



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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**Case #: ZBA 2017-27**  
**Site: 75 Washington Street**  
**Date of Decision: September 27, 2017**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: September 29, 2017**

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**ZBA DECISION**

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**Applicant / Owner Name:** Somerville 75 Washington Street LLC  
**Applicant / Owner Address:** 40 Edwards Street, Medford, MA 02155  
**Agent Name:** Richard G. DiGirolamo  
**Agent Address:** 424 Broadway, Somerville, MA 02145

**Legal Notice:** Applicant/Owner, Somerville 75 Washington St. LLC, seeks a Special Permit under Sections 4.4.1 and 7.11.1.c of the Somerville Zoning Ordinance (SZO) to alter a nonconforming structure and use (auto-body shop) to a 3-story mixed-use (retail and residential) building with a request for parking relief under Section 9.13. RC Zone. Ward 1.

**Zoning District/Ward:** CBD zone/Ward 6  
**Zoning Approval Sought:** §4.4.1, §7.11.1.c, and §9.13  
**Date of Application:** April 3, 2017  
**Date(s) of Public Hearing:** September 27, 2017  
**Date of Decision:** September 27, 2017  
**Vote:** 4-0

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Appeal #ZBA 2017-27 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on September 27, 2017. 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. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



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**DESCRIPTION:**

The proposal is a mixed-use building of 7,798 total sf comprised of 943 sf of retail space on the ground floor facing Washington Street and 4 residential dwelling units facing Washington Avenue – 3 2-story units on the second and third floors and one 3-story unit with a basement. There will be 4 garaged parking spaces behind the retail space accessed from Washington Avenue. A significant portion of the existing building will be retained as a screen wall for the abutting property.

**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	3904		3904	pre-existing non-conformity
Min. Lot Area per Dwelling	875	n/a		976	
Max. Ground Coverage	70%	67%		70%	
Min. Landscaped Area	25%	0%		26%	
Floor area ratio (F.A.R.)	2.0	0.67		2.0	
Max. Height (ft)	40'	12'		37'	
Max. Height (stories)	3.0	1.0		3.0	
<b>Min. front yard (ft)</b>	<b>15'</b>	<b>0.01' over</b>		<b>2.5'</b>	<b>improved non-conformity</b>
Min. side yards (ft): Left	10'	16.9'		10.4'	
<b>Min. side yards (ft): Right</b>	<b>20'</b>	<b>0.1'</b>		<b>5.1'</b>	<b>improved non-conformity</b>
<b>Min. rear yards (ft)</b>	<b>20'</b>	<b>0.1'</b>	<b>10'</b>	<b>5.3'</b>	<b>improved non-conformity</b>
Min. frontage (ft)	50'	108.8'		108.8'	
Min. Pervious Area	30%	0%		30%	

Section 4.4.1 states that “[I]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 Applicant has selected Washington Avenue as the front lot line as only the commercial space will have a Washington Street address. The addressing of the new residential units on Washington Avenue is identified in the conditions to be determined through Engineering and the Fire Departments. While the yard dimensions are still non-conforming, the dimensions have been enlarged with the proposed design giving this site more pervious and landscaped area.

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 (7 spaces minus 3 spaces = 4) then taking 50% of that number and adding to the existing number of required spaces (2 spaces plus 3 spaces = 5 required spaces). The proposal provides 4 spaces on-site so the Applicant is requesting relief for 1 space. With one space provided per residential unit, the additional spaces are for guests and the commercial use. The demand for this space 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. The Board is supportive of granting parking relief for one space 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 on Washington Avenue while being a modern face for a corner site.

At the rear right portion of the site, the existing wall has been covered in vines for a number of years and is an attractive edge condition for the adjacent residence. Approximately 50' of this wall at the property line, and the corner returns to the proposed building, with the plantings will be retained to a height of 6' instead of being replaced with a new fence.

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 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.

On Washington Avenue, there is currently no curb. The Board recommends that the Applicant work with the Department of Public Works (specifically Engineering) to add curb and gutter

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: 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.

<u>SomerVision Summary</u>	<u>Existing</u>	<u>Proposed</u>
Dwelling Units:	0	4
Affordable Units:	0	0
Commercial Sq. Ft.:	2620	943
Estimated Employment:	unknown	unknown
Parking Spaces:	unknown (±3-4 required)	4
Publicly Accessible Open Space:	0	0

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, and Josh Safdie with Danielle Evans, Anne Brockelman, and Pooja Phaltankar absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** 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>April 3<sup>rd</sup>, 2017</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>August 3<sup>rd</sup>, 2017</td> <td>Modified plans submitted to OSPCD (T1.1, Topographic Plan, Z1.1-1.3, A1.1-1.3, A2.0 Rendered Elevations, and A2.1-2.3)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 3 <sup>rd</sup> , 2017	Initial application submitted to the City Clerk’s Office	August 3 <sup>rd</sup> , 2017	Modified plans submitted to OSPCD (T1.1, Topographic Plan, Z1.1-1.3, A1.1-1.3, A2.0 Rendered Elevations, and A2.1-2.3)
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August 3 <sup>rd</sup> , 2017	Modified plans submitted to OSPCD (T1.1, Topographic Plan, Z1.1-1.3, A1.1-1.3, A2.0 Rendered Elevations, and A2.1-2.3)									
Any changes to the approved plan set that are not <i>de minimis</i> must receive SPGA approval.										
<b>Pre-Construction</b>										
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	
<b>Construction Impacts</b>				
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	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	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	
<b>Design</b>				
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	
13	An exterior light and electrical receptacle is required for the all level porches, balconies, and decks (if there is no access to the ground).	Final sign off	Wiring Inspector	
<b>Site</b>				
14	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Planning / ISD	
15	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	Perpetual	Planning / ISD	
16	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	
17	All paving shown on the First Floor Plan (A1.1) as patios will be pervious pavers to meet the requirements of pervious area, as shown on Z1.3.	BP	Planning /Engineering	
18	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	
19	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	
20	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	



21	Snow plowed from the development shall be limited to an on-site storage area.	Cont.	ISD	
<b>Traffic &amp; Parking</b>				
22	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	
23	A new curb with returns at the garage entrances only the required width for the new driveway will be permitted for vehicular access on Washington Avenue.	BP	Planning /Engineering	
24	Materials and details for the Washington Avenue curbs and driveways must be coordinated with DPW and detailed per Engineering's standards.	BP	Planning /Engineering	
<b>Miscellaneous</b>				
25	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	
26	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	
27	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>				
28	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
29	Any transformers should be located as not to impact the building or landscaped area, and shall be screened to the maximum extent permissible by code.	Electrical permits & CO		
30	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	
31	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	

32	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	
<b>Signage</b>				
33	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	
<b>Final Sign-Off</b>				
34	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*  
Elaine Severino  
Josh Safdie

Attest, by the case City Planner: \_\_\_\_\_

Alexander C. Mello

Copies of this decision are filed in the Somerville City Clerk's office.  
Copies of all plans referred to in this decision and a detailed record of the  
SPGA proceedings are filed in the Somerville Planning Dept.

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_

