



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2011-79-E1-12/2014
Site: 485 Mystic Valley Parkway
Date of Decision: January 7, 2015
Decision: Petition Approved
Date Filed with City Clerk: January 16, 2015

ZBA DECISION

Applicant Name:	Somerville Housing Authority
Applicant Address:	30 Memorial Road, Somerville, MA 02145
Property Owner Name:	Somerville Housing Authority
Property Owner Address:	30 Memorial Road, Somerville, MA 02145
Agent Name:	Peter L. Freeman
Agent Address:	86 Willow Street, Yarmouth Port, MA 02675

Legal Notice: Applicant and Owner, the Somerville Housing Authority, seek a time extension (SZO §5.3.10) to a Comprehensive Permit (#ZBA 2011-79) under M.G.L. Chapter 40B for an Inclusionary Housing Development. The approval was for 60 affordable one-bedroom residential dwelling units for seniors and person with disabilities in two buildings. The project would consist of the redevelopment and conversion of the existing Mystic Water Works into a 25 affordable housing unit rental apartment building and the demolition of the existing office and garage outbuilding to be replaced with a newly constructed 35 affordable housing unit rental apartment building. The Applicant is requesting waivers from various sections of the City's ordinances and requirements, including but not limited to waivers from the following sections of the SZO: §4.4.1, §4.5.3, §7.2, §7.3, §7.9, §7.11, §8.5.B, §8.5.C, §8.5.E, §8.5.F, §8.5.I, §9.4, §9.5.1.b, §9.6.1, §9.9, §9.11, §9.15, §10.5, and §10.6. RA zone. Ward 7.

Zoning District/Ward: RA zone/Ward 7



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Zoning Approval Sought: §5.3.10; 4.4.1, §4.5.3, §7.2, §7.3, §7.9, §7.11, §8.5.B, §8.5.C, §8.5.E, §8.5.F, §8.5.I, §9.4, §9.5.1.b, §9.6.1, §9.9, §9.11, §9.15, §10.5, and §10.6

Date of Application: December 4, 2014

Date(s) of Public Hearing: January 7, 2015

Date of Decision: January 7, 2015

Vote:

Appeal #ZBA 2011-79-E1-12/2014 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on January 7, 2015. 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.

DESCRIPTION:

State Law MGL 760 CMR 26 provides that:

If construction authorized by a Comprehensive Permit has not begun within three years of the date on which the permit becomes final except for good cause, the permit shall lapse. This time period shall be tolled for the time required to pursue or await the determination on any appeal on any other state or federal permit or approval required for the Project. The Board or the Committee may set a later date for lapse of the permit, and it may extend any such date. An extension may not be unreasonably denied or denied due to other Projects built or approved in the interim. Extension of a permit shall not, by itself, constitute a substantial change pursuant to 760 CMR 56.07(4).

Permit #2011-79 will expire on January 18, 2015. The Applicant is seeking a two year extension to January 18, 2017.

FINDINGS FOR EXTENSION (SZO §):

Demonstration of Hardship

The state law allows permits to lapse after three years except for ‘good cause.’ SZO §5.3.10 cites four examples of “hardship”: financing problems, labor strike, bad weather conditions, and act of God.

The biggest hardship for the Applicant is financing the project. They have applied twice to the Massachusetts Department of Housing and Community Development but have been unable to secure the tax credits needed for the project. In discussions with the DHCD, they indicated that there is a good chance that the project will be approved for the credits in the next application round. After the tax credits are secured, equity investors are needed to purchase the credits and to obtain construction and permanent financing. The Somerville Housing Authority believes that they will be ready to start construction in the spring or summer of 2016.

Planning Staff finds that the Applicant encountered issues that constitute good cause and hardship which prevented the commencement of construction under the permit.

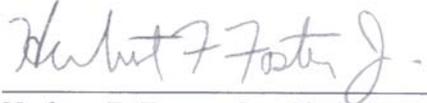


DECISION:

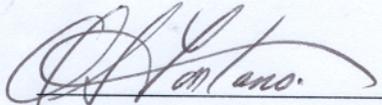
Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for the extension of the comprehensive permit, with all original conditions, until January 18, 2017. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request.



Attest, by the Zoning Board of Appeals:



Herbert F. Foster, Jr., Chairman



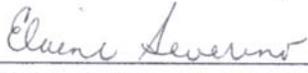
Orsola Susan Fontano, Clerk



Richard Rossetti



Danielle Evans



Elaine Severino, (Alt.)

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.



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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 _____

