



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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MONIQUE BALDWIN, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2017-122-R1-3/2019

**Date:** May 15, 2019

**Recommendation:** Conditional approval

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**PLANNING STAFF MEMO**

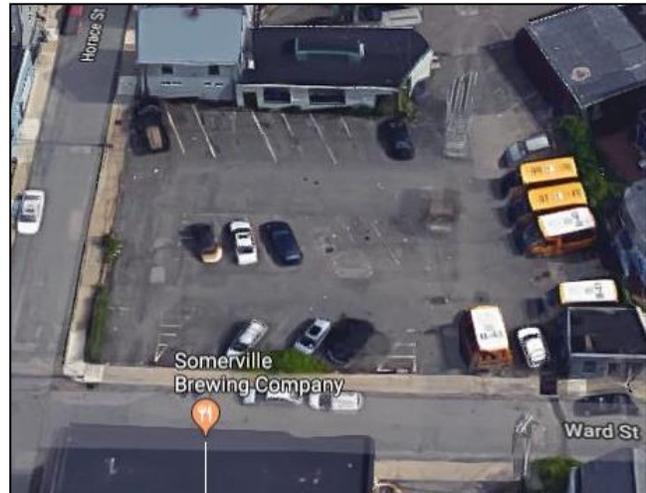
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**Site:** 10-12 Ward Street

**Applicant Name:** Block Properties, LLC  
**Applicant Address:** 1330 Boylston St., Ste. 600,  
Chestnut Hill, MA  
**Owner Name:** 14 Ward Street, LLC  
**Owner Address:** Same as Applicant's  
**Agent:** Peter Quinn  
**Agent Address:** 259 Elm Street, Suite 301,  
Somerville, MA 02144

**Ward Councillor:** J.T. Scott

**Legal Notice:** Applicant, Novo Development Holdings, LLC, and Owner, 84 Franklin Street, LLC, seek relief under §5.3.8 of the SZO to revise a previously-granted Special Permit. RB zone. Ward 1.\*



**Dates of Public Hearing:** May 15, 2019

The case number for this project should have been listed as ZBA 2017-122-R1-3/2019. The case number is correct in the staff report. In addition, while a portion of the project site is located in the RB zone, a portion is also located in the BA zone.

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## I. DESCRIPTION

### A. Background

On February 14, 2018, the ZBA granted Special Permits, a Special Permit with Site Plan Review (SPSR) and Variances for the project at 10-12 Ward Street (decision attached). On January 9, 2019, the ZBA granted an extension of the Special Permits and SPSR and re-approved the Variances (decision attached).

In the months since the January 9, 2019 ZBA decision, the Applicant team has made changes to portions of the approved project that Planning Staff finds are beyond *de minimis* in nature. As stated in Condition #1 of all ZBA approvals, any changes to an approved proposal that are considered to not be *de minimis* in nature, those changes must be reviewed and approved by the Special Permit Granting Authority (SPGA).

Staff has found that, due to the nature and number of the proposed changes, they are not *de minimis* in nature and, therefore, must be reviewed and approved, denied, or altered by the ZBA.

### B. Discussion of Proposed Changes

Some interior reconfiguration drove changes to the location, style, and size of windows and balconies across the façade of the building. However, it is the exterior changes (building and site) that are most noticeable to anyone reasonably familiar with the project. The exterior changes are as follows: key exterior and site changes include:

- Relocation, resizing, and re-design of windows across all facades
- Widening of balconies
- Inclusion of additional cedar siding to soften the look of the building
- Re-location and re-orientation of basement egress
- Change location of transformer from above-ground to underground vault
- Increased landscaping along right front of site
- ADA ramp extended to accommodate final grade on site
- Shifted location of covered bicycle spaces
- Change in building height – increased from 49’ 9” to 49’ 11” (a height increase of 2 inches)
- Shifting of downspout locations
- Slight alteration in parapet slope
- Change in proposed Ward Street front door/entry style
- Inclusion of 3-story bays on left elevation and removal of cedar-clad architectural protrusions on same.
- Change in proposed rear building entry door/entry style

At the Staff Planner’s request, the Applicant has provided an image of the originally-approved design partnered with their proposed changes. Accompanying each proposal sheet is a list of changes that the Applicant proposes.

Overall, Staff finds that the proposed changes constitute a design improvement to the building. The inclusion of additional cedar siding will help to soften the hard angles of the structure and will contrast with the proposed man-made materials (metal) on other sections of the building. It should be noted,

however, that conditions attached to prior approvals all still apply, including the proviso that all material samples be submitted to Planning Staff for their review and approval.

## **II. RECOMMENDATION**

Staff recommends that the ZBA approval the proposed changes to the site and building and that all previously-approved conditions apply.



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**MAYOR**

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EXECUTIVE DIRECTOR

PLANNING DIVISION

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POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2017-122**  
**Site: 10-12 Ward St**  
**Date of Decision:** February 14, 2018  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** February 22, 2018

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**ZBA DECISION**

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**Applicant Name:** Block Properties, LLC  
**Applicant Address:** 129 Newbury St., Suite 400, Boston, MA  
**Property Owner Name:** F&L Realty Development  
**Property Owner Address:** 46 Medford Street, Somerville, MA 02143  
**Agent Name:** Sean O'Donovan  
**Agent Address:** 741 Broadway, Somerville, MA  
**Alderman:** J.T. Scott

**Legal Notice:** Applicant, Block Properties, LLC, and Owner, F & L Realty Development, seek a Special Permit with Site Plan Review (SPSR) under §5.2, Variances to reduce the lot area per dwelling unit ratio under §5.5 and §8.5 of the SZO, height and setbacks. Special Permits under §4.4.1 of the SZO to alter a non-conforming property by demolishing the existing buildings and constructing a residential building, §7.11 to increase the number of dwelling units, to provide inclusionary housing units and a payment under Article 13 of the SZO, special permits for parking relief under Article 9 of the SZO. BA zone. Ward 2.

<u>Zoning District/Ward:</u>	BA zone. Ward 2
<u>Zoning Approval Sought:</u>	§5.2, 5.5, 8.5, 4.4.1, and 7.11
<u>Date of Application:</u>	November 17, 2017
<u>Date(s) of Public Hearing:</u>	12/13/17, 1/17, 1/31 & 2/14/18
<u>Date of Decision:</u>	February 14, 2018
<u>Vote:</u>	5-0

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Appeal #ZBA 2017-122 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, City Hall, 93 Highland Avenue. Notice of the Public Hearing was given to persons affected and was published and posted, all



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(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After four hearings of deliberation, the Zoning Board of Appeals took a vote.

### **DESCRIPTION:**

The proposal is to demolish the existing, non-conforming residential and light industrial buildings on the site. Currently, a building situated on the Ward Street side of the property is 6.5 feet over the property line and resting on the abutting property. This will be removed and a non-conforming right side yard setback will be maintained

The Applicant proposes a replacement structure with two 3-story sections toward the front of the property facing Ward Street and one 4-story section at the rear of the property. Twenty-four dwelling units are proposed. Four of these units would be affordable. In addition, as per city ordinance, a fractional payment will also be made to the Affordable Housing Trust Fund.

### **FINDINGS FOR SPECIAL PERMIT with SITE PLAN REVIEW (SZO §5.2, 7.2 and 7.3) and SPECIAL PERMIT (SZO §5.1, 4.4, 4.5, and 9.13):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the Somerville Zoning Ordinance (SZO). Also, in order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.1.4 and 5.2.5 in detail.

#### 1. Information Supplied:

The Staff finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

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 with site plan review.”*

#### *Nature of Application:*

Per SZO §7.2, no more than one principal structure per lot shall be permitted in RB districts except by Special Permit with Site Plan Review under §5.2.

Per SZO §7.3, the project also requires a Special Permit with Site Plan Review to allow more than three dwellings on a lot in the RB district which is permitted when 12.5% but no less than one affordable unit is provided for on-site as defined by SZO §2.2.4 and §13. The Applicant is proposing four affordable units and will make a payment to the Affordable Housing Trust Fund to comply with the 20% requirement of SZO §13. In all cases minimum lot size, minimum lot area per dwelling unit, and other dimensional and parking requirements of Article 8 and Article 9 shall be met. The project complies with the lot area and lot area per dwelling unit requirements for twenty-two units and is meeting all dimensional requirements of Article 8 or has applied for a Special Permit to alter or extend existing nonconforming dimensions. 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.

Per SZO §4.4.1, “[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.”

The structures are currently nonconforming with respect to the following dimensional requirements: ground coverage, landscaped area, pervious area, and front, rear, left, and right yard setbacks. The proposal will impact the following nonconforming dimensions: front, right, and rear yard setbacks. The current dimension for the front yard setback is 1.2 feet where 15 feet is required. The proposal will extend the nonconforming front yard setback (along Murdock Street) across a portion of the frontage of the lot and pull it back to create an 11 foot front yard setback, which will make the structure less nonconforming in respect to the front yard setback. The current dimension for the right side yard setback is less than one foot where 6 feet is required. At the least, the proposed right side yard setback will be 6.2 feet where 8 feet is required for a 2.5 story building. The current dimension for the rear yard setback is 5.2 feet where 20 feet is required. The proposal will make the rear yard setback less nonconforming by reducing the dimension to 10 feet. These alterations to nonconforming structures requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Per SZO §4.5, “a nonconforming use may be changed to another nonconforming use only by special permit authorized by the SPGA in accordance with the procedures of Article 5, provided that the SPGA finds that such change is not substantially more detrimental to the neighborhood than the existing nonconforming use. In judging detriment, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, type of traffic, change in traffic patterns and access to the site, adequacy of municipal water supply and sewer capacity, noise, odor, glare, scale, on-street parking, shading, visual effects and neighborhood character.”

In considering a special permit under §4.4 and 4.5 of the SZO, Staff finds that the alterations/use proposed would not be substantially more detrimental to the neighborhood than the existing structures/use. The proposal will replace an unattractive and incompatible commercial use with a residential project that is more consistent with the land uses of the surrounding neighborhood and will significantly enhance the aesthetics of the site. The proposal has been designed with setbacks that minimally impact the neighbors. The dimensions for lot area, lot area per dwelling unit, ground coverage, landscaped area, pervious area, FAR, height, and left side yard will either continue to be or will become conforming to the requirements of the SZO.

3. Purpose of District: *The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".*

The proposal is consistent with the purpose of the RB district, which is, “to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” The proposal includes



two- and three-family style dwellings as well as contemporary row houses of medium density, which Staff finds are both compatible with and convenient to the residents of the district.

4. **Site and Area Compatibility:** *The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.*

*Surrounding Neighborhood:* The surrounding neighborhood is predominately residential, except for the current industrial businesses located on the locus. More specifically, surrounding land uses include single-, two-, and three-family dwellings that vary in height from one to three stories.

*Impacts of Proposal (Design and Compatibility):* The proposed site layout of the buildings facing Murdock Street and Cedar Street is in keeping with the orientation of other structures along both streets. The placement of Building 5 in the rear with underground parking allows for a center common courtyard that will serve as a centerpiece for the development.

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 building are 2.5 stories with the exception of a portion of Building 5 that is three-stories in the middle, which are both common in the surrounding neighborhood. Buildings 1 and 2 are 2.5 story two-unit buildings that resemble a typical Somerville house in terms of depth, width, and height. Buildings 3 and 4 are wider than most structures on Murdock Street; however the lot is wider than most and lends itself to the possibility of using wider buildings to enhance the streetwall. Additionally, Buildings 3 and 4 use front porches, decks, and dormers to break up the massing so the building doesn't feel as wide. Building 5 is large; however, it is set back into the site furthest from any street and uses fenestration and differences in color to break up the massing and to give each row house its own particular character.

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

The buildings are proposed to be clad in painted cementitious panels with painted aluminum trim and accents. The decks are proposed to open metal railings. Other structures on Murdock Street are clad in cementitious panels, vinyl, and brick.

- 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 proposed buildings and their setbacks along Murdock Street and Cedar Street are oriented toward the street and setback similarly to most other buildings.

- 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 proposed driveway off of Cedar Street will be the main point of access to and from the site. It is a two-way driveway that is 18 feet wide. A 12 foot wide restricted access aisle is proposed off of Murdock Street that is only intended for use by emergency vehicles.

- 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.*

A transformer is proposed off of the restricted access aisle that is to be screened by plantings. A trash and recycling shed is also proposed off of the restricted access aisle that will shield trash from being visible. A condition of approval is that trash and recycling be picked up frequently enough so that no trash is stored outside of the shed.

- 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.*

The proposal is consistent with the purpose of the RB district, which is, “to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” The proposal includes two- and three-family style dwellings as well as contemporary row houses of medium density, which Staff finds are both compatible with and convenient to the residents of the district.

5. **Functional Design:** *The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”*

The site meets the acceptable standards for a functional design. The site is designed with a two-way driveway entering the site from Cedar Street with 8 parking spaces at grade and 26 underground spaces (4 of which are in tandem). There is also an emergency access aisle off of Murdock Street that is intended for only pedestrian use and emergency access. Building 5 is located at the end of the two-way driveway



and serves as a terminating vista with a shared common plaza in front creating a well-defined street or alley.

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 has four commercial buildings and a lot of pavement that 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; therefore it is a condition that if the minimum threshold is met the Applicant shall make an I/I payment.

There will be a slight increase in the utilization of the City’s street system. In order to determine the specific impact that the proposed project will have on traffic operations, analyses conducted by the Applicant’s Traffic Engineer were carried out for 2016 Existing conditions, 2023 No-Build conditions, and 2023 Build conditions. Zero of the study intersections have movements that decline in Level of Service going from the No-Build to Build scenarios, representing a lack of impact of the proposed project. The proposal is proximate to two future Green Line stations and the Community Path as well as numerous bus routes on Highland Avenue and Broadway, which provide alternative modes of transportation. Given the other transportation options available to the site, the project is expected to generate six (6) net new vehicle-trips during the weekday morning peak hour, 11 net new vehicle-trips during the weekday evening peak hour, and 74 net new vehicle-trips during a typical weekday.

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.

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 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.

The proposal is consistent with the purpose of the RB district, which is, “to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” The proposal includes two- and three-family style dwellings as well as contemporary row houses of medium density, which Staff finds are both compatible with and convenient to the residents of the district.

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 has four industrial buildings and is entirely paved. It is mostly flat and there are currently no natural features on the site. The site is proposed to include rain gardens, a robust planting schedule, and a lot of open space. The site is designed to enhance the attractiveness the site and the neighborhood. Landscaped areas are proposed along the frontages of Murdock and Cedar Street.

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 use with the surrounding residential neighborhood. The structures are designed at a scale and with features that are visually related to the development site. A lot of the units of the development site will have a view of the proposed center common and will minimize the intrusion on views from other buildings.

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 includes a large landscaped area, rain gardens, and a robust planting schedule as well as pervious walkways that will help to absorb stormwater runoff on the site. Planning Staff is



recommending a condition that the Applicant must show to the City Engineer that the currently proposed design is in compliance with the City's stormwater management policy.

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 proposal does not include historically designated properties.

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 will improve as a result of the proposed development. Two of the new buildings will be internal to the block and the other three new buildings will be of the same orientation and scale as others along their respective streets. Landscaping will also be installed along the frontage of Murdock and Cedar Street.

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."*

Planning Staff is proposing a condition that 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.

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 vehicles will have access to site via an 18 foot wide two-way driveway off of Cedar Street and a 12 foot wide restricted emergency access lane off of Murdock Street.

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."*

The curb cut will be maintained on Cedar Street and there is no curbing on this particular section of Murdock Street where the 12 foot wide aisle is proposed. There is a walkway adjacent to the two-way driveway for pedestrians to enter the site. The Applicant's traffic study concluded that all available sight distances exceed the requirements set forth by American Association of State Highway and Transportation Officials (AASHTO).



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 has not provided any information on proposed utility service, other than a transformer shown on the site plan. 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 main driveways on the site will be impervious but there walkways and common plaza will be concrete pavers. Furthermore, there will not be machinery that emits heat, vapor, light or fumes beyond those of a typical 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.”*

Due to the residential nature of the building, signage is not anticipated on the site. Any signage in the future would have to conform to the sign standards for residential districts as specified in SZO §12.

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.”*

Trash and recycling will be stored in a shed off of the access aisle from Murdock Street. A transformer is also proposed off of the access aisle and will be screen by landscaping. Any rooftop mechanical equipment will be conditioned to be screened so as it is not visible at ground level.

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.”*

The at-grade parking spaces are located behind buildings and will be surrounded by landscaping. Underground parking is also proposed and will not be viewable from the public way.

21. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods, 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. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.

<b><u>SomerVision Summary</u></b>	<b><i>Existing</i></b>	<b><i>Proposed</i></b>
<i>Dwelling Units:</i>	0	22
<i>Affordable Units:</i>	0	4
<i>Commercial Sq. Ft.:</i>	24,537	37,262
<i>Estimated Employment:</i>	13	0
<i>Parking Spaces:</i>	10	34

22. **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 include 4 affordable housing units on-site through an Affordable Housing Implementation Plan (AHIP).and a payment to the Affordable Housing Trust Fund.

**DECISION:**

**SPECIAL PERMIT with SITE PLAN REVIEW (SZO §5.2, 7.2 and 7.3) and SPECIAL PERMIT (SZO §5.1, 4.4, 4.5, and 9.13)**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Josh Safdie, Anne Brockelman, and Pooja Phaltankar. Upon making the above findings, Richard Rossetti made a motion to approve the request for a **Special Permit and Special Permit with Site Plan Review**. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

<b>#</b>	<b>Condition</b>	<b>Timeframe for Compliance</b>	<b>Verified (initial)</b>	<b>Notes</b>
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1	Approval is for the construction of 22 dwelling units in five new buildings. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/Plng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>November 3, 2016</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 23, 2016</td> <td>Modified plans submitted to OSPCD (T1, Z1, Z2, A0, A0.1, A1, A2, A3, and A4)</td> </tr> <tr> <td>October 27, 2016</td> <td>Existing Conditions Plan submitted to OSPCD</td> </tr> <tr> <td>January 10, 2017</td> <td>Illustrative Landscape Plan</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	November 3, 2016	Initial application submitted to the City Clerk's Office	December 23, 2016	Modified plans submitted to OSPCD (T1, Z1, Z2, A0, A0.1, A1, A2, A3, and A4)	October 27, 2016	Existing Conditions Plan submitted to OSPCD	January 10, 2017	Illustrative Landscape Plan
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October 27, 2016	Existing Conditions Plan submitted to OSPCD													
January 10, 2017	Illustrative Landscape Plan													
Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.														
<b>Affordable Housing/Linkage</b>														
2	Affordable Housing Implementation Plan (AHIP) should 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	Affordable Housing payments will be required to be paid to the Somerville Housing Trust Fund before a CO is issued.	CO	Housing											



6	Prior to receiving a building permit, the applicant will sign a covenant agreeing to provide \$2.40 per square foot of total development on the site to the City of Somerville as a payment towards the City's contribution to the Green Line Extension. The covenant shall include the following: 1) The applicant shall make payment with a portion to be paid prior to the first unit being occupied and the final payment to be paid prior to the last unit being occupied - the portions shall be delineated in the covenant; 2) The payment shall be equal to \$2.40 per net square foot, exclusive of garage and storage areas, as defined in the zoning ordinance; 3) If, prior to making the payment, the City establishes a formal policy for developer payments to the Green Line Extension, and said policy includes exceptions or reductions in the payments, these exceptions and reductions will apply to this project as well; 4) The funds may only be used to pay for the Green Line Extension project.	BP	Plng.	
<b>Pre-Construction</b>				
7	The Applicant must contact the Engineering Department to obtain street addresses prior to a building permit being issued.	BP	Eng	
8	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.	
9	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.	
10	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	CO	Eng.	



11	<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	
12	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.	
13	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	
14	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	
15	The Applicant shall conduct a survey of foundations and buildings adjacent to the site and across the street (Murdock Street and Cedar Street) prior to construction and shall address concerns about impact to these structures from project construction.	BP	Plng. / ISD	
16	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.	BP	Plng. / ISD	
<b>Construction Impacts</b>				



17	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.	During Construction	Plng.	
18	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application formed signed
19	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	
20	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	
<b>Design</b>				
21	Applicant shall provide final material samples for siding, trim, windows, and doors to the Design Review Committee for review and comment and to Planning Staff for review and approval prior to construction.	BP	Plng.	
22	An exterior light and electrical receptacle is required for the first (or all) level of porches and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
23	Any rooftop mechanical equipment will be conditioned to be screened so as it is not visible at ground level.	CO	Plng.	
<b>Site</b>				
24	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
25	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	Perpetual	Plng. / ISD	
26	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
27	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Plng.	
28	One tree must be planted and maintained according to National Nurseryman's Standards, and in accordance with SZO §10.2.2 and §10.6.2;	CO	Plng.	



29	Applicant will supply 24 bicycle parking spaces in bike sheds.	CO	Plng.	
30	The subsurface of the fire lane and emergency access aisle shall be constructed to standards acceptable to the Fire Prevention Office	BP	Plng. / Fire	
<b>Miscellaneous</b>				
31	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.	Cont.	ISD	
32	For developments with 7 or more residential units or commercial development, the Owner/Applicant is required to hire a private company to remove trash and recycling on a regular basis. Refuse shall be picked up frequently enough so that no trash is stored outside of the shed.	Cont.	Plng./ISD	
<b>Public Safety</b>				
33	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
34	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO		
35	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	
36	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.	
<b>Final Sign-Off</b>				
37	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.	
#	<b>Condition</b>	<b>Timeframe for Compliance</b>	<b>Verified (initial)</b>	<b>Notes</b>



1	Approval is to allow a fast order food establishment, Revival Cafe. 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>December 22, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>November 30, 2017</td> <td>Plans submitted to OSPCD (G-001, G-002, A-010, A-101, A-200, and A-300)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	December 22, 2017	Initial application submitted to the City Clerk's Office	November 30, 2017	Plans submitted to OSPCD (G-001, G-002, A-010, A-101, A-200, and A-300)
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Any changes to the approved elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
<b>Construction Impacts</b>										
2	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.	During Construction	Plng.							
3	The Applicant shall at their 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							
4	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							
<b>Design</b>										
5	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.							
<b>Site</b>										
6	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD							
<b>Miscellaneous</b>										
7	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.							
8	Approval is for the fast order food establishment for the Applicant, Revival Café. A future tenant of this space for a fast order food establishment would have to come back to the ZBA for special permit approval in order to operate in this location.	Perpetual	ISD							



9	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.	Cont.	ISD	
<b>Public Safety</b>				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
11	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.	
<b>Signage</b>				
12	Signage will be limited in size and location to that shown in the elevation diagrams. The sign shall not be internally illuminated. The storefront windows should not be blocked by more than 30% by interior storage, signage or window coverings.	CO/Cont.	Plng.	
<b>Final Sign-Off</b>				
13	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*  
Richard Rossetti  
Danielle Evans  
Elaine Severino  
Josh Safdie

Attest, by City Planner: \_\_\_\_\_  
Sarah White

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 \_\_\_\_\_





**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

GEORGE J. PROAKIS  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

ORSOLA SUSAN FONTANO, CHAIRMAN  
DANIELLE EVANS, CLERK  
RICHARD ROSSETTI  
ELAINE SEVERINO  
JOSH SAFDIE  
ANNE BROCKELMAN, (ALT.)

Case #: **ZBA 2017-122-E1-12/18**  
Site: **10-12 Ward Street**  
Date of Decision: **January 9, 2018**  
Decision: Petition Approved with Conditions  
Date Filed with City Clerk: January 15, 2019

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**ZBA DECISION**

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**Applicant Name:** Block Properties, LLC  
**Applicant Address:** 1330 Boylston St., Suite 600, Chestnut Hill, MA  
**Owner Name:** 14 Ward Street, LLC  
**Owner Address:** 1330 Boylston St., Suite 600, Chestnut Hill, MA  
**Agent:** Sean O'Donovan  
**Agent Address:** 741 Broadway, Somerville, MA  
**Alderman:** J.T. Scott

Legal Notice: Applicant, Block Properties, and Owner, 14 Ward St LLC, seek re-approval of previously granted variances that included lot area per dwelling unit and Floor Area Ratio (FAR). Article 5 of the SZO. BA zone. Ward 2.

<u>Zoning District/Ward:</u>	BA zone. Ward 2.
<u>Zoning Approval Sought:</u>	§5.5 and §8.5
<u>Date of Application:</u>	November 17, 2017
<u>Date(s) of Public Hearing:</u>	January 9, 2019
<u>Date of Decision:</u>	January 9, 2019
<u>Vote:</u>	5-0

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Appeal #ZBA2017-122-E1-12/18 was opened before the Zoning Board of Appeals at City Hall, Aldermanic Chambers, 93 Highland Avenue, Somerville, MA. 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 January 9, 2018, the Zoning Board of Appeals took a vote.



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[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The proposal is to demolish the existing, non-conforming residential and light industrial buildings on the site. Currently, a building situated on the Ward Street side of the property is 6.5 feet over the property line and resting on the abutting property. This will be removed, the encroachment corrected, and a non-conforming right side yard setback will be maintained.

The Applicant's proposal for a replacement structure on the site is multi-fold. The proposed building will be comprised of two major sections (front and rear), each culminating at different heights. The front section of the new building (fronting on Ward Street) is proposed at three stories. The rear portion of the building is proposed at four stories.

The proposed structure will contain 24 dwelling units comprised of a studio along with one, two, and three bedrooms. Of these 24 units, four will be affordable through Article 13 of the SZO which addresses inclusionary housing for projects requiring SPSR. The Applicant will also make a fractional payment into the Somerville Affordable Housing Trust as per Article 13 of the SZO.

All vehicular parking is proposed for underneath the building. Twenty-four parking spaces are proposed as follows: 13 compact spaces and 11 standard spaces, two of which can be used as handicapped spaces. 24 sheltered bicycle spaces are also proposed.

As all bituminous matter is being removed from the site, this provides an opportunity for landscaping. To that end, the Applicant proposes increasing the amount of landscaping on the site from 0% to 19%

Included on the Ward Street façade of this building will be a series of interpretive signs approved by the Historic Preservation Commission (HPC) in order to document the history of the site as well as the history of the immediate area. The Applicant has entered into a Memorandum of Agreement (MOA) with the HPC ensuring the Applicant's commitment to the installation of the interpretive signage. All content (text and images) and design of the signs will be determined by Preservation Planning Staff.

This project was designed in a manner that looks toward the proposed new zoning for this area of the City. As such, the project is substantially consistent with proposed zoning, but deviates in a number of key areas from current zoning. Therefore, the applicant is in need of variances for height and lot area per dwelling unit, building height and setbacks (rear and right side yard). Despite the compatibility with the new proposed code, the variances must stand on their own, under the current ordinance.

On February 14, 2018, the ZBA granted special permits and variances to the Applicant, Block Properties, LLC, for a project at 10-12 Ward Street. The Special Permits granted to the Applicant are still current. The purpose of the Applicant's request before the ZBA on January 9, 2019, is to have the variances for the project re-approved prior to their expiration on February 14, 2018. Variances are valid for only one year, hence the proactive nature of the Applicant's request to have those variances re-issued prior to their expiration.

**II. FINDINGS FOR VARIANCES (SZO §5.5 & §8.5)**

*Section 5.5.3 of the SZO states that: "...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:*



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- 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.*
- 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.*
- 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 and Board responses to these criteria appear below:

- 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:** “The soil conditions recognized is in [sic] environmental conditions know [sic] as “REC”. Soil removal at excavation will require additional testing and soil removal thus necessitating costly LSP involvement and soil removal costs.”

**Board Response:** The Board can neither confirm nor deny information regarding contamination of the soil. The Board can, however, confirm that the parcel in question is an odd-shaped lot that crosses two zoning districts, requiring the Applicant to comply with two sets of dimensional criteria. This circumstance alone establishes a unique situation that impacts this site and does not impact others in either zoning district.

- 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:** “The developmet [sic] program as submitted allows the applicant to construct a building that will cover all remediation costs and adhere to the new proposed zoning “overhaul” as published by the City Administration while achieving more affordable units to increase the inclusionary housing stock. The expense to remediate the build additional inclusionary units is very costly.”

**Board Response:** The variances requested – one for height and one for lot area per dwelling unit – would allow the Applicant to construct a residential building that is compatible with city planning efforts for this area while improving existing non-conformities under the existing zoning code (such as landscaping, pervious area, and setbacks). By allowing the Applicant to construct a portion of the new building at a height of four stories rather than three, the Applicant is able to increase the residential density such that four new affordable housing units can be brought online. The relief



provided will also allow for the Applicant to make a substantial fractional payment into the Somerville Affordable Housing Fund. The improvement of this site, the creation of 20 market-rate units, the creation of 4 affordable units, and a fractional payment all are significant contributions to SomerVision goals. The project will meet the City’s new 20% inclusionary housing requirement. With the 20% inclusionary regulation going forward ahead of the new zoning, this is one area where the zoning has not caught up to the level of density that may be required in order to build a viable project. Therefore, without the ability to make these adjustments at this time, this would be a much more difficult project to accomplish.

*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:** “The granting of the variance requested will be in harmony with the existing surrounding residential neighborhood and will replace a private impervious parking lot. Further, this development is in line with Somerville Zoning Overhaul as proposed for this zoned area.”

**Board Response:** Earlier in this report, the Board enumerated the positive impacts that this proposed project would have on the surrounding area. The project will contribute much-needed housing, including affordable housing units. The project serves as a gateway location into the Boynton Yards neighborhood that is anticipated to be a site for substantial new development. The area is very mixed in use from light industrial/commercial (auto body and Gentle Giant Moving facility, Somerville Brewing Company) to urban residential in the form of mostly two-, three-, and multi-family residential structures. Further, new construction at the corner of Ward and Medford Streets sees the erection of larger, 3-story buildings with both residential and commercial spaces. This immediate area is bounded by an active train line. The residential use of this building is consistent with other buildings in this area both large and small. The addition of 24 dwelling will have some impact on traffic conditions. However, the Board does not presume that each of the 24 units will have cars nor that all vehicle-dependent residents of the new building will be entering and exiting the site at the same time during the day. The Board finds that by providing 24 parking spaces underneath the building, the Applicant has made good efforts to ensure that new residents have as little impact as possible on the on-street parking in the neighborhood.

**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 Variance. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is for the construction of 24 dwelling units, four of which shall be affordable.	CO / BP	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>November 17, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>January 3, 2018</td> <td>Modified plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	November 17, 2017	Initial application submitted to the City Clerk's Office	January 3, 2018	Modified plans submitted to OSPCD
	Date (Stamp Date)				Submission					
November 17, 2017	Initial application submitted to the City Clerk's Office									
January 3, 2018	Modified plans submitted to OSPCD									
Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
<b>Affordable Housing/Linkage</b>										
2	Affordable Housing Implementation Plan (AHIP) should 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	Affordable Housing payments shall be required to be paid to the Somerville Housing Trust Fund before a CO is issued.	CO	Housing							
<b>Pre-Construction</b>										
6	The Applicant must contact the Engineering Department to obtain street addresses prior to a building permit being issued.	BP	Eng							
7	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.							



8	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	CO	Eng.	
9	<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	
10	The Applicant shall submit a proposed drainage report to the City's Engineering department, (stamped by a registered PE if requested by the City Engineer) that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
11	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	
12	The Applicant shall 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	



13	The Applicant shall conduct a survey of foundations and buildings adjacent to the site and across the street (Horace Street and immediately-abutting Medford Street properties) prior to construction and shall address concerns about impact to these structures from project construction.	BP	Plng. / ISD	
14	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.	BP	Plng. / ISD	
<b>Construction Impacts</b>				
15	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.	During Construction	Plng.	
16	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & applicatio n formed signed
17	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	
18	All construction materials and equipment shall 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	
<b>Design</b>				
19	Applicant shall provide final material samples for siding, trim, windows, and doors and the like to Planning Staff for their review and approval prior to construction.	BP	Plng.	
20	An exterior light and electrical receptacle is required for the first (or all) level of porches and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
21	Any rooftop mechanical equipment shall be screened so as it is not visible at ground level.	CO	Plng.	
<b>Site</b>				
22	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
23	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	Perpetual	Plng. / ISD	



24	The Applicant shall submit a landscaping plan to Planning Staff for their review and approval prior to installation.	Prior to installation	Plng/ISD	
25	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
26	All new sidewalks shall be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Plng.	
27	One tree must be planted and maintained according to National Nurseryman's Standards, and in accordance with SZO §10.2.2 and §10.6.2;	CO	Plng.	
28	Applicant shall supply 24 sheltered bicycle spaces.	CO	Plng.	
29	The subsurface of the fire lane and emergency access aisle shall be constructed to standards acceptable to the Fire Prevention Office	BP	Plng. / Fire	
<b>Miscellaneous</b>				
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	For developments with 7 or more residential units or commercial development, the Owner/Applicant is required to hire a private company to remove trash and recycling on a regular basis. Refuse shall be picked up frequently enough so that no trash is stored outside of the shed.	Perpetual	Plng./ISD	
32	Construction and construction-related activity shall occur between the hours of 7:30pm and 5:00pm Monday through Friday only. There shall be no construction or construction-related work occurring on weekends or holidays.	During construction	ISD	
33	There shall be no loitering by project workers on the project site. All personnel shall be respectful of abutting properties and shall not leave equipment or vehicles idling, shall not play loud music at the site, shall not engage in loud conversation prior to or after permitted working hours.	During construction	ISD	
34	All construction waste shall be stored neatly on-site and carted away on a regular basis.	During construction	ISD	
35	Food waste shall be removed from the site daily.	During construction	ISD	
36	Rodent baiting shall be performed as-necessary	During construction	ISD	
<b>Public Safety</b>				
37	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	

38	The Applicant shall submit a construction traffic management plan to the Traffic and Parking division for their review and approval. Plan should include delivery locations, delivery windows, anticipated number of vehicles, parking proposals and the like. Traffic and Parking shall be responsible for reviewing (if necessary, amending), and signing off on the plan.	BP	T&P	
39	Any transformers shall be fully screened and installed in a location approved by Lights and Lines	Electrical permits &CO	Lights and Lines	
40	Per City ordinance, no grills, barbeques, chimineas or similar cooking or heating devices shall be used or stored on decks, balconies or patios. These conditions shall also be written into any condo or rental documents. Proof of such inclusion shall be provided to the sign-off divisions.	Perpetual	ISD/Fire Prevention	
41	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/BOH	
42	The Applicant shall be required to install an indicator at the entry/exit location to the site to inform passing pedestrians of exiting vehicles. Proposals for such indicators shall be submitted simultaneously to Planning, ISD, and Traffic and Parking for their review and approval.	CO	Plng/ISD/T&P	
43	All exterior lighting shall be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
<b>Final Sign-Off</b>				
44	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*  
 Richard Rossetti  
 Elaine Severino  
 Anne Brockelman (Alt.)

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 \_\_\_\_\_

