



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2017-103**  
**Site: 311 Highland Avenue**  
**Date of Decision: December 13, 2017**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: December 26, 2017**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Lydia Rose Trust, John Costello Trustee
<b>Applicant Address:</b>	311 Highland Avenue, Somerville, MA 02144
<b>Property Owner Name:</b>	Lydia Rose Trust, John Costello Trustee
<b>Property Owner Address:</b>	311 Highland Avenue, Somerville, MA 02144
<b>Agent Name:</b>	N/A

<b><u>Legal Notice:</u></b>	Applicant, John Costello, and Owner, Lydia Rose Trust, John Costello Trustee), seek special permits to modify the signage requirements as permitted in the original zoning approval of ZBA 2014-120. RC zone. Ward 6.
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<b><u>Zoning District/Ward:</u></b>	RC zone/Ward 4
<b><u>Zoning Approval Sought:</u></b>	§4.4.1
<b><u>Date of Application:</u></b>	December 13, 2017
<b><u>Date(s) of Public Hearing:</u></b>	December 13, 2017
<b><u>Date of Decision:</u></b>	December 26, 2017
<b><u>Vote:</u></b>	5-0

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Appeal #ZBA 2016-103 was opened before the Zoning Board of Appeals at the Somerville High School Auditorium, 81 Highland Avenue, on December 13, 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:**

1. **Subject Property:** The subject property is a mixed-use building located in the RC zone. The first floor provides commercial space and the upper floors residential. The first floor commercial space is owned by the Applicant and is the subject of the special permit signage proposal.
2. **Proposal:** The Applicant, John Costello, received a violation notice from Inspectional Services in August, 2017, because he had affixed advertising signs in the windows of his ground floor commercial unit. The violation notice indicates that these signs were in violation of the Special Permit conditions that the ZBA approved when this project was permitted under a prior owner. The Applicant seeks a new Special Permit that would allow him to affix advertising signs in his storefront windows.
3. **Green Building Practices:** None listed.
4. **Comments:**

Ward Alderman Lance Davis sponsored a neighborhood meeting regarding the installation of signage on some of the storefront windows. This meeting was held at 6:00pm on Monday, November 20<sup>th</sup>. A total of seven people attended this meeting. The attendees were a combination of abutters and building residents from the upper floor condominium units. The applicant and a member of the Planning Staff also attended the neighborhood meeting.

At this meeting, the Applicant briefly explained to the attendees of the signage he was looking to install along with its placement along the storefront and on either side of the main entry doors to the first floor commercial suite.

All of the attendees present held an informal vote to support the Applicant's proposal to affix lettering directly to three of the storefront windows and on either side of the main entry doors. The letter of support that they submitted to the planning office for the ZBA's review is attached to the end of this staff report.

**II. FINDINGS FOR SPECIAL PERMIT (SZO Article 12):**

*In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in the relevant sections of the SZO. This section of the report goes through those sections in detail.*

**1. Information Supplied:**

The Applicant provided an application form and a copy of the violation letter received from ISD which included photographs of the signs in violation of the Special Permit. The signs, initially affixed to the storefront windows appear immediately below while a copy of the violation letter appears at the end of this staff report.

In addition, Staff reviewed the original staff report and associated ZBA decision from January, 2015, case # ZBA 2014-20 under the street address of 315 Highland Avenue. This project necessitated a special permit with site plan review (SPSR). Item 19, "Signage" of the staff report states that signage was to be located in the signage band on the front façade of the commercial storefront. This portion of the original staff report reads as follows:

19. **Signage:** *The Applicant must ensure that "the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings."*

*A signage band is located on the commercial storefront. A condition of this report is that commercial signage be reviewed by Planning Staff prior to installation.*



The original staff report and associated approvals only address signage in the form of a sign band, which is affixed to the building façade itself. The Applicant is now requesting that he be allowed to affix lettering directly to three storefront windows and to either side of the main entry doors as additional signage. To do so, a special permit is needed.

The Applicant has provided Planning Staff with an example of the proposed lettering and the dimensions that such lettering would cover on the selected windows. Staff has included the proposed lettering, dimensions and proposed storefront locations at the end of this staff report.

**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.”***

As proposed by the Applicant and as conditioned by Staff, the Board believes that the lettering to be affixed to three of the storefront windows and to either side of the main entry doors to function as additional signage is in keeping with the intent of the original special permit and is not injurious to the site or surrounding neighborhood. The original special permit does not preclude the Applicant from affixing additional signage to the building in the future, but local zoning requires the Applicant to obtain a special permit in order to do so.

**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.

Further, Staff finds that the proposed is in keeping with the purpose of Article 12, Signage which is designed, in part, to “...preserve and enhance the substantial interests of the City of Somerville in the appearance of the city; to preserve and enhance the public interest in aesthetics; to preserve and increase the amenities of the municipality; to control and reduce visual clutter and blight...”

**4. Purpose of District: *The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.***

The Board finds that the proposed project, as-conditioned, is consistent with the intent of the RC zoning district which is “...to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.”

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

The proposal will not add to the existing stock of the City’s affordable housing units.

**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 Board finds that the proposal allows for a use and advertisement that is consistent with the goals of an RC district. In general, the project as a whole, since its original permitting, has helped transform this area of Highland Avenue.

### **DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Pooja Phaltankar (Alt), and Anne Brockeman (Alt) with Josh Safdie and absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **CONDITIONALLY APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to affix lettering to identified storefront windows and the windows buttressing the main front doors of the first floor commercial space according to submitted and identified plans.	BP/CO	ISD/PIng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>September 13, 2017</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>November 27, 2017</td><td>Proposed signage (lettering) with dimensionals and location submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	September 13, 2017	Initial application submitted to the City Clerk’s Office	November 27, 2017	Proposed signage (lettering) with dimensionals and location submitted to OSPCD
	Date (Stamp Date)				Submission					
	September 13, 2017				Initial application submitted to the City Clerk’s Office					
	November 27, 2017				Proposed signage (lettering) with dimensionals and location submitted to OSPCD					
<u>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.</u>										
Signage										
2	Lettering shall be affixed to the storefront windows and the widows buttressing the main doors of the commercial space only and in the locations identified in the plan accompanying this staff report	CO & Perpetual	ISD/PIng							
3	Lettering shall possess any reflective quality.	CO & Perpetual	ISD/PIng							
4	Any changes to the lettering in dimension, location, style, or color either now or in the future shall first received approval from the ZBA before it is altered/installed.	CO & Perpetual	ISD/PIng							
5	Signage shall be prohibited from being affixed to the main entrance doors of the first floor commercial space.	CO & Perpetual	ISD/PIng							

6	The Applicant shall also comply with the provisions of the zoning code in Section 12.3 “Signs in Residence Districts” which states that ALL signs (those in the signage band and any attached to movable stands or other apparatus) together, in total, shall have a total face area that does not exceed 20% of the storefront window area.	CO & Perpetual	ISD/Plng	
<b>Final Sign-Off</b>				
7	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection 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	Plng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
 Richard Rossetti, *Clerk*  
 Danielle Evans  
 Elaine Severino  
 Anne Brockelman (Alt)  
 Pooja Phaltankar (Alt.)

Attest, by the Planner:

\_\_\_\_\_  
 Alex 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 \_\_\_\_\_

