



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

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JOSH SAFDIE  
ANNE BROCKELMAN  
DREW KANE, (*ALT.*)

**Case #: ZBA 2019-65**  
**Site: 29 Ward Street**  
**Date of Decision:** September 4, 2019  
**Decision:** *Approved with Conditions*  
**Date Filed with City Clerk:** September 5, 2019

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**ZBA DECISION**

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**Site:** 117 Summer Street

**Applicant / Owner Name:** Riverside Community Care  
**Applicant / Owner Address:** 270 Bridge Street, Dedham, MA 02026  
**City Councilor:** Ben Ewen-Campen

Legal Notice: Applicant and Owner, Riverside Community Care, seeks a Special Permit under Article 9 of the SZO for parking relief. RA and RB zones. Ward 3.

<u>Zoning District/Ward:</u>	RA & RB Zones. Ward 3
<u>Zoning Approval Sought:</u>	SZO §9.13
<u>Date of Application:</u>	June 24, 2019
<u>Date(s) of Public Hearing:</u>	7/17, 8/7, 8/21, 9/4 (re-advertisement)
<u>Date of Decision:</u>	September 4, 2019
<u>Vote:</u>	5-0

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Case number ZBA 2019-65 was opened before the Zoning Board of Appeals in City Council Chambers, 2nds Floor Somerville City Hall, on July 17, 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. On September 4, 2019, at their meeting held in the 3<sup>rd</sup> floor Community Room at the Visiting Nurse Association on 259 Lowell Street, the Zoning Board of Appeals took a vote.



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## **I. PROJECT DESCRIPTION**

1. **Subject Property:** The subject property is a pre-existing, non-conforming institutional building sited in both the RA and RB zoning districts. The locus is the site of the former Somerville Home. The property has since been taken over by Riverside Community Care, a non-profit corporation. The property resides on a 41,669 square foot lot.

2. **Proposal:** The property is undergoing extensive internal renovation to accommodate the needs of Riverside Community Care. The only relief needed for this project is parking relief for three (3) spaces.

3. **Comments:**

*The Board:* The use of this property by Riverside Community Care is a protected use under the Dover Amendment. The Dover Amendment is the common name used for M.G.L. Chapter 40A, Section 3, a section of the Massachusetts zoning law that exempts agricultural, religious, and educational corporations from certain zoning regulations. Because of this exemption, the only zoning regulation that applies to this proposal is parking.

*City Councilor:* Councilor Ewen-Campen has been informed of this project and is aware of its Dover Amendment protected status.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §9.13):**

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."*

### **Article 4: Non-conforming Uses and Structures**

The structure is non-conforming in terms of use, however, there is no relief needed for change-of-use because Riverside Community Care is a non-profit entity with a protected use under the Dover Amendment (M.G.L. Chapter 40A, Section 3). **Therefore a special permit under SZO 4.4.1 is not required.**

### **Article 9 of the SZO**

*In considering a special permit under §9.13 of the SZO "the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1, and upon reaching the findings and determinations set forth in Section 5.1.4".*



The site currently provides 27 on-site parking spaces. These spaces are located at the front of the site. Because of the conversion of interior spaces from bedrooms and offices to all office and meeting rooms, the Applicant needs to provide five (5) additional parking spaces.

The Applicant is able to accommodate two (2) additional parking spaces on-site. These new spaces will be located at the rear of the property off of Avon Street.

Therefore, the Applicant needs relief **for three (3) parking spaces.**

The Board finds that granting the requested Special Permit for three (3) parking spaces of relief is consistent with the purposes of SZO §9.1 and will not cause detriment to increased traffic volumes, traffic congestion of queuing of vehicles, changes in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, or unsafe conflicts of motor vehicles and pedestrian traffic.

**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 promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal for parking relief has no impact on the overall purposes of the RA and RB zoning districts as the purposes of these districts focus predominantly on residential housing density.

**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."***

As a result of the ZBA hearing, the ZBA determined that relief for six (6) parking spaces and for tandem spaces. This is to allow the Applicant to be able to accommodate accessible parking spaces and the drive aisle there-to as-needed.

The Applicant is creating two additional parking spaces at the rear of the property off of Avon Street. In addition, a trailer on the Avon Street side of the property will be removed for the Applicant to provide two tandem spaces. The Applicant could have created additional parking spaces in the right rear area of the property along Avon Street that the Applicant voluntarily allows members of the neighborhood to use as a community garden. At this time the Applicant does not wish to disrupt the community's use of the gardening area. It is possible and permissible that the Applicant use the garden area to meet their parking needs if they deem necessary in the future.

**5. Housing Impact:**

Will not create adverse impacts on the stock of existing affordable housing.



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**6. SomerVision Plan:**

The project will allow for a non-profit entity to provide services to members of the Somerville community.

**III. DECISION**

Present and sitting were, Susan Fontano, Danielle Evans, Anne Brockelman, Josh Safdie, Elaine Severino and Drew Kane (alt.). 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:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for parking relief for six (6) spaces and for creating tandem spaces.	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>June 24, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 19, 2019</td> <td>Clarified plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	June 24, 2019	Initial application submitted to the City Clerk's Office	August 19, 2019	Clarified plans submitted to OSPCD
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Any changes to the approved project that are not <i>de minimis</i> must receive SPGA approval.										
<b>Construction Impacts</b>										
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.							
3	All construction materials and equipment shall 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	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays.	During Construction	ISD							
<b>Site</b>										
5	The proposed parking spaces must be of a permeable material.	Perpetual	Plng.							
6	The two new parking spaces at the rear of the lot shall be striped for standard-sized spaces (9x18)	CO	Plng/ISD							



7	The trailer on the Avon Street side of the property shall be removed and two tandem spaces added.	CO	Plng/ISD	
8	The Applicant shall submit a revised site plan to be reviewed and approved by ISD in conformance with applicable accessibility parking/access requirements. This revised site plan shall also show the location of all parking spaces.	BP	Plng/ISD	
<b>Miscellaneous</b>				
9	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
10	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well-kept and in good and safe working order.	Cont.	ISD	
<b>Public Safety</b>				
11	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
<b>Final Sign-Off</b>				
12	The Applicant shall contact the Zoning Review Planner 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:

Susan Fontano, *Chair*  
Danielle Evans, *Clerk*  
Anne Brockelman  
Josh Safdie  
Elaine Severino  
Drew Kane (Alt.)

Attest, by Planner:

\_\_\_\_\_  
Sarah White

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 \_\_\_\_\_

