



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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MONIQUE BALDWIN, *ADMINISTRATIVE ASSISTANT*

Case #: ZBA 2016-140-E1-11/2018

Date: January 9, 2019

Recommendation: Approval

PLANNING STAFF REPORT

Site: 20-24 Rush Street

Applicant & Owner Name: Buck Lee Real Estate Development, LLC
Applicant & Owner Address: 84 Sunset Rock Road, Andover, MA 01810
Agent: Buck Lee Real Estate Development, LLC
Agent Address: 84 Sunset Rock Road, Andover, MA 01810
Alderman: Matthew McLaughlin

Legal Notice: Applicant and Owner, Buck Lee Real Estate Development, LLC, seek to extend their Special Permit by one year under §5.3.10 of the SZO. RB zone. Ward 1.

Dates of Public Hearing: Zoning Board of Appeals – January 9, 2019

I. PROJECT DESCRIPTION

1. Subject Property: The subject property suffered a fire in the spring of 2016 resulting in the total loss of the 9-unit building. Though in the RB zone, the 9-unit use was a pre-existing legal use of the property. The lot, now devoid of the building, is 4,437 square feet and retains the foundation of the lost building.

2. Proposal: The Applicant seeks approval for a one-year extension of the Special Permits received on January 18, 2017.

II. EVALUATION & FINDINGS FOR EXTENSION

Under SZO §5.3.10 good cause for an extension of a special permit shall be determined by the SPGA, and only upon a finding of demonstrated hardship (e.g. financing problems, labor strike, bad weather conditions, or act of God) and that there has been good faith effort to overcome the hardship and expedite progress.

Demonstration of Hardship

Since the Special Permits were granted on January 18, 2017, this property has either been for sale or changed hands multiple times. The current owner purchased the property in the summer of 2018. Since that time, the owner has been working to meeting the conditions of the special permit that are required to be completed prior to the issuance of a building permit for this project. One of the biggest challenges has been completing the AHIP requirements.

Good Faith Effort to Overcome Hardship and Expedite Progress

The current owner has worked with the Planning Office, ISD, and Housing Office over the last few months to resolve outstanding issues surrounding pre-building permit conditions of their ZBA approval. It is Staff's understanding that the most challenging portion to complete was the AHIP requirement. On Wednesday, December 12, 2018, Planning Staff and ISD received written confirmation that the AHIP requirement had been completed by the current owner. Staff has attached said document to this report.

It is Staff's position that, since purchasing the property, the current owner has worked, within a short period of time, to resolve the AHIP and other outstanding pre-building permit conditions approved by the ZBA.

III. RECOMMENDATION

Planning Staff recommends that the Board grant the extension of the special permit until **January 18, 2020**, which is one year beyond the expiration date of the original Special Permit.

Affordable Housing Implementation Plan

Agreement made this 11th day of December, 2018, by the Owner ("Owner") described below and the Housing Director of the Mayor's Office of Strategic Planning and Community Development ("Housing Director") with a usual address c/o the OSPCD Housing Division, 50 Evergreen Avenue, Somerville, MA 02145. The Owner has been granted a special permit with site plan review under Article 13 of the Somerville Zoning Ordinance for the Development described below. This Agreement is intended to serve as the "Implementation Plan" referred to Article 13, §13.3.1 effective May 9, 2016. Any change in the special permit with site plan review that would affect the number of affordable housing units required to be provided in connection with the Development shall require an amendment to this Agreement.

Development:

The Development consisted of one three-story apartment building including nine (9) residential units located at 20-24 Rush Street, Somerville, MA 02145. On May 5, 2016 the structure caught fire displacing a number of households. At the time, the owner retained the right to rebuild to precise dimensions, style and number of units; however, the current owner and applicant in a ZBA Decision made on January 18, 2017 proposed to develop a 10-unit building.

Name and Address of Owner:

The Owner of the Property is Buck Lee Real Estate Development, LLC, a Massachusetts limited liability company with a usual address at 84 Sunset Rock Road Andover, MA 01810.

Affordable Units:

The units shall be distributed throughout the project, so there is no unreasonable concentration of affordable units in any one area, and shall be comparable to market-rate units in every respect, including location, quality and character, room size and external appearance. Per section 13.3.4, the bedroom distribution in the affordable units should be consistent with the purposes of this Article and should include (2) two and (3) three bedroom units unless otherwise agreed.

The Owner is required to provide a total of one (1) affordable unit ("Affordable Unit") which shall be sold to households at or below 80% of the Boston Area Median Income ("AMI") or rented to households at or below 50% of AMI.

At the time of execution of AHIP, the Owner anticipates constructing a 10-unit homeownership project. According to plans prepared by Peter Quinn Architects with a permit set dated August 10th 2018, Sheet A1.0 the following unit has been designated as affordable:

Unit 2 (A)- a one-bedroom flat unit measuring approximately 660 sq. ft. and set to be affordable to households with incomes at 80% or below AMI if the project is homeownership, if the project changes to rental the unit will be affordable to households with incomes at 50% AMI or below.

Affordable Housing Restrictions:

The Implementation Plan shall form the basis of, and shall be attached as an Appendix to, an Affordable Housing Restriction governing the Affordable Units in perpetuity which shall be prepared by counsel for the City of Somerville, approved in writing by the Mayor and the Housing Director, and recorded or filed with the Middlesex South District Registry of Deeds or Land Registration Office.

In the case of a building that is not a condominium, the Affordable Housing Restriction shall be recorded or filed with said Deeds when the certificate of occupancy is issued for the building. In the case of a condominium, the Affordable Housing Restriction shall be recorded or filed immediately after the Master Deed and Condominium Trust and before recording of the first Unit Deed. Mortgagees shall agree to abide by the terms of the Affordable Housing Restriction.

Additional Fractional Obligation:

In General: Where the number of Affordable Units required under the Somerville Zoning Ordinance results in a fraction of less than .5, a fractional cash payment shall be made. The cash payment shall be calculated in the manner set forth in Article 13 of the Ordinance.

For this Development: There is no fractional payment requirement.

The Owner shall submit to OSPCD a schedule of standard finishes for market-rate units approximately six (6) months prior to the anticipated completion date and shall construct the Affordable Unit using the same standard finishes. If the standard finishes on the market-rate units are changed, the City reserves the right to require that the new finishes be incorporated into the Affordable Unit. OSPCD's Housing Division will do a walk through of the affordable unit(s), random market units, amenities and overall project to ensure unit finishes are comparable. The walk through must take place during the marketing process when units are ready albeit, before the market rate units are sold.

For this Development: No changes to the above. A Schedule of Finishes including brand name of finishes for market rate units will be expected approximately six (6) months prior to completion date.

Appurtenant Rights/Amenities:

Affordable Unit shall have the same appurtenant rights and/or amenities as market-rate units, including without limitation, balconies, patios, private yard space and storage areas.

For this Development: No changes to the above.

Certificates of Occupancy:

Developers should make all good faith efforts to ensure that all of the obligations as required by the Inclusionary Housing Ordinance are met prior to seeking issuance of Certificates of Occupancy on the final market-rate units by Inspectional Services Division (ISD) as the City has the authority to hold the Certificates of Occupancy on the final market-rate units for failure to comply with inclusionary requirements, including:

- a. All Inclusionary units have obtained a Certificate of Occupancy.
- b. Any required cash payment has been made to the City of Somerville Affordable Housing Trust Fund through the Mayor's Office of Strategic Planning & Community Development's (OSPCD) Housing Division.
- c. Any land required to be donated to the City of Somerville through its designated department OSPCD's Housing Division and the City Solicitor's Office.
- d. And in circumstances where a project needs relief, after meeting with the Director of Housing and Planning Departments, Certificates of Occupancy may be issued for the market-rate units. However, a Certificate of Occupancy, for the last market-rate unit shall be held by ISD until such time as all Inclusionary Zoning obligations have been met.

Condominium Documents:

The Owner shall provide OSPCD with condominium documents including the Master Deed, Trust and Bylaws and Budget prior to recording these documents at the Registry of Deeds. Once approved, the documents can then be recorded. The percentage of ownership interest for the affordable unit must be the ratio of the affordable price value divided by the aggregate fair market value of all the units in the development including the affordable unit.

Tenant Relocation Plan:

In General: In cases where a Development will include the temporary or permanent relocation of existing tenants, the Owner will be required to submit a Tenant Relocation Plan for approval by the Housing Director which includes the name, address, and telephone number of each affected tenant, a copy of such tenant's lease or rental agreement, the location and cost of alternative housing, the construction schedule, the estimated duration of the relocation if temporary, the relocation costs to be paid by the Developer, the notification to be sent to the tenant regarding the relocation, and any other information reasonably requested by the Housing Director.

For this Development: No changes to the above.

Sales Price for Affordable Unit:

Prior to marketing "for sale" Affordable Units, OSPCD will provide the Owner with a sales price. Upon written notification by the Owner to OSPCD that marketing activities may commence, OSPCD will then calculate a final sales price which reflects then current and confirmed data. The final sales price will be based on the most current HUD Boston Area Median Income adjusted for family size, and current mortgage interest rates, property taxes, and insurance costs estimated by OSPCD, and a monthly common area condominium fee estimated by the Owner. Pursuant to §13.3.3 II, the maximum sales price shall be set at a level that allows households at eighty (80) percent, one hundred (110) percent, or one hundred and forty (140%) percent of Boston AMI to afford the units. To ensure affordability, the maximum monthly income available for housing costs is set at ten (10) percent less than the maximum income eligibility limits. For a unit set at eighty (80) percent AMI, the amount available for housing costs is 70% of AMI. For a unit set at one hundred and ten (110) percent AMI, housing costs are set at one hundred (100) percent AMI and for a unit set at one hundred and forty (140) percent; housing costs are set at one hundred and thirty (130) percent. The Owner will provide verification to OSPCD of the component costs making up the common area fee. If there is a material change in the common area fee prior to the closing, OSPCD reserves the right to recalculate the sales price.

Rental Prices for Affordable Units:

The maximum rent limits for families at or below 80% of AMI shall be the then current High Home Rent published annually by the U.S. Department of Housing and Urban Development (HUD) adjusted for family size. The maximum rent for families at or below 50% of AMI shall be the then current Low Home Rent published annually by HUD adjusted for family size. From the Low and High Home rents, appropriate utility allowances are subtracted to determine final rent rates. The Somerville Housing Authority (SHA) publishes a Summary Allowance for Tenant-Furnished Utilities and Other Services annually outlining the allowance amounts per unit, bedroom and utility type. Prior to the marketing of rental affordable units, the Owner will provide a utility chart to the Housing Division specifying the type of utilities including the party providing and paying for each utility.

If a Section 8 tenant household or other rental subsidy recipient rents an affordable unit, the maximum monthly rent limits shall be the maximum rent limits allowed by the subsidy source provided the household's share of such rent does not exceed thirty percent (30%) of such household's gross monthly income. The maximum rent limits include all utility costs except cable and telephone.

Marketing Plan for Affordable Unit:

OSPCD's Housing Division has adopted a standard marketing plan detailed below. However, the Owner may elect to submit an alternative marketing plan for OSPCD review and approval. OSPCD will begin to market the affordable homeownership unit when notified that the project is six months from the anticipated completion date. Marketing efforts will be targeted to current or recently displaced residents of the City of Somerville to the extent permitted by state and federal law, who are also income eligible. Marketing activities conducted by OSPCD will include publication of criteria as to income eligibility, sales price, first time homebuyer status, the mortgage pre-approval requirement and anticipated condominium fee.

The Affordable Unit will be marketed by OSPCD through the following means:

- Direct email to local organizations and the City's Inclusionary Housing Listserv of more than 6,000 people interested in affordable housing opportunities;
- A notice on the City of Somerville's cable television channel;
- Inter-departmental e-mails to Somerville municipal employees;
- Flyers posted throughout the City of Somerville;

The Owner will provide at Owner's sole expense the following:

- Newspaper advertising twice in either the Somerville Journal or Somerville News and once in either El Mundo or the Bay State Banner. OSPCD must review and approve advertisement in advance. An ad can be placed two weeks prior to the first information session in two papers and one last time in a third paper two weeks prior to the second information session.

In the event that qualified, eligible purchasers cannot be located within 6 months of the start of marketing activities, the owner shall have the option of:

1. Re-advertising at a reduced price;
2. Re-advertising at the same price;
3. Providing a cash payout as specified within the then current SZO, Article 13 (should the above two strategies demonstrate an inability to help locate an eligible purchaser).

If any additional marketing activities or the re-marketing of a Unit is required, the Owner will be required to pay the cost, if any, of such additional activities.

Eligible Households:

Households must be certified by OSPCD's Housing Division as income eligible first time homebuyers and preference is given in a lottery to those households who are current or recently displaced residents of the City of Somerville to the extent permitted by state and federal law.

More specifically, priority will be granted to income eligible households who were displaced from 20-24 Rush Street at the time the fire occurred on May 5, 2016.

Purchaser Selection and Certification Process:

- Two information session will be held and the Owner or a designee will attend to provide information on the unit, finishes, etc.;
- The first information session will commence a 60-day open application period, while the application deadline will conclude this period.
- Owner or a designee will hold at least one weekend and one weeknight open house to provide interested parties with an opportunity to view the unit during the 60-day open application period;
- Application deadline will be advertised, and a public lottery scheduled two-three weeks after;
- Preference in the lottery to those who are current or recently displaced residents of 20-24 Rush Street and the City of Somerville to the extent permitted by state and feral law and documentation of such must be submitted with a complete application in order to receive preference in the lottery;
- Lottery participants not selected will constitute the start of a wait list for the development in the order in which households placed in the lottery. Should the first household not be determined income eligible, OSPCD will move onto the second household in the lottery;
- OSPCD will conduct an income certification in conformance with the United States Housing and Urban Development ('HUD') HOME guidelines and if eligible, the prospective purchaser and Owner will be notified and a Proceed Letter will be issued, which constitutes an Offer through the Inclusionary Housing Program;
- The Owner shall work with the prospective buyer to schedule a mutually convenient time for a private home inspection;
- After the private home inspection report has been reviewed, the Owner's attorney shall provide a standard Purchase and Sale Agreement to the purchaser.

Monitoring:

"For Sale" Affordable Unit: The City will verify annually that any Affordable Unit is occupied on a year-round basis as the eligible household's primary principal residence.


General Conditions:

The Owner will extend to the buyer of a "for-sale" Affordable Unit, a warranty against all defects in materials and labor for (1) one year from the date that ownership transfers. The Owner will allow the City reasonable access during construction and during marketing.


SIGNATURE PAGE TO FOLLOW

EXECUTED UNDER SEAL on the day and year first written above.

OWNER: Buck Lee Real Estate Development, LLC

By: 
Jonathan Lee
Its: Manager

**MAYOR'S OFFICE OF STRATEGIC PLANNING AND COMMUNITY
DEVELOPMENT**

By: 
Michael Feloney
Its: Director of Housing



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POOJA PHALTANKAR, (ALT.)

Case #: ZBA 2016-140
Site: 20-24 Rush Street
Date of Decision: January 18, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: February 1, 2017

ZBA DECISION

Applicant Name:	Juniper Point Investments Co., LLC
Applicant Address:	91 Bridge Street, Salem, MA 01970
Property Owner Name:	Juniper Point Investments Co., LLC
Property Owner Address:	91 Bridge Street, Salem, MA 01970
Agent Name:	Sean T. O'Donovan, Esq.
Agent Address:	741 Broadway, Somerville, MA 02144

Legal Notice: Applicants, Juniper Point and 20-24 Rush Street, LLC, and Owner, Juniper Point Investments Co., LLC seek Special Permits under §4.4.1 of the SZO to significantly alter a non-conforming property; SPSR under §7.11 of the SZO to increase the number of units from 9 to 10; §7.3 of the SZO to add an affordable unit; Article 9 of the SZO for parking relief.

<u>Zoning Approval Sought:</u>	§4.4.1, §7.11, §7.3 & Article 9
<u>Date of Application:</u>	November 15, 2016
<u>Date(s) of Public Hearing:</u>	January 18, 2017
<u>Date of Decision:</u>	January 18, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2016-140 was opened before the Zoning Board of Appeals at Somerville City Hall on January 18, 2017. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

Normally, under such circumstances, a property owner retains the right to rebuild the structure to the exact dimensions, style and number of units for two years after the date of the fire. In the case of 20-24 Rush Street, the new owner proposes to construct a 10-unit building, making one of the units affordable. This additional unit triggers the need for a special permit. The proposal requests relief for 16 parking spaces and proposes to provide 2 bike spaces.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1 of the SZO. This section of the report goes through §5.1 in detail.

1. Information Supplied:

- The Board finds that the information provided by the Applicant conforms to the requirements of §5.1 of the SZO and allows for a comprehensive analysis of the project with respect to the required 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 Article 4 of the SZO**

- §4.3 of the SZO states that a lawfully-existing building with a lawfully-existing, non-conforming use may retain that non-conforming use provided that the use continue on the lot on which that use was originally located. The Applicant proposes to retain the legally-existing, non-conforming use on the same lot, with the non-conforming use being a multi-unit residential dwelling in a zone where 3 dwelling units per lot is the maximum allowed without special relief.
- §4.4.1 of the SZO states that legally-existing non-conforming structures other than one-and two-family dwellings may be enlarged, extended, renovated or altered only by Special Permit. With regard to 20-24 Rush Street, the building, prior to the fire, was a legally-existing, non-conforming 9-unit structure located in a zone where 3-unit dwellings are allowed per lot without zoning relief. The Applicant proposes to retain some of the existing non-conformities, principally the left side yard setback currently measuring 3.5 feet from the property line. The Applicant will build off of this non-conformity when constructing the new residential building.

The Floor Area Ratio (FAR) of the pre-fire structure was 1.28 in a zone where 1.0 is the allowed. The Applicant proposes to increase the FAR to 1.87, and increase caused, in part, by expansion into the basement area.

At 4,457 square feet in a zone where a minimum lot size of 7,500 square feet is required, this lot is undersized. The lot area per dwelling unit ratio was 493 prior to the fire, significantly under the required 875 sq. ft. per d.u. The Applicant proposes to extend this existing non-conformity. The inclusion of a 10th unit further reduces this ratio to 443 sq. ft. per d.u.

- §4.5.3 of the SZO allows for the expansion of non-conforming uses through the Special Permit process. The currently non-conforming use is a multi-unit residential structure in a zone where 3-unit residential dwellings are allowed. The Applicant proposes intensifying this non-conforming use by one (1) unit for a total of 10 units in the structure. The additional unit will be an affordable unit with the

actual unit and the rate at which that unit will be offered being determined by the Housing Division and not the Planning Division.

- With regard to the extension of the non-conformities noted above, the Board finds that such intensifications would not be substantially more detrimental to the site or surrounding neighborhood. The increase in the number of dwelling units (§4.5.3(b)) should have minimum to no impact on traffic volume, congestion or type of traffic. The traffic will continue to be residential in nature and flow in the same direction as current. 20-24 Rush Street is also within easy walking distance of Broadway, a major thoroughfare in the City that is well-served by public transportation.
- Although the FAR is seeing a substantial increase (1.28 to 1.87), a large portion of this increase will be from activating the basement level. With so much of the FAR increase occurring within the confines of the building, and not through added height or further encroachments into the setbacks which would have a more significant visual impact on the surrounding neighborhood from the additional massing, Staff finds that the increase in FAR would not be more detrimental to the site or surrounding neighborhood. This overall increase in FAR also allows for the inclusion of an affordable unit, a proposal that Staff finds to be beneficial to the City's overall inclusionary housing numbers and, more directly, to the economic welfare of some of the City's inhabitants.
- As part of their proposal, the Applicant proposes to reduce some of the other non-conformities. For example, the original rear yard setback was 8 inches from the property line. Under the new proposal, the rear yard setback will be 6 feet from the property line. Moreover, the pervious area will be increased from +/- 33% to +/- 40%.

Regarding Article 9 of the SZO

- Under normal circumstances, new construction requires that Applicants obtain a Variance for parking relief. However, in this situation, the Applicant is proposing an affordable unit as part of the project. When affordable units are involved in such projects, parking relief becomes a Special Permit threshold. Prior to the fire, according to the application, no on-site parking spaces had been provided. The Applicant does not propose any on-site parking under the new proposal, either. Existing records have made it impossible for the Board to determine what the old parking requirement for the property would have been as no records have been found detailing the bedroom count in the original building. The relief sought by the Applicant would be for 16 parking spaces. This number is derived from the total proposed bedroom count of the proposed building.
- Given that, pre-fire, the building contained 9 residential units of varying bedroom counts, coupled with the previously-noted proximity of this lot to Broadway and public transportation, Staff supports the request for parking relief as presented.

Regarding Article 7 of the SZO

- According to §7.11 of the SZO, in the RB zone, only one-, two- and three-family structures are allowed unless there is a legally-existing, non-conforming number of units on a lot. 20-24 Rush Street presented such legally-existing non-conformities with 9 units in the pre-fire structure. The Applicant proposes to increase the number of units from 9 to 10. One of the units in the building will be affordable. The Housing Division will determine which unit will be affordable and at what rate. Staff finds that increasing the number of units from 9 to 10 will not be more injurious to the site or surrounding neighborhood than the conditions presented by the previous 9-unit building. This new building will be new construction from the ground-up, fully suppressed and will be a visual improvement for the neighborhood in comparison to the previous structure. The addition of another affordable unit to the City's inclusionary housing numbers complies with SomerVision goals.

FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §5.2.5):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied:

- The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 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."*

- The Board finds that the proposal conforms to the requirements set out in §5.2.3 of the SZO.

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 purpose of the RB zoning district is "to establish and preserve medium density neighborhoods of one-, two-, and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." The proposed project is inconsistent with the purpose of the RB zone. However, because the pre-existing, non-conforming residential building that was destroyed by fire was a multi-unit structure, the Applicant may retain that non-conformity by-right for a period of two years after such a disaster. As long as the Applicant re-built the structure with the same number of units on the same footprint, the Applicant would be able to do so by-right. Because the Applicant has modified some setbacks (though such modifications have improved the pre-existing dimensional non-conformities) and because the Applicant is requesting to increase the number of units from 9 to 10, the Special Permit with Site Plan Review (SPSR) is triggered.

The Board finds that, given the prior non-conforming status, the improvements made to some of the non-conforming dimensionals (see discussion of Special Permits in Section II) and the benefit that the community receives through inclusionary housing, the Applicant's proposal is consistent with the purpose of the RB district.

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that 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."***Surrounding neighborhood:**

- The house that was destroyed by fire at 20-24 Rush street was a multi-family double Mansard. The lot for 20-24 Rush street sits on the corner of the street where it intersects with Brooks Street. The surrounding neighborhood presents numerous 2 ½-story, wood frame residential structures, with gabled ends facing the street. A few multi-units, Mansards and Queen Anne-style structures also dot the street. Directly across the street from 20-24 Rush is a large, single-story, cement brick commercial structure that appears to have been boarded up.

Impacts of Proposal (Design & Compatibility):

- The Applicant does not propose to duplicate the Mansard form of the house lost to the fire, but a more modern interpretation of this roof style. The proposed structure, though stylistically different from its neighbors is not

necessarily inconsistent with the the overall form, shape and massing of other structures on the street and the immediate surrounding area. The proposed structure will not be as tall as the three-family behind it on Brooks Street. The proposed structure will not include rear decks and stairs as did the previous structure. This element of the proposed design opens up the rear of the lot and provides more access to green space than did the pre-fire conditions on the lot.

1. ***Maintain a strong building presence along the primary street edge, continuing the established streetwall across the front of the site so as to retain the streetscape continuity; however, yards and setbacks as required by Article 8 shall be maintained.***

The new building maintains a similar size, form and massing to the pre-fire structure. The main entries to the building are found prominently along Rush Street. A pergola is proposed above the entrances which helps to visually break up the verticality of the building. The Applicant will be maintaining or improving upon the setbacks, as noted in earlier sections of this report, under the proposal.

2. ***Differentiate building entrances from the rest of the primary street elevation, preferably by recessing the entry from the plan of the streetwall or by some other articulation of the elevation at the entrance.***

The left-most entry on the front elevation is clearly recessed into the building from the front façade. The two more prominent front doors along the front elevation are not recessed into the building. However, as noted in item 1 above, a pergola is proposed above these two front doors. This architectural element helps to visually break up the verticality of the building and draws the public's attention to the two entrances.

3. ***Make use of typical bay widths, rhythms and dimensions prevalent in buildings adjacent to the site, especially in new construction or substantial redevelopment.***

The bay widths vary across the front elevation, but create a consistent visual rhythm. The change that Staff recommends is on the second elevation: two windows should appear symmetrically above the two first floor windows.

4. ***Clearly define these bay widths, rhythms and dimensions, making them understandable through material patterns, articulations and modulations of the facades, mullion design and treatment, etc.***

The bays are defined by vertical elements running from below the third floor soffit down to grade. Clearly-expressed corner boards define the bays on the right and left portions of the front elevation. Gabled dormers present vertical elements on the clapboarding and windows throughout the structure present two-over-two mullioned lites.

5. ***Provide roof types and slopes similar to those of existing buildings in the area.***

As noted previously, the Applicant does not propose to duplicate the Mansard roofline of the pre-fire structure. The new proposal does present a modern, modified roofline looking toward the Mansard style.

6. ***Use materials and colors consistent with those dominant in the area or, in the case of a rehabilitation or addition, consistent with the architectural style and period of the existing building. Use of brick masonry is encouraged, but not considered mandatory.***

The new structure is required, in the Conditions of this report, to apply brick facing to the foundation and use wood or a cementitious product simulating wood for the clapboarding of the building. Wood or composite materials will be required for trim, steps, decks, landings, etc. Applicants are now required to present all materials, finishes, colors and the like to Planning Staff for review and approval prior to the issuance of a building permit.

7. *When parking lots are provided between buildings, abutting the primary street and breaking the streetwall, provide a strong design element to continue the streetwall definition across the site, such as a low brick wall, iron works or railing, trees, etc.*

There is no parking lot associated with this project.

8. *Locate transformers, heating and cooling systems, antennae, and the like, so they are not visible from the street; this may be accomplished, for example, by placing them behind the building, within enclosures, behind screening, etc.*

Cooling units are currently proposed on the roof on the rear elevation. Should any transformers or other mechanical equipment be required on the exterior of the building, their location and screening shall first be reviewed and approved by Planning Staff.

9. *Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.*

There are no overlay districts affecting this locus.

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 create adverse impacts on these services and facilities. The proposal allows for automobile, public transportation and pedestrian use by virtue of its location. Through the addition of one more unit to the site, Staff does not find that there would be any significant up-tick in vehicular traffic. Given the area Staff finds that numerous future residents of this site will rely on public transportation, bike and ambulatory means of transit.

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 vibrations 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 waterways or ground water; or 4) transmission of signals that interfere with radio or television reception.*

The Board finds that the new structure will not have any adverse impact on any of the above. There will be the usual noises and dust generated from the construction process, but the impact of such has been addressed in the Conditions accompanying any Special Permits the ZBA grants for this project.

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 Board finds that the proposal is consistent with the purpose of this Ordinance which is to , among other purposes, "...promote the health, safety, and welfare of the inhabitants of the City of Somerville; [and] to provide for and maintain the uniquely integrated structure of uses in the City..."

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 the 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."*

The parcel in question has been a flat parcel since before the fire which destroyed the original building in the spring of 2016. The Applicant's proposal retains this same land form. A Condition of any approval granted to this Applicant requires that a full landscape plan be submitted to, reviewed and approved by staff prior to the issuance of a building permit.

The Applicant has included more open space and landscape-able area on his plan than previously existed on the property. Moreover, by not providing on-site parking, the Applicant is able to leave more open green space for future residents to enjoy.

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 parcel in question is flat and the new structure will be built largely on the same footprint as the pre-fire residential building, but with improvements made to height and most setbacks. A landscaping plan is yet to be submitted but, given that there was very little open space on the property and, what there was was devoid of trees and ornamental flora, any landscaping proposal approved by Staff has the potential to greatly improve this site. The residential units, particularly those on the third floor, provide some views of the surrounding neighborhood.

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 areas, 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 vehicles or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through street flow, swales or other means increasing filtration and percolation is strongly encourages, 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."*

An engineering plan will need to be submitted for the Engineering Department to review. These plans will need to be reviewed before a building permit is issued.

12. 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 or City property by the effective use of existing land forms, or alterations thereto, such as berms, and by existing vegetation or supplemental planting.

The Board finds that given the nature of the proposal and the analyses provided earlier in this report, the proposed structure will enhance the character of the City, particularly in this area.

13. 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.”*

In addition to this criteria, the Board has conditioned this project such that all exterior lighting shall be downcast and shall not spill onto neighboring properties in any way.

14. 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.”*

Prior to the issuance of a building permit, Fire Prevention will review and sign off on this proposal.

15. 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 proposed building, as with the pre-fire building, is located on a corner lot and there are no access drives to the property. There is, however, direct fire access from Brooks Street and Rush Street.

16. 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.”*

Lights and Lines will review these plans prior to the issuance of a building permit, but all utility lines required to be placed underground for new construction.

17. 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 signage proposed for this project.

18. 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.*

There are no such facilities or structures proposed for this project at this time. Should that change, a full review of such proposed structures or facilities shall be conducted by the Planning Division.

19. Screening of Parking:

There is no on-site parking proposed for this project.

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

The proposal would add one unit to Somerville’s affordable housing stock.

6. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan.*



- The proposal will add to SomerVision by visually improving the property for the surrounding neighborhood and adding an affordable unit to the City's housing stock.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to construct a 10-unit residential building in the RB zone with parking relief and one affordable unit.	BP/CO	ISD/ Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>November 15, 2016</td><td>Initial application submitted to OSPCD</td></tr><tr><td>December 28, 2016</td><td>Updated plans submitted to OSPCD</td></tr><tr><td>January 11, 2017</td><td>Final Plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	November 15, 2016	Initial application submitted to OSPCD	December 28, 2016	Updated plans submitted to OSPCD	January 11, 2017	Final Plans submitted to OSPCD
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	December 28, 2016				Updated plans submitted to OSPCD							
January 11, 2017	Final Plans submitted to OSPCD											
ANY changes to the approved plans must first be submitted to the Planning Division to determine whether or not they are <i>de minimis</i> in nature or whether they require review by the SPGA.												
Affordable Housing / Linkage												
2	Affordable Housing Implementation Plan (AHIP) shall be approved by the OSPCD Housing Division and executed prior to issuance of Building Permit. Affordable units shall be provided on-site.	BP	Housing									
3	Written certification of the creation of affordable housing units, any fractional payment required, or alternative methods of compliance, must be obtained from the OSPCD Housing Division before the issuance of a Certificate of Occupancy (C.O.). No C.O. shall be issued until the OSPCD Housing Division has confirmed that the Affordable Housing Restriction has been approved and recorded and the developer has provided the promised affordable units on-site.	CO	ISD/Plng									
4	No Certificate of Occupancy shall be issued until the OSPCD Housing Division has confirmed that: (for Condominium Projects) the Condominium Documents have been approved and the Developer has agreed to a form of Deed Rider for the Affordable Unit(s), or (for Rental Projects) the Developer has agreed to and executed a Memorandum of Understanding for Monitoring of the Affordable Unit(s).	CO	ISD/Plng/ Housing									
5	Additional requirements for projects converting to condominiums or removing rental units from the market: If a rental unit is going to be removed as a result of this project, it must comply with City of Somerville Code of Ordinances Chapter 7, Article IV, Condominium Conversion and Removal of Rental Units prior to issuance of Building Permit. No Building Permit shall be issued until the OSPCD Housing Division has confirmed compliance.	BP	Housing									

6	Linkage payments will be required to be paid to the Somerville Housing Trust Fund before a CO is issued.	BP	ISD/Plng/Housing	
7	Engineering plans shall be submitted to the Engineering Division for review and approval prior to the issuance of a building permit.	BP	Engineerin g/ISD	
8	Lights and Lines shall review and approve all utility-related plans prior to the issuance of a building permit.	BP	Lights and Lines/ISD	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

