



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2017-95

Date: ~~November 8, 2017~~ **March 21, 2018**

Recommendation: Unable to recommend

UPDATED PLANNING STAFF REPORT

Site: 44 Broadway

Applicant / Owner Name: Lower Broadway Development, LLC

Applicant / Owner Address: 100 Winchester Street, Medford, MA 02155

Agent Name: Sean T. O'Donovan

Agent Address: 741 Broadway, Somerville, MA 02144

Alderman: Matthew McLaughlin

Legal Notice: Applicant & Owner, Lower Broadway Development, LLC, seeks a Variance under SZO §5.5 to demolish existing one-story commercial structures and replace them with a 6-story mixed-use building containing 8,696sf of retail/restaurant, 9,800sf office, and 27 residential dwelling units with structured parking under SZO §6.5. Zone TOD-55. Ward 1.

*This staff report has been updated. Items which no longer apply have been ~~struck~~ and updated information has been **highlighted in yellow**.*

Dates of Public Hearing: Zoning Board of Appeals – ~~November 8, 2017~~ **March 21, 2018**

I. PROJECT DESCRIPTION

1. Subject Property: The site includes a parcel of 13,607 square feet of land area with three nonresidential structures on it. The buildings include the following:

- 30 Broadway, one-story concrete building, liquor store
- 38 Broadway, one-story concrete building, storage and warehousing



- 44 Broadway, one-story wood frame/concrete building, eating and drinking establishment

2. **Proposal:** The proposal is to demolish all of the existing buildings on the site and to construct a mixed use building that includes ~~8,696~~ **8,201** sf of retail/dining space, ~~9,800~~ **10,070** sf of office space, and 27 residential units. The proposal will also need to seek Special Permits and a Special Permit with Site Plan Review from the Planning Board.

3. **Green Building Practices:** The application states that “the retail/restaurant level and office level will adhere to the 2015 International Energy Conservation Code (IECC) commercial standards, while all residential units will achieve Passive House Certification. Passive Buildings consume 86% less energy for heating and 46% less energy for cooling (depending on climate zone and building type) when compared to a code-compliant building.”

4. **Comments:**

Ward Alderman: Alderman McLaughlin has conducted a neighborhood meeting on the proposal. Overall the neighborhood received the project well. However, direct abutters expressed concerns that the building was too tall and close to their properties and they had concerns about parking in the neighborhood. Alderman McLaughlin has communicated to Planning Staff that he is comfortable with the project.

II. FINDINGS FOR VARIANCE

A Variance (§5.5) is sought to exceed the maximum zoning requirements under §6.5.F.E for height and floor area ratio (FAR) and §6.5.G.5 development standards for transitioning to abutting residential districts, which states that no building or portion of building within forty (40) feet of a lot in a residential district (RA, RB, or RC) shall be higher than twenty-four (24) feet.

	<i>Requirement</i>	<i>Existing</i>	<i>Proposed</i>
Height	55 feet	16 feet	69 55 feet
FAR	3.0	0.42	4.29 3.48
Distance to residential zoning district	40 feet	1.9 feet	18 feet

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are “special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”*

Applicant’s response: The land/soil is contaminated. Please see attached 21E reporting.

Staff’s response: The applicant has submitted a summary of site conditions and remediation cost estimates for the site that include previous analyses of the soil and groundwater. Soil samples revealed the presence of petroleum impact of depths up to 16 feet and the groundwater samples revealed the presence of dissolved concentrations of petroleum hydrocarbons that area above reportable concentrations. The applicant estimates that it will cost approximately \$922,020 to remediate the current contaminated conditions. Staff is able to conclude that the contaminated soil conditions on the site that need to be remediated create a substantial financial hardship.

2. *“The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”*

Applicant’s response: The applicant intends to develop a building that meets with the intent of the zoning and new zoning now contemplated by the City by creating additional and new housing units, office/commercial space to attract good paying employment, and first floor retail with proper ceiling heights all within .25 miles of the Sullivan Square MBTA station.

Staff’s response: Staff is unable to conclude that the proposal is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.

3. *“The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”*

Applicant’s response: The programing is consistent with the intent of the TOD zoning. The application will create sustainable and usable first floor retail space for the surrounding neighbors. It will create solid office square footage and housing next to the MBTA Orange Line. This program is in harmony with SomerVision and the East Broadway planning initiatives.

Staff’s response: Staff concludes that granting the Variance would be consistent with the intent of the TOD-55 zoning, with the exception of the proposal meeting the requirements for other than height the distance to the abutting residential district and FAR. The programming of the building, which includes a mix of retail space, commercial office space, and residential units, is something that Staff would consider as in harmony with the TOD-55 zoning district and this specific site. It will create quality retail space on the ground level, office space on the second floor, and 27 residential units within close proximity to the MBTA Orange Line.

III. RECOMMENDATION

Variance under §5.5

Based on the materials submitted by the Applicant and the above findings, the Planning Staff is **UNABLE TO RECOMMEND** the requested **VARIANCE**. *If the Zoning Board of Appeals decides that the project does meet the criteria for granting the Variance, Planning Staff recommends the conditions listed below. If the Zoning Board of Appeals were to grant the requested Variance, the project will still need to receive Special Permits from the Planning Board.*

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is to grant a Variance for height and FAR and the distance to the abutting residential district of the proposed building. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/PIng.	
	Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.			
2	The proposed development is subject to Special Permits and a Special Permit with Site Plan Review from the Planning Board.	BP	PIng. / PB	

