



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

PLANNING DIVISION

***ZONING BOARD OF APPEALS MEMBERS***

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ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2010-29-R1-11/2011**  
**Site: 272 Broadway**  
**Date of Decision: December 7, 2011**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: December 9, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Joe Pandolfo, Chris Kokoras & Anne Bates
<b>Applicant Address:</b>	187 Westminster Avenue, Watertown, MA 02472
<b>Property Owner Name:</b>	Christopher Kokoras
<b>Property Owner Address:</b>	187 Westminster Avenue, Watertown, MA 02472
<b>Agent Name:</b>	Joe Pandolfo
<b>Agent Address:</b>	P. O. Box 1068, Burlington, MA 01803

Legal Notice: Applicant Anne Bates & Christopher Kokoras, and Owner Christopher Kokoras, seek a revision to the site plan approved as part of Variance approval ZBA 2010-29 in order to change the location of the proposed sidewalk on Kenneson Road.

<u>Zoning District/Ward:</u>	RC zone/Ward 4
<u>Zoning Approval Sought:</u>	Revision to Special Permit #2010-29
<u>Date of Application:</u>	November 15, 2011
<u>Date(s) of Public Hearing:</u>	December 7, 2011
<u>Date of Decision:</u>	December 7, 2011
<u>Vote:</u>	5-0

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Appeal #ZBA 2010-29-R1-11/2011 was opened before the Zoning Board of Appeals at the Visiting Nurses Association on December 7, 2011. 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.



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## **DESCRIPTION:**

The proposal included creating a 5 foot wide sidewalk with a 6 inch vertical granite curb from Broadway to the edge of the property on Kenneson Road. The City requested that this sidewalk be installed for patrons of the business to have a path from the parking area in the rear of the building to the main entrance at the front of the building. The sidewalk would also provide a safe path for residents that live on Kenneson Road to access Broadway.

Kenneson Road is a 30 foot wide private way that does not have clearly demarcated parking areas. As the Applicants worked at the site they came to find out that patrons of the business across Kenneson Road and residents parked in the private way on both sides of the street. The installation of a sidewalk would leave 24 feet of clearance, which would not accommodate one drive lane that is typically 9-14 feet and two parking lanes that are typically 8 feet. The result is that one parking lane would no longer be available for use. The Applicants worked with Staff to find a solution to keep both parking lanes and meet the intent of the originally permitted sidewalk.

The proposed solution to meet both goals is a change the site plan to not construct the sidewalk as approved. Instead the Applicants will provide a walkway on their property, install a 5 inch granite curb along the subject property line, keeping the same curb cut that was approved. The 3.5 feet between the walkway and the building will remain as landscaping. The walkway will be 3 feet wide and made of brick pavers. It will be located next to the granite curb and run from the concrete sidewalk in the public right of way to the curb cut. The Applicants will continue the concrete sidewalk from Broadway in the public right of way to just past a telephone pole on Kenneson Rd so that the telephone pole is no longer in the middle of a parking lane.

## **FINDINGS FOR REVISION**

The following findings are relevant to the proposed site plan renovations.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 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.

The site will continue to meet the landscape requirement with the addition of a pervious paver walkway.

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 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 and preserving and increasing the amenities of the municipality. The walkway will provide a safe path from the parking area at the subject site to the front door and from the residences behind the site to Broadway. The revision will also allow for space for people to continue to park on both sides of the private way. The addition of a walkway will be consistent with the purpose of the Residence C district in providing an amenity for the neighborhood and the patrons of the business.

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."

The intent of the sidewalk to provide safe access will continue to be met with the proposed walkway as long as the public is not prohibited from using the walkway.



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**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
<b>Application and Plans</b>												
1	Approval is for an approximately 1923 sf office on the 4779 sf lot. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May 27, 2010 Oct 28, 2010 completed</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Aug 18, 2010 (10/28/10)</td> <td>Plans submitted to OSPCD (A-1.0 site plan, A-1.1 floor plan, A-1.2 roof plan, A-2.1 elevations)</td> </tr> <tr> <td>Sept 9, 2010, as amended by site plan stamped (Dec 1, 2011)</td> <td>Plans submitted to OSPCD (Site Plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 27, 2010 Oct 28, 2010 completed	Initial application submitted to the City Clerk's Office	Aug 18, 2010 (10/28/10)	Plans submitted to OSPCD (A-1.0 site plan, A-1.1 floor plan, A-1.2 roof plan, A-2.1 elevations)	Sept 9, 2010, as amended by site plan stamped (Dec 1, 2011)	Plans submitted to OSPCD (Site Plan)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
<b>Impacts of Completed Project</b>												
2	The landscaping in the front yard shall be no higher than 4 feet to not block views for fire trucks leaving the station.	Perpetual	Fire Prev									
3	The applicant shall install a sprinkler system to the interior of the building and dry head exterior sprinklers to suppress the southeast elevation.	CO	Fire Prev									
4	The applicants shall provide the City with an easement on the property to enter the premises for maintenance and repair of the adjacent Fire House, access and egress to the exit from the adjacent Fire House, and use, access and repair of equipment on the property line.	BP	FP / Plng.									
5	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD									
6	Applicant will screen the dumpster with fencing that blocks any view of the dumpster itself.	CO	Plng.									
7	Any transformers that are required should be fully screened.	Electrical permits & CO	Plng.									



8	Applicant will supply 1 bicycle parking space, which can be satisfied with a "U" type bicycle rack.	CO	Plng.	
9	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
10	<u>The owner shall not prohibit the public from using the walkway.</u>	Continual	ISD	
<b>Construction Impacts</b>				
11	The Applicant shall at his 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	
12	All construction materials and equipment must 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 Department must be obtained.	During Construction	T&P	
<b>Final Review</b>				
13	The Applicant shall submit a control drawing showing an accessible walkway from the parking area to the City sidewalk that shall be submitted for Planning Staff and DPW approval. The walkway shall be maintained by the owner.	Prior to construction of sidewalk	Plng./ DPW	
14	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:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
Danielle Evans

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 \_\_\_\_\_



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