



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-19
Date: September 4, 2019
Recommendation: Unable to recommend

PLANNING STAFF REPORT

Site: 346 Somerville Avenue

Applicant Name: 346 Somerville Ave., LLC
Applicant Address: P.O. Box 610312, Newton, MA 02461
Owner Name: Palmac Realty Corp
Owner Address: 346 Somerville Avenue, Somerville, MA 02143

City Councilor: J.T. Scott



Legal Notice: Applicant, 346 Somerville Ave., LLC, and Owner, Palmac Realty Corp proposes a project that requires zoning relief from two boards: the Planning Board and the ZBA. All special permitting for this project falls under the purview of the Planning Board. The ZBA is the only board that can grant variances. The Applicant seeks variances from the ZBA including lot area per dwelling unit, height, and number of stories*. CCD-55. Ward 2.

***No zoning relief for number of stories is required under current zoning regulations.**

Dates of Public Hearing: Zoning Board of Appeals – September 4, 2019

I. PROJECT DESCRIPTION

Note: The project is in the CCD-55 zoning district. This is not a district over which the ZBA has purview for Special Permits. All special permitting is the sole purview of the Planning Board for CCD-55 project. The only purview that the ZBA has in this case is over the Variances requested. All other considerations, including design, site layout, landscaping, etc., come under the purview of the Planning Board.

1. Subject Property: 346 Somerville Avenue is a two-story commercial structure in the CCD-55 zoning district. The property is a through property that runs from Somerville Avenue down to Lake Street. The Somerville Avenue frontage of the property is the site of Sullivan Plumbing.

2. Proposal: The applicant proposes to demolish the existing structure and construct a six-story mixed-use building containing, 94-unit residential units and street level commercial space. The building will be constructed along the Somerville Avenue portion of this through-lot. The rear portion of the lot, roughly 7,000 +/- square feet of land, will be transformed into a public park. The park will be created through an interactive public process and will involve a team of city staff from the legal, landscape/public space, and regulatory planning disciplines working with the development team and the neighborhood.

The Applicant requires variances for the following:

- Building height
- Lot area per d.u.

The details of the above dimensional variances appear in the chart immediately below:

Dimension	Allowed	Proposed	Relief Needed
Lot area per dwelling unit	600	226	Variance
Building height	55	64' 10"	Variance

3. Comments:

Ward Councilor: Councilor J.T. Scott has been very involved in this project and the public process associated therewith for over a year and has worked closely with the neighborhood, Applicant, and staff planner.

II. FINDINGS FOR VARIANCES (SZO §5.5 and §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 one hundred (100) studio residential units [staff note: this has now been changed to 94 studio and 1-bedroom units]. Currently the site is a commercial plumbing supply warehouse. The proposal is to construct a six (6) story building at the front of the lot. 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.

Staff Response: The property slopes significantly away from Somerville Avenue toward Lake Street. In addition, the water table in this area is extremely high, causing flooding along Lake Street during significant rain events. As noted by the Applicant, the property has been the subject of 21E environmental reports due to contamination that resulted from past auto repair use. The Applicant proposes a taller building along Somerville Avenue so as to leave the rear of the lot as open space. The creation of a publicly-accessible park along the Lake Street frontage was a clearly stated desire of many of the neighborhood residents attending multiple public meetings over the course of the last year. The surrounding neighborhood preferred to see the building pushed toward Somerville Avenue and be taller rather than to have additional structures built on the lower portion of the lot along Lake Street.

(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.

Staff Response: This is always a question with which the ZBA struggles. Though this project was always intended to be large and require some degree of variances, the acquiescence by the Applicant to dedicate 7,000 square feet of this property to create a publicly-accessible park does drive up the severity of the variances being requested.

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 CCD55 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.

Staff Response: The nature of Union Square is undergoing a great metamorphosis. This building would be the first new construction in this part of the square in many years. The density in this immediate area will increase greatly over the next many years and coming decades. Along with increased density will gradually come increased services to this area oriented toward new and existing residents. The property will provide no parking. It is intentionally designed as a car-free building. This is in compliance with the proposed zoning that will not require a building such as this that is located in such close proximity to a "T" station to provide any on-site parking. A condition will be added to both the variance and any special permitting criteria obligating the applicant to provide a mobility management program to building residents.

III. RECOMMENDATION

Variances under §5.5 and §8.5 of the SZO.

UNABLE TO RECOMMEND VARIANCES.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for variances to construct a building with a 226 lot area per d.u. and a building height of 64' 10".	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>February 19, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 27, 2019</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date	Submission	February 19, 2019	Initial application submitted to the City Clerk's Office	August 27, 2019	Updated plans submitted to OSPCD
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.										
Affordable Housing										
1	Affordable Housing Implementation Plan (AHIP) shall be approved by the OSPCD Housing Division and executed prior to issuance of Building Permit. Affordable units shall be provided on-site.	BP	Housing							
2	Written certification of the creation of affordable housing units, any fractional payment required, or alternative methods of compliance, must be obtained from the OSPCD Housing Division before the issuance of a Certificate of Occupancy (C.O.). No C.O. shall be issued until the OSPCD Housing Division has confirmed that the Affordable Housing Restriction has been approved and recorded and the developer has provided the promised affordable units on-site.	CO	Housing							
3	No Certificate of Occupancy shall be issued until the OSPCD Housing Division has confirmed that: (for Condominium Projects) the Condominium Documents have been approved and the Developer has agreed to a form of Deed Rider for the Affordable Unit(s), or (for Rental Projects) the Developer has agreed to and executed a Memorandum of Understanding for Monitoring of the Affordable Unit(s).	CO	Housing							
4	The OSPCD Housing Division shall determine which units shall be inclusionary and at what rate.	CO	Housing							
Construction Impacts										

5	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by. This information shall be posted to be easily readable from the public sidewalk along Prospect Street.	During Construction	ISD	
6	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
7	Construction shall occur from 7:30am – 5:00pm Monday-Friday ONLY. There shall be no construction or construction-related work allowed on the weekends or holidays or after hours. This includes deliveries and finish work.	During Construction	ISD	
8	There shall be no idling of construction vehicles on the site or on surrounding streets.	During construction	ISD/T&P	
9	No parking of construction-related vehicles, including personal vehicles, shall be permitted on Somerville Avenue, Hawkins or Lake Streets unless otherwise authorized by the Parking Division.	During construction	ISD/T&P	
10	Dumpsters shall not be allowed on Somerville Avenue, Hawkins or Lake Street.	Pre- and during construction	ISD/T&P	
Design				
11	Applicant shall provide material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng./ISD	
Site				
12	Roughly 7,000+/- square feet on the Lake Street side of the property shall become a publicly-accessible park. The type of park (city-owned, POPS, or other) shall be determined between the City Legal, Public Space & Urban Forestry, and regulatory Planning departments and the Applicant. Under all circumstances, the park shall be 100% publically-accessible and cannot be closed to the public for the sole use of building residents, tenants, or private events. The Applicant and the City shall enter into a legal agreement of terms including, but not limited to access, maintenance, liability, design, construction, materials, etc. Park design shall include public input. Legal, regulatory planning, and public space planning/landscape planners shall all be involved. Park shall be completed in order for CO to be granted.	CO	Plng/Legal/ISD	
13	All bituminous material and/or cement shall be removed from the site and be replaced with pervious pavers, pea stone or similar. All materials to be used shall be submitted to Planning Staff for their review and approval prior to ordering/installation.	Prior to ordering/installation / CO	Plng./ISD	
14	Transformers shall be located inside the building or shall be vaulted. Location of transformers shall be shown on updated construction/site plans submitted to ISD.	BP and CO	Plng/ISD	

15	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Png.	
Engineering				
16	The Applicant must contact the Engineering Department to obtain addresses for all units prior to a building permit being issued.	BP	Eng	
17	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.	
18	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.	
19	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.	
20	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.	
21	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1 st to April 1 st and there is a list of streets that have additional opening restrictions.	BP	Eng	
22	The Applicant shall work with the Director of Engineering and perform any necessary mitigation, replacement or repair of water mains serving the site.	BP	Director of Engineering	
Miscellaneous				
23	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 / Png.	
24	Trash and recycling shall be stored in or under the building.	Perpetual	ISD	
25	Trash shall be picked up by a private contractor.	Perpetual	ISD	
26	Snow removal shall be undertaken by a private contractor and all shoveled/plowed snow shall be removed from the site.	Perpetual	ISD	

27	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	
28	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	
29	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.	
30	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	
31	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	
32	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	
33	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW/ISD	
34	A Green Line payment of \$2.40 per gross square foot is required due to the proximity of the property to the future Gilman Square Green Line "T" stop.	CO	Director of Mobility/ Plng/ISD	
Public Safety				
35	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	

36	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 1	FP/ISD	
37	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.	
38	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	
39	The applicant shall work with the Director of Mobility (formerly Transportation and Infrastructure) to determine an appropriate warning mechanism to alert approaching pedestrians that vehicles are exiting the loading bay along Somerville Avenue.	CO	Mobility/ Plng/ISD	
40	The applicant shall work with the Director of Mobility (formerly Transportation and Infrastructure) and the Streetscape and Public Space Planner to install a complaint and possibly vaulted sidewalk along the Somerville Avenue and Lake Street frontages of the building	CO	Mobility. Plng/ISD/ Engineeri ng	
41	The applicant shall pay into a fund for or plant new street trees along Somerville Avenue and Lake Street under the direction of the City Arborist	CO	City Arborist/P lng/ISD	
42	The applicant shall coordinate with the Director of Mobility to install a mobility management system for residents and commercial tenants of the building.	CO	Mobility/ Plng/ISD	
Final Sign-Off				
43	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Zoning Review Planner	

