹ It is under this section of the SZO that the Applicant seeks to increase the number of

¹ There was some confusion about these two metrics at the neighborhood meeting. To be clear, floor area ratio is the ratio of NET floor area to lot size. At 1.0, the FAR calculation requires that the net floor area of the completed structure must not exceed 11,326 square feet. Net floor area does not include unfinished attics, basements or closets, but does include both residential and commercial space. Lot area per dwelling unit is the ratio of total lot area to total number of residential dwelling units (the definition of “dwelling unit” in zoning indicates that it is only a residential unit, not a commercial unit). This metric in the RB



dwelling units on the property.

Note that there is currently one commercial unit in the subject property that houses a dental office. The commercial unit will be retained under the Applicant's proposal.

Parking:

The Applicant needs relief for less than 6 parking spaces under this proposal.

In the application that was before you in December, the applicant was seeking to argue that the parking spaces that cross onto lots on Kenwood would meet the requirement for additional parking that the code would otherwise require for the three new units. This led to confusion on a number of different fronts. The parking for this address currently occurs across lots on College Avenue and Kenwood, properties that are owned by separate entities controlled by the applicant. This off-site parking situation is a pre-existing non-conformity and is, therefore, grandfathered. It operates in a way that allows for both commercial and residential users to use different spaces at different times based upon agreements and longstanding tradition.

The applicant has previously requested relief under Article 9. He is now requesting that the relief under article 9 include a waiver of parking requirements per either 9.13a or 9.13g of the SZO.

3. Green Building Practices:

The applicant has not indicated any intended green building practices.

4. Comments:

Alderman: Alderman Davis is aware of this project and was present at the neighborhood meeting held by the Applicant on the evening of Tuesday, September 19, 2017. Aldermen White and Rossetti were also present at this meeting.

A second neighborhood meeting was held on Tuesday, March 6, 2018, sponsored by Alderman Davis. The Staff Planner and Planning Director were also present at this meeting.

From Staff:

The ZBA noted at their last hearing on March 7, 2018, that a wet-stamped version of the plot plan had not been supplied by the Applicant (a non-stamped version had been provided). The wet-stamped version of the plot plan has yet to be submitted to Staff as of the completion of this staff report for the March 21, 2018 ZBA hearing.

5. A few items to note:

a. Community Questions:

Over the course of the past few months, this project has generated a lot of interest from nearby residents. This is more interest than is typically generated by a three-unit project. Some of that is because the site is so unique. Some because of concerns about perceived parking impacts (more

zoning is 1500 square feet of lot area per dwelling unit. Therefore, this lot is limited to 7 residential dwelling units, but may continue to include the non-conforming commercial use in addition to these seven units.



on that below). Some are because of activities undertaken by this applicant on other lots in Somerville. The staff is addressing those issues below:

- The applicant: There has been some conversation about the work the applicant has completed on other sites in Somerville. This is not before the Board, and it cannot be. The zoning is a review of a proposed project, not the project proponent. In this case, the Board is reviewing the impacts of the three additional units here (one affordable) that would be created on this site by this special permit.
- The submitted information: There have been some questions about differences between the submitted drawings and the assessor's database as it relates to the size of units. There have also been requests to 'verify' the existing and proposed bedrooms as it relates to the parking requirement. Regarding the sizes of interior space, the staff addressed this issue at the neighborhood meeting. Applicants are expected to measure the existing conditions in their buildings. These measurements are likely far more accurate than the estimated information that is in the assessor's database. It is common for there to be differences.

Regarding both of these items, applicants are required to present complete and accurate information, and they sign the application form under a statement that the information is they have submitted is accurate. The plans in this application set were prepared by an architect. If it is helpful to the Board, they could request the applicant stamp the existing and proposed plans, thereby certifying that they are accurate under the standards required of a registered architect.

b. The Parking Situation:

A member of Planning Staff and the Planning Director were both present at the neighborhood meeting held on Tuesday, September 19, 2017. Chief among the concerns among the abutters was parking. The Applicant owns and rents out numerous units in the College Avenue/Kenwood Rd./ Billingham Street area, streets that surround the subject property of this application. A group of these units are on contiguous lots owned in common by the applicant with driveways that link behind and around the structures.

Numerous abutters voiced their concerns that the Applicants' renters were negatively impacting the availability of on-street parking in this area.

Parking needs to be addressed from two separate strategies. The first is the letter of the law – the zoning ordinance and the amount of parking that it requires. Second, is the practical reality of the demands on the site. Sometimes there is a correlation between the zoning and the actual parking need. Other times, there is not (as our zoning ordinance has outdated parking requirements). Nonetheless we will review both approaches to parking, to determine how it can be addressed.

A. The Practical Parking Need:

The Planning Office obtained the parking permit data from the surrounding streets to determine the actual parking demand and on-street parking potential of existing and proposed development. The staff used current on-street parking permit data and assessor's data as of



January 2017 for the table below. The parking data indicates if an individual has received a resident permit. It does not suggest that this individual uses that permit to park on the street, as many of the sites below have some off-street parking. Certainly there are also others who always park off-street, and therefore do not have any permit – but these vehicles don't contribute to on-street parking demand.

The analysis of the data appears in the table immediately below this Staff Comment section. The data establishes that the applicant's properties have the lowest ratio of on-street parking permits to residential units of any of the surrounding area.

For example, there is a residential apartment building across College Ave. that has 41 units with no parking spaces. That building has 25 active resident parking permits. Furthermore, most of the nearby side streets are majority owner-occupied residences, and these tend to have more significant numbers of permits.

The significant cost of parking tickets generally dissuades residents from parking without permits for more than one or two times. Therefore, to the extent that evening and night parking on and around Kenwood Road is limited, the cause of this could be:

- Residents choosing to park on-street instead of in driveways
- Residents in multi-unit buildings with single-car width driveways, where those that are not using the driveway are required to use the street
- Residents of nearby apartment buildings with no parking (like 119 College Ave)
- Residents of the applicant's buildings (although the data suggests that they are a small portion of those who park on-street)
- Residents from elsewhere in Somerville, using this place to park to reach nearby destinations
- Visitors with visitor permits (although, except for rare special events, these permits do not typically generate a significant percentage of the vehicles on a street).
-

Extrapolating from this data, the addition of three residential rental units on the proposed site will likely generate one or two additional cars with residential parking permits. The applicant will also provide parking off-street for these vehicles.

Table 1: This table depicts the number of resident and guest parking permits assigned to both the Applicant and abutters to the Applicant's property(ies) in the 118 College Avenue area.

Parking Data for the Area Around 118 College Ave					
Block / Building	Notes	Total Units	Resident Permits	Resident Parking Ratio	Visitor Tags
Owned by applicant:					
Even side of Kenwood St	Structures owned by applicant	12	4	0.33	9
College Ave building	Structure proposed for 3 more units	4	3	0.75	1
Total for items	Total and average for structures owned	16	7	0.44	10



above	by applicant				
Nearby Blocks for Comparison:					
119 College Ave (41 units)	41 unit rental apartment building	41	25	0.61	27
Odd side of Kenwood St	5 structures (one is a 3-unit condo) - 3 buildings and 2/3 of condo owner occupied	9	8	0.89	8
Summit Ave - All Units	15 structures - 14 are owner occupied	19	55	2.89	57
Billingham St - All Units	11 structures - all owner occupied	15	25	1.67	21

Summit ST – all units 5 structures - renter/owner occupied 7 11 1.57 11

B. Parking Required by Zoning:

As noted above, when parking requirements are applied in zoning, sometimes they overstate need, but nonetheless the parking would be required (or a variance required). In many circumstances, current requirements are higher than typical parking demand for new projects in the City. To address zoning, the Staff completed a parking analysis under the zoning ordinance.

Under the proposed plan, three additional bedrooms will be added to the property. This generates an additional requirement under zoning for five parking spaces. The adjacent properties on Kenwood Road have parking in their back yards that is above and beyond that which is required for these buildings (over the entire site, there is more parking than required). The applicant has proposed to designate five parking spaces at 16 Kenwood for the use of 118-124 College Ave residents.

The current and proposed bedroom count per unit is as follows:

Table 2: This table compares existing to proposed units, bedroom count, and parking requirements. It does not account for the parking demand from the commercial space, which does not change in size (4,870 sf) under this proposal.

Unit #	Existing Bdrs.	Current Pkg. Req.	Unit #	Proposed Bdrs.	Proposed Pkg. Req.
1	1	1.5	1	1	1.5
2	1	1.5	2	2	1.5
3	5	2.0	3	5	2.0
4	3	2.0	4	2	1.5
-	-	-	5	2	1.5
-	-	-	6	2	1.5
-	-	-	7	2	1.5
TOTAL	10	7	TOTAL	13	11+1 guest = 12

To calculate the number of parking spaces of relief required is as follows:



Step 1: New parking requirement – Old parking requirement = delta between proposed & existing requirements

$$12 - 7 = 5$$

Step 2: # of spaces of relief needed - # of new spaces to be provided = total spaces of relief needed

$$5 - 0 = \text{relief needed*}$$

The Applicant needs relief for 5 parking spaces.

*Negative numbers and positive numbers less than 1 require no parking relief.

If the applicant provides five parking spaces, no relief is needed.

In the alternative, the applicant may seek to waive this parking through Article 9, Section 9.13a, or (because an affordable unit is included in the project) 9.13g.

C. How the Current Code Sees Parking on this site:

This is the far more tricky analysis. The applicant has been seeking the opportunity to increase the unit count on this site over the past 7+ years. Over that time, he has reviewed a number of strategies with the Planning Division staff. Below are the determinations that staff HAS been able to make to-date:

- The adjacent lots have not merged for zoning purposes: Each lot is described separately on a separate deed. Typically, this would not matter for zoning purposes when lots are undersized and one or more lots are vacant. In the case where lots are vacant, or only covered by an accessory structure, they would merge for zoning purposes. For example, an undersized lot with a house that is adjacent to an undersized lot with a garage are merged for zoning purposes. In this case, since the lots have been held together, and since the city adopted minimum lot sizes, these lots have each been “improved” with a structure upon them. The structures at 118 and 124 College Ave were joined into one structure, and they therefore now have one zoning lot. But each of the other lots adjacent and owned in common are separate lots for zoning.
- Merging the lots (if they were to be merged through a lot merger request approved by Planning Board) does not accomplish anything: At one time, the applicant considered merging the lots to total the FAR and lot area per dwelling unit across all of the lots – thereby using that extra capacity for the purpose of adding new units at 118-124 College Ave. But, as some of the lots on Kenwood are zoned RA (with a lot area per dwelling unit of 2250) and others zoned RB (with a la/du of 1500), the blended totals do not create significant new development capacity. Instead, with separate lots, there is sufficient FAR and lot area for adding three residential units.



- The lot at 118-124 College Ave has four fully legal parking spaces, as well as one tandem space that does not meet current code, and a portion of an additional space that straddles the lot line with 16 Kenwood.
- There is a court order on parking on this site, but it does not influence zoning: The applicant has provided documents from a lawsuit between a tenant and owner of the building that requires the owner to provide certain parking spaces across the adjacent lots to the commercial activity at 118-124 College Ave. The city is not a party to this document, and therefore while it may impact the way that the parking on the site works in practicality, it does not impact the way that the city applies zoning on these sites
- Parking on an adjacent lot requires a special permit. But, in this case there is parking across adjacent lots, and it is a pre-existing non-conforming situation: Currently vehicles using the commercial and/or residential uses at 118-124 College Ave are not restricted to using parking at 118-124 College Ave, but use parking behind 16 Kenwood as well. According to the applicant, this has been the case for decades, and the information that we have found to-date does not contradict that position. Based on this, the staff believes this to be a pre-existing, legal, non-conforming condition that can continue to operate this way.
- If the applicant were to ADD five parking spaces, this would bring the project into compliance with parking: but there is not likely enough area to add new spaces here
- Section 4.4.3 of the SZO says that non-conformity with respect to parking requirements is addressed per Section 9.4
- Section 9.4 requires new additions to meet parking requirements for the new area being added. This leads to the need for 5 additional parking spaces.
- The entire driveway area in and around the subject parcel and adjacent parcels is non-conforming, not necessarily with the number of parking spaces, but with the dimensions, access, and layout requirements of 9.9, 9.10 and 9.11 of the ordinance. The applicant submitted a plan showing 34 existing parking spaces of which at least 9 have non-conforming dimensions (either because they are tandem spaces or undersized parking spaces).
- Section 9.4 does not address existing non-conforming parking dimensions, but Section 9.13 permits all of these circumstances by special permit. The current parking space non-conformities were established when permitted but now require special permit. When a special permit is now required for a setup that previously was allowed by right, that situation is deemed to be non-conforming. Therefore, a special permit under Article 9, section 9.13 is required.
- With no change to the development on the Kenwood lots, they do not need to secure any permission to maintain the non-conforming dimensions on those lots. Nor do these lots need permission to be used as off-site parking, as long as this situation pre-dates the zoning requirement to secure a special permit for off-site parking (and it likely does).

- The applicant also may use Section 9.13 to ask the ZBA to reduce the parking requirement and not require these five spaces.
- Even if granted this special permit, the applicant will still need to address a practical strategy for parking vehicles for the three units, as well as today's users of the lots. But, if the special permit to waive the requirement for these spaces is granted, the applicant need not further address the parking need from the perspective of the zoning ordinance.

Over the past few months, staff has received a series of additional questions from the public about the existing driveway condition, including the provisions for allowing shared parking, the location and accessibility of parking spaces, the provisions for permitting shared parking and the applicant's use of parking spaces on other adjacent lots. If the Board sees fit to grant the special permit under 9.13a and/or 9.13.g, none of these items remain before the Board, and therefore they do not have to be addressed as a part of this application.

c. What to do about the other buildings on the block:

Throughout this process, there has generally been agreement that the buildings on the adjacent Kenwood lots are in need of an upgrade. When the applicant had originally presented the idea of shared parking, the staff added conditions to the preliminary staff report, and focused upon the idea that the applicant should be required to do upgrades to the buildings and site in exchange for the ZBA approval of these units. With the request for parking relief, the link to the other buildings is not before the ZBA.

The applicant has met with the Planning Staff and pledged to provide these types of upgrades nonetheless (although, to be clear, he has not pledged to meet the specific targets that were established in the original conditions). Staff believes that it would be beyond the standards of zoning to require the applicant to meet these targets if the proposed project does not incorporate the adjacent lots. But, the staff has added a condition to acknowledge what the applicant has volunteered to do, so that progress on site planning, landscaping, siding, etc., can be completed on these buildings.

II. FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in the relevant sections of the SZO. This section of the report goes through those sections in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicants conforms to the requirements of §7.3, of the SZO and allows for analysis of the project with respect to the required Special Permits.

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.” Under SZO §4.4.1 Section 4.4.1 states that “[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension,*



enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.”

Several components of this proposal trigger the need for zoning relief under Section 4.4.1 of the SZO including increasing the GFA and FAR by more than 25% and the upward extension of a non-conforming rear yard setback.

Further triggering the need for zoning relief is the proposed upward extension of the rear yard setback. At its shortest point, the rear yard setback measures at 1.8 feet from the rear property line. The Applicant proposes an upward extension of this non-conforming rear yard setback by constructing a two-story addition to this portion of the building. It is unclear from the plan set provided to what height this upward extension will reach. While the Applicant owns abutting properties along Kenwood Street, the rear abutting property that would be most impacted visually by the proposal is owned by another entity.

Under SZO §7.3

Section 7.3 states that In Residence A and Residence B districts, where developments include a minimum of twelve and a half percent (12.5%) affordable housing units on-site, but in no case less than one (1) affordable unit, as defined by Section 2.2.4, the above standards may be waived by the SPGA through application for special permit with site plan review.

The Board finds that the Applicant meets the requirement of providing a minimum of one affordable unit as required by Section 7.3 of the SZO when proposing an increase in the number of units on a property beyond that which is typically allowed by zoning.

Under Article 9 of the SZO

The proposal is to provide no additional parking and seek a waiver under 9.13.

3. Consistency with Purposes: *The Applicant has to ensure that the project “is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles.”*

The proposal, as conditioned, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; and to encourage the most appropriate use of land throughout the City.

4. 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, as-conditioned, is consistent with the intent of the RB zoning district.

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

The proposal will add one unit to the existing stock of the City's affordable housing units.

3. 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".*

Surrounding Neighborhood:

The principal change that will be visible from College Avenue will be the infill of the space between the right and left wings of 118-124 College Avenue. Because the proposal includes two levels of front decks connecting the two wings on the second and third floors, the massing of the new construction in this area of the building will be set back from the front plane of the building by several feet.

Buildings abut 118-124 College Avenue on both the right and left elevations which will help shield a portion of the increased mass on the right and left elevations from the public way on College Avenue. The largest impact of the proposed project will be visible from properties abutting the rear of the 118-124 parcel.

The applicant will add some traffic to the rear parking areas around this site and his adjacent owned properties. The Board recommends strategies for organizing the use of this parking area. As conditioned, the project will be compatible with the surrounding area, and upgrade the structures on the block.

Impacts of Proposal (Design and Compatibility): (non CCD & TOD districts) Special Permits with Design Review and Special Permit with Site Plan Review applications must meet the design guidelines under SZO §5.1.5/5.2.4. The design guidelines for business districts are as follows:

1. Maintain a strong building presence along the primary street edge, continuing the established streetwall across the front of the site so as to retain the streetscape continuity; however, yards and setbacks as required by Article 8 shall be maintained.

The Board finds that the proposed alterations impacting the front façade of the building, though they alter the streetwall at the center-most portion of the front façade, this does not diminish the streetscape continuity. The proposed project maintains the existing setbacks in that the setbacks are not moved closer to the property line.

2. Differentiate building entrances from the rest of the primary street elevation, preferably by recessing the entry from the plane of the streetwall or by some other articulation of the elevation at the entrance.

The existing building entrances being maintained are clearly articulated due to the stylistic difference of the main commercial entrance from the entrance to the residential area of the building.

3. Make use of the typical bay widths, rhythms and dimensions prevalent in buildings adjacent to the site, especially in new construction or substantial redevelopment.

The main façade of the existing structure will maintain its current dimensions and features. The inset addition connecting the two buildings on the second and third floors present a bay articulation that is not out-of-rhythm with that of the existing right or left wing of the property. Currently and going forward, the right and left wing of the property read as two individual dwelling houses of different styles (gable-fronted, late Victorian Queen Anne on the left, and American four-square on the right). The addition proposed between these two wings will read as clearly separate from the two originally-separate dwelling houses.

4. Clearly define these bay widths, rhythms and dimensions, making them understandable through material patterns, articulations and modulations of the facades, mullion design and treatment, etc.

N/A

5. Provide roof types and slopes similar to those of existing buildings in the area.

The proposed roof of the second and third storey rear upward extensions replicate the flat roof of the existing single-story addition currently at the rear of the building. There are a few other flat-roofed buildings in the immediate area, but those structures are larger and appear to be commercial or apartment building in nature.

6. Use materials and colors consistent with those dominant in the area or, in the case of a rehabilitation or addition, consistent with the architectural style and period of the existing building. Use of brick masonry is encouraged, but not considered mandatory.

The project is conditioned such that all materials to be used on the exterior of the project must be reviewed and approved by staff prior to their installation.

7. When parking lots are provided between buildings, abutting the primary street and breaking the streetwall, provide a strong design element to continue the streetwall definition across the site, such as a low brick wall, iron works or railing, trees, etc.

The proposed parking area is pre-existing and will not be shielded any more or less than current conditions present. But, the proposed project provides the opportunity to increase green areas between and behind the buildings that share parking along College and Kenwood. The current existing lots are overwhelmed by surface parking through linked driveways that connect through the backyards of these buildings.

8. Locate transformers, heating and cooling systems, antennae, and the like, so they are not visible from the street; this may be accomplished, for example, by placing them behind the building, within enclosures, behind screening, etc.

Transformers and the like have not been identified on the proposed plans. The Board has conditioned the proposal such that all such mechanicals must be screened with screening material reviewed and approved by Planning Staff prior to installation.

9. 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.

Not applicable.

Article 9 of the SZO:

~~Two sections~~ One section of Article 9 of the SZO ~~are~~ is triggered by this proposal and that is 9.13 which states: ~~This triggers Section 9.13.d of the SZO which states:~~

In section a:

Where the total number of parking spaces required by this Ordinance is six (6) or fewer, the requirements for lots or sites that are nonconforming with respect to parking as specified in Section 9.4 may be modified.

In section g:

Projects incorporating inclusionary housing per [Article 13](#) may reduce the total number of parking spaces. An applicant shall submit documentary evidence that parking is adequate to serve the development.

The Board finds that the situation is reasonable for the Board to grant one of these waivers, whereby:

- The abutting properties are already able to absorb parking for 118-124 College Avenue without over-parking those sites
- The data establishes that the existing units on this site do not have extensive impacts on street parking
- The project is not likely to generate any more street parking than is typically generated by modest increases in density
- The site is well-suited to car-free living, due to its proximity to public transit and the community path

Therefore, the proposed project meets the finding that the parking situation will not cause a detriment to the surrounding neighborhood.

6. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.*



Staff finds that the proposed project complies with the purposes of SomerVision in that it will help meet regional demand for transit-centered housing and will add one additional dwelling unit to the City’s affordable housing stock.

III. RECOMMENDATION

A note about this project:

The Board sees significant benefit to this project. It adds housing units, which are necessary for the City to continue to help meet regional housing needs, and it adds an affordable unit on this site.

The project also offers the opportunity to improve the site circulation and landscaping around the shared driveway area that encompasses this project and its adjacent parking. While the modified parking waiver removes the link between the properties, the applicant’s offer continues to allow for further involvement in improving this site condition. This is a substantial benefit in exchange for a limited growth in the number of on-site units, especially because the units are located in a most unobtrusive location. In this location, they add no ground cover, they have virtually no shadow impact on adjacent properties and the study of current parking suggests that the actual parking impact of these three new units is minimal.

Special Permit under §4.4, §7.3, Article 9 of the SZO

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit and Variance. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is to increase the total number of residential dwelling units on the property from four to seven. A commercial space will remain. One of the seven units will be affordable. Approval is also for providing parking on a separate lot and for shared driveway access.	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August 6, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 9, 2017</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>November 1, 2017</td> <td>Parking and landscaping proposals received by OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 6, 2017	Initial application submitted to the City Clerk's Office	September 9, 2017	Updated plans submitted to OSPCD	November 1, 2017	Parking and landscaping proposals received by OSPCD
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November 1, 2017	Parking and landscaping proposals received by OSPCD											
<p><u>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.</u></p>												
<p><u>Note that ALL areas indicated on the plans as unfinished must remain unfinished and may only be used for storage or utilities.</u></p>												
Pre-Construction & Construction Impacts												
2	The Applicant shall, at his 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									
3	The Affordable Housing Implementation Plan (AHIP) must be approved by the OSPCD Housing Division and executed prior to issuance of Building Permit. The affordable unit shall be provided on-site.	BP	ISD/Housing/Plng									
4	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/ISD/Plng									



5	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/ISD/Png	
6	The Applicant shall post the name and phone number of the general contractor, owner, and all sub-contractors at the site entrance <u>where it is visible to people passing by.</u>	During Construction	Png./ISD	
7	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Png./ISD	Deed submitted & application form signed
8	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 Department must be obtained.	During Construction	T&P	
9	<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.</u>	During Construction	ISD	
10	The Applicant shall ensure that all food waste associated with construction personnel be removed from the premises at the end of each work day.	During Construction	ISD	



11	<p>The Applicant shall, throughout the construction process, ensure that the project site remains as follows:</p> <ul style="list-style-type: none"> - ALL construction-related debris shall be placed in dumpsters or similar at the end of EACH day; - Items removed from the existing building as part of the project process shall be disposed of in dumpsters at the end of each day and/or placed in storage off the premises. These items may include, but are not limited to: mechanicals, pipes, vents, household appliances, toilets, bathtubs, refrigerators, etc. - Under no circumstances shall debris from demolition, construction waste, or the like fall upon, be placed upon or otherwise encroach on abutting properties or the public way. - ALL hazardous material including, but not limited to, asbestos (siding, pipe wrap, insulation, etc.), oil tanks, etc., shall be removed by a licensed, insured, and qualified specialist. 	Pre-Construction & during construction process	ISD/PIng	
12	During the construction process, all snow shall be removed from the driveways, parking spaces, walkways and abutting sidewalks. All such snow shall be removed from the site and not piled on the parcel in any manner.	During Construction	ISD	
13	Deliveries to the construction site shall only occur during 9am and 3pm Monday through Friday. No deliveries to the construction site shall occur on weekends or holidays.	During construction	Traffic & Parking/ISD	
14	Construction and construction-related personnel for this or any other of the applicant's projects shall NOT be at this job site before 7:30 am. Construction-related vehicles shall not be left to idle on or near the property and site personnel shall be mindful of surrounding property owners by not playing music, engaging in loud conversations, and the like before, during, or after the work day.	During construction / continuous after construction is complete	ISD	
15	The Applicant shall contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for any 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.	During construction	ISD/Engineering	
Design				



16	<p>The Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. There shall be no vinyl used on this property for siding, trim, doors or the like. Windows shall be aluminum clad. Wood or cementitious material shall be used for trim, siding, decking and the like.</p> <p>Windows shall have muntins (grids) applied to the glass. No between-the-glass grids shall be allowed. Windows shall not be tinted nor shall they convey any reflective or mirrored quality. All residential windows on the property shall be designed to match.</p>	BP	Plng/Zoning Review Planner	
Site				
17	<p>Per the letter submitted by the applicant to the Planning Division staff, the applicant has pledged to side or paint the houses at Kenwood Street, improve the landscaping and consider permeable pavers in the driveways that enter on Kenwood Street, in an effort to improve the aesthetics of the properties and the streetscape. While these improvements likely will not require special permits, the proposals will be submitted to Planning Division staff for review and comment, per the applicant's offer.</p>			
18	<p>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.</p>	Perpetual	ISD	
19	<p>Garbage and recycling containers shall be stored out-of-view of the public way. All such containers and container areas shall be screened with either evergreen plantings (no arborvitae) or wood screening. Locations for containers shall be indicated on the final plan set submitted to ISD for building permits. Screening material shall be reviewed and approved by Planning Staff prior to installation.</p>	<p>Screening material: BP</p> <p>Installation of container site and screening: CO</p>	Plng/ISD	
20	<p>All materials used for any hardscaping (walkways, parking areas, landscaping walls, and similar) and landscaping (plantings & related material) shall first be presented to Planning Staff for their review and approval prior to installation.</p>	CO	Plng/ISD	
21	<p>Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards.</p>	Perpetual	ISD/Plng	



Miscellaneous				
22	Gas and electric meters shall not be located on the front facades 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	Plng/ISD	
23	Electrical conduits on the exterior of buildings shall be painted to match the color of the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng/ISD	
24	Exhaust/venting pipes protruding from the roof shall be wrapped or painted to match the color of the shingling.	CO	Plng/ISD	
25	There shall be no vents or exterior pipes located on the front façade of the building. All vents and exterior pipes shall be painted or wrapped to match the color of the structure from which they protrude.	CO	Plng/ISD	
26	The Applicant shall ensure that the residential tenants at 118-124 College Avenue shall have access to 5 off-street parking spaces (shared with the parking spaces currently used by the commercial tenant at 118-124 College Avenue) on the lots of 8, 14, 16, and 18 Kenwood Street during evening and overnight hours (i.e. 5:00 P.M. through 8:00 A.M.) and 24 hours/day on weekends. The Applicant shall codify these terms in all lease agreements. This standard language for these lease agreements shall be presented to Planning Staff for review and sign-off prior to a Certificate of Occupancy being issued.	CO	Plng/ISD	
Public Safety				
27	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
28	All lighting shall be downcast and shall not spill onto the public way or onto neighboring properties in any fashion.	CO	ISD	



29	Per City of Somerville fire prevention regulations, grills, barbeques, chimineas or similar shall not be used or stored on porches or decks. The Applicant shall write such specifications into any condo docs and/or rental agreements. The Applicant shall provide the City proof of such inclusion prior to the receipt of a Certificate of Occupancy.	CO	PIng/ISD	
Final Sign-Off				
30	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	PIng.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Elaine Severino
Danielle Evans
Anne Brockelman (*Alt.*)

Attest, by City 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 _____

