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Mayor

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CITY OF SOMERVILLE

Office of Strategic Planning & Community Development

TO: Zoning Board of Appeals
FROM: Planning & Zoning Division
DATE: June 5, 2020
RE: DRA #2020-0038, 71 Union Square

This memo summarizes the development review application submitted for 71 Union Square, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on May 22, 2020 and is scheduled for a public hearing on June 10, 2020.

SUMMARY OF PROPOSAL

Laxmi N. Pradhan, Trustee of Everest Realty Trust, is proposing to modify an existing one-story commercial building by constructing two floors. The proposed ground floor commercial space is a Cannabis Retail store. The proposed development will produce approximately 3,000 square feet of commercial space, provide 88 square feet of open space, provide payment-in-lieu for 351 square feet of open space, and the proposed landscape will earn a Green Score of 0.21.

The Applicant is requesting to have a ground story height of 14' rather than the required 18' and a ground story fenestration of 41% rather than the required 70%.

LEGAL NOTICE

Laxmi Pradhan, Trustee of Everest Realty Trust, proposes to construct a 3-story commercial building in the Commercial Core district. The proposal requires two Hardship Variances for ground story height, and for ground story fenestration.

ADDITIONAL REVIEW NECESSARY

93 Highland Avenue
Somerville, MA 02143
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www.somervillema.gov
www.somervillezoning.com

71 Union Square is located in the Commercial Core 4 (CC-4) zoning district in the Union Square neighborhood represented by Ward 3 Councilor Ben Ewen-Campen. The building is proposed to have a nonconforming ground story height and a nonconforming ground story fenestration which requires two variances. A general building is permitted in the CC4 district by site plan approval, which is the administrative review and approval of development that is conforming to the provisions of the Somerville Zoning Ordinance to address any potential development impacts. For the 71 Union Square development review application to be deemed compliant with the Somerville Zoning Ordinance, the necessary variances must be approved by the Zoning Board of Appeals prior to other the Site Plan Approval required by the zoning district.

REQUIRED FINDINGS

In accordance with the Somerville Zoning Ordinance, the Zoning Board of Appeals may grant a hardship variance only upon finding all of the following for each variance:

1. Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure but not affecting generally the CC4 district;
2. Literal enforcement of the provisions of the CC4 district would involve substantial hardship, financial or otherwise, to the Applicant due to said special circumstances; and
3. Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of CC4 district or the Somerville Zoning Ordinance in general.

The Applicant is required to provide an argument addressing the review criteria for each of the requested hardship variances; that argument is attached to this memo as an **Appendix**. Planning & Zoning Division Staff typically provides feedback concerning only the requested relief in reference to the intent and purpose of the zoning district where the property is located and the zoning ordinance in general. The intent and purpose of the CC district is provided below:

6.2.2 Intent

- a. To implement the objectives of the comprehensive plan of the City of Somerville.
- b. To create, maintain, and enhance areas appropriate for moderately-scaled single- and multi-use commercial buildings; neighborhood-, community-, and region-serving uses; and a wide variety of employment opportunities.

6.2.3 Purpose

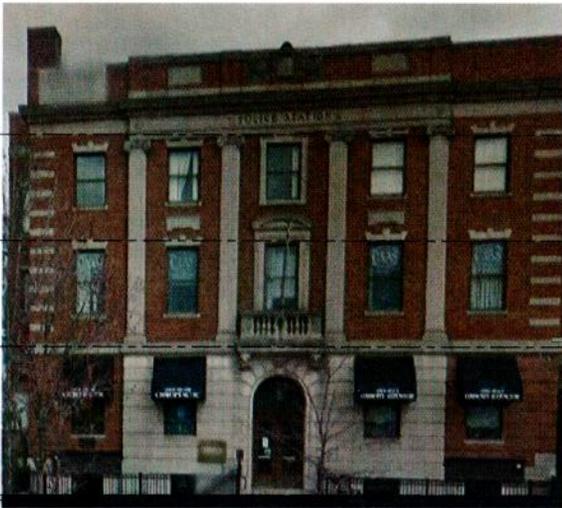
- a. To permit the development of mid- and high-rise single- and multi-use commercial buildings.
- b. To provide quality ground story commercial spaces and permit small and medium-scale, neighborhood-, community-, and region-serving commercial uses.

Upon analysis of the materials submitted by the Applicant, the Planning & Zoning Staff believes that granting the requested hardship variances would cause a substantial detriment to the public good or would nullify or substantially derogate from the intent and purpose of the CC4 district.

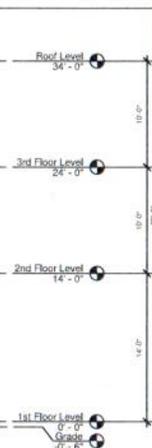
The intent of the minimum ground story height and fenestration requirements is to produce high quality ground story commercial spaces that meet the needs of a wide variety of potential uses. While the nonconforming ceiling height and fenestration may meet the proposed Cannabis Retail use's needs, it is unlikely that a Cannabis Retail use inhabits the space for the duration of the

building's lifespan. The intent of the zoning code is to produce buildings that are adaptable for a variety of uses, and not custom-built to meet current needs.

While Staff understands and appreciates the Applicant's desire to build something visually compatible with neighboring buildings, the requested variances are not required to achieve that goal. The ground story being 18' tall would not prevent the Applicant from designing the façade of the building in such a way that the cornice line of the first floor aligned with the neighboring buildings. Attached at the end of this memo is an example of how a conforming building could be designed to be visually compatible with the neighbors.



Contextual Elevation
3/16" = 1'-0"



NOTE:
THE PROPOSED BUILDING AS PRESENTLY DESIGNED IS INTENDED TO INTEGRATE WITH ITS ADJACENTS AS THOUGH IT HAD BEEN BUILT AROUND THE SAME TIME. YOU WILL NOTE THAT THE PRECAST CORNICE IS ALMOST IN-LINE WITH THE FORMER POLICE STATIONS CORNICE. THE ROOFLINE OF THE INDEPENDENT BAR AND RESTAURANT ALIGNS WITH THE SECOND FLOOR CORNICE OF THE PROPOSED.



Contextual Elevation ZONING REQUIRED
3/16" = 1'-0"



NOTE:
THE PROPOSED BUILDING AS SHOWN ABOVE IS COMPLIANT WITH CURRENT CC ZONING REQUIREMENTS. THESE REQUIRE AN 18'-0" FIRST FLOOR AND 70% GROUND FLOOR GLAZING. IT IS OUR OPINION THAT WHILE THE TOTAL HEIGHT OF THE BUILDING ISN'T NECESSARILY OUT OF SCALE WITH ITS NEIGHBORS, THE PROPORTIONS OF THE 1ST FLOOR IS. ADDITIONALLY THE WALL OF GLASS IN THIS LOCATION IS NOT APPROPRIATE FOR UNION SQUARE.

PROJECT NAME
71-72 Union Square

PROJECT ADDRESS
71-72 Union Square,
Somerville MA

CLIENT
Everest Realty Trust

ARCHITECT

DESIGN

KHALSA

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CONSULTANTS:

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Project number: 15062
Date: 01-22-2016
Drawn by: Bullock
Checked by: Chubbuck
Scale: 3/16" = 1'-0"

REVISIONS

No.	Description	Date

Context Elevation

A-302
71-72 Union Square

DEVELOPMENT NARRATIVE

Property: 71-72 Union Square
Applicant: Laxmi N. Pradhan, Trustee of Everest Realty Trust
Agent: Adam Dash, Esq.
Zoning District: CC4/MPD Overlay/USQ Sub-area/Pedestrian Street District

The property is currently a 1,757 sf lot which has a one-story brick commercial structure.

Applicant seeks to add two commercial floors onto the existing structure, such that the building will be a three-story commercial structure with a basement. The first floor and basement would be retail, the second floor would be a community education/meeting space, and the third floor would be offices. The building floorplate would be 1,631 sf.

The proposed uses are by right.

Applicant will require five variances, being:

- Green Score
- Open Space
- Ground Story Height
- Minimum Story Building Height
- Ground Story Fenestration

Per Section 15.3.e.i of the Somerville Zoning Ordinance:

The Zoning Board of Appeals may only grant a Hardship Variance upon finding all of the following:

a). Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure but not affecting generally the zoning district in which the land or structure is located;

b). Literal enforcement of the provision of this Ordinance for the district where the subject land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and

c). Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially

derogating from the intent and purpose of a specific district in this Ordinance or the Ordinance in general.

1. Green Score

- a. The current building takes up most of the lot. As the building is staying the same other than having two stories added to the top of it, the existing Green Score deficiency will remain. The irregular shape of the lot, its small size (especially when compared to the surrounding properties), and the existing lot situation, being hemmed in by buildings in the heart of Union Square, provide a hardship for developing this site in compliant with the Somerville Zoning Ordinance (SZO). Green Score compliance is not possible.
- b. Literal enforcement of the Green Score requirement would render the property unchangeable, as the small lot size and existing structure make compliance impossible.
- c. The Green Score relief can be granted without causing substantial detriment to the public good or substantially derogating from the intent and purpose of the CC4 district.

The relief will not cause substantial detriment to the public good because the project will enhance the Union Square business district and better match its neighbors.

Per Section 6.2.1 of the SZO, the purpose of the Commercial Core (CC) district is “characterized by medium to large floor plate buildings at a variety of heights. Buildings are set close to the sidewalk and taller buildings have an upper story step-back to define a mid-rise street wall that supports pedestrian activity and a sense of place. The district is entirely commercial, with a wide diversity of uses”.

It is not possible to create the density that the CC district requires without Green Score relief for this property. In fact, the properties surrounding it likely do not comply with the Green Score requirements, either. This is an existing nonconformity which will not be made worse.

2. Open Space

- a. The current building takes up most of the lot. As the building is staying the same other than having two stories added to the top of it, the existing Open Space deficiency will remain. The irregular shape of the lot, its small size (especially when compared to the surrounding properties), and the existing lot situation, being hemmed in by buildings in the heart of Union Square, provide a hardship for developing this site in compliant with the Somerville Zoning Ordinance (SZO). Open Space compliance is not possible.

- b. Literal enforcement of the Open Space requirement would render the property unchangeable, as the small lot size and existing structure make compliance impossible.
- c. The Open Space relief can be granted without causing substantial detriment to the public good or substantially derogating from the intent and purpose of the CC4 district.

The relief will not cause substantial detriment to the public good because the project will enhance the Union Square business district and better match its neighbors.

Per Section 6.2.1 of the SZO, the purpose of the Commercial Core (CC) district is “characterized by medium to large floor plate buildings at a variety of heights. Buildings are set close to the sidewalk and taller buildings have an upper story step-back to define a mid-rise street wall that supports pedestrian activity and a sense of place. The district is entirely commercial, with a wide diversity of uses”.

It is not possible to create the density that the CC district requires without Open Space relief for this property. In fact, the properties surrounding it likely do not comply with the Open Space requirements, either. This is an existing nonconformity which will not be made worse.

d. Ground Story Height

- a. The current building has a ground story of less than the height required under the SZO. As the building is staying the same other than having two stories added to the top of it, the existing Ground Story Height deficiency will remain. The irregular shape of the lot, its small size (especially when compared to the surrounding properties), and the existing lot situation, being hemmed in by buildings in the heart of Union Square, provide a hardship for developing this site in compliance with the SZO.
- b. Literal enforcement of the Ground Story Height requirement would force the building to clash with the buildings on either side, at least one of which (The Independent) is historic. Relief allows this project to match ground story heights with its neighbors.
- c. The Ground Story Height relief can be granted without causing substantial detriment to the public good or substantially derogating from the intent and purpose of the CC4 district.

The relief will not cause substantial detriment to the public good because the project will enhance the Union Square business district and better match its neighbors.

It is not possible to create the density that the CC district requires without Ground Story Height relief for this property. In fact, the properties surrounding it likely do not comply with the Ground Story Height requirements, either. This is an existing nonconformity which will not be made worse.

e. Minimum Story Building Height

- a. The current building is a single story in the CC4 district which has a minimum story requirement of four stories. By adding two stories added to the top of it, the existing Minimum Story Building Height deficiency will remain, but the property will be brought closer to compliance. The irregular shape of the lot, its small size (especially when compared to the surrounding properties), and the existing lot situation, being hemmed in by buildings in the heart of Union Square by a two-story historic building (The Independent) and a three-story building, provide a hardship for developing this site in compliance with the SZO.

In addition, if Applicant were to build a compliant 4-story building it would trigger the need for a second stairwell, which is a code requirement. This would severely inhibit the success of the commercial space. The space is only thirty feet wide. Adding a second stairwell would narrow the usable commercial space even further to around eighteen feet.

- b. Literal enforcement of the Minimum Story Building Height requirement would force the building to clash with the buildings on either side, one of which (The Independent) is historic. Relief allows this project to better match story heights with its neighbors.
- c. The Minimum Story Building Height relief can be granted without causing substantial detriment to the public good or substantially derogating from the intent and purpose of the CC4 district.

The relief will not cause substantial detriment to the public good because the project will enhance the Union Square business district and better match its neighbors.

One of the properties adjacent to the one which is the subject of this application does not comply with the Minimum Story Building Height requirements, either. This is an existing nonconformity which will be improved.

It should be noted that the City Council is currently working on reducing the Minimum Story Building Height requirement for the CC4 district to three stories, which would make this project compliant.

f. Ground Story Fenestration

- a. The current building has ground story fenestration of less than the amount required under the SZO. As the building is staying the same other than having two stories

added to the top of it, the existing Ground Story Fenestration deficiency will remain. The irregular shape of the lot, its small size (especially when compared to the surrounding properties), and the existing lot situation, being hemmed in by buildings in the heart of Union Square, provide a hardship for developing this site in compliance with the SZO.

- b. Literal enforcement of the Ground Story Fenestration requirement would force the building to clash with the buildings on either side, at least one of which (The Independent) is historic. Relief allows this project to match its ground story with its neighbors.
- c. The Ground Story Fenestration relief can be granted without causing substantial detriment to the public good or substantially derogating from the intent and purpose of the CC4 district.

The relief will not cause substantial detriment to the public good because the project will enhance the Union Square business district and better match its neighbors.

It is not possible to create the density that the CC district requires without Ground Story Fenestration relief for this property. In fact, the properties surrounding it likely do not comply with the Ground Story Fenestration requirements, either. This is an existing nonconformity which will not be made worse.