



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

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**Case #: ZBA 2015-01**  
**Site: 290 Highland Avenue**  
**Date of Decision: May 6, 2015**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: May 12, 2015**

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**ZBA DECISION**

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<b>Applicant Name:</b>	290 Highland Avenue, LLC, c/o Brent Berc
<b>Applicant Address:</b>	784 Tremont Street, Suite A, Boston, MA 02118
<b>Property Owner Name:</b>	290 Highland Avenue, LLC
<b>Property Owner Address:</b>	784 Tremont Street, Suite A, Boston, MA 02118
<b>Agent Name:</b>	Sean O'Donovan, Esq.
<b>Agent Address:</b>	741 Broadway, Somerville, MA 02144

**Legal Notice:** Applicant & Owner, 290 Highland Ave LLC, seek a Special Permit to alter a nonconforming structure, a Special Permit with Site Review to establish 7 units and Variances for dimensional requirements such as lot area per dwelling unit, building story height, and setbacks. A Variance is required for parking relief.

<b><u>Zoning District/Ward:</u></b>	RC zone/Ward 3
<b><u>Date of Application:</u></b>	January 2, 2015
<b><u>Date(s) of Public Hearing:</u></b>	2/18, 3/4, 3/18, 4/1, 4/15 & 5/6/15
<b><u>Date of Decision:</u></b>	May 6, 2015
<b><u>Vote:</u></b>	4-0

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Appeal #ZBA 2015-01 was opened before the Zoning Board of Appeals at Somerville City Hall on February 18, 2015. 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 to demolish the majority of the existing structure to construct a 4 story building with a retail first floor and seven dwelling units on floors 2-4. The building will front along Highland Avenue with a 1,550 square foot commercial space and a residential entrance. The existing curbcut on Highland Avenue will be closed which will make room for 3 new street spaces and street trees. The vehicular entrance will be off of Cedar Street. There will be six parking spaces behind the retail space and underneath the upper floors of the building.

**FINDINGS FOR SPECIAL PERMIT:**

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 §5.2.5 in detail.

1. **Information Supplied:**

The Board 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.”*

The proposed building will be 44’ tall and 4 stories with an FAR of 2.0. With seven units the lot area per dwelling unit is 792 square feet. The landscaped and pervious area is 7%. There is a rear setback of 18.5’ and a right side setback of 5’.

The current structure is nonconforming in terms of several dimensions. Lawfully existing nonconforming structures may be enlarged, extended, renovated or altered by Special Permit. The back corner of the building is being maintained to create a new trash area at the back of the lot. In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

Two additional Special Permits and Variances are required for the project. A Special Permit is required to reduce the parking aisle width to less than 20 feet and a Special Permit with Site Plan Review is required to establish 7 dwelling units. Variances are required for lot area per dwelling unit, landscaped area, building height, building story height, front and rear setback, and required parking. The findings for the variances are in Section 3 of the report below.

The Mayor’s Office of Strategic Planning and Community Development has submitted an ordinance to the Board of Alderman to overhaul the current zoning ordinance and the first notice of the public hearing date has been advertised. Massachusetts General Law 40a, Section 6 states that a zoning ordinance shall apply to a special permit issued after the first notice of the public hearing for such an ordinance. Therefore, staff and boards should evaluate all applications based on the current and proposed ordinances so that there are no issued posed under either ordinance.

Under the proposed code, establishment of a mixed use building type requires a Site Development Plan Review and 1 of the 7 units must be permanently deeded as affordable housing which would require that one of the units in this proposal is affordable. Many of the variances presented will not be needed if the proposed zoning ordinance is adopted and the proposed conditions are adopted. The variances that remain are the building height and number of story variances.



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 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."

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".*

The surrounding neighborhood is a mix of uses and building types. For the most part, Highland Avenue has residential building types like triple deckers and houses between mixed use buildings at the intersections. The intersection of Cedar Street and Highland Avenue follows this typology. O2 Yoga studio, East Cambridge Savings Bank, and 3 Little Figs are the other commercial establishments at the intersection. With the exception of the apartment building across the street, this area of Highland Avenue has buildings of three stories.

There are some impacts of altering the existing building nonconformity. The current configuration of an enclosed commercial space near the property line is limited in impact except for shadows. The proposed configuration to make an open but screened area for trash storage will increase noise and activity near the adjacent property.

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

The project will meet the functional design criteria.

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."*

A condition as part of the Special Permit approval is that the applicant will work with City Engineering to comply with City stormwater policy and required I/I (infiltration/inflow) removal for projects of significant size.

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."*

There are no anticipated environmental impacts.

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 promoting 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 encourage the most appropriate use of land throughout the City; to encourage housing for persons of all income levels; and to preserve and increase the amenities of the municipality.



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.”*

There are no remaining landforms on the site to preserve.

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 building is located harmoniously with the land form. The building is one story higher than what is allowable in the RC zoning district. The building is located to minimize obstruction from neighbors since it is sited to hold the street corner at Highland and Cedar Streets.

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.”*

A condition of approval is that the applicant will work with City Engineering staff to comply with the city stormwater 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 building is respectful of Somerville’s heritage by creating a base, middle, and top in elevation similar to other mixed use buildings. The base is also made of brick, a material that is compatible with the surroundings.

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 building will enhance the appearance of Somerville and replace a cinder block eyesore.



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.”*

The proposal includes lighting on the building that will pool on the sidewalk and provide for a more pleasant pedestrian experience.

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 access is provided.

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 location of access provides a safe ingress/egress from the site and improves the current condition by closing curbcuts.

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.”*

A condition of the special permit is that all utilities are connected underground. If the proposed transformer location is not possible, the transformer will be vaulted on site.

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.”*

Any perceived adverse impacts have been limited.

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.”*

Signage areas have been identified on the proposed elevations. A condition of approval is that signage will be reviewed and approved by Planning Staff prior to installation. No internally lit box signs shall be allowed.

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.”*

The trash areas are screened with fencing. The transformer is screened by the building.

21. Screening of Parking:

The parking will be screened by the building from Highland Avenue because it’s located behind the building. The width of the drive aisle is adequate six vehicles entering and exiting the site.

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



The project will not impact the existing stock of affordable housing in Somerville.

23. 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>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	0	7
<i>Affordable Units:</i>	0	1 as conditioned
<i>Commercial Sq. Ft.:</i>	1,000	1,550
<i>Estimated Employment:</i>	Unknown	Depends on use
<i>Parking Spaces:</i>	+/- 7	6 + 3 street spaces
<i>Publicly Accessible Open Space:</i>	0	0

**FINDINGS FOR VARIANCE:**

In order to grant a variance for lot area per dwelling unit, landscaped area, pervious area, building height, building story height, front and rear setback, and required parking the SPGA must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. 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 substantial hardship, financial or otherwise.”

Applicant’s response: The site at 290 Highland Avenue has known soil and ground water contamination dating as far back as 1990, possibly further. Relevant documents from the DEP and a Phase II Site Assessment are included with this application. It is estimated that the cost of clean-up is between \$70,000-\$90,000, not including the expected \$12,000-\$15,000 of testing, monitoring and reporting. The requested variances (for height and # of stories, in particular) will allow the Applicant to build to the maximum allowable FAR on this site so that the clean-up costs can be absorbed over a larger amount of square footage, driving the marginal cost of the project down to a point that makes the clean-up of the site and the construction of the project feasible.

Board’s response:

*Lot Area per Dwelling Unit*

The lot area per dwelling unit requirement is 875 square feet and 792 square feet is proposed. The lot is located at a mixed use intersection at Highland Avenue and Cedar Streets. Mixed use and apartment buildings are typical near this intersection including the building directly across the street as well as the apartment buildings on the north side of Highland next to the bank. The lot area per dwelling unit proposed is in context with the neighborhood. Furthermore, the lot area per dwelling unit variances allows for a variety of unit types to be developed. In the proposed code, the lot area per dwelling unit metric is not used. Instead, an average dwelling unit size metric is



proposed. The average dwelling unit size must be 900 square feet which allows for a variety in unit types without penalty. The average unit size for the proposed development is 1,215 square feet.

*Landscaped and Pervious Area*

The code requires 25% of the lot area be landscaped and 30% of the lot be pervious in RC districts. The proposal is for 10% pervious area and 7% landscaped. These requirements are for a more suburban building type that is not typical along the Highland Avenue corridor.

Acknowledging a desired building type, the proposed code requires that 10% of the lot be pervious.

*Building Height & Stories*

The RC zoning district allows for a 40' building height and 3 stories of development. The proposal is for a 44' building height and 4 stories of development. The Highland Avenue corridor is primarily 3 stories. The purpose of the parapet wall exception in the height limit is to build contextual development, not add an additional floor. The soils conditions hardship that is proposed by the Applicant has not been proven as a hardship. These conditions are similar to the many former auto use sites that have been redeveloped throughout Somerville, usually without variances.

In the new zoning code, this is proposed as a 3 story mixed use district. Planning Staff cannot support a story and building height variance. A map change request for this address has been submitted. In the public forum we can discuss whether this intersection should be a three or four story district. On May 6, 2015 the Board of Aldermen will get a template of how each map change request will be formatted. However, a meeting to take up these change requests has not been scheduled.

*Setbacks*

The setbacks of the existing and proposed code are described below.

	Existing Code	Proposed Code	Development Proposal
Front Yard Setback	15'	2'	1'
Rear Yard Setback	20'	15'	16'
Right Side Setback	1/3 of bldg. height*	5'	1.95' - 5'
Left Side Setback	1/3 of bldg. height*	0'	0'

\*Side yard for corner lots: The owner of a corner lot shall, for the purposes of this Ordinance, have the privilege of designating either corner lot line the side lot line.

The purpose of the 2' setback is to encourage bays and architectural variety on the front building façade. A condition of this report is that the building comply with the proposed code's 2' front setback.

*Parking*

The parking requirement for the proposed project is 12 spaces plus the spaces needed for the commercial tenant. A tenant has not been identified at this time. Six parking spaces are being proposed. An additional 3 spaces are being added on the street by closing the Highland Avenue curbcut. If the project was completed while the existing code was in effect more zoning relief is required.

The proposed code requires a 1 space per unit maximum for residential units and does not require parking for retail spaces of less than 5,000 square feet. Projects can count spaces that are located on a lot frontage, in this case, where three spaces have been created. Parking of six vehicles at grade is not allowed in Three Story Mixed Use districts. A condition of this report is that if all six spaces of parking are built, that they will be garaged and conform to the parking setbacks.

2. "The variance requested 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's response: The Applicant is seeking variances for front yard setback (as well as SP to alter existing non-conforming side yard setback) in order to more appropriately situate the building on what has become a mixed-use node along the Highland corridor. By situating the building on the Cedar and Highland lot lines the building provides a more urbanistic, commercial and pedestrian design similar to that of the setbacks in the Neighborhood Business (NB) districts.

The Applicant is also requesting a variance for parking in light of the increasing trend of Somerville residents to use non-vehicular modes of transportation. The granting of this variance will allow the Applicant to provide more housing units than what the existing parking requirements would allow to help meet the increasing demand for housing in Somerville. The proposed six parking spaces make practical sense when the unit mix is considered: two one-bedroom units, three two-bedroom units, two -three bedroom units and a three-plus bedroom unit. The Applicant will allocate the parking spaces depending on who the eventual buyers are, but the Applicant is anticipating no parking need for the one bedroom units, which will leave six parking spaces for the five remaining units. The Applicant further believes that one parking space will go to each of the two and three bedroom units, which would leave as many as two parking spaces for the three-plus bedroom unit, which is likely to house a family. Regarding commercial parking, the Applicant will be creating three new street parking spaces on Highland Avenue that do not exist today. The Applicant intends to obtain approvals to make these parking spaces 30 minute customer parking during normal business hours and resident parking during non-business hours. Owners and employees of the commercial space will utilize Somerville's Business Permit Parking Program, which generates income for the City and utilizes the otherwise vacant resident parking in the vicinity during business hours.

In addition, at the request of the Planning Staff, the Applicant increased the proposed unit count from six units to seven in order to provide a greater variety of units types (one, two, three and three-plus bedroom units) instead of all two and three bedroom unit types. This triggered the Lot Area per Dwelling Unit violation and as the Applicant is only seeking one more unit than this section of the code would allow, this truly is the minimum approval necessary. The greater variety of unit types will accommodate a greater variety of residents.

Finally, regarding the requested variances for building height and number of stories, the Applicant is only requesting the minimum approval necessary (one additional story, but only four feet of height variance) in order to build to the maximum allowable FAR so that the cost of the environmental clean-up can be absorbed over a larger amount of square footage in order to bring the marginal cost of the project down to a level that makes the clean-up of the site and the construction of the project feasible. Furthermore, the proposed total height of the building (44') is no taller than a building that the existing Zoning Ordinance allows to be built on this site when you factor in the allowance for a 4' parapet wall on top of a 40' building. For these reasons the Applicant feels that this variance request is both minimal and reasonable.

Board's response:

*Lot Area per Dwelling Unit*

The lot area per dwelling unit proposed is in context with the neighborhood and allows a variety in unit type.

*Landscaped and Pervious Area*

The RC zoning district does not promote the building types on sites that are typical along Somerville corridors.

*Building Height & Stories*

Planning Staff has followed a set of rules when remapping the city. Adopted neighborhood plans, property location, existing building type or use, and neighborhood context informed map decisions. Planning Staff has proposed a three-story mixed use district for the four parcels at this intersection. Suggestions to map changes are being collected through an online form and in hardcopy to be addressed at a public hearing with the Planning Board and Board of Alderman Land Use Committee.

*Setbacks*

The setbacks, as conditioned, will comply with the new code.



### *Parking*

To comply with the constraints of a commercial first floor and the dimensions of the site, a parking variance is the minimum relief necessary for the project. As conditioned, this will have minimum impact on the neighborhood.

The proposal includes adequate bicycle parking, more than one per unit. A condition of this report is that the Applicant provide one U-shaped bicycle parking rack on the Highland Avenue sidewalk for short term parking for visitors of the retail space.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

Applicant’s response: The granting of the requested variances will be in harmony with the Somerville Zoning Ordinance and will not be injurious to the neighborhood or detrimental to the public welfare. At the last neighborhood meeting held by the Applicant on December 18<sup>th</sup> there was resounding support for the project to move forward in light of the facts presented herein.

More specifically, the front yard setback required by the Zoning Ordinance in the RC district are residential in nature, whereas Highland Avenue (and specifically this intersection) has evolved as a mixed-use urban corridor, where lesser, more commercial and pedestrian friendly front yard setbacks have been specified by the Zoning Ordinance in other instances. For example, the intersection of Central and Highland Avenue is zoned Neighborhood Business (NB) which allows for buildings to be set on the front yard lot line. Given the similarity between the aforementioned intersection and the intersection of Highland and Cedar the Applicant feels that the granting of this variance would be in harmony with the Zoning Ordinance. Furthermore, the requested variances for building height and # of stories, if granted, would result in a building that is no taller than one that could be built as of right under the existing zoning code (see Section B for further detail). While the proposed unit density is higher than what the existing Zoning Ordinance would allow under the Lot Area per Dwelling Unit provision, the Applicant believes, after having consulted with the Planning Staff, that the resulting unit variety is more in harmony with the Zoning Ordinance than a six-unit project that complies with this provision would be due to the fact that more housing opportunities are created for a wider range of residents. Finally, as noted above in Section B, the Applicant feels that a reasonable and practical parking plan has been proposed for both the proposed residential and commercial uses. In light of the trend of Somerville residents and visitors to use non-vehicular modes of transportation, and in harmony with the Zoning Ordinance, the Applicant feels that an adequate number of parking spaces have been provided.

Regarding neighborhood and public welfare, the proposed project will not only bring much needed for-sale housing opportunities to Somerville, but it will also cure a blighted, contaminated site and build on the pedestrian and commercial connectivity between Highland Avenue and Davis Square. The proposed project will improve, not injure the neighborhood. Furthermore, the increase in the commercial and residential tax base will contribute greatly to the public welfare.

Board’s response:

Many of the variances presented will not be needed in the proposed zoning ordinance and will be in harmony with the SZO. The variance that remains is the building height and story variance. In absence of a neighborhood plan that suggests a change of scale to the neighborhood it is recommended that the building height for this intersection be addressed at the public hearings for the Zoning Overhaul.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino with Josh Safdie 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. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Variance. 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 a four story mixed use building with a commercial first floor and seven residential units. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/PIng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>January 2, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(April 28, 2015)</td> <td>Modified plans submitted to OSPCD (A01, A02 First FP, A12 Second FP, A13 Third FP, A14 Fourth FP, A21 Ext Elev, A22 Ext Elev, A23 Ext Elev, A31 Shadow And Renderings</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	January 2, 2015	Initial application submitted to the City Clerk's Office	(April 28, 2015)	Modified plans submitted to OSPCD (A01, A02 First FP, A12 Second FP, A13 Third FP, A14 Fourth FP, A21 Ext Elev, A22 Ext Elev, A23 Ext Elev, A31 Shadow And Renderings
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
<b>Affordable Housing/Linkage</b>										
2	If the project meets the threshold for affordable units, an 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	If the project meets the threshold for affordable units, 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	If the project meets the threshold for affordable units, 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	
<b>Pre-Construction</b>				
5	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans/reports must be submitted by a registered PE to the Engineering Department for review and approval.	BP	Eng.	
6	New sanitary connection flows over 2,000 GPD require a 4:1 removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment to the City based on the cost per gallon of I/I to be removed from the sewer system. The Applicant shall work with Engineering to meet this condition before a certificate of occupancy is issued.	CO	Eng.	
7	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	
8	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	
<b>Construction Impacts</b>				
9	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.	
10	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	
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 samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
13	The Applicant will submit a revised site plan showing a 2' front setback.	BP	Plng.	
14	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
15	There shall be no venting on the Highland façade of the building.	Cont.	Plng.	
<b>Site</b>				
16	Landscaping and planters should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
17	There shall be three street trees planted along the Highland Avenue frontage.	CO	Plng.	
18	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	
19	The curbcuts along Highland Avenue shall be closed and re-poured in accordance with the specifications of the Highway Superintendent	CO	Plng	
20	The curbcuts along Cedar Avenue shall be adjusted and re-poured in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete.	CO	Plng.	
21	Applicant will screen the trash area with fencing that blocks any view of the dumpster itself.	CO	Plng.	
22	Applicant will supply 9 indoor bicycle parking spaces, and one U-shaped bicycle rack along the Highland Avenue frontage.	CO	Plng.	
23	Snow plowed from the development shall be limited to the on-site storage area as shown in plan.	Cont.	ISD.	
<b>Miscellaneous</b>				
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	
25	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.	Cont.	DPW	
<b>Public Safety</b>				
26	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	



27	If proposed transformer cannot be located in the current location shown on the plans or by the trash area it must be vaulted on site.	Electrical permits & CO		
28	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.	CO	OSE/FP/BOH	
29	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.	
30	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	Plng/OSE	
31	Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division:  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  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.	Foundation Permit	Plng/ISD	
<b>Signage</b>				
32	Signage shall be submitted to Planning Staff for review and approval prior to installation. No internally lit box signs shall be permitted. Lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
<b>Final Sign-Off</b>				
33	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.	
34	The Applicant shall comply with the letter submitted to the Board dated May 6, 2015 that was read into the record at the hearing.	As Detailed in Letter	Plng/Housing	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino

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 \_\_\_\_\_

