



City of Somerville  
**ZONING BOARD OF APPEALS**  
City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

**DECISION**

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**PROPERTY ADDRESS:** 391-395 Somerville Avenue  
**CASE NUMBER:** P&Z 23-039  
**OWNER:** Somerville Avenue Trust, LLC  
**OWNER ADDRESS:** 1 Naomi Dr., Gloucester, MA 01930  
**APPLICANT:** Isaias and Victor Martins  
**APPLICANT ADDRESS:** 1 Naomi Dr., Gloucester, MA 01930  
**DECISION:** Approved with Conditions (Site Plan Approval)  
Approved (Use Special Permit)  
**DATE OF VOTE:** July 19, 2023  
**DECISION ISSUED:** July 21, 2023

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the application for an extension to the duration of the validity of a Special Permit with Site Plan Review (SPSR) submitted for 391-395 Somerville Avenue.

**LEGAL NOTICE**

Isaias and Victor Martins seek to extend the validity of a previously approved Special Permit with Site Plan Review (ZBA 2019-37) in the Mid-Rise 4 (MR4) district for a period of one (1) year.

**RECORD OF PROCEEDINGS**

On July 19, 2023, the Zoning Board of Appeals held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Vice-Chair Anne Brockelman, Clerk Katherine Garavaglia, Zachary Zaremba, and Alternate Brian Cook. The Board reviewed the request, and no public comments were received during the public comment period. Following discussion, the Board moved to approve the extension to the validity of the Special Permit with Site Plan Review for a period of one (1) year.

**PLANS & DOCUMENTS**

Application plans, documents, and supporting materials submitted and incorporated are identified below.

Document	Pages	Prepared By	Date	Revision Date
Letter (Narrative) to ZBA for 395 Somerville Ave – Extension Request	1	Victor and Isaias Martins 1 Naomi Dr. Gloucester, MA 01930	None, submitted June 6, 2023	N/A

## FINDINGS TO EXTEND A SPECIAL PERMIT WITH SITE PLAN REVIEW

In accordance with the Somerville Zoning Ordinance, the Board may approve or deny an extension of the duration of the validity of a Special Permit with Site Plan Review upon making a finding that a demonstrated hardship has prevented utilization of the rights authorized by a Special Permit with Site Plan Review.

The Board finds that the health crisis of the applicant and impacts of the Covid-19 health emergency demonstrate hardships that have prevented utilization of the rights authorized by the Special Permit with Site Plan Review.

## DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Katherine Garavaglia moved to approve the **EXTENSION** to the duration of the validity of a Special Permit with Site Plan Review (SPSR) for a period of one (1) year, with the conditions included in the staff memo dated July 7, 2023. Brian Cook seconded. The Board voted **5-0** to approve the permit, subject to the following conditions:

### Perpetual

1. This Decision must be recorded with the Middlesex South Registry of Deeds.
2. All other conditions of decision ZBA 2019-37 for 391-395 Somerville Avenue remain valid.

### Prior to Building Permit

3. A digital copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation, & Zoning Division for the public record.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*  
Anne Brockelman, *Vice-Chair*  
Katherine Garavaglia, *Clerk*  
Ann Fullerton  
Zachary Zaremba  
Brian Cook, *Alternate*



Sarah Lewis, Director of Planning, Preservation, & Zoning  
Office of Strategic Planning & Community Development

**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. 15.5.3.

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.

**FOR SITE PLAN APPROVAL(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 \_\_\_\_\_