



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 Staff
SUBJECT: 263 Washington Street, P&Z 22-044
POSTED: April 28, 2022

RECOMMENDATION: Approve with Conditions (Major Amendment)

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.

This memo summarizes the plan revision submitted for 263 Washington Street, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on April 26, 2022, and is scheduled for a public hearing on May 4, 2022. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

LEGAL NOTICE

Philip Sima proposes a Major Amendment to a previously approved Special Permit (ZBA 2017-40).

SUMMARY OF PROPOSAL

Applicant is proposing to strike condition # 22 of the original decision stating "Any and all future occupants of the commercial space in this building are required to appear before the ZBA for special permitting for the use, parking, and build-outs of the commercial space." To remove a condition from a previously approved permit, the original Special Permit Granting Authority must review the project.

As the original approval was issued under the Zoning Ordinance in effect prior to December 12, 2019, revisions to the decision are evaluated under that Zoning Ordinance as well.

ANALYSIS

The project was approved under the previous zoning ordinance by a Decision filed with the City Clerk on October 18, 2017. ZBA2017-40 was granted Special Permits under §4.4.1 and §8.5 of the SZO to increase the FAR by more than 25%, under §7.11 of the SZO to remove the funeral home use and convert to 4 residential units, and under Article 9 of the SZO for parking relief.

The existing Juliet Restaurant is relocating and expanding to the new building on Washington Street. A Plan Revision was approved as *de minimis* on April 26, 2022, for changes to the HVAC system on the roof and at the rear of the building to accommodate the restaurant use. However, upon final review of the Building Permit (#B21-000363) for the interior fit-out, condition #22 was found by Inspectional Services as outstanding and requiring approval by the ZBA. As the original approval has not received final Certificate of Occupancy for the base building and the restaurant build-out is substantially complete, removal of this condition was deemed the best path forward.

CONSIDERATIONS & FINDINGS

As this is a revision to a Special Permit granted under the previous zoning ordinance, and as the proposed changes were determined not to be *de minimis* in nature, the findings required by the previous zoning ordinance apply. SZO §5.3.8 reads, in part:

Revisions that are not de minimis shall be subject to the full notice and hearing provisions of §5.3.2 of this Ordinance, but shall not be subject to review by additional boards, departments, city agencies or commissions except as requested by the SPGA or upon the recommendation of the Planning Director. Applicable findings shall be made in accordance with the type of permit(s) being revised.

The only applicable finding(s) for the revision is the following:

5.1.4.(d) Site and area compatibility. Is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the built and unbuilt surrounding area, including land uses.

PERMIT CONDITIONS

Should the Board approve this request, all existing conditions of the original approval remain in effect and the Planning, Preservation, & Zoning Staff recommends the following additional conditions:

Validity

- This Decision must be recorded with the Middlesex County Registry of Deeds prior to applying for a Certificate of Occupancy.

Public Record

- A copy of the Recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted for the public record.
- Physical copies of all submittal materials as permitted by the Review Boards must be submitted for the public record in accordance with the document format standards of the ISD/PB/ZBA Submittal Requirements.