



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-93
Site: 124 Highland Avenue
Date of Decision: September 18, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 1, 2019

ZBA DECISION

Site: 124 Highland Avenue

Applicant Name: Barros Properties, LLC
Applicant Address: 12 Aldersey Street, Somerville, MA
Owner Name: same as applicant
Owner Address: same as applicant

City Councilor: Ben Ewen-Campen

Legal Notice: Applicant, Barros Properties, LLC, and Owner, Somerville Post 19 American Legion, seeks Special Permits under §4.4.1 of the SZO to alter a non-conforming structure, parking relief under Article 9, a Special Permit with Site Plan Review (SPSR) to construct 19 residential units, Variances include lot area per dwelling unit, FAR height, front yard setback. Existing building to be demolished. Somerville Post 19 to be relocated to rear of the building. NB zone. Ward 3.

<u>Zoning District/Ward:</u>	NB zone, Ward 3.
<u>Zoning Approval Sought:</u>	SZO §4.4.1, Article 9, SPSR, Variances
<u>Date of Application:</u>	July 5, 2018
<u>Date(s) of Public Hearing:</u>	8/7, 9/4 (re-advertisement), 9/18 (re-advertisement)
<u>Date of Decision:</u>	September 18, 2019
<u>Vote:</u>	5-0

Case # ZBA 2019-80 was opened before the Zoning Board of Appeals during their meeting in Council Chambers, 3rd Floor City Hall, 93 Highland Avenue, Somerville, MA on August 7, 2019. Notice of the



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Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. Chapter 40A, sec. 11 and the Somerville Zoning Ordinance. On September 18, 2019, the Zoning Board of Appeals took a vote.

I. PROJECT DESCRIPTION

1. **Subject Property:** 124 Highland Avenue presents a two-story structure purposely built as the Somerville Post 19 American Legion Hall c.1931. 1960s-era additions can be found to the left and rear of the main structure. The property's use as a lodge is a pre-existing, non-conforming use in the RC zone. A wide curb cut is located along the left elevation of the property where it abuts land owned by the Somerville Housing Authority (SHA). This property is sited on the corner of Trull Lane and Highland Avenue and presents a conforming 11,310 square feet of lot area.



2. Proposal: The applicant proposes the following:

- Demolish the existing structure¹
- Construct a four-story structure with 19 total residential units and a new American Legion Hall at the rear ground floor of the property
- Three (3) of the residential units will be inclusionary and a 0.8 fractional payment into the Somerville Affordable Housing Trust Fund will be made.
- 16 on-site parking spaces provided under the building
- Non-conforming right side yard setback will remain non-conforming but will be improved (currently at 5.8 feet but will be “improved” to 7.0 feet. 8.0 feet is required in the RC zone).
- Non-conforming left side yard setback will be further reduced (currently 5.8 feet but will be reduced to 1.0 foot)
- The non-conforming left side yard setback is reduced in some areas from 5.8 feet to 3.2 feet, but further improved in other areas where upper level facades are inset from the garage entry drive. These improved setbacks vary from 4.2’ to 6.8’ depending on the location on the building
- Improve the non-conforming right side yard setback from 5.8 feet to 7.0 feet
- Reduce the (conforming) 20-foot front yard setback to a non-conforming 8 feet
- 40 bike spaces
- Retaining wall at the boundary between the SHA building and 124 Highland Avenue
- Parking access on Highland Avenue; retention of existing curb cut.

Several conditions have been added to this report to address engineering, infrastructure and vehicular/pedestrian safety concerns raised by this project.

The general programming for the residential units is as follows:

Unit type	Number of units
American Legion Hall (lodge)	1
Studio	1
One-bedroom	6
Two-bedroom	11
Three-bedroom	1

¹ The Applicant and Owners have entered into a Memorandum of Agreement (MOA) with the Somerville Historic Preservation Commission (HPC) which allows for the demolition of the building and for specific alternative preservation goals to be met. These permissions have been codified in the signed MOA with the HPC. It should also be noted that the applicant did not originally intend to demolish the existing building. Abutting property owners along Oxford Street advocated to the applicant that they demolish the existing building so that a new structure could be build closer to Highland Avenue and, therefore, further away from mutual rear property lines.



The triggers for zoning relief are as follows:

Dimension	Required/Allowed	Existing	Proposed	Relief Needed
Lot area per dwelling unit	1,000 ²	n/a ³	595	Variance
Number of stories	3	2	4	Variance
Building height	40	31.4	58.2	Variance
FAR	2.0	1.07	2.1	Variance
Front yard setback	15	20	8	Variance
Left side yard setback	19.4	5.8	1.0	Special Permit
Total number of dwelling units	3	n/a	19	SPSR
Parking Parking	29	9	14	Special Permit
Parking (size of spaces)	Standard size (9x18)	9	11 standard & 5 compact	Special Permit

Triggers for zoning relief (cont'd)

During the August 7, 2019 ZBA hearing, there was confusion among the board regarding the amount of parking relief needed for this project. In an effort to clarify, the Board has separated out the parking relief table from the rest of the dimensional requirements above. The parking relief table appears later in this assessment along with the findings for §9.13 and §9.5.5.d of the SZO.

3. Comments:

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

The plan set contains the shadow study requested by the ZBA. The updated traffic study has been included as a separate document.

² In the RC zone, the typical lot area per dwelling unit that the ZBA is accustomed to seeing is 875. This is the ratio for up to 9 units. When 10 or more residential units are proposed on an RC-zoned property, the lot area per d.u. requirement increases to 1,000 per d.u.

³ Lot area per dwelling unit ratio is only applicable to residential units. The current structure presents a non-profit lodge/club use. Therefore, the lot area per d.u. ratio is not applicable under existing conditions.



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 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 finds that the proposal for 19 residential units is greater than what is typically allowed under zoning regulations in the RC district whose stated purpose is, "[t]o establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district." However, the Board finds that the largely residential nature of the proposed project is consistent with the RC district.

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*



Surrounding Neighborhood:

This portion of Highland Avenue (between the intersections of School and Central Streets), presents residential mixed-use buildings of varying scales. The overall scale and massing of the proposed structure at 124 Highland Avenue is consistent with that of several other large residential and mixed-use structures found along this portion of this key thoroughfare.

The front portion of the proposed structure is intended to evoke similar buildings of an older vintage found along this portion of the street. One such example is the apartment building at 123 Highland Avenue with its limestone first story façade and brick upper stories. The Narconia Apartments at 109 Highland Avenue present a similar front façade as do the side-by-side apartment buildings at 136 and 138 Highland Avenue.

Several buildings along this same stretch of Highland Avenue already present a greater number of stories than the three (3) stories allowed in the RC zoning district and also extend deep into their lots toward lower-density residential zones. Such buildings include:

Address	No. Stories	Building type/use
101 Highland Avenue	4	YMCA – recreational/services and residential
109 Highland	4	Narconia Apartments - residential
114 Highland	7	Somerville Housing Authority (SHA)
123 Highland	5	Multi-unit residential
136 Highland	4 front 5 rear	Multi-unit residential
138 Highland	4 front 5 rear	Multi-unit residential



Impacts of Proposal (Design and Compatibility):

The proposal is consistent with similarly sited buildings along this portion of Highland Avenue as described above. The proposed design of the rear portion of this building sets it apart from the noted comps in terms of:

- step down in height of building as it nears the rear lot line
- “non-traditional” design, materials, and façade articulation

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 Board has addressed this criterion above in the “Site and Compatibility” assessment and reiterates those comments here.

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

The new building will be clad in a combination of “traditional” and “modern” materials. Current proposed materials include brick, limestone veneer, metal/cement paneling, wood.

- 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 main street, Highland Avenue.

- 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 existing Highland Avenue entrance to the site shall remain. It should be noted that the only reason that the Board has acquiesced to allowing for the existing entry/exit point off of Highland Avenue to remain is due added conditions that will require the applicant to implement additional vehicle/pedestrian safety measures to/from the site under the direction of the Director of Mobility (formerly “Transportation and Infrastructure”).

- 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 decision 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. In terms of transformers, a condition has been added that allows for the wrapping of transformers that are visible from the public way, per staff review and approval.

- 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 RC 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 is largely covered by building and pavement. Despite the larger size of the proposed building on the site, improved positioning and a comprehensive landscaping plan will provide for more quality green space on the parcel than is currently extant. Conditions have been added that require the applicant to inspect the sewer line on Trull Lane under the direction of the Director of Engineering. The Director of Engineering will then instruct the applicant to repair or replace the line as necessary. Further conditions have been added requiring the replacement of the 6-inch water main with an 8-inch water main on Trull Lane. The replacement water main will run from Oxford Street, up Trull, to the 12-inch connection on Highland Avenue. It is a condition that if the minimum threshold is met, the Applicant shall also make an I/I payment. All of this work will be conducted under the direction of the Director of Engineering.

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 or the Director of Mobility may wish to request a traffic study. Conditions have been added that, under the direction of the Director of Mobility, new striping, street trees, compliant sidewalk along Highland Avenue and Trull Lane, potentially a raised crosswalk, and the relocation of the bus stop will also be provided.

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 uses (residential and American Legion Hall) 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.

Typical construction noise for a project this size can be expected. Further, the application states that the Applicant will submit all necessary 21E reports if 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 project site slopes from Highland Avenue down toward Oxford Street. The general slope of the site will be retained. The new building has been designed such that it maintains an even roof height as it stretches toward the rear of the property. As the new structure continues down the lot toward Oxford Street, the height of the building then steps down in an attempt to reduce the massing at the rear of the property.

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

The proposed building is designed to work with the sloped site as noted above. With a building of this size, it is difficult to mask its height and massing from the smaller residential structures along Oxford Street at the rear of the property. Stepping the building height down is an attempt to mitigate this visual intrusion as is the planting of several trees which, when mature, will help to somewhat mask some of the view of the rear façade of the building from Oxford Street.

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

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 existing building has already completed the demolition review process with the Historic Preservation Commission. The Applicant and Owners have entered into a Memorandum of Agreement (MOA) with the HPC allowing for the demolition of the building and for specific preservation goals to be met. These have been codified in the signed MOA with the HPC.

It should also be noted that the applicant did not originally intend to demolish the existing building. Abutting property owners along Oxford Street advocated the applicant to demolish the existing building so that a new structure could be build closer to Highland Avenue and, therefore, further away from mutual rear property lines. The HPC made their regulatory determinations on the demolition of this building and entered into an MOA in accordance with HPC regulations, not because of neighborhood interest in having the building demolished.

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 will improve as a result of the proposed development. Though the proposed building is much larger than the one currently extant on the property, the new structure is not inconsistent with others of similar siting and use along this portion of Highland Avenue. This has been discussed earlier in this report. Improvements will be realized in the form of well-designed residential units, landscaping, improved drainage, and infrastructure improvements in the immediate area.

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 and right sides of the property. 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.”*

The existing curb cut on the right elevation of the property shall be retained.

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. It is the Superintendent’s decision as to whether or not electrical lines connecting the new building to the Highland Avenue lines will be buried.

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. The Board finds that the proposed building is appropriately scaled along a key City thoroughfare.

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.

§7.11 of the SZO

When 7 or more units are proposed for a site in the RC 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 19 units at 124 Highland Avenue. Twenty percent (20%) of 19 equates to 3 units plus a fractional payment of 0.8. This requires the Applicant to provide three (3) of these 19 units as on-site 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 19 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 & 9.5.5.d of the SZO

As noted earlier in this report, when inclusionary units are being provided under Article 13 of the SZO, 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 19 residential units will be provided on the site there may be an increase in traffic volume due to the increased density on the site.
2. Increased traffic congestion or queuing of vehicles: The project site is along busy Highland Avenue. There are and will continue to be traffic impacts because of future infrastructure work and private redevelopment efforts along this and other City streets.
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, under-building parking spaces. The applicant requires relief for 29 spaces. This site is extremely well-served by public transportation and it is anticipated that future residents will bring fewer cars to this site. A bus stop for the 88 and 90 bus lines are directly across the street from the project site. The Gilman Square Green Line “T” station will be located roughly a two-block walk from the building.

At the time of the August 7, 2019 ZBA hearing, it was unclear from the plan set as to the size of the new American Legion Hall to be created at the rear of the building. Because of this, the Board had to assume that the capacity of the new hall would be 85 people, which is the capacity of the existing hall. In the interim, the size of the new American Legion Hall has been clarified as being only 1,300 square feet, clearly not a size that can accommodate 85 persons. Therefore, this changes the parking requirement for the new building significantly.

The maximum number of occupants in this 1,300 square foot lodge space is 24, according to the architectural submission (Sheet Z-1, footnotes). §9.5.5.d of the SZO states that for a “church, temple, auditorium, club, lodge, or community center” parking requirements are calculated at 1 space per every 6 seats in the main auditorium or assembly area, based on design occupancy⁴. Based on this calculation, the new Legion Hall will require 4.0 parking spaces.

At the August 7, 2019 meeting, some members of the ZBA requested a traffic/parking study for this project. Of note, the study refers to the need for a parking variance. However, because inclusionary housing is being provided, parking relief is granted under Special Permit, no matter the number of spaces of relief requested. The study was provided with the plan set.

⁴ Item “d” from §9.5.5 of the SZO reads as follows:

d.	Church, temple, auditorium, club, lodge, community center	1 per 6 seats in the main auditorium or assembly area, based on design occupancy
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Parking calculations and associated relief:

Unit type	Number of units	PKG Req. (spaces)
American Legion Hall (lodge)	1 Calculation: 1 space for every 6 occupants 24 occupants max (24 / 6)	4.0
Studio	1	1.0
One-bedroom	6 Calculation: (6 x 1.5)	9.0
Two-bedroom	11 Calculation: (11 x 1.5)	17.0
Three-bedroom	1	2.0
Visitor spaces	1 for every 6 units 19 units/6	3.0

Total number of parking spaces required: 36

Total number of spaces to be provided: 16

Spaces of relief needed: 20

6. Housing Impact:

The proposal provides for three (3) on-site inclusionary housing units and sixteen (16) 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 visually improves an existing property and increases the City's housing stock by 19 total units (16 market-rate and 3 inclusionary plus a fractional payment into the Somerville Affordable Housing Trust Fund). The project also helps to keep a struggling organization, American Legion Post 19, in the City and in their current home by providing a new legion hall space at the rear of the building.



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: The development site is dramatically sloped in nature, the sloped typography of the land creates a large financial hardship in the construction and development of the site including the redevelopment of the non-profit veterans post and residential units above including its affordable components. The site plan and construction drawings illustrate the challenges associated with the typography of the land.

Board Response: The property slopes away from Highland Avenue toward Oxford Street as do multiple properties along this side of Highland Avenue.

(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: The application as submitted allows the applicant not only to create 19 residential units including 3.8 inclusionary units but it also allows the non-profit veterans club to continue to exist. The typography of the land dramatically increases the construction costs including its underground parking and sloped driveway from Highland Avenue. The variance (s) requested by the Applicant are the minimum approval necessary to grant reasonable relief and use of the land resulting from its typography and moreover resulting from neighborhood concerns to push the structure as close to Highland Avenue as possible, demolish the historical structure, and forbid parking and traffic on Trull Lane.

Board Response: Numerous variances are required for this project including height, number of stories, lot area per dwelling unit, front yard setback. It is this question with which the ZBA often struggles. The proposal allows a City organization, Post 19, to remain in the City and on its current site while providing market- and inclusionary-rate housing opportunities for other members (current and future) of the community.

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: This site is surrounded by several tall buildings and multi-family housing building on Highland Avenue, a main thoroughfare and artery in the City of Somerville. This application fits squarely in harmony with the current building types on Highland Avenue today called for by the current zoning, the proposed zoning, and more particularly SomerVision.

Board Response: As noted earlier in this report, the proposal meets some of the City's SomerVision goals including affordable housing and the overall increase in number of residential units. Overall, the proposal is consistent with the general residential focus of the RC zoning district and is consistent with other buildings in the immediate area in terms of density, massing, and number of stories.



III. DECISION

Present and sitting were Members Orsola Susan Fontano, Drew Kane (*Alt*), Danielle Evans, Elaine Severino, and Anne Brockelman. Josh Safdie was absent and Drew Kane was voting in his place. 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	Approval including 19 residential units (including 3 inclusionary, 16 market-rate, and a .8 fractional payment into the Somerville Affordable Housing Trust Fund); inclusion of a new American Legion Post 19 space at the rear of the new building; 16 on-site parking spaces provided; special permit for a non-conforming right and left side yard setbacks and variances for height, number of stories, lot area per d.u. ratio, front yard setback and FAR.	BP/CO	ISD/Plng.															
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 5, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 1, 2019</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>August 1, 2019</td> <td>Updated zoning data sheet submitted to OSPCD</td> </tr> <tr> <td>August 28, 2019</td> <td>Updated plan set submitted to OSPCD</td> </tr> <tr> <td>September 9, 2019</td> <td>Updated plan set with shadow study submitted to OSPCD</td> </tr> <tr> <td>September 12, 2019</td> <td>Updated traffic/parking study submitted to OSPCD</td> </tr> </tbody> </table>				Date	Submission	July 5, 2018	Initial application submitted to the City Clerk's Office	May 1, 2019	Updated plans submitted to OSPCD	August 1, 2019	Updated zoning data sheet submitted to OSPCD	August 28, 2019	Updated plan set submitted to OSPCD	September 9, 2019	Updated plan set with shadow study submitted to OSPCD	September 12, 2019	Updated traffic/parking study submitted to OSPCD
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.																		
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				
5	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	
6	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	
7	<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 and finish work.</u>	During Construction	ISD	
8	There shall be no idling of construction vehicles on the site or on surrounding streets.	During construction	ISD/T&P	
9	No parking of construction-related vehicles, including personal vehicles, shall be permitted on Oxford Street or Trull Lane. Parking on Highland Avenue only through the permission of the Traffic and Parking Division.	During construction	ISD/T&P	
10	Dumpsters shall not be allowed on Oxford Street or Trull Lane. All dumpsters require permits per City ordinance.	Pre- and during construction	ISD/T&P	
Design				
11	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	
Site				



12	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./IS D	
13	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./IS D	
14	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./IS D	
15	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.	
16	The curb cut on Trull Lane shall be closed. This shall be done under the direction of the Engineering Department and in accordance with DPW standards.	CO	ISD/High ways/Engineering/Plng	
Engineering				
17	The Applicant must contact the Engineering Department to obtain addresses for all units prior to a building permit being issued.	BP	Eng	
18	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.	
19	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.	
20	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.	
21	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.	
22	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	

23	The Applicant shall conduct a survey of the houses of the direct-abutting property owners on Oxford Street and of the church on the corner of Highland Avenue and Trull Lane 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./ISD	
24	Under the direction of the Director of Engineering, the applicant shall perform a CCTV inspection of the sewer line on Trull Lane. Inspection results shall be submitted to the Director of Engineering for his review of the conditions found. If the Director so finds, the sewer line shall be repaired or replaced.	BP	Director of Engineering	
25	Under the direction of the Director of Engineering, the existing 6-inch water main on Trull Lane shall be replaced with an 8-inch water main that will run from Oxford Street to the 12 inch main on Highland Avenue.	Timing to be determined by Director of Engineering, but before CO	Director of Engineering	
26	Under the Direction of the Director of Engineering, a complaint sidewalk shall be installed along Trull Lane and Highland Avenue.	Timing to be determined by Director of Engineering, but before CO	Director of Engineering	
27	Under the direction of the Director of Engineering, Trull Lane shall be repaved.	Timing to be determined by Director of Engineering, but before CO	Director of Engineering	
Miscellaneous				
28	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 / Plng.	
29	Trash and recycling shall be stored in or under the building until trash/recycling night.	Perpetual	ISD	
30	Trash shall be picked up by a private contractor.	Perpetual	ISD	
31	Snow removal shall be undertaken by a private contractor and all shoveled/plowed snow shall be removed from the site.	Perpetual	ISD	



32	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	
33	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	
34	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.	
35	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	
36	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	
37	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	
38	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/ISD	
39	A Green Line payment of \$2.40 per gross square foot is required due to the proximity of the property to the future Gilman Square Green Line "T" stop.	CO	Director of Mobility/ Plng/ISD	
40	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				
41	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
42	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	
43	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.	
44	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	
45	The applicant shall work with the Director of Mobility (formerly Transportation and Infrastructure) to determine an appropriate warning mechanism to alert approaching pedestrians that vehicles are exiting the under-building garage and approaching the public sidewalk along Highland Avenue.	CO	Mobility/ Plng/ISD	
46	The applicant shall work with the Director of Mobility (formerly Transportation and Infrastructure) and the Streetscape and Public Space Planner to install a complaint and possibly vaulted sidewalk along the Highland Avenue frontage of the building	CO	Mobility. Plng/ISD/ Engineeri ng	
47	The applicant shall pay into a fund for or plant new street trees along Highland Avenue under the direction of the City Arborist	CO	City Arborist/P lng/ISD	
48	The applicant shall coordinate with the Director of Mobility to construct a raised crosswalk in the immediate area of 124 Highland Avenue in an effort to improve traffic calming and mitigate vehicular/pedestrian conflicts. Re-painting of crosswalks may also be required.	CO	Mobility/ Plng/ISD	
49	The applicant shall coordinate with the Director of Mobility to study the possibility of moving the "T" bus stop to a new location in the nearby blocks of Highland Avenue. Should moving the stop prove prudent, the applicant shall be responsible for moving the stop under the direction of the Director of Mobility in coordination with the MBTA.	CO	Mobility/ Plng/ISD	
Final Sign-Off				
50	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	Zoning Review Planner	



ATTEST, BY THE ZONING BOARD OF APPEALS:

Orsola Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Drew Kane (*Alt*)
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 _____

