



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

GEORGE J. PROAKIS  
EXECUTIVE DIRECTOR

PLANNING DIVISION  
**ZONING BOARD OF APPEALS MEMBERS**  
ORSOLA SUSAN FONTANO, CHAIRMAN  
DANIELLE EVANS, *CLERK*  
RICHARD ROSSETTI  
ELAINE SEVERINO  
JOSH SAFDIE  
ANNE BROCKELMAN, (ALT.)

**Case #:** ZBA 2016-140-E1-11/2018  
**Site:** 20-24 Rush Street  
**Date of Decision:** January 9, 2019  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** January 23, 2019

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**ZBA DECISION**

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**Applicant / Owner Name:** Matthew McCarthy and Gregory McCarthy  
**Applicant / Owner Address:** 94 Bradlee Ave, Swampscott, MA 01907 and 7 Addison Street, Arlington, MA 02476  
**Agent Name:** Richard G. DiGirolamo, Esq.  
**Agent Address:** 424 Broadway, Somerville, MA 02145  
**Alderman:** Ben Ewen-Campen

**Legal Notice:** Applicant and Owner, Buck Lee Real Estate Development, LLC, seek to extend their Special Permit by one year under §5.3.10 of the SZO. RB zone. Ward 1.

<u>Zoning District/Ward:</u>	RB zone. Ward 1.
<u>Zoning Approval Sought:</u>	SZO §5.3.10
<u>Date of Application:</u>	November 15, 2018
<u>Date(s) of Public Hearing:</u>	January 9, 2019
<u>Date of Decision:</u>	January 9, 2019
<u>Vote:</u>	5-0

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Appeal # **ZBA 2016-140-E1-11/2018** was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on January 9, 2019. 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. The Zoning Board of Appeals took a vote.



**I.DESCRPTION:**

The Applicant seeks approval for a one-year extension of the Special Permits received on January 18, 2017.

**II. FINDINGS FOR EXTENSION OF SPECIAL PERMIT (SZO §5.3.10):**

Under 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**

Since the Special Permits were granted on January 18, 2017, this property has either been for sale or changed hands multiple times. The current owner purchased the property in the summer of 2018. Since that time, the owner has been working to meeting the conditions of the special permit that are required to be completed prior to the issuance of a building permit for this project. One of the biggest challenges has been completing the AHIP requirements.

**Good Faith Effort to Overcome Hardship and Expedite Progress**

The current owner has worked with the Planning Office, ISD, and Housing Office over the last few months to resolve outstanding issues surrounding pre-building permit conditions of their ZBA approval. It is the Board’s understanding that the most challenging portion to complete was the AHIP requirement. On Wednesday, December 12, 2018, Planning Staff and ISD received written confirmation that the AHIP requirement had been completed by the current owner..

It is the Board’s position that, since purchasing the property, the current owner has worked, within a short period of time, to resolve the AHIP and other outstanding pre-building permit conditions approved by the ZBA.

**III.DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Josh Safdie, Danielle Evans, and Anne Brockelman. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:

The Board granted the extension of the special permit until **January 18, 2020**, which is one year beyond the expiration date of the original Special Permit. Condition number two has been added.



#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to construct a 10-unit residential building in the RB zone with parking relief and one affordable unit.	BP/CO	ISD/ Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>November 15, 2016</td> <td>Initial application submitted to OSPCD</td> </tr> <tr> <td>December 28, 2016</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>January 11, 2017</td> <td>Final Plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	November 15, 2016	Initial application submitted to OSPCD	December 28, 2016	Updated plans submitted to OSPCD	January 11, 2017	Final Plans submitted to OSPCD
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ANY changes to the approved plans must first be submitted to the Planning Division to determine whether or not they are <i>de minimis</i> in nature or whether they require review by the SPGA.												
<b>Affordable Housing / Linkage</b>												
2	The Applicant will clean up the site within two weeks of the meeting at which this case was decided on.	BP										
3	Affordable Housing Implementation Plan (AHIP) shall be approved by the OSPCD Housing Division and executed prior to issuance of Building Permit. Affordable units shall be provided on-site.	BP	Housing									
4	Written certification of the creation of affordable housing units, any fractional payment required, or alternative methods of compliance, must be obtained from the OSPCD Housing Division before the issuance of a Certificate of Occupancy (C.O.). No C.O. shall be issued until the OSPCD Housing Division has confirmed that the Affordable Housing Restriction has been approved and recorded and the developer has provided the promised affordable units on-site.	CO	ISD/Plng									
5	No Certificate of Occupancy shall be issued until the OSPCD Housing Division has confirmed that: (for Condominium Projects) the Condominium Documents have been approved and the Developer has agreed to a form of Deed Rider for the Affordable Unit(s), or (for Rental Projects) the Developer has agreed to and executed a Memorandum of Understanding for Monitoring of the Affordable Unit(s).	CO	ISD/Plng/ Housing									



6	Additional requirements for projects converting to condominiums or removing rental units from the market: If a rental unit is going to be removed as a result of this project, it must comply with City of Somerville Code of Ordinances Chapter 7, Article IV, Condominium Conversion and Removal of Rental Units prior to issuance of Building Permit. No Building Permit shall be issued until the OSPCD Housing Division has confirmed compliance.	BP	Housing	
7	Linkage payments will be required to be paid to the Somerville Housing Trust Fund before a CO is issued.	BP	ISD/Plng/ Housing	
8	Engineering plans shall be submitted to the Engineering Division for review and approval prior to the issuance of a building permit.	BP	Engineerin g/ISD	
9	Lights and Lines shall review and approve all utility-related plans prior to the issuance of a building permit.	BP	Lights and Lines/ISD	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Danielle Evans, *Clerk*  
Elaine Severino  
Richard Rossetti  
Josh Safdie  
Anne Brockelman (Alt.)

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Monique Baldwin

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 \_\_\_\_\_

