



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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Case #: ZBA 2019-103
Site: 350 Mystic Avenue
Date of Decision: October 2, 2019
Decision: *Approved with Conditions*
Date Filed with City Clerk: October 16, 2019

ZONING BOARD OF APPEALS DECISION

Site: 350 Mystic Avenue

Applicant Name: Craig Corporation
Applicant Address: 100 Fellsway West, Suite 101, Somerville, MA 02143
Owner Name: same as applicant
Owner Address: same as applicant
Agent: Richard DiGirolamo

Legal Notice: Applicant and Owner, Craig Corporation, proposed a mixed-use residential building and seeks a Special Permit with Design Review (SPD), variances under §5.5, §9.5, & §4.4.1 for rear yard setback, special permit for parking under Article 9* of the SZO, and a Special Permit with Site Plan Review (SPSR) to increase the number of dwelling units under §7.11.1c. BB zone. Ward 1.

It has since been determined that parking relief is not needed

<u>Zoning District/Ward:</u>	BB Zone. Ward 4.
<u>Zoning Approval Sought:</u>	SZO §4.4.1, 5.5, 9.5, SP, SPSR, Variances
<u>Date of Application:</u>	September 11, 2019
<u>Date(s) of Public Hearing:</u>	October 2, 2019
<u>Date of Decision:</u>	October 2, 2019
<u>Vote:</u>	5-0

Case number ZBA 2019-103 was opened before the Zoning Board of Appeals in the Council Chambers of City Hall at 93 Highland Avenue. 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 October 2, 2019, the Zoning Board of Appeals took a vote.



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A note on this case: This project was originally approved by the ZBA in 2016. In 2018, the Applicant was granted a one-year extension of the special permits, SPD, and SPSR. At that time, the Applicant was also granted a re-approval of the variances. All permitting has now since expired, therefore requiring the Applicant to re-apply for all of the original relief granted.

Prior to the recent expiration of the permits, *de minimis* changes related to window placement, siding, and landscaping area were approved by the Planning Director, as is their purview in accordance with the SZO. The most notable difference in the following report is that the inclusionary housing payment has been re-calculated and a fractional payment of 0.9 is now required.

I. PROJECT DESCRIPTION

1. Subject Property: The area outlined in red in the picture to the right is the area to be re-developed. The structures in the photo were demolished a few years ago and the area is currently a dirt lot.

The subject property is a 45,419 square foot lot in the BB zone. The property is bounded by Wheatland, Mystic Avenue and Fellsway. The large, green residential structure to the left of the highlighted area was built a few years ago by the same Applicant/Owner. Part of the approval process for the first residential structure was that a second phase of construction would consist of building a second (mixed-use) structure on the remainder of the parcel.

The building at the front left corner of the block is the Century Bank building, is a separately-owned parcel and is not part of this proposal.

2. Proposal: The Applicant/Owner proposes to construct a four-story, mixed-use building. The proposal includes approximately 1,200 square feet of commercial space on the first floor. Floors two and three will contain 17 residential units.

The fourth floor will be used entirely for resident storage. However, the Applicant may decide at a later date to convert the storage area into additional units which would require separate zoning relief.

Below grade the Applicant proposes a two-level parking garage that with 46 spaces. This new build requires a total of 24 spaces based on the proposed bedroom count. The 46 spaces proposed for the parking garage will have a combination of standard and compact sized spaces along with handicap spaces. The two lower levels of the parking garage will also house a sprinkler room, trash room, electrical, telecom and emergency electrical rooms, and an elevator room. A loading bay for the commercial portion of the building is located at the rear portion of the Fellsway elevation.

The Applicant proposes a roof deck. One of the two elevator towers in the building will provide access to the roof. Solar panels will be installed on the roof as well.

The Applicant proposes constructing the new building within the rear yard setback along the line of the foundation of the former factory building which has since been demolished. The foundation has been buried and cannot, therefore be used as an existing non-conformity off of which to build. Therefore, the Applicant seeks a Variance for rear yard setback in order to building along the original foundation line.



3. Green Building Practices: As noted on the application, the building will be “*LEED certified including solar panels and electric automobile stations; exterior green technology building material.*”

4. Comments:

Fire Prevention: Has yet to review this proposal; all plans will be submitted thereto and reviewed prior to issuance of any ISD-issued permits.

Traffic & Parking: Has yet to review this proposal; all plans will be submitted thereto and reviewed prior to issuance of any ISD-issued permits.

Wiring Inspection: Has yet to review this proposal; all plans will be submitted thereto and reviewed prior to issuance of any ISD-issued permits.

Lights and Lines: Has yet to review this proposal; all plans will be submitted thereto and reviewed prior to issuance of any ISD-issued permits.

Engineering: Has yet to review this proposal; all plans will be submitted thereto and reviewed prior to issuance of any ISD-issued permits.

Ward Alderman: Tony Lafuente has been advised of this project and has been involved in the neighborhood meeting process.

II. FINDINGS FOR SPECIAL PERMIT with DESIGN REVIEW (SZO §5.1.5.A) & SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §5.2.4.A)

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail. This section also addresses §7.11.1c within this section.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

2. Compliance with Standards: *The Applicant must comply “with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit with site plan review.”*

The Board finds that the proposal conforms to the requirements set out in §5.2.3 of the SZO.

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

The Board finds that the proposal conforms to the purpose of the BB (Commercial Residential Districts) which is to “...establish and preserve general commercial and high density residential areas consisting of multi-family developments, shopping centers, commercial strips and automobile related establishments where customers reach individual businesses primarily by automobile.”



The Board also finds that the increase in the number of units on this site is consistent with the goal of having a high density residential presence in this zoning 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 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 surrounding neighborhood has been struggling for some time. However, in recent years, new development and rehabilitation of existing properties has begun to improve the look-and-feel of the Mystic Avenue portion of this neighborhood. Recent development has improved the livability of the area by providing housing that is less automobile-dependent while gradually increasing available amenities for neighborhood residents. The proposal for 350 Mystic Avenue continues this trend.

Impacts of Proposal (Design and Compatibility):

The proposal for 350 Mystic Avenue will add 17 new units to Somerville’s housing stock, with unit sizes including 1-, 2-, and 3-bedrooms. Despite the size of the new construction, more than sufficient parking has been supplied for the new building. The commercial space on the first floor will allow for some automobile traffic, but is equally convenient to on-site residents, area pedestrians, and those using public transportation.

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 new building will have a commercial storefront immediately abutting the public sidewalk along Mystic Avenue. This is in keeping with the type of pedestrian-friendly mixed-use development that the City wants to encourage. The commercial storefront will draw pedestrian traffic from the on-site residential units as well as from the surrounding neighborhoods.

The proposed building as a whole presents a strong building presence along Mystic Avenue. The building is proportionate to the existing residential building on the site and is similar in form and massing to the former, historic factory building that previously rested on this parcel.

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 Board finds that the proposed structure meets this criterion by providing a an inset commercial entrance on the left elevation of the structure. Residential entrances to the building are located along the parking lot, separate from the commercial entrance.



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 Board finds that the proposed structure meets this criterion in that the building rhythms harken to those of the historic factory building previously on the site. The Board also finds that the proposed building works harmoniously in style, form, scale, design, rhythm, dimension and massing with the existing residential building on the same lot.

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.***

The Board finds that the choices of materials, colors, bay widths and window articulation clearly delineate the residential portion of this proposed building from the commercial. Staff further finds that the use of vertical and horizontal paneling on the façade provides for visual interest and helps to visually break up the massing and overall length of the structure. Of further benefit are the placement and design of the elevator towers. The towers, in part, attempt to reflect the tower present on the historic factory building formerly located on this site while meeting the practical necessity of providing residential access to all floors and roof of the building.

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

The Board finds that the flat roof and shallow gable on the Mystic Avenue elevation are consistent with current and past buildings in this area.

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 Board finds that the color samples provided by the Applicant provide visual interest and help to differentiate it further from the existing green residential building on the site. The use of brick facing along the foundation of the new building softens the look of a concrete foundation and is reminiscent of one of the former factory buildings on the site.

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 Board finds that the presence of the existing residential building on this site provides this strong design element to continue the streetwall definition across the site, while the new landscaping softens the impact of the increase in paved area.

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.*

The Board finds that the presence of these systems –located on the roof and in the underground garage area – are consistent with the guidelines for this BB district.

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.*

There are no overlay zoning districts in this location.

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

The Board finds that the proposed project will not create adverse impacts on these services and facilities. The proposal allows for automobile, public transportation and pedestrian use by virtue of its location, design, and residential/commercial conveniences. The residential portion of the building proposes a gym facility for its residents along with outdoor space on the roof deck. In this already congested area, the Board finds that up-tick in vehicular traffic will be mitigated by the number of residents/patrons who will rely on public transportation, bike, and ambulatory means of transit.

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.”*

This property is directly opposite the interstate and resting on Mystic Avenue, an area already experiencing significant levels of noise and vehicular pollution. The Board finds that there will be little to no impact in these areas save for the noise naturally generated by a large construction project such as this. An environmental study has been performed and submitted to the Planning Office. This report shall be reviewed by other City departments for prior to the issuance of building permits.

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 purpose of this Ordinance which is to “...establish and preserve business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic.”

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.”*

There are minimal landscaping and open space requirements in the BB zone. Maximum ground coverage is 80% and the minimum landscaped area is 10%. The Applicant proposes 44.5% ground coverage and 16% landscaped area.

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 parcel in question is flat. A portion of the parcel contains a multi-unit residential building while the portion of the parcel on which the proposed building is to be constructed is currently a dirt lot. The proposed structure is well-located on the parcel and is to be built along the footprint of the former, historic commercial building. The flat roof will provide sufficient space for a solar array for energy conservation. The residential units, particularly those on the third floor, will provide some view of the surrounding area.

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 Engineering Department will be reviewing plans for stormwater drainage. These plans will need to be approved before a building permit is issued.

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 Board finds that, given the nature of the proposal and the analyses above, the proposed structure will enhance the character of the City, particularly in this area. The current site has been a dirt lot filled with debris, construction refuse, including equipment, and weeds since the original building on the site was demolished.

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.”*

All lighting on the building will be downcast and will not cascade onto adjoining properties. No internal illumination of signs will occur.

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.”*

Fire Prevention will review and sign off on this proposal before a building permit is issued.

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 Board finds that the use of existing access points and the addition of an access point onto Wheatland Street will help to minimize any traffic congestion.

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.”*

Lights and Lines will review these plans prior to the issuance of a building permit.

18. 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.”*

The commercial signage, as rendered, is in keeping with the scale and character of the proposed building.

19. 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.”*

No utilities or their connections will be visible from the street level on the exterior of the building, including those located on the rooftop.

20. Screening of Parking:

46 new parking spaces of compact and standard sizes will be located in an underground garage in the proposed building.

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

The proposal will add 2 affordable units to Somerville's existing affordable housing stock and provide a 0.9 fractional payment to the Somerville Affordable Housing Trust Fund.

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. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

This proposal will add 12,000 square feet of commercial space, 15 market-rate and 2 affordable and units to Somerville's housing stock. A fractional payment of 0.9 will be provided to the Somerville Affordable Housing Trust Fund.

III. VARIANCE UNDER §5.5, §9.5, & §4.4.1***A. Explain any special circumstances affecting the land or structure (related to soil conditions, shape or topography) that are unusual and do not affect other properties AND any hardship that results from these special circumstances.***

Applicant statement: The proposal for twenty-six (26) residential units with the first level being commercial/retail space. Variances are required pursuant to SZO 5.5 and SZO 9.5.. The lot at 350 Mystic Avenue is contaminated per the LSP Report as previously submitted, therefore, to have a feasible project the variances requested are necessary, as there is a substantial hardship to the applicant. Further, the original structure housed on the site was damaged by fire and became structurally challenged and for safety reasons was thereafter ordered to be lifted by the City of Somerville Inspectional Services Department.

Board Response: The Planning Department received and reviewed the environmental report 3 years ago affirming the contamination of the site. The phase of the project being proposed at this time is to construct seventeen (17) units, not 26. The Applicant will submit a second proposal to construct another 9 units in the future in the area of the new building currently proposed as storage.

B. Explain if and how the variance is the minimum approval necessary to grant reasonable relief to the owner AND results in a reasonable use of the land or structure.

Applicant statement: The proposal will not be injurious to the neighborhood, as it will provide housing units to the Mystic Avenue corridor, which is in need of residential rental units. The relief requested is the minimum approval necessary to grant reasonable relief and results in reasonable use of the land in order to maintain a streetscape on both Mystic Avenue and Wheatland Street as did the original structure as evidenced by the existing foundation which remains on the site. The mixed-use application is a reasonable use of this land. This project will be an asset to the neighborhood as this development will be state of the art residences with many amenities for the residents.

Board Response: The Board finds that the construction of a new building along the existing foundation line of the historic factory building formerly on this site keeps the Wheatland Streetscape dimensionally consistent with its historic use. By drawing the Mystic Avenue façade of this building to the street, the proposed building is in keeping with the goals of the BB district which includes providing mixed-use, multi-transport amenities to the district. The Board further finds that the mixed-use proposal provides this area of the BB district with much-needed residential units, upgraded commercial space and intensity of use that is desirable in a BB zone. This amount of relief – the rear yard setback – is the minimal amount necessary to make this a viable project. The lot is also oddly-shaped in addition to being found contaminated several years ago.

C. Explain if and how the granting of the variance will be in harmony with the Somerville Zoning Ordinance AND will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Applicant statement: This proposal will create both market-rate and affordable units while cleaning up a contaminated site while bringing commercial/retail uses to its entire first floor benefiting the City and especially the surrounding neighborhood. The proposal is harmonious with the neighborhood as it is BB zoning district. Further, the project will add to the Mystic Avenue corridor as a major thoroughfare. This project will allow for a better use of a formerly contaminated site, thus it will not be detrimental to the public welfare.

Board Response: The Board finds that the addition of 2 affordable and 15 market-rate residential units of varying bedroom count is in keeping with the goals of the SZO, as is the 0.9 fractional payment into the Somerville Affordable Housing Trust Fund. Additional residential units that depend on a variety of transportation uses – vehicular, bike, ambulatory, and public transit – is needed and encouraged in this portion of the BB zone which is in need of improvement. The Planning Staff, together with the ZBA, will guide the future business use for the commercial space in order to ensure that leases/occupants provide a benefit to Somerville as a whole, but especially to the residents on the property and the surrounding neighborhood. Prior to its current state of containing a residential building and a refuse-strewn dirt lot, the parcel in question was a depressed site, at best. The proposal will provide much-needed improvements to this area of the City.

III. DECISION

Present and sitting were, Susan Fontano, Danielle Evans, Anne Brockelman, Elaine Severino, Josh Safdie, and Drew Kane. Upon making the above findings, Danielle Evans made a motion to approve the requested 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 is for the construction of mixed-use building with 17 total residential units (15 market-rate and 2 inclusionary) along with ~12,000 square feet of commercial space on the first floor. A fractional payment of 0.9 into the Somerville Affordable Housing Trust Fund is also required. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/PIng.	
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>September 11, 2019</td> <td>Initial application submitted to the City Clerk's Office (plans set contains architects date of April 1, 2019)</td> </tr> </tbody> </table>			
Date (Stamp Date)	Submission			
September 11, 2019	Initial application submitted to the City Clerk's Office (plans set contains architects date of April 1, 2019)			
Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.				
Affordable Housing/Linkage				
2	Affordable Housing Implementation Plan (AHIP) should be approved by the OSPCD Housing Division and executed prior to issuance of Building Permit. Affordable units shall be provided on-site.	BP	Housing	
3	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	
4	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	
5	Additional requirements for projects with current tenants: A Tenant Relocation Plan should be approved by the OSPCD Housing Division and executed prior to issuance of Building Permit.	BP	Housing	



6	Additional requirements for projects converting to condominiums or removing rental units from the market: If a rental unit is going to be removed as a result of this project, it must comply with City of Somerville Code of Ordinances Chapter 7, Article IV, Condominium Conversion and Removal of Rental Units prior to issuance of Building Permit. No Building Permit shall be issued until the OSPCD Housing Division has confirmed compliance.	BP	Housing	
7	Linkage payments will be required to be paid to the Somerville Housing Trust Fund before a CO is issued.	CO	Plng.	
Pre-Construction				
8	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng	
9	All departments, including Engineering, Parking & Traffic, Lights & Lines, etc. must review and approve plans prior to the issuance of a building permit.	BP	Eng/ISD/ Lights and Lines,P& T	
10	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.	
11	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	CO	Eng.	
12	Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any demolition permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division: a) a copy of the Response Action Outcome (RAO) Statement, signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or b) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.	Demolition Permit	Plng/ISD	



13	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.	
14	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng	
16	The Applicant shall conduct a survey of the houses of the abutting property owners prior to excavation of the site, and document their findings. These findings shall be submitted to the Planning Department as public record. The Applicant then shall survey any damage to the abutting property owner’s houses after excavation and reimburse the property owners for any damages.	BP	Eng/ISD/ Plng	
	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.	
Construction Impacts				
17	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.	During Construction	Plng.	
18	Approval is subject to the Applicant’s and/or successor’s right, title and interest in the property.	Cont.	Plng.	Deed submitted & application formed signed
19	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	
20	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	
21	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays.	During Construction	ISD	
Design				



22	<u>Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.</u>	BP	Plng.	
23	Conditions may require modification of the design of the structure in terms of size, but not reducing the allowable floor area ratio by more than twenty percent (20%) and, when applicable for special permit with design review, in terms of materials or other architectural elements in accordance with the design review guidelines of § 5.1.5	CO	ISD/Planning	
24	All lights shall be downcast and shall not cast light onto abutting properties. Interior-lit signs shall not be permitted.	Perpetual	ISD/Planning	
Site				
25	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
26	Landscaping shall be maintained on a regular basis with grass and all shrubbery neatly clipped, all weeds removed, all landscaping beds neatly maintained, any dead botanical material immediately removed and replaced, fencing regularly kept up and any damaged fencing immediately replaced.	Perpetual	ISD/Plng	
27	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	Perpetual	ISD/Planning	
28	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.	Installation of Utilities	Wiring Inspector	
29	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Plng.	
30	Loading and unloading of commercial goods and related items shall be limited to specific times of day so as to limit the impact on abutting properties and on-site residents.	CO	Plng.	
31	No dumpsters shall be present outside of the parking garage.	CO	Plng.	
32	Bike storage spaces shall be provided outside.	CO	Plng.	
33	Snow plowed from the premises and sidewalk shall be moved off-site.	Cont.	ISD.	
34	Any and all businesses that may exist in the BB zone under SZO 7.11 Table of Permitted Uses must first be reviewed and approved by the Special Permit Granting Authority and Planning Staff prior to lease signing and occupancy of the commercial space located at 350 Mystic Avenue.	Cont.	ISD/Plng/ ZBA	
35	Applicant shall work with Planning Staff on wall, landscaping, and trees to camouflage and buffer the Wheatland properties abutting the project location.	CO	ISD/Planning	
Traffic & Parking				



36	A loop detector shall be installed warning pedestrians and vehicular traffic of vehicles entering and exiting the parking garage.	Perpetual	ISD/Planning/Traffic & Parking	
Miscellaneous				
37	Conditions may require limitation of the occupancy and method or time of operation, so as to minimize any adverse impacts the proposed use and operation may have on the surrounding neighborhood;	Perpetual	ISD/Planning	
38	Conditions may place limits on time frames (limiting uses to a certain number of years or time of year, be made personal to an applicant's ownership (SP), or unlimited as to time. IN ALL EVENTS TIME LIMITATIONS SHOULD BE SPECIFICALLY STATED.	Perpetual	ISD/Planning	
39	Conditions may reference the need of the applicant to obtain other permits or approvals.	Perpetual	ISD/Planning	
40	For developments with 7 or more residential units or commercial development, the Owner/Applicant is required to hire a private company to remove trash and recycling on a regular basis. Trash and recycling shall be stored in the trash room and the trash bins/dumpster(s)/recycling shall be brought outside to the requisite pickup site only on the night before trash/recycling pickup day and then shall be returned to the trash room after the trash/recycling has been picked up.	Perpetual	ISD/Planning	
41	Applicant shall add one handicapped-accessible unit to the new construction.	BP/CO	ISD/Planning	
42	Applicant shall ensure that the garage has enough head clearance for a handicapped-accessible van.	BP/CO	ISD/Planning	
43	The parking area shall be re-stripped			
44	Per the submitted application, the building shall be LEED certifiable and shall include solar panels, electric vehicle stations, and green technology exterior building materials.	CO	ISD/Plng	
45	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
Public Safety				
46	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
47	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/BOH	



48	<i>Compliance with Noise Control Ordinance.</i> Prior to the issuance of a Certificate of Use and Occupancy Permit for the installation of the wireless telecommunications facility, the Applicant shall submit to the Inspectional Services Division, with a copy to the Zoning Board of Appeals, a sound level measurement certified as accurate by a professional acoustician and shall perform such sound level measurements six months after issuance of the certificate of occupancy, with subsequent sound level measurements annually on or before the anniversary date of the original six month measurement to document that all of the Applicant’s installed equipment complies and continues to comply with the decibel level standards established by the City of Somerville, Noise Control Ordinance. The Applicant shall provide the results of such measurements and certify that the facility complies with the decibel level standards established by the City of Somerville, Noise Control Ordinance, with a copy to the Zoning Board of Appeals.			
49	All exterior lighting shall be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
50	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
Signage				
51	Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
52	Planning Staff shall review and approve all signage, including, but not limited to, its design, size and location prior to its installation.			
Final Sign-Off				
53	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	



Attest, by the Zoning Board of Appeals:

Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Josh Safdie
Anne Brockelman
Elaine Severino
Drew Kane (Alt.)

Attest, by Planner:

Alexander Mello

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 _____

