



City of Somerville

PLANNING BOARD

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

DECISION

2022 JUN 30 A 9:04

PROPERTY ADDRESS: 28-44 Broadway
CASE NUMBER: P&Z 21-029
OWNER: Lower Broadway Development LLC
OWNER ADDRESS: 100 Winchester Street, Medford, MA 02155
DECISION: Approved with Conditions (Site Plan Approval)
Approved with Conditions (Special Permit)
DECISION DATE: June 16, 2022

CITY CLERK'S OFFICE
SOMERVILLE, MA

This decision summarizes the findings made by the Planning Board (the "Board") regarding the development review application submitted for 28-44 Broadway.

LEGAL NOTICE

Ben Rogan proposes a 6-story LEED Platinum General Building with a Household Living principal use in the Mid Rise 6 district, which requires Site Plan Approval and a Special Permit.

RECORD OF PROCEEDINGS

On December 16, 2021, the Planning Board held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Michael Capuano, Vice Chair Amelia Aboff, Clerk Rob Buchannan, Jahan Habib, Erin Geno, Russel Pildes, and Alternate Debbie Howitt Easton. Attorney Jennifer Schultz and Architect Phil Sima presented the project. Public testimony was received that requested additional green and amenity space and that expressed concerns regarding shadowing. The Board expressed concerns about the design of the building and its compatibility with the spirit and intent of the Somerville Zoning Ordinance. The Board asked the Applicant team to review the design standards and guidelines again and revise the design before the next hearing. The Board continued the public hearing.

On March 17, 2022, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Michael Capuano, Vice Chair Amelia Aboff, Clerk Rob Buchannan, Jahan Habib, Erin Geno, Russel Pildes, and Alternate Debbie Howitt Easton. The Applicant team presented an updated design for the building and summarized many of the changes that had been made since December. The Board asked whether the updated design had been seen by the community prior to this meeting. As the design had not been presented to the community and was significantly altered from what was presented to the Board in December 2021, the Board directed the Applicant to hold an additional community meeting. The Board also provided a number of comments regarding the updated design, and asked questions about loading plans for the site. The Board continued the public hearing.

On April 7, 2022, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Michael Capuano, Vice Chair Amelia Aboff, Jahan Habib, Erin Geno, Russel Pildes, and Alternate Debbie Howitt Easton. The Board asked Staff whether a neighborhood meeting had been held; Staff indicated that a neighborhood meeting had been scheduled and held, but the meeting was not held in accordance with the SZO requirements. The Board reiterated to the Applicant their directions regarding holding a neighborhood meeting. The Board continued the public hearing.

On June 2, 2022, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Vice Chair Amelia Aboff, Clerk Erin Geno, Jahan Habib, and Alternate Debbie Howitt Easton. The Applicant presented on the changes to the proposal since the last hearing, and the results of the neighborhood meeting held at the Board's direction. The Board took public comment; three people expressed concerns about the expected traffic impacts of this project. The Board determined that additional mitigation may be necessary to address the neighborhood's concerns about traffic impacts due to this proposal. The Board discussed possible traffic mitigation strategies and directed the Applicant to review possible mitigation strategies with PPZ and Mobility Staff, to review at the next meeting. The Board continued the public hearing.

On June 16, 2022, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Michael Capuano, Vice Chair Amelia Aboff, Clerk Erin Geno, and Jahan Habib. Chair Capuano, while being absent from the June 2, 2022 Board meeting, reviewed all available evidence from that meeting and certified such, and was therefore permitted to participate and vote on the case. The Applicant provided a brief overview of façade design changes. The Board discussed the mitigation strategies recommended by Staff and requested the Applicant's input on the recommended strategies. The Board also discussed the recommended strategies with Mobility and PPZ Staff who were present at the meeting and who provided further explanation of the recommended traffic mitigation strategies.

SITE PLAN APPROVAL FINDINGS

In accordance with the Somerville Zoning Ordinance, the Board may approve or deny a site plan approval upon making findings considering, at least, each of the following:

1. *The comprehensive plan and existing policy plans and standards established by the City.*

The Board finds that this project supports the goals laid out in SomerVision 2040, the City's comprehensive plan, including the following:

- Build a sustainable future through climate leadership, balanced transportation, varied and affordable housing options, and the responsible use of our natural resources.

- Promote a dynamic urban streetscape that embraces public transportation, reduces car dependence, and is accessible, inviting, and safe for all pedestrians, bicyclists, and transit riders.
- Invest in the growth of a resilient economic base that is centered around transit, generates a wide variety of job opportunities, creates an active daytime population, supports independent local businesses, and secures fiscal self-sufficiency.
- Significantly increase housing stock to keep up with demand while pursuing the goals of increasing the proportion of affordable housing and housing stock diversity.

2. The intent of the zoning district where the property is located.

The Board finds that the proposal supports the intent of the MR6 zoning district, which is, in part, "[t]o accommodate the development of areas appropriate for moderately-scaled multi-unit, mixed-use, and commercial buildings; neighborhood-, community-, and region-serving uses; and a wide variety of employment opportunities."

3. Mitigation proposed to alleviate any impacts attributable to the proposed development.

The Board finds that the twenty-six (26) parking spaces proposed by the Applicant is likely to result in impacts on traffic in the surrounding area that are deserving of mitigation. However, the Board also finds that the Applicant's stated desire to have vehicular parking in order to make the ground floor commercial spaces more viable is reasonable. In considering the particular facts of this proposal, including that any vehicular parking provided will be operated as a Commercial Parking facility that is generally available to the public, the Board finds that (a) reducing the number of parking spaces by five (5) spaces (for a total of twenty-one (21) parking spaces allowed onsite), (b) requiring one-year transit passes and bike share memberships for new residents, and (c) requiring at least twenty percent (20%) of the total number of commercial vehicular parking spaces, rounded up, to be offered annually to all ADU households as a right of first refusal until each parking space is either rented or leased, in addition to the mitigation efforts established in the MMP, is sufficient mitigation to address the traffic impacts attributable to this proposal.

In conclusion, the Board finds that, as conditioned, the proposal is not anticipated to have any impacts which require mitigation.

HOUSEHOLD LIVING USE SPECIAL PERMIT FINDINGS

In accordance with the Somerville Zoning Ordinance, the Board may approve or deny a special permit for a Household Living use upon making findings considering, at least, each of the following:

1. The comprehensive plan and existing policy plans and standards established by the City.

The Board finds that this project supports the goals laid out in SomerVision 2040, the City's comprehensive plan, including the following:

- Build a sustainable future through climate leadership, balanced transportation, varied and affordable housing options, and the responsible use of our natural resources.
- Promote a dynamic urban streetscape that embraces public transportation, reduces car dependence, and is accessible, inviting, and safe for all pedestrians, bicyclists, and transit riders.
- Invest in the growth of a resilient economic base that is centered around transit, generates a wide variety of job opportunities, creates an active daytime population, supports independent local businesses, and secures fiscal self-sufficiency.
- Significantly increase housing stock to keep up with demand while pursuing the goals of increasing the proportion of affordable housing and housing stock diversity.

2. The intent of the zoning district where the property is located.

The Board finds that the proposal supports the intent of the MR6 zoning district, which is, in part, "[t]o accommodate the development of areas appropriate for moderately-scaled multi-unit, mixed-use, and commercial buildings; neighborhood-, community-, and region-serving uses; and a wide variety of employment opportunities."

3. The suitability of the site for a household living principal use compared to other potential principal uses.

The Board finds that this site is highly suitable for a household living principal use. The proposed building is on a Pedestrian Street and the ground floor will be dominated by one or more commercial uses. The mixed-use nature of this building is compatible with the existing commercial nature of Broadway and with the residential neighborhoods south of Broadway. The location is within a half-mile, or 10-minute walk, of the Sullivan Square MBTA station and is within walking distance of a variety of existing commercial uses that may benefit from a larger customer base.

4. The ability of the development proposal to meet the demand for dwelling units of various types, sizes, and bedroom counts.

The proposal includes twenty-nine (29) studio units, thirty-six (36) 1-bedroom units, two (2) 1.5-bedroom units, six (6) 2-bedroom units, and eight (8) 3-bedroom units. The Board finds that the distribution of units is appropriately responsive to the findings of a housing study conducted by MAPC, which found that a dearth of one- and two-bedroom units contributes to increased demand on larger units that could otherwise be utilized by families.

At least four (4) of the 3-bedroom units will be ADUs, as required by the Ordinance, and the remaining twelve (12) required ADUs will be distributed among the other unit sizes.

5. *The increase or decrease in the number or price of any previously existing ADUs.*

There are no previously existing ADUs on the site.

6. *The number of motor vehicle parking spaces proposed for development within a Transit Area.*

The property is within the 0.25mi Transit Area. The Board finds that the twenty-six (26) parking spaces proposed by the Applicant was likely to result in traffic impacts which were deserving of mitigation, but that reducing the number of total parking spaces to twenty-one (21), in addition to mitigation efforts described in the MMP and conditioned by the Board, would appropriately mitigate traffic impacts and would be acceptable for the site and development.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Chair Capuano moved to approve the **SITE PLAN APPROVAL** for a 6-story LEED Platinum General Building with the conditions included in the staff memos and discussed at the hearing. Vice Chair Aboff seconded. The Board voted **4-0** to approve the permit, subject to the following conditions:

Perpetual

1. Construction documents must be substantially equivalent to the approved plans and other materials submitted for development review.
2. Recording of this Decision is prohibited until the lot merger is recorded at the Middlesex South Registry of Deeds.
3. The structured parking must be operated as a Commercial Parking facility principal use.
4. The structured parking must have a parking access and revenue control system to manage vehicular access and collect parking revenues from patrons.
5. The property owner and applicable future tenants shall comply with the Mobility Management Plan dated April 16, 2021, as approved and conditioned by the Director of Mobility. The Applicant is responsible for all costs associated with implementation of the approved Mobility Management Plan.
6. An annual report, including documentation of any changes to the layout plan or operations plan of the parking facility, must be submitted to validate continued compliance with the Somerville Zoning Ordinance, this Decision, and the Director of Mobility's standards for monitoring and annual reporting.
7. The property owner shall provide two (2) MBTA Monthly LinkPass or an equivalent stored value MBTA Charlie Cards to each residential tenant

- household during the first month of initial occupancy, and each month for a minimum of one (1) year. This requirement renews each time a new residential tenant moves in.
8. The property owner shall provide two (2) bike share memberships to each residential tenant household during the first month of initial occupancy, each of which shall be valid for a minimum of one (1) year. This requirement renews each time a new residential tenant household moves in.
 9. Alterations to the design or location of the transformer room is a major amendment to the approved plans, and is permitted only as a Plan Revision in accordance with Article 15 of the Somerville Zoning Ordinance.
 10. Utility meters are not permitted on any façade or within the frontage area of the lot.
 11. The gate facing Mt Vernon St must be locked and may only be used for egress. The gate may not be used to enter the property.
 12. A minimum of four (4) electric vehicle charging ports must be installed.
 13. A public right-of-way or pedestrian access easement must be provided in perpetuity by a covenant or other deed restriction for the full area of the sidewalk and curb ramps provided within the frontage area of the lot. Final easement language must be approved by the City Solicitor.
 14. Frontage area provided for a widened sidewalk along George Street must be designed and paved to properly correspond with any sidewalk improvements approved within the public right-of-way.
 15. Frontage area provided for a widened sidewalk along Mt Vernon St must be designed and paved to properly correspond with any sidewalk improvements approved within the public right-of-way.

Prior to Building Permit

16. This Decision must be recorded with the Middlesex County Registry of Deeds prior to applying for a Building Permit.
17. Material specifications from suppliers must be submitted to confirm fenestration glazing is compliant with the VLT and VLR ratings required by the Somerville Zoning Ordinance.
18. An outdoor lighting plan and supplier cut sheet specifications of chosen lighting fixtures must be submitted to confirm compliance with Section 10.7 Outdoor Lighting of the Somerville Zoning Ordinance. The site photometric plan must include a keyed site plan identifying the location of all luminaires; total site lumen limit table (calculations from the SZO); lighting fixture schedule indicating the fixture type, description, lamp type, lumens, color temperature, color rendering index, BUG rating, mounting height, and wattage of all luminaires; and notation of any timing devices used to control the hours set for illumination.
19. Detailed plans for protecting street trees intended to remain during construction must be approved by the City Arborist.
20. A layout plan identifying all parking access and revenue control features for the parking facility must be submitted to the Director of Mobility for approval prior to applying for a Building Permit.

21. One (1) physical copy of the original application materials and one (1) digital and (1) physical copy of all required application materials reflecting any physical changes required by the Board, if applicable, must be submitted to the Planning, Preservation & Zoning Division for the public record.
22. A copy of the Recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted for the public record.
23. All Stage 2 documentation required by the Office of Sustainability & Environment's LEED Certifiability Requirements.
24. The building must be registered with the USGBC and evidence that the required registration forms were submitted and registration fee were paid must be submitted to the Office of Sustainability & Environment prior to applying for a Building Permit.
25. Final sidewalk design of George St, Mt Vernon St, and Broadway must be approved by relevant City Departments prior to applying for a Building Permit.

Prior to Certificate of Occupancy

26. The initial operations plan for the Commercial Parking facility identifying, at least, the type and pricing of various passes, rates, and fees must be submitted to the Director of Mobility.
27. A written narrative or descriptive checklist identifying the completion or compliance with permit conditions must be submitted to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.
28. All Stage 3 documentation required by the Office of Sustainability & Environment's LEED Certifiability Requirements.
29. The Applicant or their successor in interest shall apply for LEED certification and provide evidence to the Office of Sustainability & Environment that a completed certification application and certification review fee were submitted to USGBC within one (1) year of the issuance of the first Certificate of Occupancy for the building.

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Chair Capuano moved to approve the **SPECIAL PERMIT** for a Household Living use with the conditions included in the staff memos and discussed at the hearing. Vice Chair Aboff seconded. The Board voted **4-0** to approve the permit, subject to the following conditions:

Perpetual

1. To mitigate transportation impacts attributable to the proposed development, a maximum of twenty-one (21) motor vehicle parking spaces are permitted.
2. All 3-bedroom affordable dwelling units must comply with the Director of Housing's quality standards for 3-bedroom ADUs.
3. At least twenty percent (20%) of the total number of commercial vehicular parking spaces, rounded up, must be offered annually to all ADU households as a right of first refusal until each parking space is either rented or leased.

4. Formal acknowledgement that residents are ineligible for on-street Residential Parking Permits, subject to the regulations of the Somerville Traffic Commission, must be filed with this Decision.
5. Dwelling units must be advertised as ineligible for on-street Residential Parking Permits, subject to the regulations of the Somerville Traffic Commission.
6. All buyers, grantees, lessees, renters, and tenants must be notified in writing prior to sale or lease of any dwelling unit that the residents are ineligible for on-street Residential Parking Permits, subject to the regulations of the Somerville Traffic Commission.

Prior to Building Permit

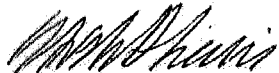
7. An affordable housing implementation plan (AHIP) must be submitted to the Director of Housing prior to applying for a Building Permit.
8. This Decision must be recorded with the Middlesex County Registry of Deeds prior to applying for a Building Permit.
9. A copy of the Recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted for the public record.

Prior to Certificate of Occupancy

10. A deed restriction limiting the sale or rental of all affordable dwelling units to eligible households in perpetuity must be executed and recorded with the Middlesex South Registry of Deeds.

Attest, by the Planning Board:

Michael Capuano, *Chair*
Amelia Aboff, *Vice Chair*
Erin Geno, *Clerk*
Jahan Habib



Sarah Lewis, Director of Planning, Preservation & Zoning
Office of Strategic Planning & Community Development

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. 15.5.3.

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.

FOR SITE PLAN APPROVAL(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 _____