



City of Somerville

ZONING BOARD OF APPEALS

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

TO: Zoning Board of Appeals
FROM: OSPCD Staff
SUBJECT: 299 Broadway, Comprehensive Permit (40B) Revision Application
POSTED: March 15, 2024

RECOMMENDATION: Substantial 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

299 Broadway Property Owner LLC is requesting a revision to their Comprehensive Permit, with changes to Lot 2 and Building B including a slight expansion of the building footprint; an increase to the gross square footage through expansion of the fourth, fifth, and sixth floors; an increase to the number of proposed units; fenestration and materials changes; and minor landscaping changes. An updated waiver list has been submitted to address modifications and request additional relief as necessary.

BACKGROUND

A Comprehensive Permit under MGL Ch 40B was issued for 299 Broadway (P&Z 22-092) on February 14, 2023.¹ Since then, the Applicant has continued to move forward with the project and is now continuing to move toward construction for Phase I. The Applicant applied for a revision to their Comprehensive Permit, including additional waivers from specific sections of the Somerville Zoning Ordinance. The proposed changes relate to Building B only. No changes are being proposed for Building A, Sewall Street Pocket Park, or the Broadway Pocket Plaza.

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 necessary steps.
 - b. If the Board determines that the change is “substantial,” the Board must then schedule and hold a public hearing regarding the request, and then vote whether to approve the application.

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

This application was deemed complete on February 29, 2024, and is scheduled to be discussed by the Board on March 20, 2024. If the Board determines that any of the proposed changes are substantial, a public hearing will be scheduled for a future date.

ANALYSIS

Due to the interconnectedness of the proposed changes, they are addressed summarily below, with topic areas called out as necessary. The Board may determine that all, some, or none of the proposed changes are insubstantial. Staff believes that the proposed changes should be considered as a whole and, taken as such, are substantial.

Overview: Proposed Unit Increase and Design Changes

The Applicant is proposing to increase the number of residential units in Building B from 173 to 201. This is an increase just under 10% in the total number of proposed units, including Buildings A and B; the Applicant is proposing to increase the total number of proposed units in both buildings from 288 to 316. Ten percent (10%) of the units in Building B will continue to be affordable. The updated unit mix for Building B is as follows:

| Unit Mix | Market | 80% AMI | Total |
|----------|--------|---------|-------|
| Studio | 31 | 4 | 35 |
| 1-Bed | 114 | 11 | 125 |
| 2-Bed | 32 | 4 | 36 |
| 3-Bed | 4 | 1 | 5 |

To gain these additional units, the Applicant is proposing to modify the building design in the following ways:

1. Removing the 4th and 5th story step backs and reducing the 6th story step backs on the Sewall Street- and Grant Street-facing façades.
2. Reconfiguring the internal organization of the residential units and residential amenity spaces.
3. Modifying the fenestration and façade materials on all sides of the building.
4. Minimally expanding the building footprint on the rear portion of the building.

Minimal changes are being proposed to the site and landscaping on Lot 2, with modifications being solely to the rear (Sewall Street facing) of the site and the rear-Grant Street facing portion of the site. PSUF and Engineering Staff have confirmed that they have no comments on the proposed site changes.

Updates have been made to the floorplans for Levels 1 and 2 of Building B, primarily to reorganize residential units and residential amenity spaces, including bicycle parking. Minimal changes have been made to Level 3, and Levels 4-6 have been expanded to increase the number of units in the building. Additional and modified waivers have been

requested to address the expanded upper floors and additional density (see Waiver Analysis below).

While the most significant design changes are on the Sewall Street and Grant Street-facing façades, changes to the façade materials and fenestration have been proposed on all sides. Additional and modified waivers have been requested to address some of the proposed design changes (see Waiver Analysis below).

The sustainability-related elements of the proposal have not changed. OSE Staff have reviewed the application and confirmed they have no comments.

Housing Division Staff have reviewed the application and provided the following comments:

- For Building B to provide proportional affordable units to the comparable market mix, one of the affordable studio units should be swapped for a 1-Bedroom unit.
- Additional information is requested to evaluate how market rates compare with affordable units in terms of size and features. It appears that the 3-bedroom ADU (Affordable Dwelling Unit) may be below the median size for a standard 3-bedroom unit and may have disproportionate features.

ISD completed zoning compliance review of the application materials submitted on February 29th and, on March 7th, provided comments to the Applicant. Comments included requests for additional information to determine compliance with all dimensional standards, and information on additional waivers needed for the updated design. Following the receipt of those comments, the Applicant provided an updated Plan Set and Waiver List. ISD Staff are in the process of reviewing the updated application materials.

Mobility

To support the increase in the number of units, the Applicant is proposing some mobility-focused updates, including an increase to the amount of bicycle parking. The Applicant is also requesting a modification to Waiver #26, to continue to allow up to 50% of the market rate units in Building B to be eligible for the City's Residential Permit Parking Program. The modification clarifies that up to 91 residential parking permits could be granted to residents of market rate units. The request does not change the proposed percentage of eligible units, and the Mobility Management Plan and conditions of approval remain unchanged.

Mobility Staff have reviewed the application and confirmed they have no comments on the proposed changes.

Waiver Overview and Analysis

The Applicant has requested updated and new waivers to support the proposed changes, and has submitted complete (clean) and redlined versions of their proposed

updated waiver list, both of which have been shared with the Board to provide clarity on the application. The updated Waiver List, dated March 13, 2024, was submitted following ISD's review of the application and comments regarding additional zoning relief or clarification that was needed. The updated and new waivers primarily relate to design and request relief from zoning regulations, with one additional procedural waiver request.

Changes have been proposed to the following waivers to address the updated proposed design and increase in residential units:

- Waiver #6: Changes clarify sections of the SZO where relief is requested, and expands the permitted relief from façade buildout requirements for Building B.
- Waiver #7: Changes update the size of the floorplate for Building B to address the slight increase in the floorplate size.
- Waiver #8: Changes clarify step back requirements and allow reduced step backs for Building B.
- Waiver #9: Changes allow for relief from ground story fenestration requirements for Building B and specify the proposed fenestration.
- Waiver #10: Changes update the gross floor area and total units on Lot 2 (containing Building B) to address the increased density.
- Waiver #12: Changes update the number of affordable dwelling units within Building B on Lot 2.

As noted above, the Applicant has proposed updates to Waiver #26, clarifying the number of residential units that would be permitted to apply for residential parking permits due to the increase in total units.

Waivers #31-35 are new proposed waivers, all of which request relief from the Somerville Zoning Ordinance and relate to the updated design for Building B.

Waiver #36 is a new proposed waiver, establishing that the Comprehensive Permit approves the Residential Household Living Use, which otherwise requires a Special Permit in the MR-4 and MR-6 zoning districts. This waiver was not necessitated by the proposed building and site changes; ISD noted the waiver was required by ISD following their review of the application and original decision.

Waiver #37 is a new proposed waiver and would provide relief from Somerville Code of Ordinances §12-14. The local ordinance requires a Grant of Location from the City Council and the submission of a bond for awnings and other building components or street furniture that project over or are placed on public streets or sidewalks.

Other minor changes have been proposed to certain waivers for clarification purposes only. These are not addressed individually in this staff memo; PPZ and ISD Staff have reviewed these changes and do not have comments.

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.

760 CMR 56.07(4)(c) and (d) do not provide guidance on whether other changes, including those that require additional waivers from zoning or other local ordinances, should generally be substantial or insubstantial changes.