



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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**Case #: ZBA 2018-27**  
**Site: 51 Cross Street**  
**Date of Decision: May 2, 2018**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: May 30, 2018**

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**ZBA DECISION**

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**Owner Name:** 51 Cross Street, LLC  
**Owner Address:** 51 Cross Street, Somerville, MA 02143  
**Applicant Name:** Lee W. Thach, DMD  
**Applicant Address:** 105 Chestnut Street, Cambridge, MA 02139  
**Alderman:** Matthew McLaughlin

**Legal Notice:** Applicant, Lee W. Thach, DMD Children's Dental Center, and Property Owner, 51 Cross Street, LLC, seek Special Permits under Section 7.10 of the SZO for a change-of-use to a dental office, Special Permits under Article 9 of the SZO for parking relief. RB zone. Ward 1.

<u>Zoning District/Ward:</u>	RA Zone. Ward 1.
<u>Zoning Approval Sought:</u>	§7.10
<u>Date of Application:</u>	February 14, 2018
<u>Date(s) of Public Hearing:</u>	May 2, 2018, May 16, 2018
<u>Date of Decision:</u>	May 16, 2018
<u>Vote:</u>	5-0

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Appeal #ZBA 2018-27 was opened before the Zoning Board of Appeals at the VNA, 259 Lowell Street, Somerville, MA 02143 on May 2, 2018. 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



**DESCRIPTION:**

1. **Subject Property:** The subject property contains a 1,652 square foot structure that is currently used for warehousing/storage. The property is located on a corner lot in the RB district on a 3,049 square-foot lot.
2. **Proposal:** The Applicant proposes to change the use of this property from the current warehousing/storage us to that of a dental office. The property is located in the RB residential zone. The current use of the property as a warehouse/storage facility is an existing non-conforming use in this residential zone. Under the SZO, an Applicant may request to convert a property from one non-conforming use to another under Special Permitting. Due to the nature of the project site, the Applicant will require parking relief. Currently, there is no legal parking available on the property and non propo
3. **Green Building Practices:**  
  
The application states that the project will not exceed the stretch code.
4. **Comments:**

Ward Alderman: Matthew McLaughlin has been informed of this project. Alderman McLaughlin was provided with a re-cap of the May 2, 2018 ZBA hearing by Planning Staff. Staff has also provided the Alderman with a copy of the updated plans and updated staff report for the May 16, 2018 ZBA hearing date.

**II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):**

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 §4.4.1 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." Section 4.4.1 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are non-conforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA..."*

Under Section 4.4.1 of the SZO:

- The existing structure is non-conforming with regard to lot area, and all setbacks. Despite this, the only triggers for Special Permitting are the change-of-use from one



non-conforming use to to another (warehousing/storage to dental office) and parking relief.

- Under the SZO, a property owner/Applicant is permitted to petition the Special Permit Granting Authority (SPGA), in this case, the ZBA, to change from one non-conforming use to another non-conforming use as long as the current non-conforming use is legally existing. The current, non-conforming warehousing/storage use is legally existing.
- The Applicant proposes making some exterior façade changes. In response to concerns from the ZBA at the May 2, 2018 hearing, the Applicant has altered their proposal for the façade. At the May 2, 2016 ZBA hearing, members of the ZBA recommended that the Applicant team reconfigure the interior of the building. The ZBA felt that the initially-proposed interior configuration was forcing an unsatisfactory treatment to the exterior of the building, particularly on the Everett Avenue façade.

The Applicant team reconfigured the interior of the building in response to ZBA concerns. As a result of this reconfiguration, the Applicant proposes a new storefront system that will be uniform on both the Cross Street and Everett Avenue facades. All windows will be real windows. The existing garage door and egress door on the Everett Avenue façade will be bricked in with brick and mortar to match the existing. A new egress door will be added to the rear façade of the building.

A sign band is proposed for the front façade of the building. Downcast, gooseneck lights will illuminate the sign band. No signage will be located on the windows or main door glass.

Under Article 9 of the SZO:

- Despite what the photo on the first page of this staff report may suggest, the property has zero parking spaces on-site currently. The vehicle shown parked in the photo taken from the Assessor's site is illegally parked. The property has no curb cuts associated with it.
- The current use of the site as a storage/warehouse/distribution location requires 1 parking space per every 1,500 gross square feet of building area plus 1 parking space for each business vehicle stored on-site, according to SZO Section 9.9.5 item 12. This results in the property having to provide 2 parking spaces under existing conditions. However, due to the nature of the site, the property is unable to provide any legal parking spaces. As noted above, though the photo used in this staff report to show what the existing building looks like, the car shown in the photo is illegally parked.
- The Applicant does not propose any parking spaces for the site. SZO Section 9.9.5, item 7 states that for every 400 square feet of building in an RB district for a medical/dental/veterinarian office/outpatient clinic, a property must provide 1 parking space. In the case of 51 Cross Street, there is 1,635 square feet of space in the



building. Divided by 400, this results in the Applicant having to provide 10.4 (4.08) parking spaces.

The parking relief calculation for a commercial property is as follows:

$$(\text{New parking requirement} - \text{old parking requirement}) \times .5^1$$

In the case of 51 Cross Street, the parking calculation is as follows:

$$(4 - 2) \times .5$$

$$2 \times .5 = 1.0$$

In the case of 51 Cross Street, parking relief is needed for 1.0 (one) parking space.

- It is not physically possible for the Applicant to provide any parking spaces on-site due to the nature of the parcel; there is no location on the parcel for the Applicant to provide any legally-viable parking spaces. Further, there are no curb cuts currently associated with the property. It is Staff's opinion that creating curb cuts along Everett Avenue (the intersecting side street), would create a dangerous situation for both vehicular traffic, pedestrian traffic, and the intersection of both. Therefore, Staff recommends that the ZBA approve the parking relief for this property at 10 spaces. On-street parking and access via public transportation and then by foot are preferable to seeking a curb cut for a property that could, at most, provide one compact car's worth of parking space.

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

- The proposal, as conditioned, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; and to encourage the most appropriate use of land throughout the City.
- The Board finds that the proposal is not consistent with the purposes of the RB district which are "...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." However, as the Board noted in the section above, the current use of the property is also non-conforming. The Board finds that converting the property into a dental office is a preferable use for an RB district parcel than the current warehousing/storage use. The

<sup>1</sup> When the number of spaces of relief required is less than one or a negative number, no parking relief is needed.



dental office use will provide an amenity to the surrounding neighborhood that can be useful to more of the surrounding population than the current, private warehousing facility.

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

- This portion of Cross Street presents a wide variety of building types and uses. There is a church that serves as a food pantry, house of worship and homeless shelter, a school, residential structures, and mixed-use structures with residential/office on some floors along with some form of retail use on the pedestrian level. Given the eclectic surroundings, the Board finds that converting this property into a dental office will allow for a physical upgrade to the façade and will generate additional activity in the area.

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

- The proposal is not residential in nature and, therefore, will not add to the stock of affordable housing.

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

- The proposal will help to upgrade a building that has been in need of a facelift for some time and will provide a new service to this area.

### III. DECISION

**Special Permit under §4.4.1 & Article 9 of the SZO**

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the ZBA voted to **CONDITIONALLY APPROVE** the requested **SPECIAL PERMITS** with the conditions noted below:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is to convert the property from one non-conforming use (warehouse/storage) to another non-conforming use (dental office) and for one (1) space of parking relief.	BP/CO	ISD/ Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>February, 2018</td> <td>Initial application submitted to city clerk's office</td> </tr> <tr> <td>March 21, 2018</td> <td>Updated plan set and plot plan submitted to OSPCD</td> </tr> <tr> <td>May 8, 2018</td> <td>Updated plan set submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	February, 2018	Initial application submitted to city clerk's office	March 21, 2018	Updated plan set and plot plan submitted to OSPCD	May 8, 2018	Updated plan set submitted to OSPCD
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ANY changes to the approved plans, other than those changes made specifically to conform with the conditions below, 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.												
<b>Pre-permitting</b>												
2	The Applicant shall be required to demonstrate that the project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans <u>must be submitted to the Engineering Department for review and approval before a building permit will be issued.</u>	BP	Eng/ISD									
3	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. <u>There is a moratorium on opening streets from November 1<sup>st</sup> to April 1<sup>st</sup> and there is a list of streets that have additional opening restrictions.</u>	BP	Eng/ISD									
4	The Applicant shall present their electrical plan to lights and lines/wiring for their review and approval prior to the issuance of a Building Permit.	BP	Wiring/ISD									
5	The Applicant shall provide the Traffic & Parking Division with a plan for construction traffic management for that division's review and approval prior to the issuance of a building permit. This plan will include delivery windows for construction equipment	BP	T&P / ISD									
6	The Applicant shall file a demolition plan with the Inspectional Services Division (ISD) for their review and approval prior to any demolition or building permits being issued.	Demo Permit/BP	ISD									
<b>Construction Impacts</b>												
7	The Applicant shall post the name and phone number of the general contractor and all sub-contractors at the site entrance <u>where it is easily visible to people passing by.</u>	During Construction	ISD									



8	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to <u>7:30am</u> and shall finish no later than <u>5pm</u> Monday through Friday. <u>There shall be no construction or construction-related work performed on weekends or holidays.</u>	During Construction	ISD	
9	Deliveries to the construction site shall be limited to 9am to 3pm so as not to interfere with the comings and goings of neighborhood residents during peak commute times.	During Construction	ISD/T&P	
10	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont./perpetua l	Plng.	Deed submitted & application formed signed
11	The Applicant shall, at their expense, replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc.) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW/ISD	
12	All construction materials and equipment shall be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Division must be obtained.	During Construction	T&P	
<b>Design</b>				
13	The Applicant shall provide material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction and prior to the issuance of a building permit. Planning Staff shall have final determination and approval over all materials used on the exterior of 51 Cross Street. Lighting styles, location and design, along with roofing/gutter, façade, samples shall also be provided for Staff approval.	CO	ISD/Plng	
14	No vinyl material shall be used for exterior trim, siding, railings, or the like.			
15	Any vents or pipes exiting the house shall be either wrapped or painted to match the color of the house portion from which they protrude. <u>Under no circumstances shall any pipes or vents evacuate onto the public way.</u>	CO	ISD/Plng	
16	All exterior lighting on the site shall be downcast and shall not, in any way, spill onto abutting properties.	Final sign off / Perpetual	Wiring Inspector	
17	Signage shall be permitted in the designated sign band only. No signage of any sort, including stick-on lettering, posters, etc., shall be allowed in the windows, main or egress doors of the building.	Perpetual	ISD/Plng	



<b>Site</b>				
18	All trash and recycle areas shall be screened with cedar wood lattice or similar screening. Planning Staff shall approve such screening. No dumpsters shall be permitted on site (after the construction period is complete).	CO/Perpetual	ISD/Planning	
19	Because of its corner location, all fencing used on road frontage shall be no taller than 3.5 feet. Fencing shall be made of wood or metal, the materials and design of which shall be submitted to Planning Staff for their review and approval prior to installation. No vinyl fencing shall be permitted. Shrub hedges may be used, but only if they are perpetually trimmed to be no more than 3.5 feet in height.	BP/perpetual	Plng/ISD	
<b>Public Safety</b>				
20	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
21	All fire/smoke detectors shall be hard-wired.	CO/Perpetual	ISD	
22	The building shall be sprinkled.			
<b>Final Sign-Off</b>				
23	<u>The Applicant shall contact Planning Staff at least five (5) working days in advance of a request for a final inspection</u> by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	ISD/Plng.	





Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti  
Danielle Evans  
Elaine Severino  
Josh Safdie  
Pooja Phaltankar (*Alt*)

Attest, by City Planner: \_\_\_\_\_  
Sarah White

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

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_

