



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2017-53
Site: 103 Washington Street
Date of Decision: July 12, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: July 26, 2017

ZBA DECISION

Applicant Name:	WASHDEV, LLC
Applicant Address:	22 McGrath Highway, Somerville, MA 02143
Property Owner Name:	WASHDEV, LLC
Property Owner Address:	22 McGrath Highway, Somerville, MA 02143
Agent Name:	Sean T. O'Donovan, Esq.
Agent Address:	741 Broadway, Somerville, MA 02144

Legal Notice: Applicant/Owner, WashDev. LLC, seeks a Special Permit under Section 7.11 to alter a nonconforming use (auto-body shop) and Section 4.4.1 to alter a nonconforming structure of the Somerville Zoning Ordinance (SZO) structure to a 3-story mixed-use building, containing a commercial space and 6 dwelling units, with a request for parking relief under Section 9.13. RC Zone. Ward 2.*

*Correction: Ward 1

<u>Zoning District/Ward:</u>	RC zone/Ward 1*
<u>Zoning Approval Sought:</u>	§7.11, §4.4.1 &
<u>Date of Application:</u>	May 12, 2017
<u>Date(s) of Public Hearing:</u>	July 12, 2017
<u>Date of Decision:</u>	July 12, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2017-53 was opened before the Zoning Board of Appeals at the Somerville High School Auditorium on July 12, 2017. Notice of the Public Hearing was given to persons affected and was published and posted, all as



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

DESCRIPTION:

The proposal is a mixed-use building of 8,381 total sf comprised of 668 sf of retail space on the ground floor facing Washington Street and 3 residential dwelling units on each of the second and third floors. There will be 6 garaged parking spaces behind the retail space accessed by a driveway from Franklin Street. The residential units will also be accessed via the Franklin Street side of the building through a shared vestibule and lobby.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §7.11):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

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."*

Nature of Application: RC – Residential C

The structure is currently nonconforming with respect to the following use / dimensional requirements:

	Required	Existing	Adjusted	Proposed	Notes
Min. Lot Size (sf)	7500	5544		5544	pre-existing non-conformity
Min. Lot Area per Dwelling	875	n/a		924	
Max. Ground Coverage	70%	37%		69%	
Min. Landscaped Area	25%	0%		31%	
Floor area ratio (F.A.R.)	2.0	0.37		1.51	
Max. Height (ft)	40'	16'		37'	
Max. Height (stories)	3.0	1.0		3.0	
Min. front yard (ft)	15'	27.8'		6.5'	non-conforming
Min. side yards (ft): Left	10'	1.5'		1.8'	pre-existing non-conformity
Min. side yards (ft): Right	20'	22.9'		5.2'	non-conforming
Min. rear yards (ft)	20'	0.9' over	13.8'	1.7'	pre-existing non-conformity
Min. frontage (ft)	50'	52'		52'	
Min. Pervious Area	30%	0%		31%	

Section 4.4.1 states that “[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.”

This project will be a vast improvement to the site architecturally and provides new residential units within walking distance of a future transit station. The Board finds that the alterations and use proposed would not be substantially more detrimental to the neighborhood than the existing structure and use.

3. Consistency with Purposes: *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited 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 conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; and 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.

The proposal is consistent with the purpose of the district, which is, “to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district”.

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. When a change of use is requested, the parking requirement is determined by reducing the new use spaces calculation by the existing use required number of spaces (11 spaces minus 4 spaces = 7) then taking 50% of that number and adding to the existing number of required spaces (3.5 spaces plus 4 spaces = 8 required spaces). The proposal provides 6 spaces on-site so the Applicant is requesting relief for 2 spaces. With one space provided per residential unit, the additional spaces are for guests and the retail use. The demand for these two spaces will be reduced based on a few factors: given the small size of the retail space, the tenant will likely be a neighborhood-serving use accessed mostly by local pedestrians; and, with the change in use, the curb cuts will be closed and/or reduced to create more on-street parking availability. Staff is supportive of granting parking relief for the two spaces under these conditions.

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

Surrounding Neighborhood: Strawberry Hill area of East Somerville

Impacts of Proposal (Design and Compatibility): The proposed mixed-use structure is a considerable improvement of the existing one-story auto-repair shop and moves the City closer to the goals outlined in SomerVision for the Transform areas near future transit stops. With very little to guide architectural character currently on Washington Street, the building uses quality materials and detailing that is respectful of the adjacent residential neighborhood while being a modern face for a corner site.

5. Adverse 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.*

Impacts of Proposal (Environmental):



The proposal will have positive impacts environmentally as the amount of impervious surface on the site will be reduced. Removing the existing garage structure and replacing part of the asphalt driveway with permeable concrete pavers will create more opportunities for stormwater run-off to be absorbed prior to entering the city’s combined drainage system.

6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

Impacts of Proposal (Circulation):

While the parking requirement for a vehicle repair facility is low, the number of vehicles that have been circulating or stored on the lot have been high. The change in use will provide residences within a very short walk to a future green line transit station which will encourage reduce automobile use. Also, closing the curb cut on Washington Street will greatly improve walkability and safety by removing the potential conflict between pedestrians and cars.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

Impacts of Proposal (Housing):

This proposal will have no change to the stock of affordable housing.

7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: transform key opportunity areas; preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. 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.*

<u>SomerVision Summary</u>	<u>Existing</u>	<u>Proposed</u>
<u>Dwelling Units:</u>	0	6
<u>Affordable Units:</u>	0	0
<u>Commercial Sq. Ft.:</u>	2070	668
<u>Estimated Employment:</u>	unknown	unknown
<u>Parking Spaces:</u>	4	6
<u>Publicly Accessible Open Space:</u>	0	0



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Josh Safdie and Anne Brockelman with Elaine Severino and Pooja Phaltankar absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Josh Safdie seconded the motion. Wherefore 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		
1	Approval is for the 3-story mixed-use (commercial & residential) building with integral parking. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Planning			
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>June 1st, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 20th, 2017</td> <td>Modified plans submitted to OSPCD (T1, Plot Plan, Z1.1-1.3, L1, Rendered Elevations, A1.1-1.2, and A2.1-2.2)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission
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June 1 st , 2017	Initial application submitted to the City Clerk's Office					
June 20 th , 2017	Modified plans submitted to OSPCD (T1, Plot Plan, Z1.1-1.3, L1, Rendered Elevations, A1.1-1.2, and A2.1-2.2)					
	Any changes to the approved plans and elevations that are not <i>de minimis</i> must receive SPGA approval.					
Pre-Construction						
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Engineering			
3	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	Engineering			



4	<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	Planning /ISD	
5	<p>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.</p>	BP	Engineering	
6	<p>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.</p>	BP	Engineering	
7	<p>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.</p>	Demolition Permitting	ISD	
Construction Impacts				
8	<p>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.</p>	During Construction	Planning	
9	<p>Approval is subject to the Applicant's and/or successor's right, title and interest in the property.</p>	Cont.	Planning	Deed submitted & application form signed



10	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	
11	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	
Design				
12	Applicant shall provide final material and color samples for siding, trim, windows, and doors to the Planning Staff for review and approval prior to the issuance of a building permit.	BP	Planning	
Site				
13	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Planning /ISD	
14	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.			
15	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	
16	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	Planning	
17	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.	CO	Planning	
18	Applicant will supply 6 bicycle parking spaces, which can be satisfied with the inverted-U type bicycle rack approved by OSPCD's T&I Dept.	CO	Planning	
19	Snow plowed from the development shall be limited to an on-site storage area.	Cont.	ISD.	
Traffic & Parking				
20	The existing curb cut on Washington Street will be closed. The Applicant will coordinate with Traffic & Parking for any required parking space striping or required installation of parking meters.	BP	Planning /T&P	
21	The existing curb cut on Franklin Street will be closed and only the required width for the new driveway location will be permitted for vehicular access.	BP	Planning /ISD	



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Miscellaneous				
22	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	Cont.	ISD	
23	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Cont.	ISD	
24	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	
Public Safety				
25	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
26	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO		
27	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	
28	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	Planning	
29	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Planning /OSE	
Signage				
30	Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Planning	
Final Sign-Off				
31	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	Planning	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Josh Safdie
Anne Brockelman (Alt.)

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

