



Joseph A. Curtatone
Mayor

George J. Proakis
OSPCD Executive Director

CITY OF SOMERVILLE

Office of Strategic Planning & Community Development

TO: Planning Board
FROM: Planning & Zoning Staff
DATE: December 8, 2020
RE: 337 Somerville Ave, PB 2016-09-R2-11/20

RECOMMENDATION: Approve

This memo summarizes the development review application submitted for 337 Somerville Ave to revise a previously granted special permit and provides related analysis or feedback as necessary.

The previously-granted Special Permit was approved under the previous zoning ordinance which was in effect until December 12, 2019. It is under that zoning ordinance that the revisions to the Special Permit must be requested and against which the revision requests are assessed.

The application is scheduled for a public hearing on December 17, 2020.

LEGAL NOTICE

Union Square Ventures LLC seeks the removal of Condition #1 from the previously issued special permits PB 2016-09 and PB 2016-09-R1-0317. Applicant will separately seek removal of the related condition imposed by the Zoning Board of Appeals.

* After the legal notice was published the Applicant modified their request. They are seeking the removal of Condition #1 from Units 1, 2 and 3; they are not seeking the removal of Condition #1 from Unit 4 (the Bow Market complex).

SUMMARY OF PROPOSAL

Under the previous zoning ordinance the property in question was split between the CCD-55 district which fell under the purview of the Planning Board and the NB district which fell under the purview

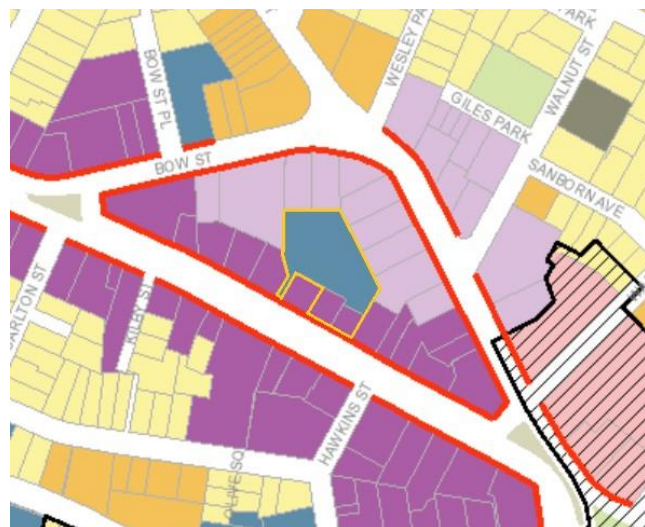
of the Zoning Board of Appeals; the entirety of the site was also within the Arts Overlay District (AOD). Due to the split zoning of the site, the applicant was required to apply for special permit approval from both Boards to alter a nonconforming structure and establish uses that required special permits (a restaurant use in the CCD-55 district, and a catering use, brewing facility and coffee roasting, and restaurant use in the NB district).

Both Boards approved the Special Permit, and both Boards imposed an identical Condition #1, copied here:

1.	<p>Uses are limited as followed: uses are capped at a total number of square feet listed below, although individual uses may be moved within the floor area in the developable parcel and buildings. Change of use within allowed use groups shall not require special permit unless the total square footage crosses the zoning threshold requiring relief:</p> <table style="margin-left: 40px;"> <tr> <td>Restaurant/Fast Food:</td> <td style="text-align: right;">5,500sf.</td> </tr> <tr> <td>Office:</td> <td style="text-align: right;">2,500sf.</td> </tr> <tr> <td>Catering:</td> <td style="text-align: right;">2,500sf.</td> </tr> <tr> <td>Gallery:</td> <td style="text-align: right;">9,999sf.</td> </tr> <tr> <td>Specialty food sales and production:</td> <td style="text-align: right;">4,999sf.</td> </tr> <tr> <td>Artist /Fab Space:</td> <td style="text-align: right;">9,999sf.</td> </tr> <tr> <td>Performance:</td> <td style="text-align: right;">2,500sf.</td> </tr> <tr> <td>Retail Space:</td> <td style="text-align: right;">4,000sf.</td> </tr> <tr> <td>Services:</td> <td style="text-align: right;">1,500sf.</td> </tr> <tr> <td>Brewing (with or without food service):</td> <td style="text-align: right;">2,500sf.</td> </tr> </table>	Restaurant/Fast Food:	5,500sf.	Office:	2,500sf.	Catering:	2,500sf.	Gallery:	9,999sf.	Specialty food sales and production:	4,999sf.	Artist /Fab Space:	9,999sf.	Performance:	2,500sf.	Retail Space:	4,000sf.	Services:	1,500sf.	Brewing (with or without food service):	2,500sf.
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The purpose of the use caps was to “ensure a collection of mixed uses” on the site and to “make sure that the types of art spaces and small businesses that were intended by the fabrication district [of the proposed zoning overhaul]...will continue to have a place on this site” (quoted from the May 18, 2017 decision approving the revision requested as part of PB 2016-09-R1-0317).

When the Zoning Ordinance was overhauled in December 2019, the portion of the property zoned CCD-55 became Mid-Rise 5 (shown in dark purple), and the portion zoned NB became Fabrication (shown in teal). The section of Somerville Ave the property is on was also designated a Pedestrian Street (shown in red), which includes some additional use limitations on ground story commercial spaces. The Bow Market complex dominates the Fabrication portion of the site, while the MR5 portion contains two commercial spaces (Sally O’Brien’s on the right, and a vacant storefront on the left).



Since the new Zoning Ordinance was adopted, the Applicant has found that Condition #1 of the special permit, combined with the use limitations from the new zoning district and Pedestrian Street designation, is restricting their ability to rent out the vacant commercial space fronting on Somerville Ave. Therefore, they are requesting that Condition #1 be amended to only apply to Unit 4 of the property (i.e., Bow Market) so that any use permitted by the current zoning ordinance can be established in the commercial spaces fronting on Somerville Ave. The Applicant requests that Condition #1 continue to apply to Unit 4 (Bow Market).

ANALYSIS

As the applicant is requesting a revision to a special permit granted under the previous zoning ordinance, it is under that ordinance that the request must be evaluated. However, information about what uses are and are not permitted in this district under the new zoning ordinance is relevant since, if Condition #1 is limited in its application to Unit 4, any new uses proposed at the site that are not part of Unit 4 will be evaluated only under the new zoning ordinance.

The purpose of the MR5 district is, in part, "To provide quality commercial spaces and permit small and medium scale, neighborhood- and community-serving commercial uses." The purpose of the FAB district is, in part, "To provide quality commercial spaces and permit a mix of uses common to the arts & creative economy and supporting commercial activities."

In the Planning Board's decision approving the original special permit and the revised special permit for this property, one of the stated considerations for adding Condition #1 was ensuring that a mixture of uses, including uses dedicated to the arts, would be viable at this site. The decision referenced the impending zoning overhaul and the expected rezoning of this site as Fabrication and wanted to make sure that the uses established in 2017 would be compatible with the intent of the future zoning designation. Now that the anticipated new zoning ordinance has been adopted, the Board's goal of promoting a mixture of uses at the site that are compatible with the Fabrication zoning district can be achieved without needing to apply Condition #1 to the entirety of the property.

FINDING CONSIDERATIONS

As this is a revision to a Special Permit granted under the previous zoning ordinance, the findings required by the previous zoning ordinance apply. SZO §5.3.8 reads, in part:

Revisions that are not de minimis shall be subject to the full notice and hearing provisions of §5.3.2 of this Ordinance, but shall not be subject to review by additional boards, departments, city agencies or commissions except as requested by the SPGA or upon the

recommendation of the Planning Director. Applicable findings shall be made in accordance with the type of permit(s) being revised.

The Applicant is not proposing any physical or programmatic changes to the building as part of this revision; the request is limited to revising Condition #1 to apply only to Unit 4 of the property.

The findings made under the previous Special Permit approved by the Planning Board in September 22, 2016 (PB2016-09) and May 18, 2017 (PB2016-09-R1-0317) are not applicable to this proposal, with the exception of the following finding:

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."

[...]

6.1.4. NB - Neighborhood Business Districts.

A. Purpose. To establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods.

The Planning Board made the previous finding that "[t]he proposal, as conditioned, makes sure that the types of art spaces and small businesses that were intended by the fabrication district, as well as the small scale businesses anticipated by the NB district, will continue to have a place on this site, while preserving the unique and flexible commercial/industrial structures for flexible uses."

Should the Board choose to remove Condition #1 in its entirety or revise Condition #1 to apply only to Unit 4 on the property, the site will continue to permit "the types of art spaces and small businesses that were intended by the fabrication district" as a large portion of the site is zoned Fabrication and any proposed use will need to comply with the requirements of that zoning district. The remainder of the site, zoned MR5, also permits similar types of "small scale businesses" as were permitted under the previous NB zoning designation.

CONDITIONS

Should the Board choose to approve the Applicant's request to revise Condition #1, Staff recommends revising Condition #1 of the previous approvals to the following (changes are highlighted):

1.	<p>Uses in Unit 4 of the 337 Somerville Avenue Condominium, a/k/a 341 Somerville Avenue, a/k/a 1 Bow Market Way, are limited as follows: uses are capped at a total number of square feet listed below, although individual uses may be moved within the floor area in the developable parcel and buildings. Change of use within allowed use groups shall not require special permit unless the total square footage crosses the zoning threshold requiring relief:</p> <table data-bbox="354 394 933 711"> <tr> <td>Restaurant/Fast Food:</td> <td>5,500sf.</td> </tr> <tr> <td>Office:</td> <td>2,500sf.</td> </tr> <tr> <td>Catering:</td> <td>2,500sf.</td> </tr> <tr> <td>Gallery:</td> <td>9,999sf.</td> </tr> <tr> <td>Specialty food sales and production:</td> <td>4,999sf.</td> </tr> <tr> <td>Artist /Fab Space:</td> <td>9,999sf.</td> </tr> <tr> <td>Performance:</td> <td>2,500sf.</td> </tr> <tr> <td>Retail Space:</td> <td>4,000sf.</td> </tr> <tr> <td>Services:</td> <td>1,500sf.</td> </tr> <tr> <td>Brewing (with or without food service):</td> <td>2,500sf.</td> </tr> </table>	Restaurant/Fast Food:	5,500sf.	Office:	2,500sf.	Catering:	2,500sf.	Gallery:	9,999sf.	Specialty food sales and production:	4,999sf.	Artist /Fab Space:	9,999sf.	Performance:	2,500sf.	Retail Space:	4,000sf.	Services:	1,500sf.	Brewing (with or without food service):	2,500sf.
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