



City of Somerville

# ZONING BOARD OF APPEALS

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

**TO:** Zoning Board of Appeals  
**FROM:** Planning, Preservation, & Zoning (PPZ) Staff  
**SUBJECT:** 42-44 Hamilton Road, P&Z 22-111  
**POSTED:** December 29, 2022

**RECOMMENDATION:** No change

This memo is supplemental to the PPZ Staff Memo dated November 10, 2022.

The purpose of this memo is to provide information and responses to requests raised by Board members at the December 14, 2022 Zoning Board of Appeals (ZBA) Meeting.

## BACKGROUND AND ANALYSIS

The Applicant is requesting a Special Permit for a Group Living principal use. A Group Living use is defined as “[r]esidential occupancy of a building or portion of a building in rooming units by up to two (2) persons related by blood, marriage, adoption, or foster care agreement; in dwelling units by more than four (4) unrelated persons; and any multi-unit housing owned by or affiliated with an educational institution” according to section 9.2.11.

If granted, the Special Permit will allow four (4) or more unrelated individuals to live together in this unit. As stated previously and in the application materials, at this time, the Applicant is intending to rent the remaining unoccupied rooms in the unit to unrelated individuals. Currently, the Applicant and his son live in this unit.

At the December 14, 2022 ZBA meeting, the Board requested the following information from Staff:

- Permits and inspections completed by the Inspectional Services Department (ISD).
- The number of bedrooms and whether they comply with the building code and SZO.
- Detailed architectural plans.
- ADA access to the unit.
- Clarity on procedural steps post-decision including the process to obtain a Certificate of Occupancy.
- Follow-up information on whether a condition may include attaching the Special Permit to an applicant rather than running with the property.

The information requested is outlined below:

1. *More information on previous development review at this property and follow-up with ISD Staff.*

Previous to this application for a Special Permit, the Applicant applied for by-right project to remodel the attic, which included the addition of two dormers, and a Building Permit was issued. This renovation created four (4) new bedrooms. On September 7, 2022, ISD Staff conducted an inspection of the property in order for the Applicant to receive a Certificate of Occupancy for the renovations. ISD has confirmed with PPZ Staff that the inspection confirmed that all conditions of the permit were met.

After the Certificate of Occupancy was issued, the Applicant applied for a change-of-use with ISD. At this point, the Applicant was notified that in order to receive a change-of-use, they must receive a Special Permit for a Group Living principle use by the ZBA.

*2. More details into the size of the bedrooms.*

At the September 7, 2022 ISD inspection, the bedrooms were inspected and confirmed to meet the definition of a bedroom per the Somerville Zoning Ordinance (SZO). In the architectural plans (see below for more detail), two rooms in the attic are titled study room. ISD has confirmed with PPZ Staff that these two rooms meet the definition of a bedroom and are habitable spaces.

*3. Information on bedroom safety.*

ISD has confirmed that all the bedrooms comply with the building code.

*4. Detailed architectural plans.*

The Applicant has submitted an architectural plan set that was submitted as part of the Applicant's submission for a Building Permit for the previous by-right project to renovate the attic and add dormers.

*5. ADA access to the unit.*

The Applicant has submitted photos of the unit's entrances, which includes a primary front entrance, which provides both ingress/egress and rear door that also provides ingress/egress. The Applicant has also noted the location of these access points on a site plan.

*6. Clarity on procedural steps for post-decision including Certificate of Occupancy process.*

If the ZBA grants the requested Special Permit, the decision must be certified by the Clerk's office and recorded with the Middlesex County South Registry of Deeds, and the Applicant must then apply for a change-of-use with ISD.

ISD Staff will then conduct another inspection before a Certificate of Occupancy is granted. This inspection will confirm if conditions of the ZBA decision have been met. A

Certificate of Occupancy will then be provided to the Applicant and the use will be established.

7. Follow-up information on whether a condition may include attaching the Special Permit to an applicant rather than running with the property.

A special permit may be conditioned by limiting its duration to the term of Ownership or use by the Applicant.