



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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PLANNING DIVISION  
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**Case #: ZBA 2018-139**  
**Site: 109-111 Prospect Street**  
**Date of Decision:** March 6, 2019  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** March 12, 2019

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**ZBA DECISION**

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**Owner/Applicant Name:** 109-111 Prospect Street Somerville, LLC  
**Owner/Applicant Address:** P.O. Box 610312, Newton Hills, MA 02461  
**City Councilor:** J.T. Scott

Legal Notice: Applicants & Owners, 109-111 Prospect Street Somerville, LLC, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming property including, but not limited to right and left side yard setbacks; Special Permit under Article 9 for parking relief. Variances under §5.5 and §8.5 of the SZO for height\*, number of stories and lot area per dwelling unit; Special Permit with Site Plan Review (SPSR) to construct a 15-unit residential structure with inclusionary housing included under Article 13 of the SZO. RC zone. Ward 2.

<u>Zoning District/Ward:</u>	RC zone. Ward 2.
<u>Zoning Approval Sought:</u>	SZO §4.4.1 and §5.5 and §8.5, Article 13
<u>Date of Application:</u>	October 11, 2018
<u>Date(s) of Public Hearing:</u>	12/12, 1/9, 1/23, 2/6, 2/20, 3/6
<u>Date of Decision:</u>	March 6, 2019
<u>Vote:</u>	5-0

\*Since the publication of this legal ad, the proposal has changed such that a variance for the height of the building is not needed.

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Case # ZBA 2018-139 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall. 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 March 6, 2019 the Zoning Board of Appeals took a vote.



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**I. PROJECT DESCRIPTION**

The Applicant proposes demolishing the existing structure (auto garage with attached two-story building) and removing all bituminous material from the site. Proposed is a three-story, 40-foot residential structure with fifteen (15) one-and-two-bedroom units. Units range in size from 782square feet to 1,244 square feet. Each unit will be provided with a balcony for outdoor space. Parking will be provided under the proposed building and allows for one parking space per unit. All parking spaces are compact spaces. Vehicles will enter and exit to the left of the new building.

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

Unit #	Square Feet	BDR Count	PKG Req.
<b>First Floor</b>			
1	927	2	1.5
2	783	1	1.5
3	924	2	1.5
4	782	1	1.5
5	1,090	2	1.5
<b>Second Floor</b>			
6	927	2	1.5
7	783	1	1.5
8	924	2	1.5
9	1,244	2	1.5
10	1,003	2	1.5
<b>Third Floor</b>			
11	927	2	1.5
12	783	1	1.5
13	924	2	1.5
14	1,055	2	1.5
15	1,191	2	1.5

**Total:** 23 spaces (22.5 rounded up to 23)  
 + 2 guest spaces  


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 = **25** required parking spaces



Since the publication of the original legal ad, the project proposal has changed such that some variances originally sought are no longer required. The triggers for zoning relief are as follows:

<b>Dimension</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief Needed</b>
Lot area per dwelling unit	875	n/a <sup>1</sup>	640	Variance
Number of stories	3	2	4	Variance
Total number of dwelling units	n/a	n/a	15	SPSR
Parking	25	Unknown	15	Special Permit <sup>2</sup>
Parking	Standard size (9x18)	Unknown	Compact (8x16)	Special Permit
Total number of affordable units	3	n/a	3 <sup>3</sup>	Special Permit

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

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

<sup>3</sup> Proposed is a 15-unit residential structure. Eleven (11) of the units to be built will be market-rate and three (3) of the units to be built will be affordable.

<sup>3</sup> This property contains a through-site building that runs from 97 Prospect Street on one end through to 211 Tremont Street at the other.



**II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1), SPECIAL PERMIT WITH SITE PLAN REVIEW (SPSR), and ARTICLE 9**

**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 also finds that the proposal is consistent with the purpose of the RC district, which 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".

The proposed alterations bring the parcel into compliance with the purpose of the district by removing the non-conforming use (auto garage) and installing a conforming use (residential). The proposed alterations visually improve the property by removing a run-down and unsightly auto garage that is surrounded by vehicles in various states of repair.



**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:

109-111 Prospect Street, the former home of Franny's Autobody, is situated outside of the main commercial heart of Union Square and near the Cambridge city line. The surrounding neighborhood includes two- and multi-family residential structures along with other pre-existing, non-conforming sites including J.D. Auto Repair and Creative Ironworks.

The proposed alterations do significantly increase the residential density on the parcel beyond what would be allowed by-right. The nature of the proposal presents a building of a size, form, design, and massing that are most similar to three other residential or mixed-use projects in the immediate area (described/shown below), but distinct from the majority of the residential buildings on the street.

Three larger-scale redevelopments have recently occurred along Prospect Street. One is a five-story mixed-use development at the junction of Prospect St., Webster Ave., and Concord Ave. Next, at 92 Prospect Street, a c.1917 brick-fronted garage was transformed into eleven (11) residential units<sup>4</sup>. Lastly, 97 Prospect Street transformed a parking lot, at one time used for parking for Budget Truck Rental, into a seven-unit residential building

Impacts of Proposal (Design and Compatibility):

The proposal is more related to the three recent projects noted in the photos immediately above than to the older housing stock of one-, two-, three-, and multi-unit residential dwellings along the Somerville portion of the street.

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

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

The proposed structure is larger in overall size, scale and massing than most of the other existing buildings along the Somerville portion of Prospect Street (see "Site and Area Compatibility" comments above. As noted earlier in this report, the proposal is more related some larger projects more recently completed on Prospect Street.

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

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

their ordering and installation.

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

N/A

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

N/A

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

The main façade of the proposed building is oriented toward the street, in keeping with the three larger projects noted above in the “Site & Compatibility” section. The front and side yards are compliant with zoning.

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

The driveway is proposed at 11 feet wide.

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

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

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

There is no overlay zoning district in this area and the Board finds that the proposal meets with the general purposes of the 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 currently is nearly 100% covered by pavement or structures. All of this will be removed as part of this proposal. The new site layout will have less impervious coverage. Impacts on the sanitary sewer system are likely, due to the number of units proposed. Therefore, it is a condition that if the minimum threshold is met, the Applicant shall make an I/I payment.

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

**7. Environmental Impacts:** *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”*

The proposed residential use will not adversely impact the environment. No new noise, glare, smoke, vibration, nor emissions of noxious materials, nor pollution of water ways or ground water, nor transmission of signals that interfere with radio or television reception are anticipated as part of the proposal.

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

**8. Consistency with Purposes:** *“Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”*

The Board finds that the proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families

with low and moderate incomes; and to preserve and increase the amenities of the municipality.

**9. Preservation of Landform and Open Space:** *The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”*

The site currently contains one large structure at the rear, part of which is used as an auto repair garage. The site is mostly covered with bituminous material. The site is flat and completely devoid of natural features. The site is proposed to include increased permeability and 33% landscaping. Overall, the proposal is designed to enhance the attractiveness the site and the neighborhood. Landscaped areas area also proposed along the Prospect Street frontage.

**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 use of the site, which is residential, is a compatible in with the majority of the uses in the surrounding neighborhood. The front of the building will face the Prospect Street public way as do the other residential buildings on the street. Currently, there are no plans for solar installation, however, the flat roof of the proposed building make the later installation of solar panels feasible. The abutters on the right and left sides of the property will have some of their views of the soon-to-be former front parking lot on the property. The proposal is compatible with the scale and design of more recent, larger-scale developments on Prospect Street that were noted earlier in this report.

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

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





**12. Historic or Architectural Significance:** *The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”*

The building on the site has already been through the Historic Preservation Commission’s (HPC) demolition review process. The HPC determined the building to not be preferably preserved. Therefore, no demolition delay was imposed. The Applicant can move forward with demolition of the structure at any time.

**13. Enhancement of Appearance:** *The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”*

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

**14. Lighting:** *With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”*

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

**15. Emergency Access:** *The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”*

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

**16. Location of Access:** *The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”*

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

**17. Utility Service:** *The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”*



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

**18. Prevention of Adverse Impacts:** *The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development.”*

Minimal negative impacts are anticipated as a result of the proposed residential use. 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.

**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 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 15 units at 109-111 Prospect Street. Twenty percent (20%) of 15 equates to 3 units. This requires the Applicant to provide three (3) of these 15 units as affordable 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 15 residential units.



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

### **§9.13 of the SZO**

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

1. Increase in traffic volumes: Given that 15 residential units will be provided on the 109-111 Prospect Street site, it can be assumed that some increase in traffic volumes will occur due to the uptick in site density.
2. Increased traffic congestion or queuing of vehicles: The project site is close to the intersection of Webster Avenue and Prospect Street. This area of Union Square is being significantly redeveloped over the next several years. Changes to the Union Square area include infrastructure upgrades, a recent change in traffic pattern on Webster Avenue, future mixed-use and office buildings as part of the Union Square Redevelopment Plan, and a new Green Line T stop. It is certainly possible that there will be increased traffic congestion and queuing of vehicles during the lengthy transformation of this area. It is possible that there may be increase congestion or queuing of vehicles at the major intersection of Webster and Prospect due to the 15 new residential units proposed for this site. However, the proximity of public buses and the future opening of the Green Line stop will help to mitigate some of this increase.
3. Change in the type(s) of traffic: Other than during the construction phase of the project when construction-related vehicles will be approaching and retreating from the site, all other traffic going to and from this site will be residential vehicular save for trash/recycling pickup and snow removal.
4. Change in traffic patterns and access to the site: There will be no changes to the traffic patterning approaching or exiting the site.
5. Reduction in on-street parking: The Applicant is providing 15 on-site, under-building parking spaces, the equivalent of one parking space per unit. It is certainly possible that some residential units will have more than one car associated with them and that those vehicles will find off-site parking arrangements or will be parked on the public street.

### **6. Housing Impact:**

Will provide three (3) affordable housing units and add eight (8) market-rate units to the City's housing stock (11 total units for project).

### **7. SomerVision Plan:**

The proposal significantly rehabilitates a run-down property and removes a non-conforming use (auto garage). The proposal provides for three (3) on-site inclusionary housing units and eight (8) market-rate residential units. The landscaped area will be increased from essentially 0% to 33% and all bituminous material will be removed from the site.



### **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 proposal is for fifteen (15) residential units. Currently the site is an auto repair shop. The proposal is to construct a four (4) story building which will contain six (6) one-bedroom units, eight (8) two-bedroom units and one (1) three bedroom unit. Variances are required pursuant to S.Z.O 5.5 and S.Z. O. 8.5 for, height, number of stories and lot area per dwelling unit. The lot is oddly shaped and multisided as well as formerly having 21E Environmental issues, therefore, to have a feasible project the variances requested are necessary, as there is a substantial hardship to the applicant.

**The Board's Response:** Contrary to the statement above, the lot is not oddly-shaped but rectangular in nature as can be seen on the certified plot plan (numbered page 2 in the plan set). However, 21E environmental issues do exist, as noted in the 21E report. Specifically as follows:

Item # 4 of the Phase I Environmental Site Assessment with Subsurface Investigation as prepared by IES, Inc. of Lynnfield, MA: *“Recognized Environmental Conditions (RECs) identified during this investigation, include the presence of one, 500-gallon waste oil/fuel oil UST installed in 1972; and the presence of reportable concentrations of several PAHs in soil at the site.”*

The Board finds that the presence of environmental contamination such as those noted immediately above meet the threshold for variance qualification for criterion A.

*(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 proposal will not be injurious to the neighborhood, as it will provide housing units to the Union Square area, which is currently going through various development changes. 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.

**The Board's Response:** The proposal will remove a non-conforming use (auto body) from the site. Along with the removal of this non-conforming use will be mitigation of environmental contamination as identified in the 21E report. The proposal will add 15 residential units, 3 of which will be inclusionary, to the City's housing stock. Relief to increase the number of stories from three to four and reducing the allowable lot area per dwelling unit ratio allows for this increased density and inclusionary units.



*(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 is a neighborhood with many multi- unit residences. The proposal is harmonious with the neighborhood as it is a RC zoning district it will offer new residential living in an area that was previously used as an autobody repair facility. This project will allow for a better use of a formerly contaminated site, thus it will not be detrimental to the public welfare.

**The Board's Response:** The proposal is generally in harmony with the overall goals of SomverVision as well as the SZO. The proposal brings both market-rate and affordable units to the City, provides visual and environmental upgrades to an unsightly property, and removes a non-conforming use from a residential zoning district.

### **III.DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, Josh Safdie, and Anne Brockelman. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit and Variance. 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 to demolish the existing structure and construct a 15 unit residential building (3 affordable units and 8 market-rate). Parking relief for number of spaces and providing all compact spaces. Variance for lot area per dwelling unit and number of stories.	BP/CO	ISD/Pln g.													
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 11, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 7, 2018</td> <td>Updated plans received by OSPCD</td> </tr> <tr> <td>January 31, 2019</td> <td>Updated plans received by OSPCD</td> </tr> <tr> <td>February 4, 2019</td> <td>Updated zoning data sheet received by OSPCD</td> </tr> <tr> <td>February 11, 2019</td> <td>Updated plans received by OSPCD</td> </tr> </tbody> </table>				Date	Submission	October 11, 2018	Initial application submitted to the City Clerk's Office	December 7, 2018	Updated plans received by OSPCD	January 31, 2019	Updated plans received by OSPCD	February 4, 2019	Updated zoning data sheet received by OSPCD	February 11, 2019	Updated plans received by OSPCD
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.																
<b>Affordable Housing</b>																
2	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													
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	The OSPCD Housing Division shall determine which units shall be inclusionary and at what rate.	CO	Housing	
<b>Construction Impacts</b>				
6	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	
7	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	
8	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.	During Construction	ISD	
9	At his expense, the Applicant shall conduct pre- and post-construction surveys of the foundations of the immediate left-abutting, immediate right-abutting and immediate rear-abutting properties. The applicant shall be responsible for remediating any damage caused to these abutting structures due to the pre-construction and construction process.			
<b>Design</b>				
10	Applicant shall provide final 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	
11	All balcony and deck balusters shall be vertical and not horizontal.			
12	The concrete retaining wall to be constructed along the left side of the new entry drive shall be constructed a minimum of one foot away from the left side yard property line. This shall be shown on an updated plan set submitted to Planning Staff prior to the issuance of a building permit.	BP	Plng./ISD	
13	The left elevation façade shall be pulled further away from the left side property line such that a 10 ft setback is created. This 10ft setback shall extend from the front left corner of the building linearly down the property terminating at the point to which the left-abutting property house extends. After this point, the setback shall revert to 8' 8" and 8' 0" for the remainder of the left elevation façade of the building. These changes shall be shown on an updated plan set submitting to Planning Staff prior to the issuance of a building permit.	BP	Plng./ISD	
<b>Site</b>				
14	The driveway width shall be reduced to 9 feet. This change shall be shown on a updated plan set submitted to Planning Staff prior to the issuance of a building permit.	BP	Plng./ISD	
15	The property shall be re-landscaped. All landscaping materials including those used for plantings, hardscape and fencing shall first be submitted to and approved by Planning Staff prior to ordering or installation.	Prior to ordering/installation / CO	Plng./ISD	



16	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/inst allation / CO	Plng./IS D	
17	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	
18	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.	
<b>Engineering</b>				
19	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng	
20	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.	
21	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.	
22	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.	
23	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.	
24	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	
25	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.			
<b>Miscellaneous</b>				





26	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.	
27	Trash and recycling shall be stored in or under the building until trash/recycling night.	Perpetual	ISD	
28	Trash shall be picked up by a private contractor.	Perpetual	ISD	
29	Snow removal shall be undertaken by a private contractor and all shoveled/plowed snow shall be removed from the site.	Perpetual	ISD	
30	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	
31	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	
32	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.	
33	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	
34	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	
35	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	

36	<p>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:</p> <p>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</p> <p>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.</p>	Demolition Permit	Plng/ISD	
<b>Public Safety</b>				
37	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
38	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	
39	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.	
40	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	
<b>Final Sign-Off</b>				
41	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Danielle Evans, *Clerk*  
Elaine Severino  
Richard Rossetti  
Josh Safdie  
Anne Brockelman

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Monique Baldwin

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 \_\_\_\_\_

