



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

PLANNING DIVISION

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2012-40
Site: 99 Dover Street
Date of Decision: June 6, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 11, 2012

ZBA DECISION

Applicant Name:	Bright Horizons Family Solutions
Applicant Address:	200 Talcott Avenue, South Watertown, MA 02472
Property Owner Name:	99 Dover Street, LLC
Property Owner Address:	1018 Beacon Street, 4 th Floor, Brookline, MA 02446
Agent Name:	Richard DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant, Bright Horizons Family Solutions, seeks a Special permit under SZO §4.4.1 to make alterations to the façade of a nonconforming structure including removing a loading dock door and replacing it with windows and an emergency egress.

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 1, 2012
<u>Date(s) of Public Hearing:</u>	June 6, 2012
<u>Date of Decision:</u>	June 6, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2012-40 was opened before the Zoning Board of Appeals at Somerville High School Auditorium on June 6, 2012. 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 Applicant, Bright Horizons Family Solutions, seeks a Special Permit to make alterations to the façade of a nonconforming structure which includes the removal of a loading dock door that is to be replaced with two pairs of windows and an emergency egress. When the Applicant applied for a Special Permit to remove the loading dock in January 2012, the Applicant had originally planned to leave the loading dock door intact. Presently, the Applicant seeks to alter the interior space of the modified loading dock space and remove the roll-up loading dock door. The roll-up door is to be removed and the façade along Meacham Road would include two new pairs of windows and a new emergency egress. A curb cut, approximately 30 feet long, is also existent in this location as it was used by the loading dock. The proposed façade infill and windows are consistent with the materials and windows already on the Meacham Road façade. As part of the interior modification, an emergency egress will be removed, which presently allows occupants to exit from the previous loading dock space to a common space hallway with emergency egress access to Meacham Road. The Applicant proposes to infill this door and create a new emergency egress in the right corner of the building that opens onto Meacham Road. However, all changes made to the child care facility space are temporary and will be removed to convert the space back to the original conditions upon termination of the tenant's lease. The total area of the daycare facility will be approximately 7,025 square feet.

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 §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

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 which refer to the granting of the requested special permit."

In considering a Special Permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposed alterations to the Meacham Road façade will undoubtedly enhance this corner of the building through the addition of windows and an egress door. These façade additions will also enable the occupants of the space to take advantage of natural light and fresh air. However, granting a request for these modifications ensures that the Applicant will have to come back before the Board to revert the space back to a loading dock with a roll-up door.

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; to provide for and maintain the uniquely integrated structure of uses in the City; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."

The proposal is also consistent with the purpose of the district (6.1.5. CBD - Central Business Districts), which is, "[t]o preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas. A primary goal for the districts is to provide environments that are safe for and conducive to a high volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses."



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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 alterations to the façade have been designed to be compatible with the built and unbuilt surrounding area. The infill design of the roll-up loading dock door is consistent with the rest of the façade. The windows are similar in size, shape, and appearance to those already existing on the Meacham Road façade and the new emergency egress door appears to be identical to the one located to the left of the proposed infill space. The addition of windows to this corner of the façade will also make this area of Meacham Road visible from the interior space of the child care center.

5. Vehicular and Pedestrian Circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

While there is an option to demolish the 30+ foot curb cut along Meacham Road at the infill site, which could create space for additional parking, this option is not viable once the lease for the Applicant has been terminated and the loading dock and door have been reinstalled. Therefore, although the circulation pattern in this area could be altered to add more parking, two additional spaces would not alter the circulation of this area detrimentally, or indefinitely if the curb cut is removed and reinstalled with the termination of the Applicant's lease.



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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										
1	<p>Approval is to make alterations to the façade of a nonconforming structure under SZO §4.4.1 which include removing a loading dock door and replacing it with windows and an emergency egress. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(May 1, 2012)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>December 30, 2011 (May 30, 2012)</td> <td>Loading space reconfiguration plan submitted to OSPCD (Sheet PR-1)</td> </tr> <tr> <td>April 19, 2012 (May 30, 2012)</td> <td>Proposed Exterior Infill Wall & Glazing plan submitted to OSPCD (sheet SD-1)</td> </tr> <tr> <td>April 19, 2012 (May 30, 2012)</td> <td>Proposed Infill Wall & Glazing Elevation submitted to OSPCD (SD-2)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(May 1, 2012)	Initial application submitted to the City Clerk’s Office	December 30, 2011 (May 30, 2012)	Loading space reconfiguration plan submitted to OSPCD (Sheet PR-1)	April 19, 2012 (May 30, 2012)	Proposed Exterior Infill Wall & Glazing plan submitted to OSPCD (sheet SD-1)	April 19, 2012 (May 30, 2012)	Proposed Infill Wall & Glazing Elevation submitted to OSPCD (SD-2)	BP/CO	ISD/Plng.	
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2	Approval is subject to the Applicant’s and/or successor’s right, title and interest in the property.	Cont.	Plng.	Deed submitted & application formed signed										
3	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP											
4	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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