

DEVELOPMENT NARRATIVE

Property: 103 Washington Street
Applicant: Clover Leaf Capital Holdings, LLC
Owner: Clover Leaf Capital Holdings, LLC
Agent: Adam Dash, Esq.
Zoning District: Mid-Rise 4 (“MR4”)
In the 1/4 mile Transit Area
Not in a Pedestrian Street District

Summary: Application for a Special Permit for a Plan Revision which was deemed a Major Amendment regarding revisions to the left side setback and rear setback.

The Property is located in the MR4 zoning district. It is not located in a Pedestrian Street District. The Property is in the Quarter Mile Transit Area.

The Property was originally permitted by the Zoning Board of Appeals (“ZBA”) as Case # ZBA 2017-53 on July 12, 2017 by Special Permit for a three-story mixed-use building with commercial space on the ground floor and six dwelling units. Said Special Permit was extended by the ZBA in Case # ZBA 2017-53-E1-08-19 on November 6, 2019. The building was then constructed.

Applicant seeks a Special Permit for a Plan Revision which was deemed a Major Amendment in Case # ZP24-000064 on August 2, 2024 by the Planning Director regarding the left side setback and rear setback.

This Special Permit application only relates to allow revisions to the left side setback and rear setback. The window changes, and the concrete knee wall at the rear property line, were previously approved by Inspectional Services and relief for same is not necessary.

On the plans stamped by the ZBA on July 12, 2017 which are filed herewith, the left side setback was shown as being 1.8 feet and the rear setback (which is on the right side due to the odd shape of the lot) was shown as being 1.7 feet.

When built, the building actually ended up with a left side setback of 1.0 foot and a rear setback of 2.1 feet.

This means that the building is slightly closer to the lot line on the left setback by 0.8 feet, but is also too far from the rear setback by 0.4 feet.

Therefore, the reasons for the requested revisions are that the setbacks for the building as built do not match the setbacks on the plans previously approved by the ZBA. It appears from the building’s location on the lot that it was constructed slightly to the left of what the ZBA approved. Applicant is not sure how this happened, and did not intend for this to occur.

Applicant did change general contractors during construction, so it is possible that the setbacks were missed in that transition, however Applicant was not aware of these small discrepancies until they were pointed out by the City staff.

At any rate, the difference between what the ZBA approved and what was built is only 0.4 feet for the rear setback (which setback is actually slightly larger than what the ZBA approved), and 0.8 feet on the left side setback (which is slightly smaller than what the ZBA approved).

A Special Permit is sought pursuant to M.G.L. ch. 40A, Section 6, and Somerville Zoning Ordinance (“SZO”) Sections 15.2.1 and 15.2.4.

If this matter is reviewed under the SZO in effect when the project was originally permitted on July 12, 2017, then a Special Permit is sought pursuant to said prior SZO Sections 4.4.1 and 5.3.8.

Relief Requested

Per Section 15.2.4.d.iv of the Somerville Zoning Ordinance:

Upon a determination that the proposed revision is a major amendment, the Director of Planning & Zoning shall notify the Applicant, in writing, and forward the revised application to the designated review board as a revision to a previously approved development review application.

The Planning Director has determined that the revisions are a Major Amendment and must go back to the ZBA for a Special Permit because a Special Permit was the relief originally granted by the ZBA for the development.

Per Section 15.2.4.e.ii of the Somerville Zoning Ordinance:

When considering a revision to a previously approved development review application, the review boards shall limit their review to only the changes to the previously approved application.

As such, the Special Permit being sought now relates only to the changes to the left side setback and rear setback.

While ISD has stated that relief is also needed for the concrete knee wall in the rear of the property, that wall was previously approved by Hans Jensen of ISD on January 15, 2020 in building permit # BP19-000609; and, therefore, does not need to be part of this request. The window changes were also previously approved by ISD.

Per Section 15.2.1.e of the Somerville Zoning Ordinance:

In its discretion to approve or deny a Special Permit required by this Ordinance, the review board shall make findings considering, at least, each of the following:

a). The comprehensive plan and existing policy plans and standards established by the City.

b). The intent of the zoning district where the property is located.

c). Considerations indicated elsewhere in this Ordinance for the required Special Permit.

- a. The SomerVision 2040 strategic plan has as some of its goals to “[i]nvest in the Growth of a resilient economic base that is centered around transit, generates a wide variety of job opportunities, creates an active daytime population, supports independent local businesses, and secures fiscal self-sufficiency.” The Plan has goals to “add jobs” and to “encourage more commercial development”. Applicant will add jobs and create an active daytime population with this development. The SomerVision 2040 plan also calls for creating more affordable and other housing to meet the City’s housing shortage. The development provides such needed housing. The requested revisions are needed in order for the Property to meet the goals of SomerVision 2040 because the building has been constructed and units sold. The relief prevents having to displace the current occupants and thereby worsen Somerville’s housing problem.

- b. The intent of the MR4 zoning district is, per SZO Section 4.2.2:

a. To implement the objectives of the Comprehensive Plan of the City of Somerville.

b. To create, maintain, and enhance areas appropriate for smaller scale, multi-use and mixed-use buildings, and neighborhood serving uses.

The development meets the objectives of the SomerVision 2040 plan as stated above, and is a smaller scale, multi-use and mixed-use building serving the neighborhood’s uses. The relief sought is necessary for the building to continue meeting said objectives. As such, the proposal meets the intent of the MR4 zoning district.

c. Massachusetts General Laws Chapter 40A, Section 6 states, in part:

Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

The revisions being sought are minor and are not readily visible from the public way. The lot is very irregularly shaped which made the building difficult to place on the site. The setback revisions were caused by an unknown error, and are very small and not readily noticeable. The difference between what the ZBA approved and what was built is only 0.4 feet for the rear setback, and 0.8 feet for the left side setback. None of the revisions sought change the number of units, the size of the building or the mixed-use nature of the development. As a result, none of the revisions cause substantial detriment to the neighborhood, and are required for the building to remain as it is with the residents in place.

If this matter is reviewed under the SZO in effect when the project was originally permitted on July 12, 2017, in relevant part, by Special Permit for alteration of a nonconforming structure pursuant to Section 4.4.1, then a Special Permit is now sought pursuant to said prior SZO Section 4.4.1, which states in relevant part:

Lawfully existing nonconforming structures other than one- or two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.

In the old SZO Section 5.3.8, a special permit may be revised prior to the issuance of a certificate of occupancy. If the revisions are found not to be de minimis, then they are subject to be heard by the SPGA.

In addition to the argument above regarding the alterations not being substantially more detrimental to the neighborhood, none of the impacts listed in the old SZO Section 4.4.1 are present due to the small changes in the setbacks. Nothing else in the building is different, and there are no externalities from these two, small setback changes.

Conclusion.

Applicant respectfully requests approval of the Special Permit for a Plan Revision, which was deemed a Major Amendment, regarding revisions to the left side setback and rear setback.