



City of Somerville

# PLANNING BOARD

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

## DECISION

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**PROPERTY ADDRESS:** 28-44 Broadway  
**CASE NUMBER:** P&Z 23-061  
**OWNER/APPLICANT:** Lower Broadway Development LLC  
**ADDRESS:** 100 Winchester Street, Medford, MA 02155  
**DECISION:** Approved with Conditions (Major Amendment)  
**DATE OF VOTE:** December 21, 2023  
**DECISION ISSUED:** January 2, 2024

CITY CLERK'S OFFICE  
SOMERVILLE, MA

This decision summarizes the findings made by the Planning Board (the "Board") regarding the Major Amendment Plan Revision application submitted for 28-44 Broadway.

## LEGAL NOTICE

Lower Broadway Development LLC seeks approval of a Major Amendment to a previously approved general building in the MR6 zoning district (P&Z 21-029), which required Site Plan Approval and a Special Permit for Household Living.

## RECORD OF PROCEEDINGS

On November 2, 2023, 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, Michael McNeley, Alternate Debbie Howitt Easton, and Alternate Luc Schuster. After opening the public hearing, the Board continued the hearing without presentation or discussion.

On November 16, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board members Vice-Chair Amelia Aboff, Clerk Jahan Habib, Michael McNeley, and Alternate Luc Schuster. The Applicant summarized the previously approved project and their requested changes, including an increase in the number of units and the revision specific conditions of approval. The Applicant argued that these changes were necessary to make the project financially viable. Vice-Chair Amelia Aboff opened public testimony, but no one spoke for or against the application. Board members then asked questions of the Applicant and of Staff, particularly regarding conditions of approval that addressed transportation demand management. The Board continued the hearing.

On December 7, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board members Chair Michael Capuano, Vice-Chair Amelia Aboff, Clerk Jahan Habib, Michael McNeley, Alternate Debbie Howitt Easton, and Alternate Luc Schuster. Chair Michael Capuano and Alternate Debbie Howitt Easton were absent

from the hearing on November 16, 2023, but submitted affidavits confirming review of the evidence, and were able to participate in the review. The Applicant further reviewed the proposed changes to the project, and the Board discussed parking and mobility management-related conditions and concerns. The Board requested that the Applicant review potential solutions with Mobility Division staff. The Board continued the hearing.

On December 21, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board members Chair Michael Capuano, Vice-Chair Amelia Aboff, Clerk Jahan Habib, and Alternate Luc Schuster. The Applicant proposed an updated condition related to bike share and MBTA passes, which could replace the existing conditions related to bike share and MBTA passes. The Applicant reviewed the relation to the proposed updated condition to mobility management goals. The Board discussed the proposed condition and generally agreed that the proposed condition addressed the intent of the original conditions and appeared to be appropriate in scope. Planning Staff noted that they had not had the opportunity to review and evaluate the proposed updated condition. Following discussion on the proposed condition, the Board voted to approve the Major Amendment to a previously approved General Building in the MR6 zoning district (P&Z 21-029), which required Site Plan Approval and a Special Permit for household living.

## PLANS & DOCUMENTS

Application plans, documents, and supporting materials submitted and incorporated are identified below.

Document	Pages	Prepared By	Date	Revision Date
28-44 Broadway – Major Amendment to Case No. P&Z 21-029 Narrative	6	Highland Development Lower Broadway Development LLC 100 Winchester St Medford, MA 02155	August 30, 2023	N/A
44 Broadway – Revised Plan Set	38	Icon Architecture 101 Summer St, 5 <sup>th</sup> Floor Boston, MA 02110  Michael D'Angelo Landscape Architecture 840 Summer St, Suite 201A Boston, MA 02127	October 6, 2023 (cover page)	N/A
Neighborhood Meeting Report July 24, 2023 Meeting Regarding Major Plan Revisions (28-44 Broadway)	13	Jennifer Schultz, Esq. Sullivan & Worcester 1 Post Office Square Boston, MA 02109	No date, submitted August 7, 2023	N/A
P&Z 23-061 – 28-44 Broadway Plan Revision Supplemental Memorandum	4	Jennifer Schultz, Esq. Sullivan & Worcester 1 Post Office Square Boston, MA 02109	November 30, 2023	N/A

## FINDINGS

When considering a revision to a previously approved development review application that required either Site Plan Approval or a Special Permit, the Planning Board shall limit their review to the proposed changes to the previously approved application. The

considerations before the Board remain the same as the previously approved application for Site Plan Approval and a Special Permit for Household Living.

**Site Plan Approval + Special Permit:**

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 Master Plan, including the following:

- Significantly increase housing stock to keep up with demand while pursuing the goals of increasing the proportion of affordable housing and housing stock diversity.
- 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.

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

The Board finds that the proposal is consistent with 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."

**Site Plan Approval:**

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

The Board finds that, as conditioned, the proposal does not produce any impacts that require additional mitigation.

**Household Living Special Permit:**

4. *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 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.

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

The proposal includes thirty-two (32) Studio units, forty-two (42) 1-bedroom units, five (5) 2-bedroom units, and five (5) 3-bedroom units. The distribution of units is consistent with the findings of studies 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. All four (4) of the 3-bedroom units will be ADUs, as required by the Ordinance, and the remaining required ADUs will be distributed among the other unit sizes.

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

There are no previously existing ADUs on the site.

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

The property is within the 0.25mi Transit Area and is proposing twenty-one (21) motor vehicle parking spaces as conditioned by the Board in P&Z 21-029. As the property is permitted to have a maximum of one parking space per residential unit, this is well below the maximum number of spaces permitted. The Applicant intends most of the parking spaces to be used for the commercial uses on the ground floor. Twenty percent (20%) of the spaces will be offered annually to all ADU households as a right of first refusal until each parking space is rented or leased.

## DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Name moved to approve the **Major Amendment** to a previously approved Site Plan Approval for a general building and a Special Permit for a Household Living principal use with the conditions included in the staff memo and delineated at the hearing and additional conditions discussed at the hearing. Vice-Chair Aboff seconded. The Board voted **4-0** to approve the permit, subject to the following conditions:

### Perpetual

1. This Decision must be recorded with the Middlesex South Registry of Deeds.
2. Alterations to the location of the transformer room is a major amendment to the approved plans. Alterations to the design of the transformer room are considered de minimis to the approved plans. Both are permitted only as a Plan Revision in accordance with Article 15 of the Somerville Zoning Ordinance.
3. The property owner shall provide up to two (2) MBTA Monthly LinkPass or an equivalent stored value MBTA Charlie Card to each adult lessee in a residential tenant household renting a vehicular parking space within the building during the first month of the initial parking space rental, as follows: (i) from the final

certificate of occupancy for the building through the third (3rd) anniversary of the final certificate of occupancy of the building, each month for a minimum of six (6) months; (ii) from the third (3rd) anniversary of the final certificate of occupancy for the building through the sixth (6th) anniversary of the final certificate of occupancy of the building, each month for a minimum of four (4) months; and (iii) from the sixth (6th) anniversary of the final certificate of occupancy for the building through the ninth (9th) anniversary of the final certificate of occupancy of the building, each month for a minimum of two (2) months. This requirement renews each time a new residential tenant rents a parking space within the building, up and through the ninth (9th) anniversary of the final certificate of occupancy for the building.

4. The property owner shall provide up to two (2) bike share memberships to each adult lessee in a residential tenant household renting a vehicular parking space within the building during the first month of the initial parking space rental, as follows: (i) from the final certificate of occupancy for the building through the third (3rd) anniversary of the final certificate of occupancy of the building, each month for a minimum of six (6) months; (ii) from the third (3rd) anniversary of the final certificate of occupancy for the building through the sixth (6th) anniversary of the final certificate of occupancy of the building, each month for a minimum of four (4) months; and (iii) from the sixth (6th) anniversary of the final certificate of occupancy for the building through the ninth (9th) anniversary of the final certificate of occupancy of the building, each month for a minimum of two (2) months. This requirement renews each time a new residential tenant rents a parking space within the building, up and through the ninth (9th) anniversary of the final certificate of occupancy for the building.

#### Prior to Building Permit

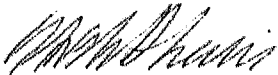
5. One (1) digital copy of all required application materials reflecting any physical changes required by the Board, if applicable, must be submitted to the Planning, Preservation & Zoning Division for the public record. Materials must be submitted in accordance with the document format standards of relevant Submittal Requirements.
6. A copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation & Zoning Division for the public record.

#### Prior to Certificate of Occupancy

7. A written narrative or descriptive checklist identifying the completion or compliance with permit conditions must be provided to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.

Attest, by the Planning Board:

Michael Capuano, *Chair*  
Amelia Aboff, *Vice-Chair*  
Jahan Habib, *Clerk*  
Luc Schuster, *Alternate*

  
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 \_\_\_\_\_