



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2016-78-R1 (6-2018)
Site: 104 Beacon Street*
Date of Decision: August 22, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: September 5, 2018

ZBA DECISION

Applicant / Owner Name: Stephen Whalen, Trustee of Treat Realty Trust
Applicant / Owner Address: 320 Washington Street, Suite 3FF, Brookline, MA 02445
Agent Name: Richard DiGirolamo
Agent Address: 424 Broadway, Somerville, MA 02145
Alderman: J.T. Scott

Legal Notice: Applicant and Owner, Stephen Whalen, Trustee of Treat Realty Trust, seeks a Revision to a Special Permit under §5.3.8 of the SZO that was granted, along with variances, for the following proposal approved in 2017 to Moons Realty Trust, Treat Realty Trust, and Richard Mauser: Variances for rear yard setback and parking under SZO §5.5, §9.5, and §4.4.1, a Special Permit with Site Plan Review (SPSR) to increase the number of dwelling units under SZO §7.11.c**, and Special Permits under SZO §4.4.1 for pervious area, left and right side yard setbacks and to alter an existing, non-conforming structure. RC zone. Ward 2.

*Note that this is a proposed new address; 104 Beacon Street does not yet exist. The area that will become 104 Beacon Street is an L-shaped parcel that also contains the structure at 5 Smith Avenue.

<u>Zoning District/Ward:</u>	RC zone. Ward 2.
<u>Zoning Approval Sought:</u>	§5.3.8, §5.5, §9.5, §4.4.1, §7.11.c
<u>Date of Application:</u>	June 12, 2018
<u>Date(s) of Public Hearing:</u>	7/18/2018, 8/22/2018
<u>Date of Decision:</u>	August 22, 2018
<u>Vote:</u>	4-0

Appeal # **ZBA 2016-78-R1 (6-2018)** was opened before the Zoning Board of Appeals in the Aldermanic Chambers, Somerville City Hall, 93 Highland Ave, Somerville, MA on July 18, 2018. Notice of the Public Hearing was given



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to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. On August 22, 2018, the Zoning Board of Appeals took a vote.

I. DESCRIPTION:

The ZBA originally opened this case in the fall of 2016 and rendered their decision on the proposal on January 18, 2017. In the intervening year-and-a-half, the proposal has been the subject of litigation.

The case has reached a point where the plaintiffs and development team have either agreed to, or not objected to (Judge's phrasing), some proposed changes to the project. Therefore, the judge has remanded the case back to the ZBA for them to consider whether or not to accept, reject, or modify the proposed changes. The judge is not requiring the ZBA to agree to the changes, but to consider them.¹ In item 2A of the remand order, the handwritten notes from the judge state that "This Court offers no opinion or guidance on the proposed additional conditions." Planning Staff has reviewed the Remand Order together with the updated plan set and the statement of revisions from the architectural firm, Khalsa Design, Inc.

This staff report enumerates the proposed changes and provides a discussion of each.

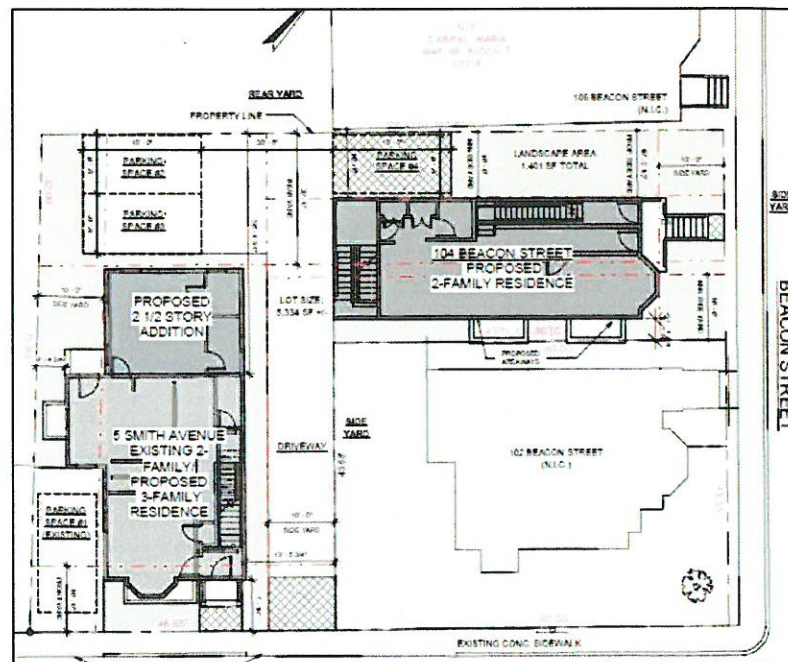
II. PROPOSED CHANGES TO ORIGINAL PROPOSAL:

1. Traffic & Parking

a. The Applicant Shall *[sic.]* provide at least one off-street parking spot per unit.

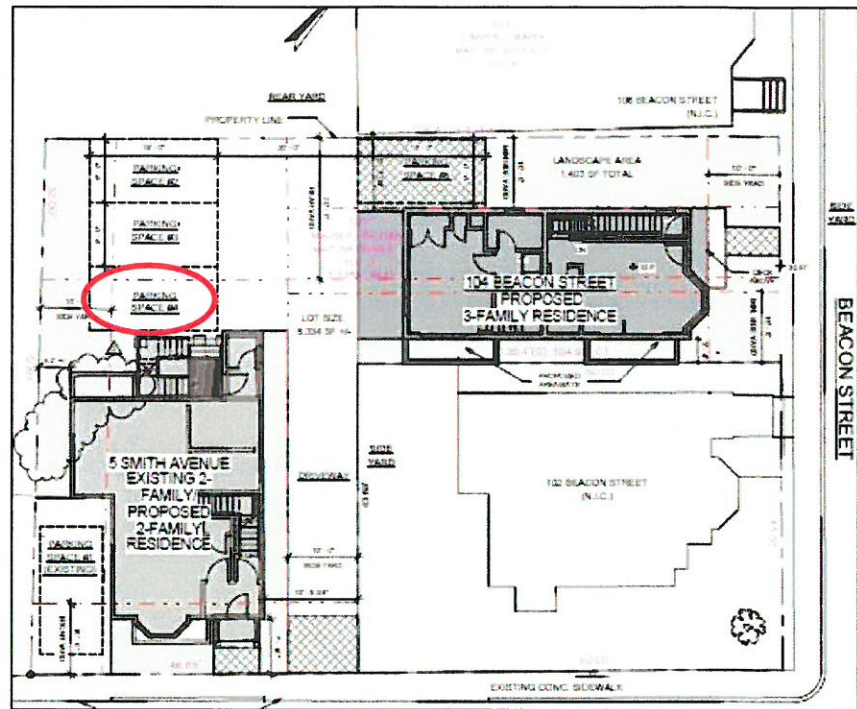
The approved plans from January 18, 2017 included room for four (4) parking spaces for five (5) residential units. The Plans for July 18, 2018, in accordance with the recommendations in the Remand Order, call for a total of five (5) on-site parking spaces, the equivalent of one space per unit. Figure A below shows the originally-approved plans. Figure B below shows the updated parking scheme.

Figure A ZBA-approved plans from January 18, 2017 showing four (4) on-site parking spaces.



¹ See item 2, page 2 of the Remand Order dated May 15, 2018, and provided in the ZBA meeting packets. The Remand Order is also available on the city website. Also see item 2A (handwritten), page 3 of Remand Order.

Figure B Proposed plans showing an additional parking space for a total of five (5) on-site spaces or one parking space per residential unit. Circled area indicates new parking space.



Board Response (Traffic & Parking)

The Applicant is able to provide one additional on-site parking space due to removing a previously-approved rear addition on 5 Smith Avenue. The Board would prefer to see this new parking space area instead used as green space. *However*, providing one parking space per residential unit is consistent with the ZBA's interest in providing the same. The Board finds that the additional parking space will potentially prevent one extra vehicle from parking on surrounding city streets.

2. Design

a. The Applicant shall better preserve 5 Smith Avenue.

Board Response

As noted in item "e" of the Remand Order, discussed later in this staff report, in 2017, the ZBA approved conditions recommended by Planning Staff relative to the preservation of 5 Smith Avenue. Those conditions² state as follows:

#19 Applicant shall provide material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction...

- and -

#20 The exterior of 5 Smith Avenue shall be restored as guided by the Secretary of the Interior's Standards. Planning Staff (the Planner-Preservation Planner) shall determine and approve all materials and design for 5 Smith...

² The numbers of these conditions have been changed to #20 and #21.

Item “f” of the remand order, discussed later in this staff report, references a design change made by the development team that removes a previously-approved rear addition to 5 Smith Avenue. Removing this rear addition, keeps the footprint of 5 Smith Avenue largely as it is today.

The condition set attached to this report requires that the Secretary of the Interior’s Standards (for restoration and rehabilitation) are used for the restoration of 5 Smith Avenue. Staff finds that the conditions indicated above, in addition to condition #29 which requires the Applicant to work with Planning Staff on the dormer design are sufficient for the restoration of 5 Smith Avenue.

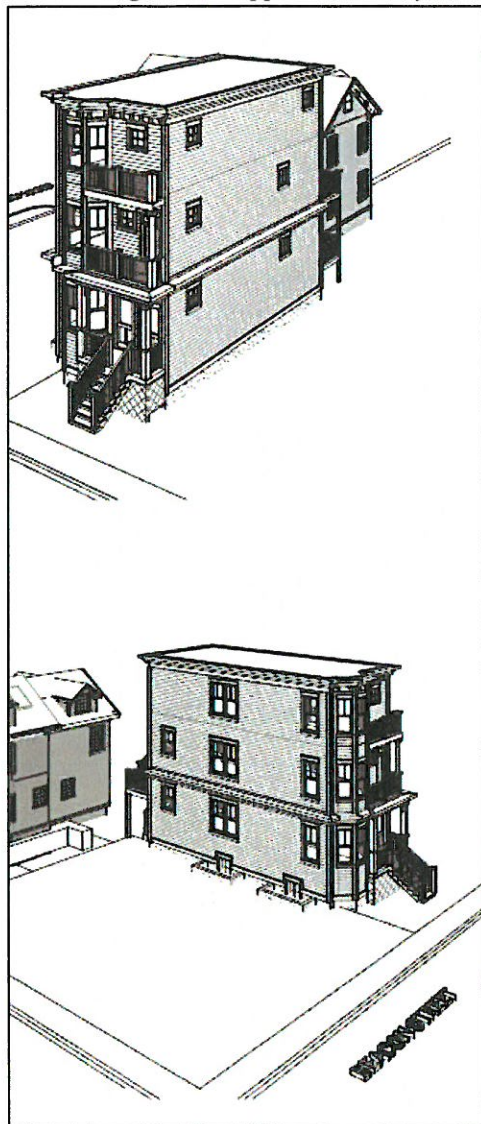
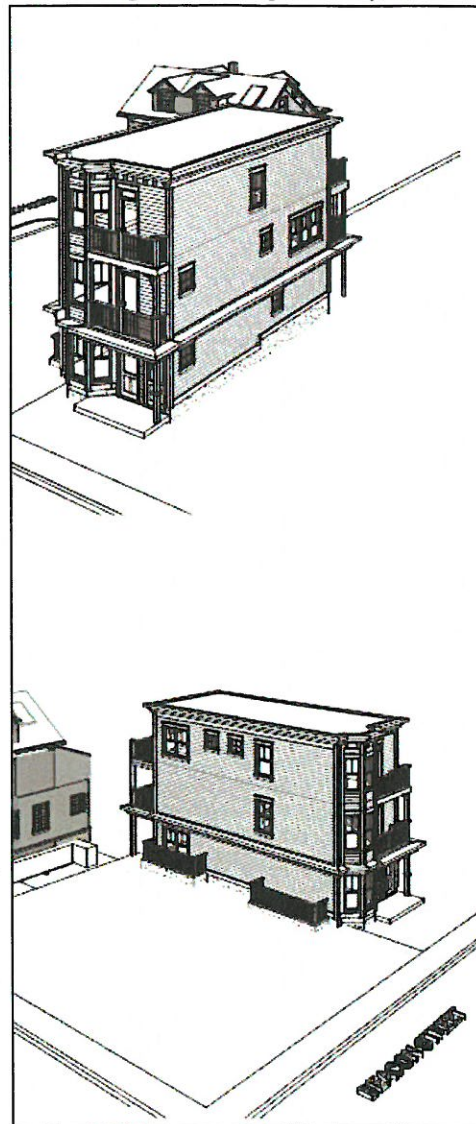
- b. The style of 104 Beacon Street shall match the triple-deckers to its northwest on Beacon Street, as shown on the Applicant’s plans dated December 13, 2017, and the Applicant shall use a paint color of a shade designed to blend in with the neighborhood, as approved by the City of Somerville Planning Department.**

Board Response

There are no plans in the Board’s or Planning Staff’s possession from December 14, 2017. The most recent set of plans submitted to the City are from January, 2017 and July 11, 2018. **Figure A** on the left below reflects the approved January, 2017 triple-decker design for 104 Beacon Street. **Figure B** on the right reflects the proposed changes to the 104 Beacon Street triple-decker. Primary differences between the approved triple-decker and the proposed triple-decker are:

- length of the building
- size of the egress areaways on the left elevation of the building
- window arrangements
- building height lowered/elimination of front steps
- inclusion of second- and third- story rear decks running the length of the length of the building

The Board finds that the proposed July, 2018 triple-decker offers improvements on the original design in terms building appearance/ window arrangement (specifically on the left elevation of the building), and massing. The massing at the rear of the building is improved by opening up the rear to provide deck space instead of interior living space.

Figure A – Approved January, 2017**Figure B – Proposed July, 2018**

- c. The Applicant shall relocate the proposed bedroom window-well of 5 Smith that on the December 14, 2017 plans intrudes into the shared driveway with 9 Smith at its narrowest point to the northwest wall of the bedroom where it will be less intrusive. *The architect has indicated that this will be feasible and the developer has tentatively agreed to do so. (Note: this should eliminate the need for the “privacy wall” between 5 Smith and 9 Smith required by Condition #24 f the SZBA decision to extend through the shared driveway).*

Board Response

There are no plans in the Staff's or Board's possession from December 14, 2017. The most recent set of plans that Staff and Board have in their possession are the approved plans from January, 2017 and the proposed plans from July, 2018. **Figure A** below shows the location of

the window well at 5 Smith Avenue that is the source of contention with 9 Smith Avenue. **Figure B** below shows that the window well has been moved from the left façade of 5 Smith Avenue that is closest to the abutters' property. Area circled in red shows the previously-approved location of the window well at 5 Smith Avenue.

The Board finds that the re-location of the window well alleviates this specific issue along the left elevation of 5 Smith Avenue.

Figure A – Approved January, 2017

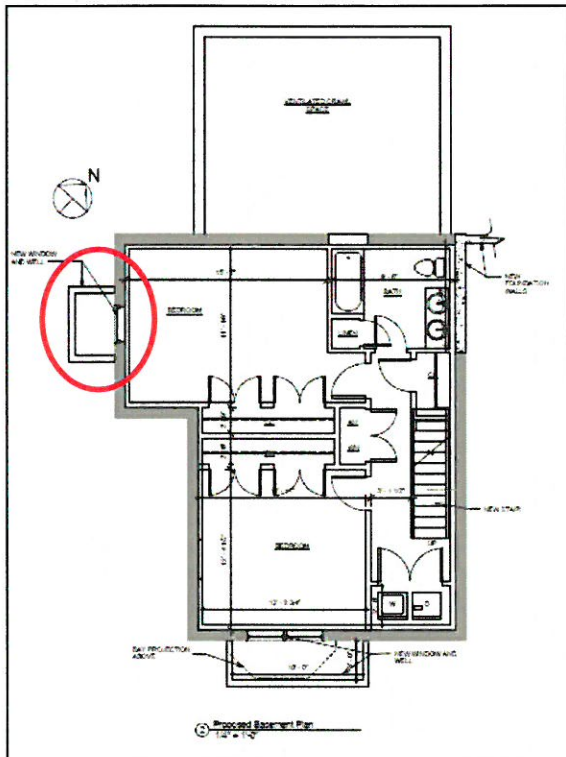
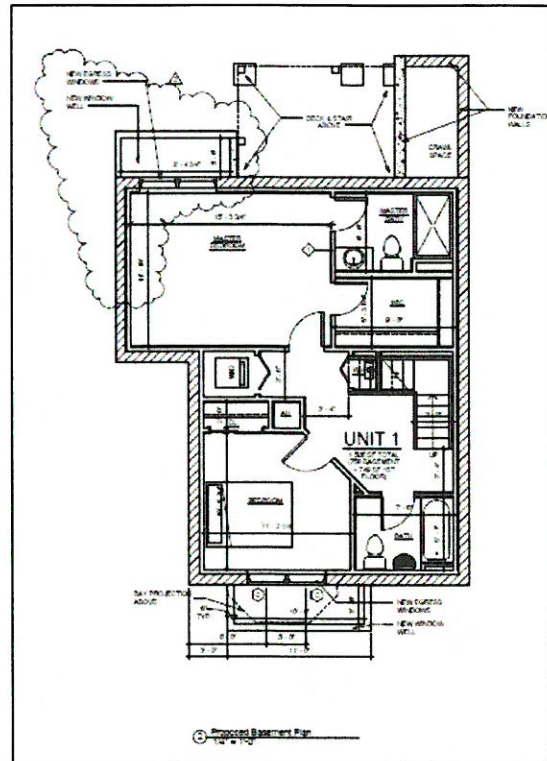


Figure B – Proposed July, 2018



- d. The Applicant shall replace the two chimneys on 5 Smith that are scheduled for removal with dummies that will help preserve the visual symmetry between 5 Smith and 9 Smith. The architect has indicated that this will be feasible and the developer has tentatively agreed to do so.

Board Response

Originally, the January, 2017 approved proposal for 5 Smith Avenue called for the removal of the existing chimney stack on the building. The proposed plans for July, 2018 show the installation of one faux chimney stack in the location of the existing chimney. **Figure A** below shows the approved plan for 5 Smith Avenue from January, 2017 without the chimney stack. **Figure B** below shows the proposed plan for 5 Smith Avenue from July, 2018 with the faux chimney stack installed.

The Board is supportive of the recommendation to install a faux chimney. The faux chimney shall be designed with the proportions and decoration (if any) that was typical to a working-class Italianate structure of the 5 Smith Avenue time period. The developer will accomplish this by working with the Planner-Preservation Planner and in conjunction with the Secretary's Standards as noted in conditions #20 and #21.

Figure A – Approved January, 2017

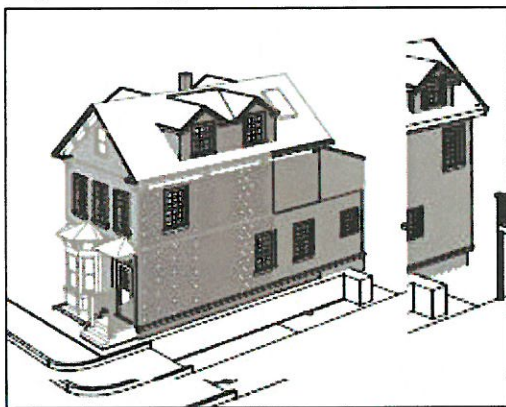
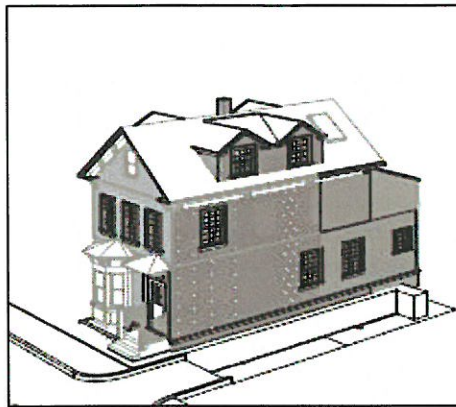


Figure B – Proposed July, 2018



- e. **The Applicant shall use all-wood exterior materials on the historic home at 5 Smith, and that they will match window trims. (Note: Conditions #19 and #20 of the SZBA decision provide: “Applicant shall provide material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction...” and “The exterior of 5 Smith Avenue shall be restored as guided by the Secretary of the Interior’s Standards. Planning Staff (the Planner-Preservation Planner) shall determine and approve all materials and design for 5 Smith...”**

Board Response

The Board has already discussed this issue earlier in this Decision. As indicated earlier, in addition to the conditions mentioned above (**which have now been re-numbered conditions #20 and #21**), condition #29, already address the issue of the restoration of 5 Smith Avenue. Those familiar with the Secretary of the Interior’s Standards will be aware of the guidance Standards provide with respect to the use of all-wood vs. composite materials on historic structures. The Board does not find that re-affirmation of the restoration aspect of 5 Smith Avenue is necessary in the condition set.

- f. **The footprint and height of 5 Smith Ave., after renovation, should be no greater than at present. Appropriate plans are shown on the Applicant’s plans dated December 14, 2017.**

Board Response

As stated earlier in this report, neither Planning Staff nor the Board is in possession of plans dated December 14, 2017. However, the approved plan set from January, 2017 shows the existing building height of 5 Smith Avenue to be 26 feet, 7 inches and 2 ½ stories. The proposed plans for July, 2018 show the building height of 5 Smith Avenue to be 26 feet, 7

inches and 2 ½ stories. The proposed height of 5 Smith Avenue will not change from its existing height.

- g. **The massing of the historic houses at 5 Smith Ave. and 9 Smith Ave, as seen from Smith Ave, shall not be impacted (e.g., 104 Beacon Street must not stick out too far to the rear). Appropriate plans are as shown on the Applicant's plans dated December 14, 2017.**

Board Response

As stated earlier in this decision, neither Planning Staff nor the Board is in possession of plans dated December 14, 2017. Planning Staff and the Board are in possession of the approved plan set from January, 2017 and the proposed plans for July, 2018. The phrase that 104 Beacon must not "stick out too far to the rear" is quite arbitrary in its description.

That said, the Board can state that the massing at the rear of 104 Beacon Street has been improved due to the inclusion of 3 stories of open rear decks when the approved plans for this property showed less decking and more solid massing from the Smith Avenue view corridor. See item "b" above that shows the approved and proposed views of 104 Beacon.

The Board must emphasize that portions of 104 Beacon Street will be visible from the public way on Smith Avenue. This is evident in the site plans.

3. Site

- a. **The Applicant shall preserve more outdoor space by limiting the footprint of 5 Smith Avenue and 104 Beacon Street to no more than the size shown on the Applicant's plans dated December 14, 2017.**

Board Response

As stated earlier in this decision, neither Planning Staff nor the Board is in possession of plans dated December 14, 2017. Planning Staff and the Board are in possession of the approved plan set from January, 2017 and the proposed plans for July, 2018. The building footprint in the proposed plans for July, 2018 are largely the same except for what appears to be the removal of a bump-out on at the back portion of the right façade of the building. **Figure A** below shows the existing footprint of 5 Smith Avenue and **Figure B** shows the proposed footprint of same.

Figure A – Approved January, 2017

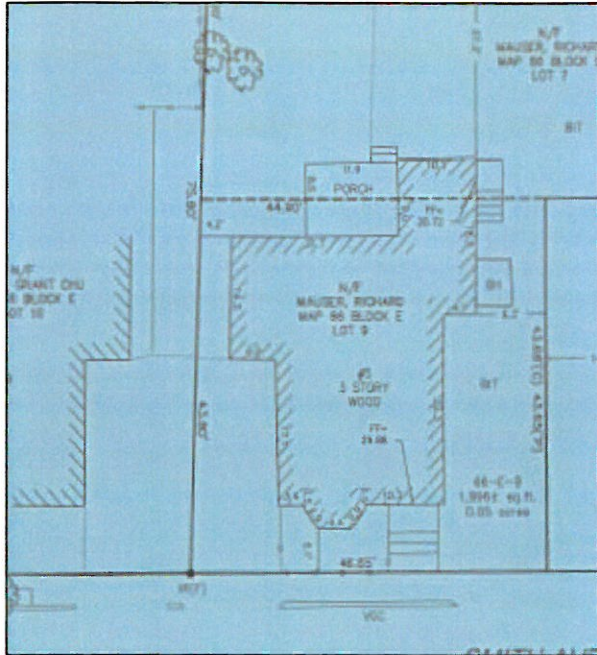
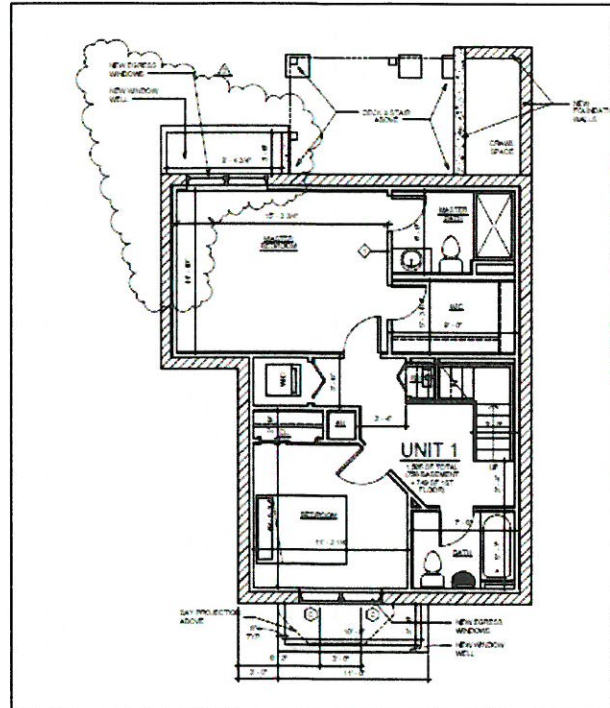


Figure B – Proposed July 2018



- b. Unless the utility company requires use of the utility pole between 5 Smith and 9 Smith Ave, [sic.] pole, the Applicant shall avoid using that utility pole for any utility connections to 5 Smith, so as to facilitate the possible future removal of this pole. The Applicant may, as an alternative, use the utility pole on the opposite side of Smith Ave., or place these connections underground. (Note: Condition # 33 of the SZBA decision states: “The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection.”) The Plaintiffs had wanted the developer to have the utility pole removed entirely, but the developer state that removal is beyond his authority and ability.

Board Response

This request regarding the removal of the utility pole is **NOT** within the purview of the ZBA. This is a discussion between the utility company and the Electrical/Wiring inspector. Condition # 33 requires all utilities to be buried is for new construction (104 Beacon) and existing construction (5 Smith Avenue), but does not and cannot require the removal of a utility pole.³

³ This is a correction of the statement made in the July 18th staff report that stated that this condition did not include 5 Smith Avenue.

II. FINDINGS FOR SPECIAL PERMIT under §4.4.1 of the SZO:

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.

1. **Information Supplied:**

The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 of the SZO and allows for a comprehensive analysis of the project with respect the requested amendments to the special permits.

2. **Compliance with Standards:** *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."*

Regarding SZO §4.4.1

As presented, this proposal requires the Applicant to seek relief to extend an existing non-conformity along the left property line. 5 Smith Avenue, the existing structure on the development site, sits 4' 2" from the left side property line at its shortest point, thus making it non-conforming with regarding to the left side yard setback.

The proposal includes adding two bedrooms into the existing basement space. Both of these bedrooms will require window wells for emergency egress purposes per building code. While the proposed window well at the front portion of the basement does not require relief, the proposed window well at the rear portion of the basement does. This proposed window well will fall within about a foot of the lot line. Staff is requiring the installation of a 6-foot wood fence along this left property line meaning that the window well will never be seen from the abutting property, 9 Smith Avenue.

The Board finds that the inclusion of the window well would not be substantially more detrimental to the property or the surrounding neighborhood than the existing conditions currently extant on the site. The window well will be blocked from the view of the abutting property and will be used only in emergencies. Because the window well does not increase actual massing of the existing building in this area, the Board finds that its further incursion into the left side yard setback is a reasonable request for the Applicant to make in order to accommodate the activation of the basement area.

3. **Consistency with Purposes:** *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."*

The Board finds that the proposal is consistent with the purpose of the RC district, which is: "...to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."

4. **Site and Area Compatibility:** *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

Surrounding Neighborhood:

Taking into account both the Smith Avenue and Beacon Street neighborhoods, the Board finds that the proposed alterations to 5 Smith Avenue and the new construction proposed for 104 Beacon are both in keeping with the characteristics of the surrounding built and unbuilt environment.

Regarding 5 Smith Avenue:

The updated proposal for 5 Smith Avenue retains the existing two-family use of the structure. The originally-approved rear addition to this house has been removed from the proposal. The original ZBA decision was conditioned to require restoration of 5 Smith Avenue according to the Secretary of the Interior's Standards and remains conditioned as such. The original condition regarding the design of the dormer also remains.

Regarding 104 Beacon Street:

The proposed new construction for 104 Beacon Street is for a 3-family structure that mimics the look of a traditional Somerville triple-decker. The style, form, design, and massing of the proposed structure are harmonious with the surrounding neighborhood.

With regard to the proximity of the proposed new structure to that of the existing triple-decker at 106 Beacon Street, the Board finds that the proposed proximity of these buildings is consistent with other, existing premises in the immediate neighborhood surrounding this parcel. A few examples include:

109 and 111 Beacon Street,
105 and 103 Beacon Street,
97 Beacon Street and abutters.

The above-mentioned properties that also comprise part of this neighborhood are immediately across the street from the planned development site and demonstrate that buildings of varying sizes and uses have historically been built in very close proximity to each other. Note the images that follow highlighting the close distance between existing houses of the same/similar form as that proposed for 104 Beacon Street.

Below: 111 & 109 Beacon Street. Of note is the proximity between these two structures, one a classic triple-decker form and the other a traditional gable-fronted dwelling. This is immediately across the street from the proposed site of 104 Beacon Street.



The image below shows 105 Beacon and 103 Beacon. Again, these structures are across the street from the proposed 104 Beacon Street development site. Note the proximity of these structures of two different styles.

Below: 105 and 103 Beacon Street. Across the street from the proposed 104 Beacon development site.



Lastly, the following image shows the proximity between 97 Beacon Street and its abutters. The proposed distance from 104 and 106 Beacon Street is consistent overall with the residential development patterns in the neighborhood.

Below: 97 Beacon Street and abutters.



Impacts of Proposal (Design and Compatibility):

The Board finds that the proposed development would bring residential dwelling unit styles that are compatible with those already present on Beacon Street. As noted earlier, the inclusion of a rear addition to 5 Smith Avenue is consistent with historic building patterns. All of the structures in this immediate area have been two- or more family units since their creation in the latter half of the 19th century. The current proposal does not differ from that trend.

5. Adverse environmental impacts: *The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.*

Impacts of Proposal (Environmental):

The Board does not anticipate adverse environmental impacts from this proposal. As noted in the conditions, there shall be no pervious material permitted on this site in perpetuity which should help allow for stormwater to percolate through the property as opposed to the City sewer system and neighboring properties.

With regard to illumination, the Board has conditioned the proposal such that all lighting shall be downcast and shall not spill onto neighboring properties in any way. Because this is a condition

of the Certificate of Occupancy (CO), the Applicant must demonstrate compliance with the condition prior to the CO being issued.

6. **Vehicular and pedestrian circulation:** *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

Impacts of Proposal (Circulation):

As proposed, this development will not alter the circulation of traffic in any way. Smith Avenue will continue to be a one-way street heading from Beacon Street toward the Cambridge line. Currently, there are three parking spaces on the site for this property. The proposal calls for an additional two spaces to be provided, for a total of 5 on-site parking spaces for these two properties.

5. **Housing Impact:** *Will not create adverse impacts on the stock of existing affordable housing.*

This project will not add any additional affordable housing units to the City's affordable housing stock.

6. **SomerVision Plan:** *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.*

This proposal will add three new residential units to the City's housing stock.

III. FINDINGS FOR A VARIANCE UNDER §5.5 AND §9.5 AND §4.4.1 OF THE SZO

5.5.3. Authorization and Conditions for Variances. *A variance from the requirements of this Ordinance may be authorized by the Board of Appeals only for reasons of practical difficulty and substantial hardship, and only where the Board finds that all of the following conditions apply*

(a)

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 a substantial hardship, financial or otherwise.

Applicant Narrative: *(As-stated on the application):* The topography of the land is such that it is shaped in the form of an "L". As a result thereof, the existing structures on the land



delineate an existing yard set back, therefore the applicant is required to build in the set back in order to maintain the streetscape on Beacon Street.

Board Finding: The shape of this lot is particularly unusual to the area and to the City as a whole. This unusual lot shape provides reason for which a variance is granted. While this lot, like the majority* of those in the City of Somerville, is non-conforming, The Board finds that what qualifies this lot as a candidate for a variance is the unusual L-shape in which it is found. Further, as noted earlier in this report, there are several other properties in the immediate vicinity of the proposed 104 Beacon Street project that contain residential dwellings within very close proximity to each other. The 104 Beacon proposal is in keeping with this historic building pattern in the immediate area.

*only about 22 lots in the City of Somerville are conforming

(b)

The specific variance as may be granted by the Board 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 Narrative: (*As-stated on the application*): The relief requested is in filling with Somervision and Mayor's calling for additional housing units in Somerville. The relief requested is to minimal relief necessary to achieve the additional housing units while maintaining the streetscape on Beacon Street.

Board Finding: It is reasonable, within an RC district, to suppose that an owner in the future can implement RC uses. Those uses could include up to 3 units as well as offices, beauty salons, dry cleaning, bank, convenience store, deli, garden supply store and commercial nursery.

To do any combination of these would be disruptive to the quiet houses on Smith Street. Instead, the variance will allow the lot to be used for dwelling units only. While this is more dwelling units that would otherwise be allowed in a by-right project, it is less intense than many permitted uses – uses which could also meet parking requirements.

Finally, the other economical option for this applicant is to remove the current house and the one next door – and build one convenient building. While this will be able to meet parking requirements in an efficient manner, it is being resisted by Planning Staff and the neighbors.

It is not unreasonable to be able to establish allowed uses under the code. To establish a minimum of those uses (only the residential ones, without any of the commercial ones) requires a variance, and it should be granted. It is the minimum necessary grant of reasonable relief.

The Board finds that the granting of a variance for the rear yard setback will allow the Applicant to exercise the ability to add another principal structure to a lot in the RC zone.

With regard to parking: This property is located along a busy thoroughfare (Beacon Street) with easy access to public transportation. When new, ground-up construction is involved, parking relief can only be granted through the issuance of a variance. The Board finds, again, that the unusual “L” shape of the land makes it challenging to provide all of the parking required under current zoning for the occupants of the existing and proposed structures and therefore qualifies the parcel for parking relief via a variance. The Board would not be supportive of filling the available space on the parcel with parking in lieu of the decks, patios or green spaces that could instead be provided for future residents of this property.

According to §9.4.1 of the SZO, because the Applicant is increasing the net floor area of the property with the addition to 5 Smith and the new construction at 104 Beacon, parking relief in the form of a variance must be requested.

The Board finds that, due to the particular circumstances of lot shape, parking relief should be allowed for this proposal. Currently, there are 3 parking spaces provided and the Applicant proposes that 4 total spaces be provided under the redevelopment of this property or, one parking space for each unit. Ultimately, the Applicant needs 3.25 parking spaces of relief from the ZBA.

The formula for the parking relief as based on bedroom count as outlined in §9.5 of the SZO is as follows:

Old parking requirement x .5 = P* **[3.5 x .5 = 1.75]**

New parking requirement – P = no. of spaces required to be provided **[9 – 1.75 = 7.25]**

No. of spaces required – no. of spaces proposed = amt. of parking relief **7.25 – 5.0 = 2.25 spaces of relief**

Under the current application, the Applicant proposes five (5) total parking spaces for the project or, one parking space for each of the units in this proposal. Under the parking formula, the applicant should be providing 3.25 additional spaces on-site. Due to the unusual shape of the land, it is not possible for the Applicant to provide these additional parking spaces complete with their required 20-foot turn radius. Staff finds that relief for 2.25 parking spaces is a reasonable request for the Applicant to make particularly given that one space per unit will be provided on-site and because the project site is on a busy thoroughfare with easy access to public transportation.

(c) The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of the nearby buildings, the Board, in making its findings, shall take into account the number of persons residing or working in such buildings or upon such land, and the present and probable future traffic conditions.

Applicant Narrative: *(As-stated on the application)*: The relief requested seeks to create similar structures on Beacon Street while maintaining the historical nature and integrity of the existing structure thereon. This application will not be injurious to the neighborhood because it creates similar heights and setbacks as the surrounding buildings.

Board Finding: The Board finds that the proposal is consistent with the overall goals of the City, including SomerVision. The proposal is consistent with the character of the existing streetscape. Further, this proposal will add three additional dwelling units to the city housing stock and provide for the careful restoration of the exterior of 5 Smith Avenue. The proposed new structure is consistent in style, height, massing and form with the housing stock in surrounding area and in the City as a whole.

IV. FINDINGS FOR SPECIAL PERMIT with Site Plan Review under §7.11.c of the SZO:

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §7.11.c of the SZO. This section of the report goes through §§7.11.c in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §7.11.c of the SZO and allows for a comprehensive analysis of the project.



2. **Compliance with Standards:** *The Applicant must comply “with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit with site plan review.”*

3. **Purpose of District:** *The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.*

The Board finds that the proposed project is consistent with the intent of the RC district which is, as stated in §6.1.3 of the SZO, to “...establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.” The proposal is to increase the number of total units on the property from two to five. Multi-unit residential housing is a characteristic the RC residential zone. Further, Smith Avenue and Beacon Street have long been filled with multi-family housing, including in this particular neighborhood. Increasing the number of units present on this lot is consistent with the historic development patterns of the area.

4. **Site and Area Compatibility:** *The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.*

The proposed development, both the additional unit to be added to 5 Smith Avenue and the 2-unit dwelling with the look of a triple-decker to be constructed at 104 Beacon Street, are compatible with both the site and the surrounding area. The massing and detailing of these buildings are proposed as to blend with such details of surrounding structures.

5. **Functional Design:** *The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”*

The proposed project is harmonious with the design of similar structures in the surrounding neighborhood. The triple-decker style of house proposed for 104 Beacon is one that is readily found in the immediate neighborhood and is ubiquitous across the City.

6. **Impact on Public Systems:** *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”*

The Board finds that the proposed project will not negatively impact the public services in this area. The Applicant is required to provide an engineering report to the city’s Engineering Department for their review and approval prior to the start of the project. The Board has also conditioned the proposal to ensure that the majority of water percolates through the property rather than running off into the city sewer system or abutting properties.

The properties are found along a busy thoroughfare (Beacon Street). The project has been designed such that all vehicles belonging to residents of the property enter and exit the location from Smith Avenue rather than from or onto the busy thoroughfare. The entry and exit point of this development is in the

same location as existing entrance/exit points for the existing structures in this area (5 Smith Avenue and 102 Beacon).

7. Environmental Impacts: *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”*

Construction noise and related dust, etc. can be expected during the construction process. Any hazardous materials found on the property are required, by law, to be removed and disposed of with proper oversight from local/state agencies. The proposed plan opens up more pervious and permeable surfaces than those currently extant on the property.

8. Consistency with Purposes: *“Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting “...the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.”

9. Preservation of Landform and Open Space: *The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”*

As the property in question is flat in its nature, the Board finds that the natural land form is being maintained with this project proposal. There will be no stripping or re-grading of any slopes or other natural features of the site. The Board has conditioned this proposal to include the saving of the two cherry trees currently extant on the Beacon Street side of this property.

10. Relation of Buildings to Environment: *The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2)*



compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”

The Board finds that the erection of the proposed 104 Beacon 3-family residential dwelling sets this new building in line with the abutting properties along the street. This location is preferable from a streetscape compatibility standpoint than having the front façade of any new construction facing Smith Avenue. 5 Smith Avenue will remain in the same orientation as present. Both properties will have portions of their roofing surfaces in locations acceptable for the installation of solar energy equipment, should the Applicant or later owners choose to install them.

11. Stormwater Drainage: *The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and powered area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”*

As noted earlier in this report and in the Conditions section, the Applicant is required to present an engineering plan to the city engineer for their review and approval prior to the granting of any building permits.

12. Historic or Architectural Significance: *The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”*

These properties are in a designated Local Historic District (LHD). This district, the Harvard Hill LHD, was established in winter, 2017. It is key to recall that LHDs cannot prevent new development from happening within their boundaries and are not intended to create areas that simply remain in a state of stasis, resulting in “museum-like” neighborhoods.

The Board finds that the changes proposed to the 5 Smith Avenue structure under the Remand Order (specifically, the removal of the rear addition) are also in keeping with preservation practices. The Board finds that the proposed alterations to 5 Smith Avenue, as found in the 2018 plan set do not fundamentally change the historicity of the building. The original form and style of the Italianate building remain under this proposal. **The Board has conditioned this project such**

that all changes to the structure shall be guided by the Secretary of the Interior's Standards and shall be first reviewed and approved by the Planner-Preservation Planner prior to installation.

13. Enhancement of Appearance: *The Applicant must demonstrate that "the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non-residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting."*

The project is not considered a higher-density residential development as only three (3) units are being constructed at 104 Beacon Street.

14. Lighting: *With respect to lighting, the Applicant must ensure that "all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby."*

This is a residential project. However, the Board has conditioned this project such that all exterior lighting shall be downcast and Planning Staff shall review and approve all lighting material prior to their installation on the site.

15. Emergency Access: *The Applicant must ensure that "there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment."*

The originally-approved addition to the rear of 5 Smith Avenue has been removed, therefore allowing an improved flow of vehicles into this part of the property. The location of 104 Beacon Street allows for enough access to the rear of each building by emergency personnel. 104 Beacon Street can also be access from Beacon Street itself. 5 Smith Avenue can be accessed from the right elevation of the property as well.

16. Location of Access: *The Applicant must ensure that "the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion."*

The entry point for 5 Smith Avenue will remain the same as current. 104 Beacon Street will share the same entry/exit points off of Smith Avenue. The Board finds that the retention of the same, known entry/exit point to the property will not result in additional traffic congestion in the area.

17. Utility Service: *The Applicant must ensure that "electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view."*

The Board has conditioned this project to require underground placement of all such utilities, including for 5 Smith Avenue and not solely just for the proposed new construction at 104 Beacon Street.

18. Prevention of Adverse Impacts: *The Applicant must demonstrate that "provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or*



machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development.;

To-date there have been no engineering reports submitted for this project. However, the Applicant is required to submit engineering plans to the Engineering department for their review. As proposed, there should be no impacts of heat island effect caused by this project as all surfaces not covered by the footprint of the dwellings shall be covered in pervious material or vegetation. The impact of construction noise and related nuisances/disruption have been identified in the Conditions section of this report.

19. Signage: *The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”*

There is no proposed signage for this property. However, the Board has included a condition that requires the Applicant/Owner to install an historic plaque on 5 Smith Avenue that depicts the history of the property. The Planner-Preservation Planner shall review and approve all information, style, design, materials, etc. to be used on this plaque.

20. Screening of Service Facilities: *The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”*

Currently, there are no plans to have transformers, dumpsters or other items mentioned above on the site on a permanent basis. (Construction dumpsters are not included in this criterion.) It has been included in the Conditions for this project that Planning Staff shall approve the screening of all items – mechanicals, parking, trash/recycling – prior to their installation. Should the need for a transformer become necessary after the analysis of Lights & Lines/Wiring, Planning Staff shall work with the Applicant as to appropriate location and screening.

21. Screening of Parking:

As stated above, there are currently no plans for the screening of parking in the plan. As noted in the Conditions, Planning Staff shall work with the Applicant to determine appropriate screening materials for the parking areas.

DECISION:

Special Permit under §4.4.1, Article 7, and Article 9 AND Variance under §5.5 & 8.5

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit and Variance. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **4-0 to APPROVE SPECIAL PERMITS & VARIANCES AS CONDITIONED in the staff report and associated with the updated project proposal. The conditions are as follows:**

#	Condition	Timeframe for Compliance	Verified (initial)	Notes																		
1	Approval is for the construction of a 3-family residence, variances for rear yard setback and parking, special permits for pervious area, left and right side yard setbacks, increasing the number of dwelling units and to alter an existing, non-conforming structure.	BP/CO	ISD/PIng.																			
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>7/7/2016</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>10/5/2016</td><td>Final Plan set submitted to OSPCD</td></tr><tr><td>1/12/2017</td><td>Updated final plan set submitted to OSPCD</td></tr><tr><td>June 12, 2018</td><td>Application for changes to conditions per the Remand Order submitted to City Clerk's Office.</td></tr><tr><td>June 13, 2018</td><td>Updated zoning table and plan set submitted to OSPCD</td></tr><tr><td>July 9, 2018</td><td>Summary of changes letter submitted to OSPCD from Khalsa Design</td></tr><tr><td>July 10, 2018</td><td>Amended summary of changes letter emailed to OSPCD</td></tr><tr><td>July 12, 2018</td><td>Updated plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	7/7/2016	Initial application submitted to the City Clerk's Office	10/5/2016	Final Plan set submitted to OSPCD	1/12/2017	Updated final plan set submitted to OSPCD	June 12, 2018	Application for changes to conditions per the Remand Order submitted to City Clerk's Office.	June 13, 2018	Updated zoning table and plan set submitted to OSPCD	July 9, 2018	Summary of changes letter submitted to OSPCD from Khalsa Design	July 10, 2018	Amended summary of changes letter emailed to OSPCD	July 12, 2018	Updated plans submitted to OSPCD
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Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval. Planning Staff shall determine whether said changes are <i>de minimis</i> in their nature.																						
Pre-Construction																						
2	The Applicant must contact the Engineering Department to obtain a formal street address prior to a building permit being issued.	BP	Eng.																			
3	The Applicant/Owner of the property must sign a covenant with the City of Somerville ensuring that neither now nor at any point in the future shall the buildings at 5 Smith Avenue or 102 Beacon Street ever be demolished. This shall occur prior to the issuance of a building permit. If this covenant goes unsigned, no building permit for this project shall be issued.	BP	City Solicitor																			

4	The Applicant shall be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans <u>must be submitted to the Engineering Department for review and approval before a building permit will be issued.</u>	BP	Eng.	
5	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy. This plan shall be reviewed and approved by the Engineering Department prior to the issuance of a building permit.	BP	Eng.	
6	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. <u>There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.</u>	BP	Eng	
7	The Applicant shall present their electrical plan to lights and lines/wiring for their review and approval prior to the issuance of a Building Permit.	BP	Lights & lines / wiring	
8	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	BP	Eng.	
9	The Applicant shall provide their parking plan to the Traffic & Parking division for their review and approval prior to receiving a building permit.	BP	T&P	
10	The Applicant shall provide the Traffic & Parking Division with a plan for construction traffic management for that division's review and approval prior to the issuance of a building permit. This plan will include delivery windows for construction equipment (see earlier condition in this table).	BP	T&P	
11	The applicant must comply with the: "Policy for new connections to and modifications to existing connections to the municipal sewer and drainage system stormwater management and infiltration/inflow mitigation." The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.			
Construction Impacts				
12	The applicant shall post the name and phone number of the general contractor and all sub-contractors at the site entrance where it is visible to people passing by.	During Construction	PIng./ISD	
13	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction work performed on weekends or holidays.	During Construction	PIng./ISD	

14	Deliveries to the construction site shall be limited to 9am to 3pm so as not to interfere with the comings and goings of neighborhood residents during peak commute times.	During Construction	ISD/Traffic & Parking	
15	There shall be NO PARKING of construction vehicles along Smith Avenue AT ANY TIME.	During Construction	ISD/Traffic & Parking	
16	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont./perpetual	Plng.	Deed submitted & application formed signed
17	The Applicant shall, at their expense, replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc.) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
18	All construction materials and equipment shall be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Division must be obtained.	During Construction	T&P	
19	The Applicant shall provide the Traffic & Parking Division with a plan for construction traffic management for that division's review and approval prior to the issuance of a building permit.	BP	T&P	
Design				
20	Applicant shall provide material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. Planning Staff shall have final determination and approval over all materials used on the exterior of 104 Beacon. Lighting styles, location and design along with roofing/gutter samples shall also be provided for Staff approval.	BP	Plng.	
21	The exterior of 5 Smith Avenue shall be restored as guided by the Secretary of the Interior's Standards. Planning Staff (the Planner-Preservation Planner) shall determine and approve all materials and design for 5 Smith.	Pre- and during Construction /Final Sign-off/CO	Plng. / ISD	
22	All exterior lighting on the site shall be downcast and shall not, in any way, spill onto abutting properties.	Final sign off / Perpetual	Wiring Inspector	
23	All windows proposed for the façade of 104 Beacon Street that faces 106 Beacon Street shall be off-set such that no windows from 104 Beacon are able to look directly nor indirectly into the windows at 106 Beacon.	CO	ISD	
24	The Applicant shall construct and maintain a solid wood, 6-foot privacy fence that runs along the property line between 104 Beacon and 106 Beacon. Planning Staff shall approve the material and style prior to installation.	CO – construction / Perpetual maintenance	Plng. / ISD	

25	5 Smith Avenue shall be required to install a plaque on the front façade of the building detailing the history of the property and its relationship to the street. This shall be done in consultation with and the approval of the Planner-Preservation Planner.	CO	Plng/ISD	
26	Windows shall not present a reflective quality in any way.	Final Sign off / CO	ISD/Plng	
27	Windows for 104 Beacon shall be 2-over-1 with dark sash and dark spacers between the glass. Grids shall be applied to the exterior of the glass.	CO	Plng/ISD	
28	All windows, trim, doors and other exterior elements used on both structures involved in this project shall be reviewed and approved by the Planner-Preservation Planner prior to their installation.	CO	Plng/ISD	
29	The Applicant shall work with the Planner-Preservation Planner to make minor adjustments to the right elevation dormer on 5 Smith to slightly modify scale and design.	BP	Plng/ISD	
Site				
30	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards. Final approval for all landscaping shall be provided by Planning Staff. Planning Staff shall review and approve all landscaping proposals prior to installation.	CO – installation / Perpetual – maintenance	Plng. / ISD	
31	The two cherry trees extant on the Beacon Street side of the property shall have their root balls properly dug and protected so that they can be re-planted in another spot on the property. At least one of these trees shall be re-planted on the property. If both trees cannot fit on the parcel, then the Applicant shall work with Planning Staff to find a suitable location in the City for the replanting of the second tree. The replanted trees shall be consistently and properly tended to according to the American Nurseryman's Association standards to ensure their survival.	CO	Plng/ISD	
32	There shall be no asphalt or any pervious material whatsoever used on this project. Either pea stone or grasscrete shall be used for all drivable and parkable areas. Any walkways shall be made of natural stone or pea stone. This shall be written into any condo docs that are created.	CO and perpetual		
33	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation. This shall be the case for both 104 Beacon and 5 Smith Avenue.	Installation of Utilities	Wiring Inspector	
34	All mechanical equipment shall be screened with evergreen vegetation (no arborvitae). Planning Staff shall approve vegetative screening prior to installation.	CO	ISD/Planning	
35	All trash and recycle areas shall be screened with cedar wood lattice or similar screening. Planning Staff shall approve such screening. This shall be written into any condo docs for the properties.	CO	ISD/Planning	
Traffic & Parking				

36	It shall be written into the condo docs and/or rental agreements that residents of both buildings shall only park in designated spaces on the parcel or off-site spaces privately procured by the residents shall be permitted.	CO (proof of condo doc/rental agreement) Perpetual for enforcement	T&P / ISD	
37	A parking space shall be added to the site so that five (5) on-site spaces are provided.	CO	T&P / ISD/Plng	
Public Safety				
38	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
39	Any transformers shall be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits &CO	Lights 7 Line/	
40	The new building at 104 Beacon St. shall be sprinkled.	CO	FP/ISD	
41	All trash and recycling shall be removed from the premises through a private hauling company.	Perpetual	ISD	
42	All snow shall be removed from the site and this shall be written into the condo docs should the property be converted into condos.	Perpetual	ISD	
43	As per Somerville regulations, no grills shall be permitted on decks. Condo docs or rental agreements shall state as such.	Perpetual	ISD	
44	Parking shall be screened, to the extent possible, from abutting properties by vegetation. Planning Staff shall review and approve all parking screening prior to installation.	CO	Plng/ISD	
Miscellaneous				
45	If the units on this property are to become condo units, the Applicant shall appear before the Somerville Condo Review Board to formally convert the units to condos.	CO	Plng/ISD/ Condo Review Board	
46	In an effort to reduce construction waste, the Applicant shall retain all historic building materials from the 5 Smith Avenue site for re-use. For items not to be re-used, the Applicant agrees to allow Planning Staff to identify historic items for salvage/re-use/education purposes that would otherwise end up in the dumpster/landfill.	CO	Plng	
Final Sign-Off				
47	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Elaine Severino
Anne Brockelman (*Alt. but voting in lieu of absent regular member*)

Attest, by City Planner: _____

Sarah White

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

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. 3.2.10.

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.

Signed _____ City Clerk Date _____

