



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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BRANDY BROOKS (ALT.)

**Case #: ZBA # 2013-81**  
**Site: 186 Highland Avenue**  
**Date of Decision: December 11, 2013**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: December 13, 2013**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Little Sisters of the Poor, Jeanne Dugan Residence
<b>Applicant Address:</b>	186 Highland Avenue, Somerville, MA 02143
<b>Property Owner Name:</b>	Little Sisters of the Poor, Jeanne Dugan Residence
<b>Property Owner Address:</b>	186 Highland Avenue, Somerville, MA 02143
<b>Agent Name:</b>	Earl Thompson
<b>Agent Address:</b>	186 Highland Avenue, Somerville, MA 02143
<b><u>Legal Notice:</u></b>	Applicant/Owner Little Sisters of the Poor, Jeanne Jugan Residence seek a Special Permit under SZO §4.4.1 to alter a nonconforming structure to change doors into windows on the 6th floor solarium that was permitted through Special Permit # ZBA 1992-25
<b><u>Zoning District/Ward:</u></b>	RA zone/Ward 3
<b><u>Zoning Approval Sought:</u></b>	§4.4.1
<b><u>Date of Application:</u></b>	November 12, 2013
<b><u>Date(s) of Public Hearing:</u></b>	December 11, 2013
<b><u>Date of Decision:</u></b>	December 11, 2013
<b><u>Vote:</u></b>	5-0

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Appeal #ZBA 2013-81 was opened before the Zoning Board of Appeals at Somerville City Hall on December 11, 2013. 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  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The proposal is to replace the twelve sliding doors with windows to provide a year round temperature controlled space for 13 nuns to eat and relax. The existing doors are rotting on the sills or jams and are either not operable or tied together so that they remain closed. The windows will all be double hung and bronze in color to match the existing exterior. There will be two 5 by 4 foot windows in each of the existing openings separated by a metal stud. There will be no structural changes to the room.

**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."

Under SZO §5.3.8, revisions to Special Permits are not allowed to be granted after a certificate of occupancy is issued for project. Since the final certificate of occupancy has been issued, a new Special Permit is required.

Alteration of the nonconforming institutional structure to alter the fenestration requires a Special Permit under §4.4.1. The height at 6 stories is nonconforming. The height limit in a Residence A district is 2 ½ stories. The floor area ratio (FAR) is also nonconforming at approximately 0.95 and the maximum allowed is 0.75. Without detailed plans of the entire structure it is difficult to know if the solarium is included in the existing net square footage figure; however, if it is not, the FAR would only increase by 0.003.

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 alteration will not create any new violations and will be minimally visible.

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 conserving the value of land and buildings, encouraging housing for persons of all income levels, and preserving the amenities of the municipality. The proposal is consistent with the consistent with the intent of the RA district in providing housing for seniors in a development that is compatible with the district.

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 change will make the room feel less like a solarium as it was originally intended to be when the deck was enclosed. The room will continue to receive a lot of light from the windows proposed and the space will be more functional and energy efficient. The change to the exterior is minimal it is not very visible because of the height of the structure, setback from the street, and trees along the front property line.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Josh Safdie and Brandy Brooks. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Brandy Brooks 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	Approval is for the replacement of doors with windows on the 6 <sup>th</sup> floor solarium. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>November 12, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Hand written date Nov 10, 2013</td> <td>Modified plans submitted to OSPCD (elevation)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	November 12, 2013	Initial application submitted to the City Clerk's Office	Hand written date Nov 10, 2013	Modified plans submitted to OSPCD (elevation)
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November 12, 2013	Initial application submitted to the City Clerk's Office									
Hand written date Nov 10, 2013	Modified plans submitted to OSPCD (elevation)									
Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.										
2	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							
3	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							
4	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
5	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, *Acting Chairman*  
Richard Rossetti, *Acting Clerk*  
Elaine Severino  
Josh Safdie (Alt.)  
Brandy Brooks (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 \_\_\_\_\_

