



City of Somerville

ZONING BOARD OF APPEALS

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

TO: Zoning Board of Appeals
FROM: Planning, Preservation, & Zoning (PPZ) Staff
SUBJECT: Clarendon Hill (34 North Street), P&Z 22-179
POSTED: December 28, 2022

RECOMMENDATION: Insubstantial Change (Revision to Comprehensive Permit)

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from Planning, Preservation, & Zoning Staff to the Review Board members.

SUMMARY OF PROPOSAL

Preservation of Affordable Housing (POAH) is requesting a revision to the Comprehensive Permit, including a slight adjustment to the footprint and setbacks of Building E (Block B1); amendment to the language of Condition #15; and amendment to the timing on compliance for Condition #25.

BACKGROUND

A Comprehensive Permit under MGL Ch 40B was issued for Clarendon Hill on September 30, 2020.¹ Since then, the Applicant has been working to move forward with developing construction documents and addressing other items that must be completed before applying for a building permit. In the course of doing so, the Applicant has identified some items included in the original decision from 2020 that they wish to modify. The project has already received one (1) revision in October 2022, for changes that the ZBA determined to be insubstantial.

The process for modifying Comprehensive Permits is as follows:

1. The Applicant submits a request to change the permit.
2. The Board must consider the request within twenty (20) days and determine whether the change is “substantial” or “insubstantial.” In Somerville, this is typically done during a regularly scheduled public meeting of the Board.
 - a. If the Board determines that the change is “insubstantial,” the change is permitted with no additional steps necessary.
 - b. If the Board determines that the change is “substantial,” the Board must then schedule and hold a public hearing regarding the request.

This application was deemed complete on December 23, 2022 and is scheduled to be discussed by the Board on January 4, 2022. If the Board determines that any of the

¹ The decision can be found at <https://www.somervillema.gov/departments/ospcd/planning-and-zoning/reports-and-decisions>

proposed changes are substantial, the public hearing will most likely be held on February 1, 2023.

ANALYSIS

Each of the changes proposed by the Applicant are addressed individually. The Board may determine that all, some, or none of the proposed changes are insubstantial. Staff believes that all the proposed changes are insubstantial.

Change 1: Adjustment to the building footprint and setbacks of Building E (Block B1)

As the structural engineering of the modular systems has progressed, it has been necessary to accommodate an additional tube steel column in the middle of the building, at the crux of the bend. This has resulted in a minor building shift within the property area. These adjustments are minor dimensional revisions to setbacks around the entire footprint – none greater than a 1'-1" change at the southeast corner at the rear property line. See the attached exhibit submitted by the Applicant.

PPZ Staff have no concerns about the proposed change.

Change 2: Amend language of Condition #15.

As approved, Condition #15 will be met if all building materials and construction equipment are kept on-site. The Applicant is requesting an amendment to Condition #15 to the following (new text shown in red):

15. All construction materials and equipment must be stored on-site, **or off-site with property owner approval**. 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 Parking Department and Engineering Division must be obtained.

PPZ and Engineering Staff have no concerns about the proposed change.

Change 3: Change to condition compliance timing for Condition #25

The timeframe for compliance for Condition #25 (requiring an update to a portion of the Transportation Impact & Access Study) is shifted from "Prior to first (Building, Foundation, Civic Space, or Thoroughfare) Permit Application" to "Prior to application for the first Certificate of Occupancy of Phase 1." This change does not affect the language of the condition – it only affects when the condition must be complied with.

Mobility Staff have noted that they would prefer the timeframe for compliance to be within six (6) months of the receipt of the first (building, foundation, civic space, or thoroughfare) permit, as that timeframe will very likely coincide with relevant phases of intersection/right-of-way improvements. However, PPZ Staff believe that timeframe would be difficult to enforce, and have instead recommended that the timeframe for compliance be "prior to application for the first Certificate of Occupancy for Phase 1". PPZ Staff believe this recommendation will achieve the same end result as Mobility Staff's ideal timing, but is easier to enforce as it's tied to a specific permit application.

Condition #25, for reference:

25. Upon request of the Director of Mobility, the Applicant shall update Section E of the Transportation Impact & Access Study (Revised September 2019) to account for any changes to the MassWorks-funded redesign of Alewife Brook Parkway / Powder House Boulevard intersection that may impact the other five (5) intersections included in Section E. To the extent feasible, the Applicant shall coordinate with MassWorks project team and the Massachusetts Department of Conservation and Recreation (“DCR”) to ensure that the Applicant is accounting for the most current design of the Alewife Brook Parkway / Powder House Boulevard intersection. The three (3) Broadway intersections must include plans for transit signal priority. The Applicant shall submit the updated mitigation plan to the Director of Mobility for review and approval.

Change 4: Process of changing timeframe for compliance with conditions

Beyond the requests made by the Applicant, PPZ Staff recommend that the ZBA consider adding a new condition that would allow the Director of PPZ to administratively approve changes to the timing of compliance for conditions. The Director of PPZ can already do this on behalf of the Board for all other (non-40B) permit types.

This new condition would reduce the time required for review and approval of such requests, while maintaining thorough Staff review and consideration. This condition would only apply to changes in timing of compliance for conditions. Any proposed changes to the actual plans or condition language would still require ZBA review.

CONSIDERATIONS & FINDINGS

The Zoning Board of Appeals is required to determine whether the proposed changes are substantial or insubstantial. If a change is deemed *insubstantial*, it is permitted. If a change is deemed *substantial*, the Board must hold a public hearing regarding the change prior to approving or denying it.

760 CMR 56.07(4)(c) and (d) provide guidance that the Board must consider when determining whether a change is substantial or insubstantial:

(c) The following matters generally will be substantial changes:

1. An increase of more than 10% in the height of the building(s);
2. An increase of more than 10% in the number of housing units proposed;
3. A reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed;
4. A change in building type (e.g., garden apartments, townhouses, high-rises); or

5. A change from one form of housing tenure to another.
- (d) The following matters generally will not be substantial changes:
1. A reduction in the number of housing units proposed;
 2. A decrease of less than 10% in the floor area of individual units;
 3. A change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%;
 4. A change in the color or style of materials used; or
 5. A change in the financing program under which the Applicant plans to receive a Subsidy, if the change affects no other aspect of the proposal.