



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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POOJA PHALTANKAR, (ALT.)

Case #: ZBA 2014-83-E2-08/17
Site: 54-56A Elm Street
Date of Decision: September 27, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 29, 2017

ZBA DECISION

Applicant / Owner Name: 54 Elm, LLC
Applicant / Owner Address: 464 Common Street, Suite 322 Belmont, MA 02478
Agent Name: Richard G. Di Girolamo
Agent Address: 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.

Zoning District/Ward: RB zone / Ward 5
Zoning Approval Sought: §5.3.10
Date of Application: August 15, 2017
Date(s) of Public Hearing: September 27, 2017
Date of Decision: September 27, 2017
Vote: 4-0

Appeal #ZBA 2014-83-E2-08/17 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on September 27, 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.



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 (attached) explaining that the previous contractor turned down the job and a new contractor, New Wave Construction, has had to start the building permit process over from the beginning. Additionally, the Fire Prevention Bureau requested a sprinkler system.

The Board 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, the Applicant and new contractor have been working with a fire prevention company to design a sprinkler system for the existing and new portions of the project.

Based on the above, the Board 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, Elaine Severino, and Josh Safdie with Danielle Evans, Anne Brockelman, and Pooja Phaltankar absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a time extension until February 4, 2018. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:



Attest, by the Zoning Board of Appeals:

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

Attest, by the case City Planner: _____

Alexander C. Mello

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 _____

