



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-122-R1-7/19
Site: 515 Somerville Avenue
Date of Decision: August 21, 2019
Decision: *Approved with Conditions*
Date Filed with City Clerk: August 22, 2019

ZBA DECISION

Site: 515 Somerville Avenue

Applicant Name: YEM Somerville Ave LLC
Applicant Address: 40 Trinity Place, Boston, MA 02116
Owner Name: DEVB LLC
Owner Address: 689 Somerville Avenue, Somerville, MA 02143
Agent Name: Adam Dash, Esq.
Agent Address: 48 Grove Street, Suite 304, Somerville, MA 02144
City Councilor: J.T Scott

Legal Notice*: Applicant, YEM Somerville Ave LLC, and Owner, DEVB LLC, seek a revision under SZO §5.3.8 to a previously approved (ZBA 2018-122) Special Permit with Site Plan Review and Variance to construct a hotel. Revisions include changes to the parking layout, floor plans, site plan, and architecture. The Applicant also seeks a six-month time extension of the Variance under M.G.L Ch. 40A Sect. 10 to extend the time for exercising such rights. BA and RB Zones. Ward 2.

**The legal notice was revised to reflect the actual proposal. An earlier notice mistakenly described a different case.*

<u>Zoning District/Ward:</u>	BA and RB Zones. Ward 2
<u>Zoning Approval Sought:</u>	SZO §5.3.8 and M.G.L Ch. 40A Sect. 10
<u>Date of Application:</u>	July 18, 2019
<u>Date(s) of Public Hearing:</u>	August 21, 2019
<u>Date of Decision:</u>	August 21, 2019
<u>Vote:</u>	4-0



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Case number ZBA 2018-122-R1-7/19 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 August 21, 2019, the Zoning Board of Appeals took a vote.

I.PROJECT DESCRIPTION

The current proposal is to make revisions to the previously approved hotel project. The revisions include changes to the site layout and utility plan, parking garage layout, the landscape design, and the architecture. The Applicant provided a comprehensive list of all the proposed revisions in a memo dated July 12, 2019. The proposed revisions are drawn in the plan set dated July 29, 2019. As a result of the proposed revisions the hotel will include 163 guest rooms rather than the originally approved 164 guest rooms. The revised garage layout will result in a loss of self-parking spaces; however, the hotel will operate a valet service so that the site will be able to accommodate the previously approved 80 spaces (58 self-park and 22 valet).

II. FINDINGS FOR REVISIONS TO SPECIAL PERMITS WITH SITE PLAN REVIEW and VARIANCE (SZO §5.3.8):

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 applicable findings made under the previous Special Permit with Site Plan Review and Variance approved by ZBA in October of 2018 (ZBA 2018-122) that this proposal affects are as follows:

- 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."*

Article 8: Dimensional Requirements

This proposal required and received a Variance for building height and the number of parking spaces. The proposed revisions modify the relief that was granted by decreasing the height of the proposed building and the number of parking spaces.

<i>IA Zone</i>	<i>Required</i>	<i>Previously Approved</i>	<i>Proposed Revision</i>
Height	50 ft.	63' - 9"	63' - 7"
No. of Stories	4	6	6
Parking Spaces	142	80	58*

** - the number of zoning compliant parking spaces is reduced down to 58; however, the hotel will operate a valet service so that the site will be able to accommodate the previously approved 80 spaces (58 self-park and 22 valet).*

Given its close proximity to transit and the inclusion of bicycle sharing infrastructure, the Board finds that number of parking spaces provided is sufficient for the intended use as a hotel. The number of parking



spaces provided is sufficient to serve the needs of the proposed hotel and will not be injurious to the neighborhood.

Article 15: Linkage

Applicants seeking special permits with site plan review for projects of new construction to be occupied by any single use or combination of uses referenced in Article 7 except for residential, protected religious uses, buildings and uses owned by the City of Somerville, and artist studio spaces, shall contribute the fees established in Section 15.5, which fees shall be referred to as the Project Mitigation Contributions (PMCs).

a) Affordable Housing linkage fee.

The PMC for the affordable housing linkage fee shall be calculated by multiplying the fee established in Section 15.5, which is \$10, times the total number of square feet in the project over and above thirty thousand (30,000) gross square feet that are occupied by or will be covered by a certificate of occupancy for any single use or combination of uses referenced in Section 15.2, and uses that are accessory thereto.

b) Jobs Creation and Retention linkage fee.

The PMC for the Jobs Creation and Retention linkage fee shall be calculated by multiplying the fee established in Section 15.5, which is \$2.46, times the total number of square feet in the project over and above 15,000 gross square feet that are occupied by or will be covered by a certificate of occupancy for any single use or combination of uses referenced in Section 15.2, and uses that are accessory thereto.

<i>Affordable Housing Linkage</i>		<i>Jobs Linkage</i>	
Total g.s.f	98,851 102,115	Total g.s.f	98,851 102,115
Minus 30,000 g.s.f	68,851 72,115	Minus 15,000 g.s.f	83,851 87,115
Fee is \$10 per ft.		Fee is \$2.46 per ft.	
Total Fee	\$688,510	Total Fee	\$206,273.46
	\$721,150		\$214,302.90

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."*

The massing, materials, height, and bulk of the building will generally remain the same as the previous approval.

5. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: 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.*

<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Commercial Sq. Ft.:</i>	0	98,851 102,115 g.s.f
<i>Estimated Employment:</i>	0	unknown
<i>Parking Spaces:</i>	0	80* including valet



6. Impact on Affordable Housing: *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

The proposal will require estimated linkage payments of \$721,150 to the Somerville Housing Trust Fund to help create new affordable rental and home ownership units in the City and \$214,302.90 to the Somerville Municipal Job Creation and Retention Trust to help with programs to support job opportunities for Somerville residents.

III. FINDINGS FOR EXTENSION OF VARIANCE (M.G.L Ch. 40A Sect. 10)

Per M.G.L Ch. 40A Sect. 10, if the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty days of the date of application therefor, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section.

Planning Staff received the application to extend the Variance on July 18, 2019, which is before the expiration date of October 24, 2019. The Board finds that the Applicant has made diligent efforts to work on building permit plans and obtain financing for this project. The Board finds that granting a six-month extension for the Variance is justified. The Variance must be exercised by commencing construction by April 24, 2020.

IV. DECISION FOR REVISIONS TO SPECIAL PERMITS WITH SITE PLAN REVIEW and VARIANCE (SZO §5.3.8):

Present and sitting were, Susan Fontano, Anne Brockelman, Elaine Severino, and Drew Kane (alt.). Upon making the above findings, Anne Brockelman made a motion to approve the request for revisions to the Special Permit with Site Plan Review and the Variance. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **4-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the revisions to the previous permit and a time extension of the Variance. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 18, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>July 29, 2019</td> <td>Modified plans submitted to OSPCD (L1.0-L4.0, A1.0-A1.6, A1.7A, A1.7P, A2.1N, A2.1S, A2.2E, A2.2W, A7.1-A7.4, and A8.1)</td> </tr> <tr> <td>July 12, 2019</td> <td>Architect's Memorandum</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 18, 2019	Initial application submitted to the City Clerk's Office	July 29, 2019	Modified plans submitted to OSPCD (L1.0-L4.0, A1.0-A1.6, A1.7A, A1.7P, A2.1N, A2.1S, A2.2E, A2.2W, A7.1-A7.4, and A8.1)	July 12, 2019	Architect's Memorandum
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July 12, 2019	Architect's Memorandum											
Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.												
2	All conditions from ZBA 2018-122 remain in effect.											

V. DECISION FOR EXTENSION OF VARIANCE (M.G.L Ch. 40A Sect. 10)

Present and sitting were, Susan Fontano, Anne Brockelman, Elaine Severino, and Drew Kane (alt.). Upon making the above findings, Anne Brockelman made a motion to approve the request to extend the Variance by six months. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **4-0** to **APPROVE** the request. **The Variance must be exercised by commencing construction by April 24, 2020.**



Attest, by the Zoning Board of Appeals:

Susan Fontano, *Chair*
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 _____

