



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #: ZBA 2014-120**  
**Site: 315 Highland Avenue**  
**Date of Decision: January 7, 2015**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: January 13, 2015**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Gwen Simpkins, Theresa Nibi, 311 Highland, LLC
<b>Applicant Address:</b>	82 Dover Street, #3, Somerville, MA 02144
<b>Property Owner Name:</b>	Diamond Club, LLC
<b>Property Owner Address:</b>	311 Highland Avenue, Somerville, MA 02144
<b>Agent Name:</b>	Sean O'Donovan, Esq.
<b>Agent Address:</b>	741 Broadway, Somerville, MA 02144-2110

Legal Notice: Applicants, Gwen Simpkins, Theresa Nibi, & 311 Highland LLC, along with Owner, the Diamond Club LLC, seek a Special Permit with Site Plan Review under SZO §7.11.1.c to construct a mixed-use building with seven (7) residential units and ground floor retail, Special Permits under SZO §4.4.1 to alter a non-conforming structure and under SZO §9.13.e to share parking, and a Variance under §9.5 for parking relief.

<u>Zoning District/Ward:</u>	RC zone/Ward 6
<u>Zoning Approval Sought:</u>	§7.11.1.c, §4.4.1, §9.13.e & §9.5
<u>Date of Application:</u>	November 21, 2014
<u>Date(s) of Public Hearing:</u>	January 7, 2015
<u>Date of Decision:</u>	November 21, 2014
<u>Vote:</u>	5-0 (SPSR) 5-0 (Variance)

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Appeal #ZBA 2014-120 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on January 7, 2015. 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 Applicant proposes a mixed-use building that consists of seven (7) residential units with a ground floor commercial component (1,660 square feet) and 13 on-site parking spaces.

The proposed mixed-use structure would be three stories, 40' in height, with a footprint that is 8,500 square feet (100' x 80') and a floor area ratio (FAR) of 1.55. The ground floor retail space is 1,660 square feet with a main entry at the corner of Highland Avenue and Cherry Street. There will be 7 three-bedroom units that are approximately 2,200 square feet. Each unit has private outdoor space such as a balcony, roof deck or patio. The main residential entrance will be located west of the storefront along Highland Avenue while a secondary entrance is at the rear. Unit 101 will be nearest the ADA parking space; however, all floors will be serviced by an elevator. Bike parking for 8 bikes is provided at the rear of the building.

The Highland Avenue façade presents the familiar rhythm of a commercial storefront at the sidewalk and a gable that is setback from the street. The recessed balconies and projecting bays add variety and dimension along the streetscape. The east elevation features a similar rhythm, the garage entrance and a man door while the west elevation illustrates two gables and projecting bays, and a more consistent window rhythm toward the northern end. The rear facade illustrates two balconies, one common exit and one rear unit egress for access to a private patio. The rooftop features three private decks and mechanicals which are conditioned to be screened.

The site plan provides garage access from a 20' curb cut along Cherry Street to 11 covered parking spaces located on the ground floor, behind the commercial component. The subject property does not currently have any landscape or pervious area; however, the proposal would comply with the landscape requirement at 26% (3,396 sf) and substantially increase the pervious area to approximately 33% (4,409 sf). Pervious pavers would be introduced for patios and grasscrete will be used for the two exterior parking spaces to be located at the rear of the parcel and accessed from Cherry Street. The transformer and trash/recycle area will be located behind the building near the bike parking. There will be landscaping around the perimeter of the site, other than where the commercial component is located at the sidewalk. There is currently one street tree located along Highland Ave and the applicant is conditioned to add two additional trees as well as to complete the sidewalk along the extension of Cherry Street.

The parking calculation requires a total of 18 spaces for the subject development; 14 spaces for residential, one visitor space, and three spaces for the retail component. Eleven (11) parking spaces are located on the rear of the ground floor while two additional spaces are located outside the building and composed of grasscrete; three of these spaces will be shared with the commercial component.

### **FINDINGS FOR SPECIAL PERMIT (SZO §):**

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."*



Under SZO §7.11.1.c, a Special Permit with Site Plan Review is required in a Residence C district to construct 7 units of housing.

Special Permits are required under SZO §4.4.1 to alter a non-conforming structure and, under SZO §9.13.e to share three parking spaces between the retail and residential uses.

Under SZO §4.4.1, a Special Permit is required to alter a non-conforming structure that is not a single or two-family dwelling. The existing structure is non-conforming and as a portion of the existing structure will be retained, a Special Permit is required. In considering a Special Permit under §4.4 of the SZO, the Board finds that the alterations and use proposed would not be substantially more detrimental to the neighborhood than the existing structure and use. The mixed-use development will enhance the streetscape through the contextual design and appropriate mixed-use of the site.

In considering a Special Permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

1. increase in traffic volumes;
2. increased traffic congestion or queuing of vehicles;
3. change in the type(s) of traffic;
4. change in traffic patterns and access to the site;
5. reduction in on-street parking; and
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

Shared parking will more efficiently utilize the parking that is able to be accommodated on-site. Three spaces will be shared during daytime hours with the retail use, as well as one visitor space, while there will remain 13 spaces for 7 residential units during evening hours and overnight. The proposed use would reduce the overall amount of traffic as the occupants will use public transportation on a regular basis and the ground floor retail will attract local pedestrian traffic. The type of traffic will change, due to eliminating the daycare use and creating a residential building with a small retail component. However, the traffic that would be generated will be more appropriate to a residential complex and a vibrant mixed-use corridor as this mix of uses will encourage pedestrian activity. This solution will not increase traffic volumes or congestion. The site will still be accessible from Cherry Street so there would not likely be a change in site access. The site would not decrease on-street parking as there will be no curb cut along Highland Avenue and the Cherry streetscape will become better defined.

A Variance is required under SZO §9.5 for parking relief. The parking requirement is 18 and the project proposes 13 spaces. The residential component requires 14 spaces plus an additional visitor space while the commercial component requires 3 spaces. These three spaces plus a visitor space would be shared through approval of a Special Permit; therefore, the Applicant requires a variance for one space of parking relief.

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 Residence C district, §6.1.3, 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."

The proposal is to construct a mixed-use development that will further the SomerVision Comprehensive Plan. This project will create housing and retail within a commercial corridor that is near transit, a streetwall that will enhance the overall pedestrian quality of this corridor, and add to the mix of uses that will increase the neighborhood amenities and continue to establish a sense of place. Together, these will enhance the neighborhood east of Davis Square and increase foot traffic within this area of the corridor.



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 parcel is located in a Residence C district and abuts residential dwellings at the rear, a single-story storefront to the west, and is at the corner of the extension of Cherry Street. The other side of Cherry Street has a house that is predominantly set-back from the street providing a large front yard that fronts onto Highland. The site is east of Davis Square and west of Cedar Street, along the mixed-use corridor of Highland Avenue. North and south of Highland Avenue, the neighborhoods are predominantly residential, composed of single and two-family dwellings.

The use, site plan and building design will not be detrimental to the Highland Avenue corridor nor the adjacent uses or neighborhood. The project has been devised to be compatible with the built and unbuilt surrounding area. The proposed seven-unit residential use with ground floor retail space (1600 sf) is more appropriate for this commercial and transit-oriented corridor. The proposed structure is located at the sidewalk, incorporates ground floor retail, is pedestrian friendly and activates Highland Avenue near the intersection of Cedar Street. The site plan provides 13 parking spaces, 8 spaces for bike parking, and provides access from the extension of Cherry Street while also adding two new street trees. The building design proposes hardy materials and a contextual building design that is compatible with the adjacent residential neighborhood, continues the street wall and character of the streetscape, and enhances the pedestrian quality of the corridor.

A shadow study illustrates that during the summer solstice, the proposed development will cast a shadow west of the development in the morning hours and extend toward Cherry Street in the evening. The fall/spring equinox will also cast morning shadows on the storefront located to the west of the development and by evening, this shadow will extend toward the rear of the parcel, but not quite reach the dwellings north of the site. The winter solstice casts morning shadows to the west and by evening these shadows are focused toward the north.

#### **Design Guidelines for Residence Zones**

1. *Buildings should be generally of the same size and proportions as those existing in the neighborhood. This shall apply in cases of multi-family development as well as one-, two-, and three-family units. For example, if relatively small two- and three-family structures are common in a neighborhood where multi-family development is proposed, the multi-family development should be physically broken into components that, from a design perspective, are housed in buildings of similar width, depth, and height as those typically found in the neighborhood.*

The building is of contextual design and massing that is appropriate to the Highland Avenue corridor.

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

Contextual and durable materials are required as part of this approval. Siding, trim, windows, and door materials will be provided to Staff for approval prior to construction.

3. *Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines etc.*

The existing structure will be largely demolished, other than a portion of the foundation; the design proposed is consistent with and modeled upon the adjacent built environment.

4. *Although additions should not clash with or be incompatible to the existing structure, it is acceptable and even desirable for the new construction to be distinguishable from the existing building, perhaps by maintenance of design elements of the original building that would otherwise be lost (e.g. false rakes, fasciae, and the like).*



The development will be distinguishable as new construction due to the materials and site design; however, the development maintains an appropriate and compatible form, massing, and detail.

5. *Where practical, new or infill building construction should share the same orientation to the street as is common in the neighborhood. When not contrary to any other zoning law, front and side yards should be of similar dimensions as those typical in the area.*

The development will front onto Highland Avenue. The 0' front setback will be retained through the existing non-conforming front setback; however, the residential component will be setback from the street.

6. *Driveways should be kept to minimal width (perhaps a maximum of twelve (12) feet), and be designed so that no vehicle parked on the drive may straddle the public sidewalk in any way. Low barriers or plantings may be required to separate the parking area from the pedestrian space.*

Access will be provided via a 20' two-way drive aisle into the rear portion of the ground floor. Two additional spaces will be located with access from Cherry Street, but located at the rear of the site. There is a condition to complete the sidewalk along Cherry Street, but this is not a common pedestrian path as this is a dead end.

7. *Transformers, heating and cooling systems, antennas, and the like, should be located so they are not visible from the street or should be screened.*

Transformers, A/C units and other mechanicals will be located behind the development or screened from the roof. These will all be screened from view.

8. *Sites and buildings should comply with any guidelines set forth in [Article 6](#) of this Ordinance for the specific base or overlay zoning district(s) the site is located within.*

The project will comply with Article 6 of this Ordinance with regard to the Residence C zoning district.

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

The proposal meets the accepted standards and criteria for a functional design. The site plan of the project locates the structure along Highland Avenue while the parking is located on the ground floor behind the commercial space. The design of the site locates trash, bike parking, and the transformer at the rear of the site.

6. **Impact on Public Systems:** *The project will "not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic."*

The approval of a Special Permit with Site Plan Review shall be contingent upon a determination by the City Engineer that no adverse impact on public systems will result from the proposed development. The change in use from a partially vacant commercial building to mixed-use would not appear to greatly impact the City sanitary sewer system. Planning Staff has proposed a condition that requires the Applicant to demonstrate that the project is in compliance with the City stormwater policy and the Applicant is to submit a stormwater management plan. The landscape and pervious areas would increase to approximately 26% and 33%.

The Parking assessment concludes that: 1) the anticipated parking activity for the residential units is projected to be 11 vehicles or less, which can be accommodated by the 13 on-site parking spaces; 2) the on-site parking will not be



fully occupied by residents during business hours; therefore reliance on street parking will be reduced; and 3) there is ample off-site parking available during a weekday period within 500 feet of the site.

Ultimately, the proposed project will not adversely impact public services and facilities as the development would have minimal impact on public systems, the pervious and landscape areas would be increased, and the potential occupants would likely utilize public transportation. Due to the proximity of bus routes, T-stations, and the Green Line extension, the project is expected to fit the local community context and goals of the City.

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.”*

Due to the mixed-use of the proposed building, minimal negative environmental impacts are foreseen as a direct result of this development. Noise, smoke and vibration would be reduced as a result of the residential use. While there would be appropriate lighting for a residential district, this lighting would be confined as much as possible to the site. Hazardous materials and substances are not part of the proposed use and Staff has conditioned that the appropriate entities be notified to dispose of these materials or substances if unearthed upon demolition or construction.

The landscape and pervious areas would increase to approximately 26% and 33%. The enclosed parking, as well as landscaping at the rear of the site, will buffer and mitigate vehicle noise.

The proposal would not result in an adverse impact on the surrounding area as the proposed use is better suited for this location along Highland Avenue; the site plan is efficient and has considers the surrounding parcels and their buildings. The building proposes an appropriate scale, quality materials and a contextual design that is appropriate for Highland Avenue and compatible with the adjacent residential neighborhood.

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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; 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.”*

The project site is predominantly impervious asphalt with a single-story commercial structure. The site will be improved as a result of this project.



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 parcel is located in a Residence C district and abuts residential dwellings at the rear, a single-story storefront to the west, and is at the corner of the extension of Cherry Street. The other side of Cherry Street has a house that is predominantly set-back from the street providing a large front yard that fronts onto Highland. The site is east of Davis Square and west of Cedar Street, along the mixed-use corridor of Highland Avenue. North and south of Highland Avenue, the neighborhoods are predominantly residential, composed of single and two-family dwellings.

The proposed project will enhance a currently impervious lot through a new mixed-use, landscaping, and better organization of the site. The project is compatible with this commercial corridor and surrounding neighborhood through the siting, massing, form, and design details. The commercial component of the building is located with a 0' front setback which will drastically enhance the streetwall along this portion of Highland Avenue while the residential component is setback and allows for some landscape. While the height and prominent location of the structure ensures high visibility on Highland Avenue, the 40' height will serve to continue the streetwall and will allow views down this commercial corridor.

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.”*

While additional review is required of drainage plans, any approval of the Special Permit with Site Plan Review should be conditional upon approval by the City Engineer of such plans and determination that no adverse impact would result to the drainage system from the design of the project. Planning Staff therefore proposes a condition for the Applicant to demonstrate that the project meets the current City stormwater policy and that utility and drainage plans be submitted to the Engineering Department for review and approval.

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 project is designed to emulate existing architectural detail that is already present along Highland Avenue and throughout the City. The use of gables and rhythmic bays, both projecting and recessed, and divided light windows create compatibility between the new and historic structures.

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 project enhances the natural character and appearance of the City due to the form and massing, architectural detail and continuation of a street wall along a commercial corridor. The pedestrian quality of the streetscape will be bettered due to the engaging facade, landscaping, and appurtenances. Wood fencing will be located along side and rear property lines while landscaping will be located within the 10’ front yard setback and as a buffer around the building.

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 lighting will be appropriate to the proposed retail and residential uses, conform to dimensions specified in the SZO, and is conditioned not to interfere with neighboring properties. Lights will be located at each entry. Planning Staff proposes a condition that all exterior lighting, to the extent possible, must be confined to the subject project, cast downward and must not intrude, interfere, or spill onto neighboring properties.

15. Emergency Access: *The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”*

The corner location provides abundant access to the site.

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.”*

Vehicles entering and exiting the site from the garage would do so in a forward manner onto and off of the extension of Cherry Street. The two rear parking spaces would back onto the extension of Cherry Street which has little to no vehicular traffic.

17. Utility Service: *The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”*

The Applicant shall tie into existing City services for electric, telephone and cable. These utility lines shall be placed underground. The site will likely require a transformer, to be located at the rear of the site, behind the building near the bike parking and trash/recycle areas.

18. Prevention of Adverse Impacts: *The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development.”*

Minimal negative impacts are anticipated as a result of the proposed project and residential use. Open spaces will be designed and planted to enhance the site and the streetscape. The landscape and pervious areas would increase to approximately 26% and 33% of the site. Staff has conditioned for the two street trees and bike racks to be added.

Due to the predominantly residential nature of the proposed structure, as well as small retail, minimal adverse impacts with regard to ground cover or machinery as well as from light, air, noise, wind, or temperature are foreseen as a direct result of this development. Noise, smoke and vibration would be reduced as a result of the residential use. While there would be appropriate lighting for a mixed-use corridor and nearby residential dwellings, this lighting would be confined as much as possible to the site. Hazardous materials and substances are not part of the proposed



use and Staff has conditioned that the appropriate entities be notified to dispose of these materials or substances if unearthed upon demolition or construction.

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.”*

A signage band is located on the commercial storefront. A condition of this report is that commercial signage be reviewed by Planning Staff prior to installation.

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 plans indicate that the trash and recycle area would be located at the rear of the building, adjacent to and accessible from the rear of the building and are conditioned to be screened. The transformer will also be located behind the building and screened from view with bollards in front. A/C condensers will be located on the roof and screened.

21. Screening of Parking:

The parking will predominantly be located on the ground floor behind the commercial unit along Highland Avenue. There will be two additional spaces composed of grasscrete located at the rear of the site so as to blend into the landscape. There will be fencing around the side and rear of the site and landscaping will continue to mitigate views of the exterior parking.

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

The proposal does not supply or contribute toward affordable housing.

22. 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	0
<i>Commercial Sq. Ft.:</i>	5570 sf	1660 sf
<i>Estimated Employment:</i>	unknown	unknown
<i>Parking Spaces:</i>	35	13

The proposal complies with the SomerVision plan through the addition of dwelling units and retail space near transit and along this commercial corridor. The parcel will increase the number of street trees, provide bike parking, and increase the overall pedestrian quality of this urban corridor. The proposal will decrease the impervious nature of the



existing lot and provide a better use for the site and the area. The proposal will continue the streetscape, enhance the area, and increase the amenities of this portion of the corridor.

**FINDINGS FOR VARIANCE (SZO §9.5):**

In order to grant a Variance, the Board 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.”

**Board’s Response:** Special circumstances affecting this site that are unusual and do not affect other properties are that the existing use is compliant with regard to parking, which is determined by the size of the facility and number of employees. Any viable mixed- or single-use development that is a more appropriate use for this area than the existing use will likely require a Variance due to the parking requirements for residential and retail uses. Solutions to create additional on-site parking compromise other components of this project as well as present traffic and safety concerns. The SomerVision Comprehensive Plan, which asserts that this is a community to live, work, play and raise a family, encourages support for a one space Variance, which is a result of sharing the on-site parking. Therefore, in providing 13 spaces for 7 residential and 1 retail unit(s), as well as sharing 4 spaces, the project is able to provide on-site parking without compromise to the quality or feasibility of the project.

**Applicant Response:** On a highly used bus route with a stop at the front of the building; Walking distance to Porter and Davis T-stops; walking distance to future Green Line T-stop; Walking to Ball Square; and short distance to Community Path (one block). Applicant is not able to accommodate adequate parking in an underground parking due to lot size and high water table. Therefore all parking accommodated on-grade.

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.”

**Board’s Response:** The Applicant devised a building design and combined site plan that reduces the number of on-site parking stalls, while still maintaining enough parking so as to accommodate the needs of the project. Due to accessible public transportation as well as proximity to transit stations, the request for one space of parking relief is all that is necessary for a reasonable use of this parcel.

**Applicant Response:** The parking proposed represents a balance between other grade and ground floor uses, including commercial and residential uses and landscape requirements.

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.”

**Board’s Response:** Granting the Variance would be in harmony with the SZO and not injurious to the surrounding neighborhood, nor otherwise harmful to the public welfare. This project makes best efforts to comply with all dimensional requirements and be in accordance with the SZO and the SomerVision Comprehensive Plan. This project provides appropriate uses for this portion of Highland Avenue, creates a walkable and pedestrian friendly streetscape and commercial corridor, and contributes to the diversity, location and type of residential units offered within the City.

**Applicant Response:** The proposed parking comes as close as reasonably possible to compliance with the current SZO. In addition, our discussions with the neighborhood and abutters concluded that the applicant must provide as close to compliant parking as reasonably possible.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. Upon making the above findings, Susan Fontano made a motion to approve the request for a Variance. Richard Rossetti 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 a Special Permit with Site Plan Review under SZO §7.11.1.c to construct a mixed-use building with seven residential units and ground floor retail, Special Permits under SZO §4.4.1 to alter a non-conforming structure and under SZO §9.1.e to share parking, and a Variance under §9.5 for parking relief. 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>November 21, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 23, 2014</td> <td>Modified plans submitted to OSPCD (T1, Z1.0, Z2.0, Z3.0, A0, A0.1, A0.2, A1.0, A1.1, A1.2, A1.3, A2.0, A2.0, A2.1, A3.1, A3.2, &amp; A3.3)</td> </tr> <tr> <td>June 26, 2014</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	November 21, 2014	Initial application submitted to the City Clerk's Office	December 23, 2014	Modified plans submitted to OSPCD (T1, Z1.0, Z2.0, Z3.0, A0, A0.1, A0.2, A1.0, A1.1, A1.2, A1.3, A2.0, A2.0, A2.1, A3.1, A3.2, & A3.3)	June 26, 2014	Modified plans submitted to OSPCD (Plot Plan)
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June 26, 2014	Modified plans submitted to OSPCD (Plot Plan)											
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
<b>Pre-Construction</b>												
2	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 must be submitted to the Engineering Department for review and approval. The Applicant and project engineer shall hold a meeting with notice to abutters within 300 feet and Planning Staff prior to issuing a building permit to discuss the utility plans.	BP	Eng.									



3	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.	
4	The Applicant shall submit a proposed grading and drainage plan and drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
5	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	
6	The site shall be bated for rodents 30-days prior to construction and during construction with a trap and transport provision.	During Construction	ISD	
7	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>				
8	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.	
9	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	
10	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	
11	Construction on Saturdays will not start before 9am.	During Construction	ISD	
12	75% of the Saturdays during the construction period will be construction free. The Applicant shall keep a record of the Saturday construction schedule to document compliance with this condition and submit to Planning Staff prior to CO.	CO	Plng.	
<b>Design</b>				



13	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	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	The Applicant will either install wall mounted bike racks at the front of each parking space in the garage or provide sheltered and secured bike parking for a minimum of 4 racks/8 spaces on site.	CO	Plng	
<b>Site</b>				
16	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
17	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	CO	Plng	
18	The Applicant shall hold a meeting with notice to abutters within 300 feet and Planning Staff to discuss the landscape materials and fencing.	Prior to Installation of Landscaping	Plng.	
19	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	
20	The Applicant shall install granite curbing along their Cherry Street frontage to comply with city standards.	CO	Plng	
21	Applicant shall replace any unhealthy street tree along the Highland Avenue frontage as determined by the City Arborist.	CO	Plng.	
22	The Applicant shall use grasscrete pavers or similar for the two exterior parking spaces at the rear of the site.	CO	Plng.	
23	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Plng	
24	Applicant will screen the trash/recycle totes/dumpster with fencing that blocks any view of the receptacles.	CO	Plng.	
25	Trash storage shall not be located along the fence along the property line. The Applicant shall hold a meeting with notice to abutters within 300 feet and Planning Staff to discuss the trash location and pickup times.	CO	Plng.	
26	The applicant shall install two u-shaped bicycle racks along the Highland Avenue frontage. Applicant shall work with Planning Staff to determine the proper locations.	CO	Plng.	
<b>Miscellaneous</b>				

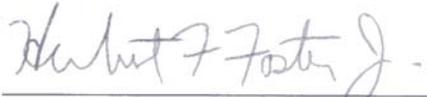


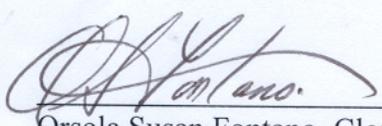
27	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
28	For 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.	CO	ISD	
29	The use of the commercial space shall not be a restaurant or a food sales or service establishment as a principle use.	CO & perpetual	ISD / Plng.	
<b>Public Safety</b>				
30	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
31	Any transformers should be located as not to impact the building or landscaped area, and shall be fully screened.	Electrical permits & CO	Wiring Inspector	
32	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/B OH	
33	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.	
34	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	
<b>Signage</b>				
35	Signage shall be reviewed and approved by Planning Staff; lighting after 10p.m. facing residential property will be turned down or off. Signage shall be located on the signage band on the building and shall not be internally illuminated.	CO	Plng.	
<b>Final Sign-Off</b>				
36	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.	



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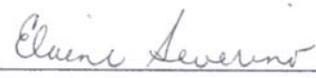
Attest, by the Zoning Board of Appeals:

  
\_\_\_\_\_  
Herbert F. Foster, Jr., Chairman

  
\_\_\_\_\_  
Orsola Susan Fontano, Clerk

  
\_\_\_\_\_  
Richard Rossetti

  
\_\_\_\_\_  
Danielle Evans

  
\_\_\_\_\_  
Elaine Severino, (Alt.)

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 \_\_\_\_\_

