



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2014-83-E1-0317**  
**Site: 54-56 Elm Street**  
**Date of Decision: May 3, 2017**  
**Decision: Extension Approved**  
**Date Filed with City Clerk: May 12, 2017**

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**ZBA DECISION**

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|--------------------------------|--|
| <b>Applicant Name:</b>         | 54 Elm, LLC                                      |
| <b>Applicant Address:</b>      | 464 Common Street, Suite #322, Belmont, MA 02478 |
| <b>Property Owner Name:</b>    | 54 Elm, LLC                                      |
| <b>Property Owner Address:</b> | 464 Common Street, Suite #322, Belmont, MA 02478 |
| <b>Agent Name:</b>             | Richard G. DiGirolamo, Esq.                      |
| <b>Agent Address:</b>          | 424 Broadway, Somerville, MA 02145               |

Legal Notice: Applicant & Owner, 54 Elm, LLC, seeks a time extension of a Special Permit under SZO §5.3.10 for Case No. ZBA 2014-83, approved on February 4, 2015, which was granted to alter and expand the nonconforming structure by rebuilding the existing storefront with a second floor to add an additional dwelling unit on-site. Parking relief was also required.

|                                   |                |
|-----------------------------------|----------------|
| <u>Zoning District/Ward:</u>      | RB zone/Ward 5 |
| <u>Zoning Approval Sought:</u>    | §5.3.10        |
| <u>Date of Application:</u>       | March 15, 2017 |
| <u>Date(s) of Public Hearing:</u> | May 3, 2017    |
| <u>Date of Decision:</u>          | May 3, 2017    |
| <u>Vote:</u>                      | 4-0            |

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Appeal #ZBA 2014-83-E1-0317 was opened before the Zoning Board of Appeals at Somerville City Hall on May 3, 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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**DESCRIPTION:**

The proposal was to add an additional dwelling unit to the site by renovating the existing storefront with a second story residential unit. There will be 850 square feet of commercial space available with a 1,300 square foot residential unit. The existing garage on site, facing Mossland, will be demolished and replaced with a carport for one vehicle.

**EVALUATION & FINDINGS FOR EXTENSION**

In 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**

The Applicant has submitted a letter documenting numerous hardships that he has experienced that include difficulty hiring a general contractor and subcontractors, the passing of his mother, unexpected medical emergencies of the general contractor whom was eventually selected, and a massive construction project occurring on Elm Street in front of the locus.

Planning Staff finds that the Applicant encountered issues that constitute hardship which prevented the commencement of construction under the permit.

**Good Faith Effort to Overcome Hardship and Expedite Progress**

Despite the setbacks that the Applicant has experienced, he has continued to engage with multiple City departments on completing the required paperwork to obtain a demolition permit and a building permit. However, due to the unfortunate events the Applicant was unable to receive a Building Permit within the two years since the Zoning Board of Appeals granted the approval for the project.

Based on the above, Planning Staff finds that the Applicant is making good faith efforts to overcome the demonstrated hardships and the permitting for the construction will need to happen in an expeditious manner in order for the approval to remain valid.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie, Anne Brockelman and Pooja Phaltankar absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a time extension. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request.



Attest, by the Zoning Board of Appeals:

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

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 \_\_\_\_\_

