



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

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**Case #: ZBA 2016-60**  
**Site: 62A Summer Street**  
**Date of Decision: June 29, 2016**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: July 5, 2016**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Alexandra Cruzdo
<b>Applicant Address:</b>	62A Summer Street, Somerville, MA 02143
<b>Property Owner Name:</b>	Gurmail Banwait & Julie Banwait
<b>Property Owner Address:</b>	17 Farragut Avenue, Apt #1, Somerville, MA 02144
<b>Agent Name:</b>	N/A
<u>Legal Notice:</u>	Applicant, Alexandra Cruzado, and Owner, Gurmail Banwait & Julie Banwait seek a Special Permit for parking relief under SZO §9.1.3. RB zone. Ward 3.
<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Date of Application:</u>	May 13, 2016
<u>Date(s) of Public Hearing:</u>	6/29/16
<u>Date of Decision:</u>	June 29, 2016
<u>Vote:</u>	5-0

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Appeal #ZBA 2016-60 was opened before the Zoning Board of Appeals at Somerville City Hall on June 29, 2016. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The subject property is a single-story, pre-existing commercial building containing four units with varying business types. The building rests on a 3,485 square foot lot in the RB zone.

**II. FINDINGS FOR SPECIAL PERMIT under SZO 9.13.a**

In order to grant a special permit the SPGA must make certain findings and determinations as outlined in §9.13.a of the SZO. This section of the report goes through §9.13.a in detail.

**1. Information Supplied:**

The Staff finds that the information provided by the Applicant conforms to the requirements of §9.13.a (as well as §9.5.5.d parking requirements for institutional, educational and arts uses) of the SZO and allows for a comprehensive analysis of the project.

**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...”***

The applicant requires a Special Permit because, with the change of use from retail to house of worship, the applicant will be providing inside seating for congregants. 30 seats will be provided. This would normally require that 5 parking spaces be provided (1 space for every 6 seats). There are no employees, only a volunteer pastor.

However, currently, even under the retail use, there is no on-site parking at all that can be provided for any of the units in this commercial building. Yet, under existing retail conditions, there should have been 2 parking spaces provided. Given that this was not possible due to non-existent off-street parking on the parcel, no parking was provided. In order to determine the number of spaces for which relief is needed under the new conditions, the following equation is used:

$$(\text{new parking requirement} - \text{old parking requirement}) \times .5 = \text{new spaces required}$$

In this instance, the parking equation is:  $(5-2) \times .5 = 1.5$  spaces of relief.

The hours of operation for the church will be Monday – Friday evenings from 6PM to 9PM and Saturdays and Sundays from 7AM – 10PM. The Applicant has informed Planning Staff that the church will not be open all of the hours that are indicated as hours of operation, therefore minimizing the impact on on-street parking. The Applicant included longer hours in their application, particularly on Saturdays and Sundays, for the occasions when the church may hold special events.

**3. Purpose of District: *The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.***

The purpose of the RB district in which this parcel resides is “to establish and preserve medium density neighborhoods of one-two-and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” The building and its uses are pre-existing, non-conforming uses for this residential district. It may be argued that the various current and past uses and, now, the religious use, are “compatible with and convenient to the residents of such districts.” The Applicant states in the application that this “...project is intended to serve the community”.



**4. Site and Area Compatibility: *The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.***

The area is a busy street with a mix of one-, two-, and three-family structures along with pre-existing small businesses of varying kinds including a recording studio, retail, and a convenience store. There was formerly a service station on the opposite side of the Summer Street - School Street intersection. Despite the increase in the number of people that this unit will be able to serve at one single time, Staff finds that providing **1.5** spaces of parking relief will not be a detriment to the site or area. Regarding each of the items below, Staff finds the following:

a. Increase in traffic volumes

It could be argued that, given the number of anticipated seats filled (30) at one time, that there is the potential for an uptick in vehicular traffic in the area. This is, however, a busy street that already accommodates a goodly volume of daily traffic. The church unit is at the intersection of Summer and School Streets and is already regulated by a set of traffic lights. Further, any uptick in traffic will occur only at specific, limited times each day, mostly during the evening hours and limited occasions on weekends.

b. Increased traffic congestion or queueing of vehicles

Given the small number of congregants at the church, and no guarantee that all of them will be driving individually to create an additional volume of 30 cars during the hours of operation, there should be little impact on traffic congestion in the area or vehicle queueing either at traffic lights or at the property itself.

c. Change in the type(s) of traffic

The change in use will not create a change in the type of vehicular or non-vehicular traffic in the area.

d. Change in traffic patterns and access to the site

The change in use will not cause a change in the traffic patterns from that which exists today. The site will be accessed in the same way in which it was accessed as a retail store: by vehicle, bicycle, or via walking.

e. Reduction in on-street parking

The proposal will not create a reduction in on-street parking. Impacts to on-street parking will only occur during specific and limited hours. Providing parking relief for the house of worship is consistent with the parking relief that was provided for current and previous businesses in this location.

**6. Impact on Public Systems: *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”***

The proposal will not create adverse impacts on the public services and facilities serving the development.

**7. Environmental Impacts: *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”***

The proposed parking relief will not create and adverse impact on the surrounding area.



**8. Consistency with Purposes:** *“Is consistent with: 1) the purposes of this Ordinance, §9.1 which states that its purpose is, in part,: “...establish standards ensuring the availability and safe use of parking areas within the City of Somerville...”*

The proposal is consistent with the general purposes of the Ordinance as set forth under §9.1, in that it will not significantly impact the orderly access and egress to and from the public street, will not significantly increase the amount of traffic on the street, will not contribute to surface water run-off, nor create an increase in expenses of paving.

**9. Housing Impact:** *Will not create adverse impacts on the stock of existing affordable housing.*

Not applicable.

**10. SomerVision Plan:** *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

Not applicable.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Anne Brockelman, Elaine Severino, Danielle Evans, and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with the addition of one condition. Elaine Severino 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	Approval is for a Special Permit for parking relief for up to 50 seats and 6 spaces. <b><u>This Special Permit is ONLY FOR THIS OCCUPANT, Alexandra Cruzado.</u></b>	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>5/19/2016</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>5/24/2016</td> <td>Modified plans submitted to OSPCD (1-23)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	5/19/2016	Initial application submitted to the City Clerk’s Office	5/24/2016	Modified plans submitted to OSPCD (1-23)
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5/19/2016	Initial application submitted to the City Clerk’s Office									
5/24/2016	Modified plans submitted to OSPCD (1-23)									
Any changes to the approved plans must be submitted to Planning Staff for review prior to implementation.										
2	6 spaces of parking relief (up to 50 seats) have been provided for this applicant only. Approval does <b>NOT</b> run with the site, only with the Applicant, Alexandra Cruzado.	BP/CO	ISD/Plng.							



Attest, by the Zoning Board of Appeals:

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

Attest, by the Staff:

\_\_\_\_\_  
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 \_\_\_\_\_

