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**TOWN OF ASHLAND MASSACHUSETTS  
OFFICE OF  
PLANNING BOARD  
101 MAIN STREET**

Patricia Kendall, Chair  
Peter Matchak, Town Planner

**Certificate of Approval  
Special Permit  
9-49 Homer Avenue  
Assessors Map 14, Lot 352, 353 & 354**



In Accordance with Chapter 40A, Section 6 of the Massachusetts Zoning Act and Chapter 282, 8.5 (Ashland Downtown District), and Section 9.3 (Special Permit) required from Section 8.5.11.4.c (Building Design Standards) of the Ashland Bylaws, the Planning Board (the “Board”) held a public hearing to hear the petition WJK Homer LLC, 400 Waverly Ave, Newton. MA 02458, C/O Terrence P. Morris Esq. requesting a Special Permit, per Chapter 282, 8.5.11.4 – Building Design Standards (Roofs) of the Ashland Bylaws.

The applicant proposes the development of a three story mixed use building that shall include 29 rental apartment units with approximately 8,550 gross square footage of ground floor, street facing commercial / retail space. The project provides a total of 60 parking spaces. The project is proposed to be serviced by town water, sewer, and underground electric and gas. The property in question is identified as 9-49 Homer Street. The locus is across from the former train station and currently consists of four buildings situated on the three identified lots. The property is within the Ashland Downtown Zoning C.

The Public Hearing and continuances were held pursuant to notice published in the Metro-West Daily News on Wednesday, December 28, 2022 and Wednesday, January 4, 2023 and mailed to Parties of Interest.

The Board opened the public hearing as advertised on Jan 12, 2023. The public hearing was continued to Jan 26, Feb 23, March 9, April 13, April 27, May 11, June 8, June 29, July 27, Aug 10, Aug 24, Sept 28, Oct 12, Oct 26, Nov 9, Nov 30, and Dec 14, 2023. As well as Jan 11, Jan 25, Feb 8, Feb 29, March 14, March 28, 2024. The Planning Board closed its public hearing on March 28, 2024.

The Planning Board public hearings were held via video conference and in person meeting with available video conferencing starting April 13, 2023. The meetings were held in full compliance with Massachusetts Open Meeting guidelines as modified by Governor Charlie Baker’s Emergency Order dated March 12, 2020. Agendas and meeting materials were available on the Town of Ashland website.

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Members of the Planning Board who sat for the public meeting and voted on the application were the following: Tricia Kendall (Chair), Anna Tesmenitsky (Vice-Chair), Catherine Jurczyk, (Clerk), Marcelo Arjona, (Member), and Deepa Venkat (Member).

***Documents of Record***

The Application was received and stamped at the Town Clerk’s Office on June 14, 2021, and contained:

- a) Application for Special Permit and Site Plan Review filed with the Ashland Town Clerk on Nov 7, 2023, including a description of the project, relief sought, an abutters list of properties within 300’ of the locus and Assessors property card.
- b) Plan set entitled "Proposed Mixed Use Development; 9-49 Homer Ave., Ashland, MA 01721" prepared by Engineering Alliance Inc., 194 Central Street, Saugus, MA 01960. Plan date June 17, 2022 holding a revision date of Dec 21, 2023. Signed and stamped by Richard Salvo, Civil No. 41851 (eight (8) sheets including survey).

Sheet:	Description:	Plan Date:	Revision Date:
C-0	Cover Sheet	June 17, 2022	Dec 21, 2023
C-1	Existing Condition Plan	June 17, 2022	Dec 21, 2023
C-2	Demolition & Erosion Control Plan	June 17, 2022	Dec 21, 2023
C-3	Site Plan Layout	June 17, 2022	Dec 21, 2023
C-4	Grading, Drainage, & Utility Plan	June 17, 2022	Dec 21, 2023
D-1	Grading & Drainage Plan	June 17, 2022	Dec 21, 2023
D-2	Utility Plan	June 17, 2022	Dec 21, 2023
1 of 1	Auto-turn Figure	June 17, 2022	Oct 10, 2023

***Materials Submitted During the Public Hearing***

- c) A 35-page Architectural Plan Set entitled “Proposed Mixed Use Development for 9-49 Homer Avenue, Ashland, MA” prepared by Bourque Design, 9 Morton Street, Waltham, MA 02453, holding a date of January 25, 2024:

Sheet:	Description:	Plan Date:
1.	Cover Page	January 25, 2024
2.	Existing Site Plan	January 25, 2024
3.	Composite Overlay Site Plan	January 25, 2024
4.	Shadow Study	January 25, 2024
5.	Homer Ave. Neighborhood Context	January 25, 2024
6.	Homer Ave. Neighborhood Context	January 25, 2024
7.	Alden Street Neighborhood Context	January 25, 2024
8.	Alden Street Neighborhood Context	January 25, 2024
9.	Zoning, Building and Parking Data	January 25, 2024
10.	Lower Level Parking Plan	January 25, 2024
11.	First Floor Plan	January 25, 2024

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12. Second Floor Plan	January 25, 2024
13. Third Floor Plan	January 25, 2024
14. Roof Plan	January 25, 2024
15. Building Elevation (North and South)	January 25, 2024
16. Building Elevation (East and West)	January 25, 2024
17. Alden St. and Homer Ave. Color Rendering	January 25, 2024
18. Rear Elevation and Right Elevation	January 25, 2024
19. Elevation Materials Key	January 25, 2024
20. Ground Floor Planting Plan	January 25, 2024
21. Landscape Material Photo Board	January 25, 2024
22. Homer Ave. Pocket Park	January 25, 2024
23. Terrace Planting Plan	January 25, 2024
24. Level 2 Shadow	January 25, 2024
25. Typical Green Roof Details	January 25, 2024
26. Level 2 Terrace Perspective Views	January 25, 2024
27. Homer Ave. Ariel Color Rendering	January 25, 2024
28. Alden St. & Homer Ave. Ariel Color Rendering	January 25, 2024
29. Front Façade (Homer Ave.) Color Rendering	January 25, 2024
30. Front Façade (Alden St. & Homer Ave.) Color Rendering	January 25, 2024
31. Homer Ave. Patio & Planting Plan	January 25, 2024
32. Homer Ave. Patio & Planting Color Rendering	January 25, 2024
33. Perspective View at the Corner of Alden St & Homer Ave.	January 25, 2024
34. Perspective View along Alden St.	January 25, 2024

- d) "Drainage Calculations and Stormwater Management Plan", located at 9-49 Homer Avenue, submitted to the Town of Ashland, 101 Main Street, Ashland, MA. Prepared for 9-49 Homer Ave, LLC, 11 Placid Road, Newton, MA 02549. Prepared by Engineering Alliance, Inc., 194 Central Street, Saugus, MA 01906. Signed and stamped by Richard Salvo, Civil No. 41851. Dated Apr 22, 2021, holding a revision date of Dec 21, 2023.
- e) Appendix C "Best Management Practices and Operation and Maintenance Plan"
- f) Traffic Impact and Access Memorandum Re: Proposed Mixed-Use Development, Homer Ave, Ashland, MA. Prepared by MDM Transportation Consultants, Inc. and dated Dec 12, 2024.
- g) Memorandum submitted to Needham Bank. RE: Environmental Risk Management Reviews: 9-25, 35-37, and 47-49 Homer Ave., Ashland, MA. Dated Feb 5, 2019.
- h) Memorandum to the Ashland Planning Board from Terrence P. Morris, Esq. Re: 9-49 Homer Street: Site Plan Approval. Dated May 5, 2023.

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- i) Memorandum to Peter Matchak, Planning Director, Cc Ashland Planning Board. From Terrence P. Morris, Esquire. Re: 9-49 Homer Ave: Parking Requirements. Dated Sept 22, 2023.
- j) Memorandum to the Ashland Planning Board from Terrence P. Morris, Esq Re: 9-49 Homer Ave: Ashland Sustainable Best Practices. Dated Feb 8, 2024

**Peer Review:**

- k) GCG Associates, Inc. 1<sup>st</sup> peer review letter dated Jun 5, 2023.
- l) Civil Engineering Response Letter from Engineering Alliance, Inc. Re: EAI Project #: 21-58508, 9-49 Homer Ave. Dated Aug 9, 2023.
- m) GCG Associates, Inc. 2<sup>nd</sup> peer review letter dated Sept 12, 2023.
- n) Civil Engineering Response Letter from Engineering Alliance, Inc. Re: EAI Project #: 21-58508, 9-49 Homer Ave. Dated Sept 27, 2023.
- o) GCG Associates, Inc. 3<sup>rd</sup> peer review letter dated Oct 12, 2023.
- p) Email from Michael Carter, PE, PLS of GCG Associates. Dated Nov 20, 2023.
- q) Civil Engineering Response Letter from Engineering Alliance, Inc. Re: EAI Project #: 21-58508, 9-49 Homer Ave. Dated Oct 20, 2023.
- r) GCG Associates, Inc. 4<sup>th</sup> peer review letter dated Nov 21, 2023.
- s) Civil Engineering Response Letter from Engineering Alliance, Inc. Re: EAI Project #: 21-58508, 9-49 Homer Ave. Dated Dec 21, 2023.
- t) GCG Associates, Inc. 5<sup>th</sup> peer review Letter dated Feb 7, 2024.
- u) Email from Michael Carter, PE, PLS of GCG Associates. Re: 9-49 Homer – questions on potential condition. Dated March 14, 2024.

**Design Review:**

- v) Memorandum dated May 31, 2023 to the Ashland Design Review Committee (DRC). From the Ashland Planning Board. Re: 9-49 Homer Ave.
- w) Ashland Design Review Committee Report #1. Meeting date June 16, 2023. Report submitted to the Planning Board June 19, 2023.
- x) Memorandum from the Design Review Committee, to the Planning Board. Re: Concerns Regarding Proposed 9-49 Homer Ave. Project. Dated Aug 2, 2023.
- y) Ashland Design Review Committee Report #2. Meeting date Aug 3, 2023. Report submitted to the Planning Board Aug 9, 2023.
- z) Ashland Design Review Committee Report #3. Meeting date Oct 5, 2023. Report submitted to the Planning Board Oct 12, 2023.
- aa) Memorandum to Peter Matchak, Planning Director, Cc Ashland Planning Board. From Terrence P. Morris, Esquire. Re: 9-49 Homer Ave: DRC Report #3 Response to Planning Board Comments. Dated November 7, 2023.

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**MISC:**

- bb) Email from Ashland Deputy Chief Lyn Moraghan. Re: Revisited Site Plan 9-49 Homer Ave. Dated April 7, 2023.
- cc) Memorandum from the Ashland Planning Board to the 9-49 Homer Ave Application Team. Re: 9-49 Homer Street. Dated May 2, 2023.
- dd) Memorandum to the Ashland Planning Board from Peter Matchak, Director of Planning. Re: 9-49 Homer Ave. Power Lines. Dated Aug 2, 2023.
- ee) Email from Ashland Civil Engineer, Becca Navarro. Re: 9-49 Homer Ave. Revised Plans: Request for Departmental Comments. Dated Sept 22, 2023.
- ff) Email from Ashland Fire Chief, Keith Robie. Re: 9-49 Homer Ave. Revised Plans: Request for Departmental Comments. Dated Sept 22, 2023
- gg) Email from Gregory Eldridge, , PE Senior Project Manager from Haley and Ward. Dated Oct 18, 2023.
- hh) Email from Ashland Fire Chief, Keith Robie. Re: 9-49 Homer Street. Dated Nov 3, 2023.
- ii) Town Counsel Legal Opinion. Re: Opinion on Potential Special Permit Condition. Dated Jan 24, 2024.
- jj) Email from Ashland Water and Sewer, Daniel Maurer. Re: 9-49 Homer Ave. Follow Up. Dated Nov 3, 2023.
- kk) Email from Ashland Civil Engineer, Becca Navarro. Re: 9-49 Homer Ave. Follow Up. Dated Nov 3, 2023.
- ll) Additional Rendering of Pergola located in Pocket Park. Undated, but received by the Planning Board on March 14, 2024.
- mm) Email from Ashland Water and Sewer, Daniel Maurer. Re: 9-49 Homer Ave. Water and Sewer Capacity. Dated March 14, 2024.
- nn) Email from Gregory Eldridge, PE Haley and Ward. Re: 9-49 Homer Ave. Water and Sewer Capacity. Dated March 14, 2024.
- oo) Other correspondence from abutter(s), neighbor(s), resident(s) and/or others relative to the Project.

**Public Hearing Continuances:**

- pp) Request for continuance dated Feb 23, 2023 and filed with the Ashland Town Clerk on Feb 23, 2023.
- qq) Request for continuance dated March 8, 2023 and filed with the Ashland Town Clerk on March 10, 2023.
- rr) Request for continuance dated April 27, 2023 and filed with the Ashland Town Clerk on April 27, 2023.

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- ss) Request for continuance dated May 30, 2023 and filed with the Ashland Town Clerk on May 31, 2023.
- tt) Request for continuance dated June 14, 2023 and filed with the Ashland Town Clerk on June 14, 2023.
- uu) Request for continuance dated June 22, 2023.
- vv) Request for continuance dated July 17, 2023 and filed with the Ashland Town Clerk on July 17, 2023.
- ww) Request for continuance dated Aug 24, 2023 and filed with the Ashland Town Clerk on Aug 24, 2023.
- xx) Request for continuance dated Oct 12, 2023 and filed with the Ashland Town Clerk on Oct 13, 2023.
- yy) Request for continuance dated Oct 26, 2023 and filed with the Ashland Town Clerk on Oct 26, 2023.
- zz) Request for continuance dated Nov 9, 2023 and filed with the Ashland Town Clerk on Nov 9, 2023.
- aaa) Request for continuance dated Dec 12, 2023 and filed with the Ashland Town Clerk on Dec 13, 2023.
- bbb) Request for continuance dated March 12, 2024 and filed with the Ashland Town Clerk on March 13, 2024.

### **Documents of Record Subject to the Following Conditions**

As used herein, the term "Applicant" shall mean the Applicant, its heirs, successors and assignees and the term "Board" shall mean the Planning Board, whoever its members shall be from time to time.

### ***Facts and Findings***

Based on the evidence presented by the Applicant, the Board makes the following findings outlined in Chapter 282, Section 9.3 (Special Permits) of the Ashland Zoning Bylaws:

#### **1. Location and Use**

- a. The Locus is 9-49 Homer Ave as shown on the plan titled "Proposed Mixed Use Development; 9-49 Homer Ave., Ashland, MA 01721" prepared by Engineering Alliance Inc., 194 Central Street, Saugus, MA 01960. Plan date June 17, 2022 holding a revision date of Dec 21, 2023. Signed and stamped by Richard Salvo, Civil No. 41851 (eight (8) sheets including survey).
- b. The Ashland Downtown District (ADD) was created to encourage the growth and development of a successful downtown that will promote a village style redevelopment with a mix of commercial, retail, and residential uses in a walkable

environment with a greater density, that is functionally vibrant and active, and perceived to be an attractive destination visited by residents throughout Ashland and surrounding communities.

Further, the ADD district strives to broaden the tax base, enhance long-term economic vitality, improve the quality of life of residents, and improve the business climate by encouraging investments that will create employment and economic opportunity.

(See Ashland Bylaws 8.5.1 for complete text.)

- c. The project proposal includes 29 rental apartments and approximately 8,550 gross square feet of retail / commercial first floor space. The locus is approximately 39,658 sq. ft. on Homer Avenue and Alden Street. The 29 residential units will be comprised of 3 one-bedroom units and 26 two-bedroom units. The building will also include approximately 2,735 sq. ft. of green roof terrace outdoor living space.

## 2. History

- a. The property is situated in the ADD C overlay zoning district and is directly across from the historic downtown train station designed by renowned architect H.H. Richardson along the historic Albany & Boston rail corridor. The rail line remains in use by the MBTA commuter rail line (Worcester to Boston), as well as Amtrak and freight trains.
- b. The site currently consists of four buildings located on three adjoining lots. The first lot has two buildings: 9-15 Homer Ave., a one-story commercial building which shall remain, and 25 Homer Ave., a one-story commercial strip mall that will be removed. Additional lots are 35 Homer Ave., a two-family home built circa 1840, and 47 Homer Ave., a two-family home built circa 1900. Both 25 and 37 Homer Street will be removed. (The applicant must apply for demolition permission to the Ashland Historical Committee as required by the Ashland bylaws Chapter 125, Demolition Delay.)

## 3. Parking

- a. The project provides 60 onsite parking spaces. 39 of the spaces shall be within a subsurface parking area as shown on the plan. 21 spaces will be located above ground in the designed parking area.

Applying section 8.5.13 of the ADD overlay district:

*The number of parking spaces required for each use shall be 75% of those stated in Section 5.1. Where there is a mixture of land uses on one lot, the number of parking spaces required shall be only 75% of those stipulated above, that is, where there is a mixture of uses the parking requirement will be 56.25% (75% times 75%).*

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The standard parking requirement prior to the above formula would be 48 commercial spaces and 58 residential spaces. Applying the above formula, the total number of spaces equals 60 spaces.

- b. The Applicant (with a memorandum dated September 22, 2023 and noted above) describes the required parking for the remaining building at 9-15 Homer Street will be in accordance with the Ashland Zoning Bylaws applying Section 5.1 (Off-Street Parking Requirements). The Applicant of 9-49 Homer Ave. is also the owner of the adjacent historic train station site (20 Homer Ave.) that contains 24 parking spaces. The office space at 20 Homer Ave. requires 11 spaces, while 9-15 Homer Street (after application of the formula above) requires 8 spaces, totaling 19 required spaces and satisfying the bylaw.
- c. Any change of use at 9-15 Homer Street and/or 20 Homer Street will require a parking study and calculations approved by the Town of Ashland.

#### **4. Sustainability**

- a. All planting materials are non-invasive species, and 70% of the planting material is native species, as detailed on the landscaping plan. Drought tolerant shrubs and perennials are to be provided across the site to minimize irrigation / watering on the site.
- b. To increase open space and vegetation, the building incorporates a garden roof terrace as shown on the approved plans.
- c. Permeable paving is used on all outdoor plaza areas including the pocket park.
- d. Bike racks at the commercial courtyard will be located as represented on the approved architectural plans.
- e. A minimum of 14 open-air parking spaces will have level 2 (or greater) electric vehicle (EV) charging stations.
- f. All new construction shall be all-electric buildings utilizing electric heat pumps for HVAC and domestic hot water, and all residential units shall include electric cooktops and (if applicable) electric dryers.
- g. As per the state building code, the buildings will be solar ready. Solar panels will be installed at the time of construction as represented on the plans.
- h. All lighting on site will be dark sky compliant.
- i. Other sustainable features are detailed in the memorandum addressed to the Ashland Planning Board Re: 9-49 Homer Ave: Ashland Sustainability Best Practices. Dated Feb 8, 2024.

**5. Special Permit Criteria:**

(as per Ashland Bylaw 9.3.2)

Based on the evidence presented by the Applicant, the Board is required to consider the criteria found in Chapter 282 Sections 9.3.2 (Special Permits) of the Ashland Zoning Bylaws as they apply to the proposed uses which are set forth in Section 8.5 (Ashland Downtown District). The Board makes the following findings:

**1. Community needs served by the proposal;**

*Finding:* The Planning Board finds the Applicant's proposal is a project adhering to the ADD (Ashland Downtown District) zoning as described in Ashland bylaw 8.5.1. The 8,550 sq. ft. of ground floor commercial space project is an investment in the downtown area. The 29 rental units (3 affordable) contribute to housing stock which is in short supply in the Commonwealth and metro region.

This project is found to add value to the downtown area and will contribute to a vibrant and active environment.

**2. Traffic flow and safety, including parking and loading;**

*Finding:* The Planning Board finds that the traffic flow as designed (entering the site from Homer Ave. and exiting onto Alden Street) is safe for residents, employees, and visitors. Analysis by the Planning Board's peer review consultant noted that, after development, Homer Avenue and Alden Street traffic would be moderate to low and without major impacts to local traffic. The plan of record has been reviewed by Ashland's Fire and Police Departments and is adequate for emergency response apparatus and vehicles. A loading space for delivery and mail trucks is provided at the entrance to the site. This area shall be shared with emergency response vehicles. Appropriate signage shall be installed.

The proposed development meets the parking standards as set forth in the Ashland Downtown District bylaw, except for the sub-surface parking spaces. The Board approves the dimensions of 9' x 18' with a 24' wide aisle for the sub-surface spaces.

The Board waives the requirement for a loading dock (5.2.6) as it is unneeded by this use.

**3. Adequacy of utilities and other public services;**

*Finding:* The Planning Board finds that the existing site has adequate utilities available and any needed upgrades shall be made to meet current standards and regulations. All other public services have been met. It is understood that water pressure in the downtown area is sufficient for both the commercial and residential units and shall be designed appropriately and in conformance with state building and fire codes.

**4. Neighborhood character and social structures;**

*Finding:* The Planning Board finds the project shall bring together residential housing and commercial space to enhance the neighborhood character and the

Downtown District. The Board recognizes that the site's current buildings may have historic significance to some members of the community, and the project is required to apply for demolition permission under Ashland bylaw Chapter 125, Demolition Delay.) Though older buildings can be an important component of neighborhood character, the proposed project is found to appropriately create a needed focal point and gateway for the western side of the downtown area.

The Board finds that the project's design respects the form based code in a manner that relates to the downtown area. The addition of a pocket park, vegetation, and benches will enhance the pedestrian experience along Homer Ave.

**5. Impacts on the natural environment;**

*Finding:* The Planning Board finds that the previously developed site has no natural environmental elements or characteristics, except for two mature trees which will be retained and protected. The existing site contains no storm water infrastructure. Current storm water standards shall apply and infrastructure allowing infiltration shall be installed conforming to all regulations. The proposed planting and landscape plan increases the vegetative cover on the site and includes 70% native plants.

**6. Potential fiscal impact, including impact on town services, tax base, and employment.**

*Finding:* After reviewing the economic impact tool the Planning Board finds that the proposed project shall bring new commercial space and residential tenants to the downtown area meeting the purpose of the Ashland Downtown District zoning. The project shall provide retail and commercial space for businesses, as well as potential employment opportunities and increased tax revenues.

**6. ADD Mandatory Findings for Special Permit: (as per Ashland Bylaw 8.5.14)**

When a Special Permit is required, the Planning Board shall not issue a Special Permit unless without exception it shall find that the proposed use and development:

**1. Is in harmony with the purpose and intent of this Bylaw;**

*Finding:* The Planning Board finds the criterion met. See Special Permit Criteria 1 above.

**2. Is appropriate for the site for which the petition is submitted and is related harmoniously to the terrain and to the use, scale and proportions of existing and proposed buildings in the immediate vicinity that have functional or visual relationship to the proposed use;**

*Finding:* The Planning Board finds the project's architectural design and proposed site development to be harmonious with the surrounding area and consistent with the Ashland Downtown District zoning. See also Special Permit Criteria 4 above.

3. **Includes sufficient mitigating measures which shall be implemented as part of the special permit for any adverse effects noted in reports from town boards and agencies, reports from consultants, and public hearings;**

*Finding:* The Planning Board finds that alterations to the site plan and building throughout the public hearing process has mitigated any adverse effects of the project noted by other town entities and outside consultants. Comment from the public has been received and considered.

It is noted that the project must obtain a storm water permit granted by the Ashland Conservation Commission and demolition permission under Chapter 125 of Ashland General Bylaws.

4. **Will result in no significant effect on level of service for any service provided by the Town, including fire, police and ambulance. Proof of no significant effect is the lack of need for the Town to add equipment and/or staff specifically due to the development;**

*Finding:* The Planning Board finds that all comments from the police and fire departments have been incorporated into the project, and emails of record from the police chief and fire chief have been received and listed in the documents of record.

5. **Will provide adequate provision for pedestrian traffic; and**

*Finding:* The Planning Board finds the proposed development will improve the pedestrian experience along both Homer Avenue and Alden Street by decreasing curb cuts, providing green space, and offering retail and commercial opportunities creating a vibrant environment. The new pedestrian path includes accessible sidewalks and a safer raised sidewalk at the site's entrance and exit.

6. **Will comply with all requirements of all applicable requirements of this By-law;**

*Finding:* The Planning Board finds the criterion met. Ashland Downtown District zoning criteria in 8.5.8 (Performance Standards; Criteria) and 8.5.14 (Mandatory Findings) as well as general criteria in 9.3 (Special Permit) and 9.4 (Site Plan Review and Design Plan Review) have been reviewed and considered by the Board. In addition, the project has been reviewed by the Board's third-party consultant for all applicable requirements of Ashland zoning.

The Board approves the non-conforming setback for the existing building at 9-15 Homer Ave. Further, the Board approves the greater setbacks for front yards along Homer Ave and Alden Street (further than the allowed 15 feet) for the new construction as doing so will contribute to an improved public realm as per 8.5.6.3.b.

The Board also approves the current setbacks of the existing commercial building to remain (9 Homer Ave.) which are non-conforming under the Ashland Downtown District zoning.

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Based upon the foregoing, the Board finds, that so long as the conditions set forth hereafter are met, the Criteria of the Special Permit under Ashland Bylaw section 9.3 (Special Permit) will be satisfied by the application as follows:

### **Special Project Conditions**

Relevant conditions discussed during the hearings outlined above, and as agreed to by the Applicant and the Ashland Planning Board:

1. **Blasting:** As the Planning Board reserves concerns about the possibility of blasting on site in relation to construction. Blasting shall not be permitted until compliance with all state statutes and regulations and filing with the Ashland Fire Department and a copy of all material has been submitted to the Building Commissioner and Planning Board. GCG, Ashland's peer review consultants, recommends blasting not being utilized on this site, due to the proximity to the developed abutters and as it is next to the MBTA railroad. The contractor should consider hoe ramming or similar mechanical options for earth and ledge removal. Furthermore, as this site is adjacent to the Massachusetts Bay Transportation Authority (MBTA) railroad, any blasting would require a MBTA permit and comply with the MBTA's Blasting Specifications under the Railroad Operations Directorate Section VIII, including inspectional surveys.
2. **Inspectional Survey:** Prior to any site work and with the consent of each owner, the Applicant shall complete an inspectional survey of abutting properties within a 300-foot radius to set an existing conditions baseline for possible construction-related impacts. The Applicant shall submit to the Building Commissioner a pre-construction survey of video or pictures showing existing foundations and existing exterior conditions. Material shall be submitted prior to the issuance of a building permit.

With the consent of each owner, the Applicant shall install an elevation marker on the side of each abutting property. This elevation marker shall be monitored over the course of construction and for one year after an issuance of occupancy permits. On a monthly basis, a monitoring report shall be submitted to the Building Commissioner by a Professional Licenses Surveyor (PLS) to confirm no change in elevation and no ground settlement has occurred due to construction. If adjacent properties cannot be used, alternative location will be used as approved by town's third party consultant.

In the event the adjacent owner(s) do not provide access to private properties, the Applicant shall provide proof of attempted access and denial and shall provide photographic evidence of current conditions to the extent said can be gathered from a public way or the Applicant's property.

3. **Construction Logistics Plan and Phasing Plan:** Prior to construction, the Applicant shall submit for approval a construction phasing plan for review and

approval by the Ashland Building Commissioner and all other departments having jurisdiction.

4. Water Pressure and Sewer Capacity: Prior to the issuance of a building permit, the Applicant shall consult with the Ashland Department of Public Works, Water and Sewer Division to confirm both water capacity and available sewer capacity of the addition of the project to existing town infrastructure. It may be requested by Ashland's Water and Sewer Division to collect and submit historic water uses data from the past 3-5 years for comparison against the proposed usage and flow ensuring capacity.
5. Water Flow Test: Prior to construction, a water flow test shall be completed to measure the on-site water pressure. The applicant shall design the building plumbing to provide adequate water pressure for the commercial and residential tenants. Importantly, the applicant shall also design a fire suppression system in coordination with the Ashland Building Office and the Ashland Fire Department that meet all state building codes. Any upgrades needed to create appropriate water pressure to the site for fire suppression or to the resident or commercial areas of the building shall be at the Applicant's expense.
6. Signage: The owner/applicant or their successors shall submit proposed commercial signage to the Planning Board for approval prior to installation.
7. Snow Storage: On-site snow storage is allowed only for minor snow events and shall not obstruct sight lines so as to preserve public safety. Otherwise, snow will be removed from the site within forty-eight hours after the snowfall ends at the owner's expense. Plowed snow from minor snow events shall be placed in the proposed areas located along the parking lot, where it can slowly infiltrate. Sediments shall be removed from these areas every spring. Snow shall not be stored on or impede access/use of sidewalks and walkways.
8. Energy Source: All new construction shall be all-electric buildings utilizing electric heat pumps for HVAC and domestic hot water and all residential units shall include electric cooktops and (if applicable) electric dryers.
9. Solar: As per the state building code, the buildings will be solar ready. Solar panels will be installed at the time of construction as represented on the plans.
10. Affordability: Ten percent (10%) of the project units in the permitted project shall be affordable. There shall be three (3) affordable units, out of the total twenty-nine (29) units. All three (3) units shall meet or exceed the Executive Office of Housing and Livable Communities (EOHLC) definition of "affordable units," and shall be restricted in perpetuity. Prior to the issuance of any certificate of occupancy for any of the residential units, the Applicant shall record a Regulatory Agreement approved by EOHLC which secures the affordable units in perpetuity and provide proof of same to the Planning Office. Said units shall be

created such that they will be included in the Town's subsidized housing inventory.

11. Sidewalks and Curbs: A raised sidewalk shall be installed at the Homer Ave entrance to and the Alden Street exit from the site as per Mass DOT construction standards drawing number E 107.8.0 meeting the ADA/AAB requirements and pedestrian safety measures. Vertical granite curbing shall be installed along the frontage of Homer Avenue and Alden Street. The Applicant shall submit a detail representing vertical granite curbing to the Planning Office and Department of Public Works for approval. Sidewalks shall be fully accessible and include a brick detail edge as per the approved plans. This work shall be completed prior to the issuance of the first occupancy permit.
12. Electric vehicle (EV) Charging Stations: The Applicant is providing electric vehicle (EV) charging stations for a minimum of 14 open air parking spaces or a larger number as required by the state building code. All EV charging stations shall be outside of the building as requested by the Ashland Fire Dept. Conduit will be installed at the time of construction to provide future charging capability at all exterior spaces. As electric vehicle usage increases, the Planning Board understands that additional charging stations may need to be added in parallel with demand. Exterior charging stations shall be allowed to be added without returning to the Planning Board for a Special Permit Modification.
13. Vegetation: In accordance with the approved Landscape Plans all plantings at the entry and exit shall be maintained so not to exceed 2 feet in height within the driver sightlines at both entries. The Applicant shall be responsible to include this requirement in any project management agreement. All invasive species will be removed from the site. Two existing mature trees shall remain, and their critical root zones shall be protected during construction. Appropriate vegetation shall be used to screen the transformer. All vegetation shall be properly maintained and, if any of the plants fail within the first five years of the completion of the Project, the Applicant shall replace same. Further, the Town Planner will inspect and confirm that the plants were installed as shown on the plans. All plantings shall be installed prior to the issuance of the first residential or commercial certificate of occupancy.
14. Shared Parking: Prior to an issuance of a building permit, the Applicant shall submit to the town for approval in accordance with zoning bylaw section 8.5.13.1 a shared parking agreement outlined within a lease agreement or easement between the two properties 9-15 Homer Ave. and 20 Homer Ave. The term of the shared parking agreement shall remain for the duration of the special permit.

In the event the uses or ownership for either property change in the future, said shared parking agreement shall remain in place. The parking required for said changes shall be met within the parameters of the parking on site outside of the area demarcated for the shared parking which are covered under the shared parking agreement. The shared parking agreement shall include a requirement to

notify the Building Office should a lease within either property be terminated for any reason. Once the shared parking agreement is approved by the town, the Applicant shall record the shared parking agreement with the Southern Middlesex Registry of Deeds and provide a copy to the Town thereafter.

15. Deliveries: The Applicant shall limit all site deliveries to box trucks no larger than SU30 trucks. There shall be no parking or standing of delivery trucks along Homer Avenue or Alden Street making deliveries to the site.
16. Outdoor and Street Lighting: All exterior lighting shall be dark sky compliant. No light shall leave the boundaries of the site.
17. Mural: The Applicant has offered and the Planning Board accepts wall space for a mural or public art in the pocket park area on the existing stucco wall of 15 Homer Ave. The Planning Board will work with the Applicant to develop a process for implementation. Art work shall be mutually acceptable to both parties.
18. Exterior Materials: On January 8, 2024, the Planning Board approved the following colors and materials:
  - A. Asphalt Shingle Roofing: Owens Corning “Driftwood”
  - B. Siding of the building shall be as per the approved Architectural Plan Set and shall be siding by James Hardy or equal:
    - 4” composite clapboard siding: Gray Slate
    - 4” composite clapboard siding: Pearl Gray
    - 7” composite shingle siding: Night Gray
  - C. Building Brick: Transitional Brick as provided to the Planning Board or approved equal with Planning Board approval.
  - D. Pavement Brick: To match the downtown street project, Boston City Hall Brick Pavers. Manufactured by the Stiles and Heart Brick Company or approved equal with Planning Board approval.
  - E. Window Frames: Black with white trim.
  - F. Trim and other building elements shall match the Architectural Plan Set.
  - G. Pocket Park stone pavers shall be consistent with the color and pattern of the H.H. Richardson train station.
  - H. Pocket Park Pergola: As submitted in renderings received by the Planning Office on March 14, 2024, the Applicant shall install a pergola structure as represented with wood structural columns and with a roof form matching the historical train station located across Homer Ave. Roof shingles shall be consistent with the approved roof shingle as noted above.

9-49 Homer Ave.

Planning Board Decision: SPECIAL PERMIT

In addition, the following conditions shall apply:

### **GCG Recommended Conditions**

1. **Test Pit:** Applicant shall perform a confirmatory test pit within the footprint of the infiltration system prior to construction and submit results to Ashland's third party engineer for approval. If the test pit reveals conditions outside of the assumptions upon which the engineering and stormwater calculations were completed, the Applicant will modify the system design to meet the required standards. The modified design shall be reviewed and approved by the Town's third-party consultant. In the event the project requires modification, said modifications shall be presented to the Planning Board for approval at a regular public meeting.
2. **Garage/Basement:** The Applicant will provide a watertight garage and basement system. No sump pumps shall be allowed to be connected to Ashland's storm water system.
3. **One-Way Signage:** The Applicant shall provide one-way traffic signage for the surface and sub-surface parking levels according to MUTCD requirements and certified by a Massachusetts registered Professional Traffic Operations Engineer (PTOE).

### **Other Special Project Conditions**

1. **Surety Bond:** Prior to construction or any site work, the Applicant shall submit a surety bond or equivalent to the Town in the amount of \$100,000. The security shall be due at the time of the required preconstruction meeting. No building permit shall be issued until said security is provided to the Town. In the event the Applicant fails to complete the project as set forth herein within 3 years or if the Town finds the site is in violation of applicable health and safety codes and has become unsuitable and is deemed hazardous the Town may, after giving the Applicant prior notice and a reasonable opportunity to cure such non-compliance, access the security in order to stabilize the site and take all steps necessary to protect the health, safety and welfare of its residents.

This surety bond shall be used in the event that the site is deemed hazardous and unsafe in violation of applicable health and safety codes, or is causing noticeable harm to abutters or Town of Ashland's roads, utility infrastructure, unsafe conditions to the public, materials migrating off site either through erosion or unsafe material piles and dust, etc.

The Town may, with proper prior notice to the Applicant and a reasonable opportunity to cure such non-compliance, access said bond funds for reason to secure site. In no way shall funds be used to further any site development or construction of the project. Bond funds may be used for security fencing, soil

stabilization, erosion control measures, or removal and disposal of trash etc. The bond amount may be reduced upon partial completion of the project.

2. Third Party Inspection: In accordance with MGL Chapter 44 section 53G, prior to the issuance of a Building Permit or any site work, should a permit not be required, the Applicant shall pay to the town the sum of \$7,500.00 to be held in the Town's G.L. c. 44 sec 53G accounts by the Town Treasurer which shall be used in the event the town determines it will hire a third party inspection official tasked with monitoring the project to assure compliance with this Permit and local, state and federal laws and regulations applicable to the Project. If the account depletes below a total sum of \$2,000, the Applicant shall be notified, and the Applicant will replenish the account to the sum of \$7,500. The inspection official shall produce a weekly report for the Planning Office detailing any violations of the Planning Board's Decision and completed work. The inspection official shall be under the oversight of the Ashland Department of Community Development and Health c/o Ashland Planning Office. No occupancy permit shall issue unless the Third Party Inspection account is current and all outstanding invoices have been paid.
3. Stormwater Management: The Applicant and all owners of the property shall abide by the "Drainage Calculations and Stormwater Management Plan", located at 9-49 Homer Avenue, submitted to the Town of Ashland, Signed and stamped by Richard Salvo, Civil No. 41851. Dated April 22, 2021, holding a revision date of December 21, 2023. Appendix C "Best Management Practices and Operation and Maintenance Plan".

### **General Project Conditions**

#### **Building and Site Design**

1. Prior to the issuance of any building permit, final construction drawings and details must be submitted to the Ashland Inspectional Services Department and shall reflect the civil drawings and architectural renderings approved by the Planning Board.
2. All exterior envelope materials (i.e. siding, roofing, and trim) shall be of high quality.
3. Any mechanical, electrical, or other equipment or vents visible from public streets but not currently shown on the elevations must be carefully placed and/or aligned so as not to mar the approved elevations. Placement of mechanical, electrical, or other equipment or vents larger than 3' x 3' x 18" on these elevations or in the public green spaces is not allowed without approval from the Planning Board.

### **Building Use**

4. The Applicant shall limit the time of trash/recycling pick up to reasonable hours to minimize inconvenience to residents in the general area. All pick up activities shall not commence on any day before 7:00 AM and shall not occur after 6:00 PM. All activities on the site shall conform to Section 204-1: Nuisance Noise of the Ashland Bylaws.

It is recognized by the Planning Board and Fire Department that the Applicant proposes interior rooms for trash and recycling for the new mixed-use building. Said trash area shall be designed to meet all State Building codes with Fire suppression present. Trash/recycling will be handled by the building's management company/Applicant and picked up twice weekly by a private contractor during off-hours. Trash/recycling for the existing commercial building at 9-15 Homer Ave will also be picked up. Trash shall remain in the building until the time of collection. Trash pick-up vehicles will not park or extensive idling on Homer Avenue or Alden Street.

### **Pre-Permit Procedures**

5. Prior to the issuance of building permits, the approved Stormwater Operation and Maintenance Plan shall be recorded at the South Middlesex Registry of Deeds along with an Ashland Conservation Commission's Order of Conditions (if required). The Applicant shall abide by the Operations & Maintenance Plan as recorded at the Registry of Deeds unless amended by agreement with the Ashland Department of Public Works.
6. No land disturbance or demolition of the existing structure shall occur on the locus, nor shall any building permits issue, until the Applicant has first obtained all necessary permits, to the extent required, from all municipal town departments including but not limited to the Ashland Conservation Commission, Board of Health, Department of Public Works, Ashland Water and Sewer Department and the Select Board.
7. Prior to the issuance of building permits, the Applicant shall provide the name and contact information of the contractor on site. Furthermore, the Applicant shall provide the Town of Ashland with emergency contact information for site supervision.
8. The Applicant and its contractor shall meet with Town staff for a pre-construction meeting before any demolition or building permits are issued. At that time, a fencing schedule and a construction schedule shall be reviewed and approved by Town staff.
9. DPW may require the existing conditions of all drainage and sewer pipes to be documented by a professional engineer and video recordings prior to the issuance of building permits. This should be determined at the pre-construction meeting.

10. The Applicant shall complete phase one and phase two (if necessary) environmental testing and shall submit reports thereof to the Planning Office. If required by said report(s) and/or by the Board of Health Agent, the Applicant shall provide a Licensed Site Professional on locus during excavation.
11. If there is any inconsistency between the Planning Board's approved plans and the plans as may be approved by the Conservation Commission, the Applicant shall submit amended plans to the Planning Board for approval. Said amended plans shall be accompanied by a letter setting forth any and all changes from the originally approved plans.
12. If this Special Permit Approval is transferred to an entity other than the Applicant, this approval must be amended by the Planning Board, approval not to be unreasonably withheld.
13. In accordance with Section 9.3.8 (Special Permit) of the Ashland Zoning Bylaws, Special Permit Approval shall lapse after two (2) years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Approval may, for good cause, be extended in writing by the Planning Board upon written request from the Applicant.
14. This approval decision shall be recorded at the South Middlesex Registry of Deeds. A copy of the recorded documents and approved plans bearing the date of recording and the book and page number shall be delivered to both the Planning and Inspectional Services Departments prior to the issuance of all town permits, including building permits, and the commencement of work.
15. This approval shall not be effective until the Planning Office receives documentation and or receipt from the Applicant and or an agent of the recording of said document with the Southern Middlesex Registry of Deeds in accordance with M.G.L., Ch. 40A, and Section 11.

#### **Site Work Procedures**

16. Construction vehicles shall utilize Homer Ave. as the primary entrance to the construction site. Construction vehicles shall not use Alden Street to access the construction site and only use Alden Street as a secondary means of access. A Construction vehicle plan shall be submitted and approved by all Town Departments prior to commencement of work on site.
17. Prior to any grading activities, perimeter erosion controls shall be installed in accordance with the detail contained within the approved plans of record. Sediment runoff is not permitted to leave the site. Perimeter erosion controls standards will be set by the Ashland Conservation Commission. Untreated stormwater discharge into public roadways or stormwater systems may result in fines from the Department of Public Works.
18. If requested by Department of Public Works, a rock construction entrance (RCE) shall be installed prior to any grading activities to prevent sediment track out on to

public roadways. The RCE shall consist of AASHTO No. 1 rock and have a minimum depth of 8-inches. The RCE shall be a minimum of 10-ft wide and 50-ft long. All vehicles exiting the construction site on to public roadways shall travel over the rock construction entrance. The length of the RCE may be extended an additional 50-ft or a wash rack be installed if requested by the Department of Public Works or the Conservation Commission if track out persists.

19. To prevent soil erosion, all slopes within the construction site shall be adequately stabilized by temporary erosion control matting or other means until permanent stabilization is established during the post-construction phase of the project.
20. All erosion control devices on the site shall be inspected at a minimum once per week or once every other week and within 24 hours of a rain event consisting of more than 0.25 inches of rainfall. All erosion control devices shall be maintained to ensure continued functionality and prevent untreated stormwater discharges from the construction site. In the event of a failure of the perimeter controls resulting in any untreated stormwater discharges off the site, the Conservation Commission and the Department of Public Works of the Town of Ashland shall be notified immediately.

#### **Security and Safety Procedures**

21. During construction, the site shall be secured with a chain-link fence consistent with the fencing schedule required in Pre-Permit Procedures. Each evening and whenever no work is being done, the site must be locked and secured. The Applicant shall install a lock box in coordination with the Ashland Fire Department and Police Department for site access.

#### **Construction Procedures**

22. During construction the Applicant shall be vigilant about dust control. Additionally, the Applicant shall be responsible for any damage to the critical root zones of the abutting trees on surrounding property lines. Water shall be available onsite to control dust at all times. If dust is unable to be controlled, the Applicant shall cover or vegetate all exposed soil surfaces.
23. During construction, the Applicant shall be vigilant concerning dust and construction track-out onto Homer Ave. and Alden Street. As necessary, Homer Ave. and Alden Street shall be swept and cleaned of all debris after each work day. The Applicant shall be responsible for any damage within the roadway that may occur from the Applicants' construction activity and shall be properly repaired in compliance with the Department of Public Works prior to the release of occupancy. Baseline video or photographs of Homer Ave. and Alden Street shall be submitted before building permits are issued.
24. The Applicant shall comply with Department of Public Works and Fire Department regulations or requirements including the implementation of sprinklers within the building if required by the State Building and Fire Codes.

Any permits and fees required by the Department of Public Works and Fire Department are separate from this approval.

25. There shall be no parking or standing of vehicles on Homer Street or Alden Street, other than within the project site. If a truck must be unloaded on Homer Ave., the Applicant shall contact the Ashland Police Department to determine if a detail is needed; and the truck in question shall not stand or be unloaded on Homer Street until after 9 AM Monday through Friday. The Applicant shall make diligent effort to avoid interrupting commuter traffic along Homer Street.
26. To limit interruption to traffic and local businesses, the Department of Public Works and/or the Ashland Police Department may require night work, which is outside the normal construction hours. If this is the case, approval from the Planning Board is not required; however, approval may be required from the Select Board.
27. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction activities shall not commence on any day before 7:00 AM and shall not continue beyond 7:00 PM except as may be required pursuant to the condition regarding night work. There shall be no construction activities on any Sunday or on federal legal holidays, unless and except as may be required pursuant to the condition describing night work above. Construction activities shall include the idling of any vehicles or equipment.
28. During construction, all local, state, and federal laws shall be followed regarding noise, vibration, dust, refueling and blocking of town roads, as well as all applicable directives in the Operations & Maintenance Plan.
29. If dewatering is required, a dewatering plan shall be submitted for approval to the Department of Public Works. Any material and water leaving the site must be tested and disposed of in accordance with state and federal regulations.

#### **Occupancy Permit Procedures**

30. Before a final occupancy permit is issued, the Applicant shall submit as-built plans of the project including all utilities and stormwater infrastructure. Said as-built plans shall be stamped by a licensed civil engineer. Submission of the as-built plans shall be in full size paper plan, PDF and as a geo-referenced CAD file.
31. Before any occupancy permit is issued, the Applicant shall complete an emergency contact sheet with the Ashland Fire Department.

9-49 Homer Ave.

Planning Board Decision: SPECIAL PERMIT

***Decision***

Following presentations by the Applicant and its consultants, a review by the Planning Board and its consultant and members of the public, the Planning Board made a motion to approve the described application.

The Board Voted as follows:

To approve the Proposed Project on the Premises in accordance with Section 9.3 and 8.5.14 of the Town of Ashland Zoning Bylaws, based upon the foregoing finding of fact, applicable criteria and so long as the conditions set forth above are met, the Criteria of the Special Permit

will be satisfied with the following vote:

**Planning Board Vote:**

**Special Permit**

Vote: Approved (5-0)

VOTE: (Y) Tricia Kendall, Chair (Y) Anna Tesmenitsky, Vice Chair

(Y) Catherine Jurczyk, Clerk (Y) Deepa Venkat, Member

(Y) Marcelo Arjona, Member (NA) Amanda Hayes, Associate Member

*(A) = Absent or not present during the entire hearing process and therefore not eligible to vote.*

*(NA)= Associate Member no vote cast*

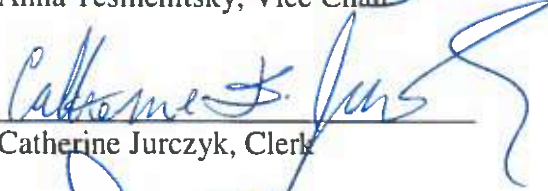
By a 5-0 vote, the Planning Board approves the Special Permit under Chapter 282, Section 8.5 (Ashland Downtown District), and Section 9.3 (Special Permit) required from Section 8.5.11.4.c (Building Design Standards) of the Ashland Bylaws

Pursuant to Section 9.3.8 of the Ashland Zoning Bylaws, any appeal of this decision of the Board shall be made in accordance with M.G.L. Ch. 40A, Section 17, to a court of competent jurisdiction.


**Town of Ashland Planning Board**

  
\_\_\_\_\_  
Tricia Kendall, Chair

  
\_\_\_\_\_  
Anna Tesmenitsky, Vice Chair

  
\_\_\_\_\_  
Catherine Jurczyk, Clerk


\_\_\_\_\_  
Deepa Venkat, Member

  
\_\_\_\_\_  
Marcelo Arjona, Member

\_\_\_\_\_  
Amanda Hayes, Associate Member

Filed with the Town Clerk on:

Date: MARCH 29, 2024

  
\_\_\_\_\_  
~~Cindy Livingstone, Town Clerk~~  
CHRISTOPHER P. SULLIVAN, DEPUTY

In accordance with Section 11 of Chapter 40A, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Ashland Town Clerk, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date: \_\_\_\_\_

\_\_\_\_\_  
Cindy Livingstone, Town Clerk