



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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JOSH SAFDIE (ALT.)

Case #: ZBA # 2012-01
Site: 99 Dover Street
Date of Decision: February 1, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: February 6, 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 G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant, Bright Horizons Family Solutions, and Owner, 99 Dover St, LLC, seek a Special Permit under SZO §9.13.b to modify loading design standards in order to establish a by-right child care facility.

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§9.13.b
<u>Date of Application:</u>	January 3, 2012
<u>Date(s) of Public Hearing:</u>	February 1, 2012
<u>Date of Decision:</u>	February 1, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2012-01 was opened before the Zoning Board of Appeals at the Visiting Nurses Association on February 1, 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 remove a conforming loading dock located on Meacham Road in order to create more usable space that will be 1075 sf for their operations behind the loading dock door. The total area of the daycare would be 7025 sf. The office space will go from functioning with one conforming and one nonconforming loading dock to having access to only one nonconforming loading dock.

No exterior alterations are proposed. The loading dock door will remain visible on the exterior and the nonconforming loading dock is not proposed to change. This dock is used for trash pick-up 2-3 times per week, typically between 7-8 a.m., and this schedule is not proposed to change with an alteration in use from church to daycare facility.

FINDINGS FOR SPECIAL PERMIT (SZO §9.13.b):

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 §9.13.b of the SZO the Board finds that the removal of the conforming loading dock would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The removal of the conforming loading dock will not change the frequency that the nonconforming loading dock is used or the street interruption when trucks access the loading dock. This dock is used for trash pick-up 2-3 times per week, typically between 7-8 a.m., and this schedule is not proposed to change with an alteration in use from church to daycare facility. The exterior of the structure will not change so that the loading dock could be restored if another user of the building required more loading capacity.

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 providing for and maintaining the uniquely integrated structure of uses in the City and preserving and increasing the amenities of the municipality.

The proposal is consistent with the purpose of the district, which is 6.1.5. CBD - Central Business Districts, "To 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



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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.”

In considering a special permit under §9.13 of the SZO the Board finds that the special permit would be consistent with the purposes set forth in Section 9.1. Closing up a loading dock that is not required will reduce hazards to pedestrians and will not negatively impact the utilization of the street.

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 proposed alteration to the conforming loading dock will not create any visible changes to the exterior of the building as the Applicant proposes to leave the door intact. While the door to the loading dock may not be the most appealing element of the facade, the door is located at the rear of the building along Meacham Road and appears to be original. Leaving the door intact will not adversely affect the neighborhood and, at some future point, could allow for the load dock to be put back into use.



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DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Evans, Scott Darling and Elaine Severino with Richard Rossetti absent. 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 modify loading design standards (SZO §9.13.b) by removing a conforming loading dock and retaining a nonconforming loading dock in order to establish a by-right child care facility (SZO §7.11.5.A.3). 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>(Jan 3, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Jan 22, 2008</td> <td>Plans submitted to OSPCD (Plot plan)</td> </tr> <tr> <td>Jan 12, 2012</td> <td>Modified plot plan submitted to OSPCD (A1.0 – floor plan key)</td> </tr> <tr> <td>Dec 29, 2011</td> <td>Plans submitted to OSPCD (A0.1 first fl plan, A0.2 Art room plan)</td> </tr> <tr> <td>Dec 3, 2007</td> <td>Plans submitted to OSPCD (A2.03 First fl furniture plan)</td> </tr> <tr> <td>Oct 97</td> <td>Plans submitted to OSPCD (A-1 Existing Floor Plan)</td> </tr> <tr> <td>Dec 30, 2011</td> <td>Plans submitted to OSPCD (EX-1, EX-2)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(Jan 3, 2012)	Initial application submitted to the City Clerk's Office	Jan 22, 2008	Plans submitted to OSPCD (Plot plan)	Jan 12, 2012	Modified plot plan submitted to OSPCD (A1.0 – floor plan key)	Dec 29, 2011	Plans submitted to OSPCD (A0.1 first fl plan, A0.2 Art room plan)	Dec 3, 2007	Plans submitted to OSPCD (A2.03 First fl furniture plan)	Oct 97	Plans submitted to OSPCD (A-1 Existing Floor Plan)	Dec 30, 2011	Plans submitted to OSPCD (EX-1, EX-2)	BP/CO	ISD/Plng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP																	
3	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*
T.F. Scott Darling, III, Esq.
Danielle Evans
Elaine Severino (Alt.)

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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