



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

HERBERT F. FOSTER, JR., *CHAIRMAN*  
ORSOLA SUSAN FONTANO, *CLERK*  
RICHARD ROSSETTI  
DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2012-98**  
**Site: 231-233 Holland Street**  
**Date of Decision: January 23, 2013**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: February 6, 2013**

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**ZBA DECISION**

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<b>Applicant Name:</b>	62 College Avenue Trust, LLC
<b>Applicant Address:</b>	30 College Avenue, Somerville, MA 02144
<b>Property Owner Name:</b>	62 College Avenue Trust, LLC
<b>Property Owner Address:</b>	30 College Avenue, Somerville, MA 02144
<b>Agent Name:</b>	N/A

Legal Notice: Applicant/Owner 62 College Ave Trust LLC, seek a Special Permit under SZO §7.11.1.c to establish 4 residential units at the site along with an existing 1,000 sf commercial space and a Special Permit under §4.4.1 to change and add windows, doors, and construct an enclosed walkway between second floors of the nonconforming structure.

<u>Zoning District/Ward:</u>	NB zone/Ward 7
<u>Zoning Approval Sought:</u>	§7.11.1.c & §4.4.1
<u>Date of Application:</u>	October 29, 2013
<u>Date(s) of Public Hearing:</u>	12/12/12, 1/9 & 1/23/13
<u>Date of Decision:</u>	January 23, 2013
<u>Vote:</u>	5-0

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Appeal #ZBA 2012-98 was opened before the Zoning Board of Appeals at Somerville City Hall on December 12, 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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**DESCRIPTION:**

There are six separate units in the building which are identified on the submitted plans as Units 1, 2, 3, 4, 5, and Commercial Unit A (currently leased to an IT support company). There is a difference of opinion between the City and the Applicant as to the legal number of dwelling units at the property as the Applicant has performed a substantial amount of work at the property without the necessary building permits. The Applicant is claiming that there are, and have been, three dwelling units at the property (Units 3, 4, and 5) and that the rest of the units (Units 1, 2, and Commercial Unit A) are commercial. The Inspection Services Division feels that there are only two legal dwelling units and one commercial unit at the property. Both the City and the Applicant agree that Units 4 and 5 are currently residential and that Commercial Unit A is commercial. In the interest of resolving this difference, but in no way admitting any need for zoning relief, the Applicant has filed an application for two commercial spaces of 987 square feet (Commercial Unit 1) and approximately 1700 sf (Commercial Unit 2) and three residential units (Units 1, 2, and 3). All of these uses are by-right in an NB district.

A Special Permit is required to legalize already completed exterior work and to apply for additional exterior modifications to the existing nonconforming structure. An existing garage door at the end of the driveway has already been replaced with a pedestrian door and windows. As part of this new proposal, a sign and storefront window will be located at this commercial entry. An enclosed hallway would also be constructed on the second story to provide access to and from the common stairway that is located in the center of the building behind Commercial Unit A. The Applicant, at the suggestion of Planning Staff, would also like to make modifications to the commercial storefront by enlarging the window openings on the front façade. In addition, new PVC panels and trim and gooseneck lighting will be installed on this façade as well.

**FINDINGS FOR SPECIAL PERMIT (SZO §7.11.1.c and §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 to the exterior of the nonconforming structure would not be substantially more detrimental to the neighborhood than the existing structure. The enlarged and lowered windows on the front facade and the gooseneck lighting would help to create a more pedestrian friendly streetscape experience along Holland Street. The gooseneck lighting and established signage areas will help to solidify and identify the commercial storefront as a place of business, not to be confused with the associated residences at the property. Further, the removal of the garage door at the end of the driveway is a substantial positive change for the property as it adds more residential qualities to the structure and removes reference to the former automotive uses at the site.

The proposed enclosed hallway connecting Unit 1 to the common stairway will not greatly impact the architecture of the existing structure or be detrimental to the surrounding neighborhood. This hallway will make Unit 1 a safer living space and enhance the mixed-use quality of the building. The enclosed hallway will also have windows which will increase the fenestration on both sides of the entire building, again helping to shift the building away from its primarily commercial use past, towards a more mixed-use or even entirely residential nature. The structure on the property will remain a 2½ story, mixed-use building.

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 and to encourage the most appropriate use of land throughout the City.”

The general concept of having a mixed-use property in this location is consistent with the purpose of the district (6.1.4. NB - Neighborhood Business Districts), which is, “To establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods.”

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 and completed alterations to the nonconforming structure are compatible with the characteristics of the surrounding neighborhood. The enlarged and lowered windows on the front facade and the gooseneck lighting would help to create a more pedestrian friendly streetscape experience along Holland Street. The gooseneck lighting and established signage areas will help to solidify and identify the commercial storefront as a place of business, not to be confused with the associated residences at the property. Further, the removal of the garage door at the end of the driveway is a substantial positive change for the property as it adds more residential qualities to the structure and removes reference to the former automotive uses at the site.

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**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Josh Safdie. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 a nonconforming structure under SZO §4.4.1 including a new enclosed walkway and new door and window openings. 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>(Oct 29, 2012)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>Dec 12, 2012</td> <td>Title Sheet (AD-000) and Certified Plot Plan (C-001), Current Elevations (AD-200), Proposed Elevations (A-200), Existing Floor Plans (EX-100), Proposed Floor Plans (A-100)</td> </tr> </tbody> </table> <p>Any changes to the approved site plans and elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(Oct 29, 2012)	Initial application submitted to the City Clerk’s Office	Dec 12, 2012	Title Sheet (AD-000) and Certified Plot Plan (C-001), Current Elevations (AD-200), Proposed Elevations (A-200), Existing Floor Plans (EX-100), Proposed Floor Plans (A-100)	BP/CO	ISD/PIng.	
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2	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							
3	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP							
4	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							
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	PIng.							



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Danielle Evans  
Josh Safdie (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 \_\_\_\_\_

