



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**PLANNING BOARD MEMBERS**

MICHAEL A. CAPUANO, CHAIRMAN  
JOSEPH FAVALORO, CLERK  
DOROTHY A. KELLY GAY  
REBECCA LYN COOPER  
GERARD AMARAL, (ALT.)

**Case #: PB 2016-11-R1 (10/18)**  
**Site:** 112 Broadway  
**Date of Decision:** November 8, 2018  
**Decision:** *Petition Approved*  
**Date Filed with City Clerk:** November 20, 2018

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**PLANNING BOARD DECISION**

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**Applicant & Owner Name:** Augusto P. DaCunha  
**Applicant & Owner Address:** 8 Jill's Way, Peabody, MA 01960  
**Agent:** Richard G. Di Girolamo  
**Agent Address:** 424 Broadway, Somerville, MA 02145  
**Alderman:** Matthew McLaughlin

Legal Notice: Applicant and Owner, Augusto P. DaCunha, seeks to extend a Special Permit by one year under §5.3.10 of the SZO. Commercial Corridor District (CCD-55). Ward 1.

<u>Zoning District/Ward:</u>	1
<u>Zoning Approval Sought:</u>	§5.3.10
<u>Date of Application:</u>	October 4, 2018
<u>Date(s) of Public Hearing:</u>	November 8, 2018
<u>Date of Decision:</u>	November 8, 2018
<u>Vote:</u>	5-0

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Appeal PB 2016-11-R1 (10/18) was opened before the Planning Board at Somerville City Hall on November 8, 2018. 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. On November 8, 2018, the Planning Board took a vote.



**I. DESCRIPTION:**

The application includes renovating and reconfiguring the entire building to finish the rear storage room of the basement, extend the first floor residential unit to capture the square footage of a stair, and expand the second and third floors to the extents of the first floor. The commercial space remains unchanged and the first floor residential is redesigned but remains a 2-bedroom unit. The second and third floor residential will both become 4 bedroom units.

The applicant is requesting an Extension of the previously approved permits of the maximum one year in order to extend the life of the original approval until October 6, 2019.

**II. EVALUATION & FINDINGS FOR EXTENSION**

In SZO §5.3.10 good cause for an extension of a special permit shall be determined by the SPGA, and only upon a finding of demonstrated hardship (e.g. financing problems, labor strike, bad weather conditions, or act of God) and that there has been good faith effort to overcome the hardship and expedite progress.

Demonstration of Hardship

The Applicant submitted the following information to support their application to extend their special permit by one year:

The applicant /owner Augusto P. DaCunha, respectfully requests the extension as since being granting the Special Permit two (2) years ago he has suffered some health issues which slowed down the process of finding the best building contractor for this project. Further, Mr. DaCunha’s sister had a severe stroke and he needed to take care of her as he is her only family.

Also, once his sister’s health was stable he had some problems with his business that he also owns at 112 Broadway, Somerville, Massachusetts. Said problems stemmed from employees and Mr. DaCunha role in the business which operates as a café changed dramatically.

The Board finds the personal and familial medical issues, in combination with the business problems, to constitute a demonstrated hardship.

Good Faith Effort to Overcome Hardship and Expedite Progress

Despite the setbacks that the Applicant has experienced, the Applicant appears to have worked to move the project forward with respect to finding a building contractor. Based on the above, the Board finds that the Applicant is making good faith efforts to overcome the demonstrated hardships.

**III. DECISION:**

Present and sitting were members Joseph Favaloro, Michael Capuano, Dorothy Kelly Gay, Rebecca Lyn Cooper, and Gerald Amaral. Upon making the above findings, Michael Capuano made a motion to approve the request for Extension of the previously approved Special Permit

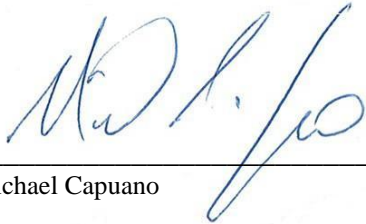


approved by the Planning Board on October 6, 2016. Rebecca Lyn Cooper seconded the motion. Wherefore the Planning Board voted (5-0) to APPROVE the request.

Attest, by the Planning Board:



Joseph Favaloro



Michael Capuano

  
Dorothy A. Kelly Gay

Rebecca Lyn Cooper



Gerard Amaral

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 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 \_\_\_\_\_

