



# CITY OF SOMERVILLE

MASSACHUSETTS

Joseph A. Curtatone, Mayor

Office of Strategic Planning and Community Development (OSPCD)

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## PLANNING DIVISION STAFF

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**Site: 20 Highland Avenue**

**Case #: ZBA 2019-118**

**Date:** December 11, 2019

**Recommendation:** Unable to recommend

## STAFF REPORT

**Applicant Name:** North America Development

**Owner Name:** Martha Romano

**Agent Name:** n/a

**City Councilor:** Ben Ewen-Campen

**Legal Notice:** Applicant, North America Development, and Owner, Martha Romano, seek a special permit under SZO §4.1.1 to alter a nonconforming structure by increasing the existing gross floor area (GFA) by greater than 25% and extend the building within the nonconforming right-side yard setback. A Special Permit under SZO §7.11 is also required for five residential units and under SZO §9.13 for parking relief. RC Zone. Ward 3.

**First Public Hearing:** December 11, 2019



| Zoning | Use  | Surrounding Land Use   | Property Metrics  |
|--------|--|--|---|
| RC     | A 2.5 Story, Detached House building type with 2 dwelling units. | The site abuts two properties fronting onto Highland Avenue that are in the RC zoning district and one property fronting onto Thorpe Street that is in the RA zoning district. | 4,977 square feet<br>28% existing ground coverage<br>30% existing landscaped area |

**Quick Summary:** The proposal is to convert an existing Detached House building type with two (2) dwelling units into a mixed-use General Building with five (5) dwelling units and one retail or office space.

## I. PROJECT DESCRIPTION

### 1. Subject Property:

The subject property consists of a Detached House principal building type with two (2) dwelling units on a 51.6' x 97' lot (4,977 square feet), which is nonconforming to the seven thousand five hundred (7,500) square foot minimum lot area required in the RC district. The existing principal building is set back from the right-side lot line by only 3' feet, which is nonconforming to the required side setback, and 8.3' from the front lot line, which is nonconforming to the required front setback. The existing structure is setback from the left-side lot line by 18.4' and the rear lot line by 27.2', both of which are conforming to the required side and rear setbacks.

### 2. Proposal:

The proposal is to convert an existing Detached House building type with two, 2-bedroom dwelling units into a mixed-use General Building with ground floor commercial space, two 2-bedroom, and three 3-bedroom dwelling units (a total of five dwelling units).

### 3. Green Building Practices:

The application states that there will be a limitation of demolition material, recycling where possible to reduce solid waste disposal, use of water saving plumbing fixtures, use of energy efficient lighting, reduction in non-permeable asphalt paving, and use of non-invasive species landscaping planting.

### 4. Comments:

*City Departments:* none at this time.

*City Councilor:* Two neighborhood meetings were held regarding this case. Councilor Ewan-Campen reached out to the Planning Department to share that abutters have expressed concern regarding the proposed roof decks. They've had a negative experience with users of the existing roof desks at 18 Highland Avenue.

## II. FINDINGS FOR SPECIAL PERMITS (§4.4.1, §7.11.1.c, & Article 9):

In order to grant the necessary Special Permits required by §4.4.1, §7.11.1.c, and §9.13 of the SZO, the SPGA must make certain findings and determinations as outlined in §5.1.4.

*The Planning Staff proposes that the Zoning Board of Appeals make the following findings:*

### 1. Information Supplied

The information provided by the Applicant attempts to conform to the requirements of §5.1.2 of the SZO. At this time, Staff is uncertain that it allows for the comprehensive analysis of the project with respect to the required Special Permit. There is question whether the project needs a parking variance. It also needs a variance because it doesn't meet the dimension table footnote for corner lots in Section 8.6.5.c.

2. Compliance with Standards: *The application must comply with such criteria or standards as may be set forth in [the SZO] which refer to the granting of the required Special Permits.*

There are no specific criteria or standards for the Special Permit required by §4.4.1 or §7.11.1.c, other than the findings required for all Special Permits of §5.1.2.

The RC district requires eight hundred and seventy-five (875) square feet of lot area per dwelling unit, resulting in 5.68 dwelling units permitted for the 4,977 square foot lot. Article 7 requires a Special Permit for 4-6 dwelling units in the RC District. A Special Permit is also required to expand the nonconforming right side and front yard setback. The right side setback is 3’ and will be expanded in width and upward. The front setback nonconformity will also be exacerbated. It’s currently 8.3’ and it’s proposed to be 0’.

The proposal does not comply with footnote 8.6.5.c which states, “Traffic visibility across corners: On any lot where front yards are required, all structures, fences or plantings greater than three-and-one-half (3-1/2) feet above sidewalk level and within twenty (20) feet of any corner street line intersection shall be maintained so as not to interfere with traffic visibility across corners.” The project does not meet this dimensional requirement and needs to apply for a variance.

Another Special Permit is required for the modification of the gross floor area of the nonconforming building by more than 25% under §4.4.1 of the SZO. The floor area is increasing by over 4,000 SF.

The Applicant is also requesting relief for shared parking and reduction for specific uses. The parking requirement is as follows:

|                        | Existing |                 | Proposed  |                  |
|------------------------|----------|-----------------|-----------|------------------|
| 20 Highland #1         | 2BR      | 1.5 spaces      | 3BR       | 2 spaces         |
| 20 Highland #2         | 2BR      | 1.5 spaces      | 3BR       | 2 spaces         |
| 20 Highland #3         | --       | --              | 3BR       | 2 spaces         |
| 20 Highland #4         | --       | --              | 2BR       | 1.5 spaces       |
| 20 Highland #5         | --       | --              | 2BR       | 1.5 spaces       |
| 20 Highland Commercial | --       | --              | 1 per 500 | 4 spaces         |
| <b>Total</b>           |          | <b>3 spaces</b> |           | <b>13 spaces</b> |

Five parking spaces are proposed. One off of Highland Avenue and 4 off of Thorpe. The site will be nonconforming with respect to the number of required off-street parking spaces as 8 additional spaces are required. The site currently conforms to the parking requirement. Section 9.13 allows for the modification of a parking requirement for shared parking. Section 9.13.e states, “Shared Parking/Loading. ...if it can be demonstrated that the hours, days, or peak parking or loading demand for the uses are so different that a lower total will provide adequately for all uses or activities served by the parking facility or loading bay, and that the location of the parking facility in relation to the uses proposed to be served by it is appropriate. A special permit authorizing such deviation from the normal standard shall only be granted upon the submission of calculated parking demand for combined land uses based on methodologies and indices of the Institute of Transportation Engineers, Urban Land Institute, or other recognized methodology approved in writing by the Director of Traffic and Parking.”

The Applicant has submitted a letter detailing the shared parking and parking reduction. Staff does not find that it justifies the reduction in parking or proves the feasibility of shared parking. More information by a traffic engineer needs to be provided.

3. Consistency with Purposes: *The application must demonstrate that the proposal is consistent with (1) the general purposes of [the SZO] 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 [in the SZO], such as, but not limited to, those purposes at the beginning of various Articles.*

The proposed development is consistent with the general purposes of the SZO set forth in Section 1.2, which includes, but is not limited to: to provide for and maintain the uniquely integrated structure of uses in the City; to prevent the overcrowding of land; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and, 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.

The proposed development is consistent with the purpose of the RC district, which is, "To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."

4. Site and Area Compatibility: *The application must demonstrate that the proposed development is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the built and unbuilt surrounding area, including land uses.*

*Surrounding Neighborhood:* The surrounding neighborhood is a mix of building types and uses. Immediately abutting the property is a one story pizza shop. Building types include high rise residential, apartment houses, rowhouses, and commercial buildings.

*Impacts of the Proposal:* In general, there are limited impacts to this proposal. However, the Applicant has not satisfied staff's request for parking data grounded in research. If the ZBA is not satisfied either, the project needs a variance for parking. People that attended the neighborhood meetings were concerned with parking in the neighborhood. The project also needs a variance for the dimensional footnote for projects at a corner. The variance could be supported with study on visibility across the intersection.

5. Vehicular and Pedestrian Circulation:

The circulation patterns for motor vehicles and pedestrians resulting from the proposed development will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

6. Housing Impact:

The proposed development will not create adverse impacts on the stock of existing affordable housing.

7. SomerVision Plan:

The proposed development complies with the applicable goals, policies, and actions of the SomerVision plan including, but not limited to, preserve and enhance the character of Somerville's neighborhoods and 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.

**III. FINDINGS FOR VARIANCE (§8.5):**

Project needs to be properly advertised for a variance.

**III. RECOMMENDATION**

**Special Permits under §4.4.1 and §9.13**

Based on the materials submitted by the Applicant, the above findings and subject to the following recommended conditions, the Staff recommends **ADDITIONAL INFORMATION** prior to acting on the requested **SPECIAL PERMITS**.

Based on the materials submitted by the Applicant, the above findings and subject to the following recommended conditions, the Staff recommends **NO ACTION BE TAKEN** because the appropriate **VARIANCE(S)** have not been requested.

This recommendation by the Staff is based upon a technical analysis of the application materials submitted by the applicant and is based only upon information submitted prior to the required public hearing. This report may be revised or updated with new recommendations, findings, or conditions based upon additional information.

| #                          | Condition  | Compliance Timeframe | Verification | Notes            |  |                 |   |                    |                    |                   |                |           |             |  |
|----------------------------|--|----------------------|--------------|------------------|--|-----------------|---|--------------------|--------------------|-------------------|----------------|-----------|-------------|--|
| <b>A. Overall</b>          |  |                      |              |                  |  |                 |   |                    |                    |                   |                |           |             |  |
| 1                          | <p>Development must comply with the approved plans and other application materials submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 10, 2019</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>October 3, 2019</td> <td>Cover, Zoning Compliance, AX1.1, AX1.2, AX1.3, AX2.1, AX2.2, A1.1, A1.2, A1.3, A1.4, A1.5, A2.1, A2.2, A2.3, A2.4</td> </tr> <tr> <td>September 25, 2019</td> <td>Existing Plot Plan</td> </tr> <tr> <td>November 19, 2019</td> <td>Landscape Plan</td> </tr> </tbody> </table> <p>Any changes to the submitted plans and other materials, as approved and conditioned, that is not determined to be <i>de minimis</i> by the Planning Director are considered a Major Amendment to the approved plans and must be processed as a revision to previously approved plans.</p> | Date (Stamp Date)    | Submission   | October 10, 2019 | Initial application submitted to the City Clerk’s Office | October 3, 2019 | Cover, Zoning Compliance, AX1.1, AX1.2, AX1.3, AX2.1, AX2.2, A1.1, A1.2, A1.3, A1.4, A1.5, A2.1, A2.2, A2.3, A2.4 | September 25, 2019 | Existing Plot Plan | November 19, 2019 | Landscape Plan | Perpetual | ISD/<br>P&Z |  |
| Date (Stamp Date)          | Submission   |                      |              |                  |  |                 |   |                    |                    |                   |                |           |             |  |
| October 10, 2019           | Initial application submitted to the City Clerk’s Office   |                      |              |                  |  |                 |   |                    |                    |                   |                |           |             |  |
| October 3, 2019            | Cover, Zoning Compliance, AX1.1, AX1.2, AX1.3, AX2.1, AX2.2, A1.1, A1.2, A1.3, A1.4, A1.5, A2.1, A2.2, A2.3, A2.4  |                      |              |                  |  |                 |   |                    |                    |                   |                |           |             |  |
| September 25, 2019         | Existing Plot Plan   |                      |              |                  |  |                 |   |                    |                    |                   |                |           |             |  |
| November 19, 2019          | Landscape Plan   |                      |              |                  |  |                 |   |                    |                    |                   |                |           |             |  |
| <b>B. Pre-Construction</b> |  |                      |              |                  |  |                 |   |                    |                    |                   |                |           |             |  |
| 2                          | The proposed finished floor elevation of the basement must be one (1) foot or more above the Seasonal High Ground Water elevation as determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.  | Perpetual            | ENG          |                  |  |                 |   |                    |                    |                   |                |           |             |  |
| <b>C. Construction</b>     |  |                      |              |                  |  |                 |   |                    |                    |                   |                |           |             |  |

| #                          | Condition   | Compliance Timeframe | Verification | Notes |
|----------------------------|---|----------------------|--------------|-------|
| 3                          | The name and phone number of the General Contractor must be posted at the site entrance in a manner that is visible to pedestrians and neighbors.   | Construction         | ISD          |       |
| 4                          | All construction materials and equipment should be stored on site. If occupancy of the street is necessary, use of the right of way must comply with the requirements of the Manual on Uniform Traffic Control Devices and must receive prior approval of the City Engineer.  | Construction         | ENG          |       |
| 5                          | Out of respect of abutting residential properties, construction activities may not begin prior to 7:30am and must be complete by 5pm Monday through Friday. No construction activity is permitted one weekends or holidays.   | Construction         | ISD          |       |
| 6                          | The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.   | Construction         | ISD          |       |
| <b>D. Design</b>           |   |                      |              |       |
| 7                          | Final material samples for siding, trim, windows, and doors must be submitted to Staff for review and approval prior to the issuance of a building permit.  | BP                   | ISD/<br>P&Z  |       |
| 8                          | Applicant will submit a plan showing what nonconformity they are maintaining  | BP                   | P&Z          |       |
| 9                          | An exterior light and electrical outlet are required for each front and rear porch or balcony.  | CO                   | ISD          |       |
| <b>E. Site Features</b>    |   |                      |              |       |
| 10                         | Landscaping must be installed and maintained in accordance with the American Nurserymen's Association Standards.  | Perpetual            | ISD          |       |
| 11                         | Outdoor lighting shall comply with the City of Somerville Dark Sky Policy.  | CO                   | ISD          |       |
| 12                         | Utility meters may not be located on front facades. Gas and electric meters may be located to the side of the principal building and screened with staff approved evergreen vegetation. Utilities may not block any windows, parking, landscaping, or means of egress. The provisions of this condition may be waived by staff if written verification, signed by a utility representative on utility letterhead, indicates that there is no feasible alternative to placing meters in violation of this condition. | CO                   | ISD          |       |
| 13                         | Electrical conduits on the exterior facades shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.   | CO                   | ISD          |       |
| <b>H. Use Restrictions</b> |   |                      |              |       |
| 14                         | Short term rental uses, such as AirBnB, VRBO, or the like, require separate approval in accordance with the City of Somerville Code of Ordinances.  | Perpetual            | ISD          |       |
| <b>I. Final Sign Off</b>   |   |                      |              |       |

| #  | Condition  | Compliance<br>Timeframe | Verification | Notes |
|----|--|-------------------------|--------------|-------|
| 15 | The Applicant shall contact Staff at least five working days in advance of a request for a final inspection to ensure the proposal was constructed in accordance with the plans and other information submitted and that the development is compliant with the conditions of this permit approval. | CO                      | ISD          |       |



