



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

PLANNING DIVISION

***ZONING BOARD OF APPEALS MEMBERS***

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DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2008-68-R1-3/2011**  
**Site: 7-9 Bowers Avenue**  
**Date of Decision: April 6, 2011**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: April 15, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Christina Yanhui Li
<b>Applicant Address:</b>	9 Bowers Avenue, Somerville, MA 02144
<b>Property Owner Name:</b>	Christina Yanhui Li
<b>Property Owner Address:</b>	9 Bowers Avenue, Somerville, MA 02144
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicant & Owner Christina Yanhui Li seeks a time extension (SZO §5.3.10) to Special Permit #2008-68 for a tourist home (SZO §7.11.4.a) in an owner occupied dwelling.
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<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§7.11.4.a
<u>Date of Application:</u>	March 10, 2011
<u>Date(s) of Public Hearing:</u>	April 6, 2011
<u>Date of Decision:</u>	April 6, 2011
<u>Vote:</u>	5-0

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Appeal #ZBA 2008-68-R1-3/2011 was opened before the Zoning Board of Appeals at Somerville City Hall on April 6, 2011. 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.



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## **DESCRIPTION:**

On April 1, 2009, the Applicant was granted a Special Permit to establish three rooms to rent without kitchen facilities, for a tourist home, in an owner occupied dwelling at 7-9 Bowers Avenue.

The Applicant is requesting a Special Permit Extension of the maximum one year in order to extend the life of the original approval until April 1, 2012.

Section 5.3.10 of the Somerville Zoning Ordinance provides that:

A special permit or a special permit with site plan review shall lapse two years from the granting thereof, or such shorter time as specified in said permit, if a substantial use thereof has not sooner commenced, except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause. Good cause 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. The period of extension of the life of a special permit or special permit with site plan review shall be, at minimum, the time required to pursue or await determination of an appeal, but the maximum extension shall not exceed one (1) year beyond the original permit life.

The Applicant has submitted an explanation of steps taken in order to “expedite progress” of establishing a tourist home and the sprinkler system permit from the Fire Prevention Bureau.

## **FINDINGS FOR SPECIAL PERMIT EXTENSION:**

### **Demonstration of Hardship**

SZO §5.3.10 cites four examples of “hardship”: financing problems, labor strike, bad weather conditions, and act of God.

As a tourist home, the structure required the installation of a sprinkler system. The Applicant contacted several sprinkler installation companies and received estimates from \$23,000 to \$50,000. Due to the lack of sufficient funds, the Applicant delayed the work until she was able to overcome this financial hardship.

The Board finds that the installation of a sprinkler system, which the Applicant was not aware would be a requirement for a tourist home before applying for the special permit, constitutes a legitimate financial hardship to commencing the use under the permit.

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

The Applicant hired a sprinkler installation company, received a permit from Fire Prevention to conduct the work, and commenced the installation of the sprinkler system during the first week of March. The sprinkler system work inside of the house is nearly complete. The second part of the work requires opening the street to bring the water line into the house. The City of Somerville Department of Public Works told the Applicant that the street cannot be opened until after March 15. When the road work is complete, the City of Somerville’s Fire Department will schedule an inspection. Once the Applicant has received a Certificate of Compliance from the Fire Prevention Bureau, she will apply for a Certificate of Occupancy from Inspectional Services Division for the tourist home. She expects to obtain the occupancy permit at the end of March or the beginning of April, which would be just over the two year timeframe of the special permit. She is seeking an extension to ensure that there will be sufficient time to obtain the appropriate permits.

Based on the above, the Board finds that the Applicant has made good faith efforts to overcome the demonstrated



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Date: April 13, 2011  
Case #: ZBA 2008-68-R1-3/2011  
Site: 7-9 Bowers Avenue

hardships and to expedite progress. The project will at most require a few weeks beyond the special permit expiration date to obtain a Certificate of Occupancy for the tourist home.



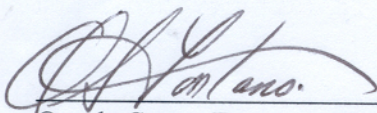
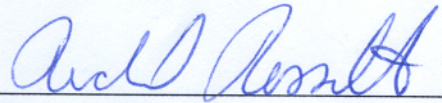
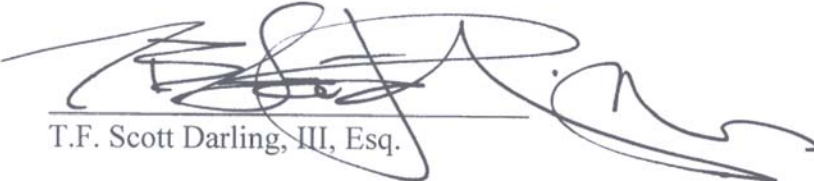
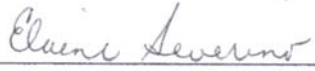
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**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino with Herbert Foster absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for the extension of the conditional special permit, with all original conditions, until April 1, 2012. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request.

Attest, by the Zoning Board of Appeals:

  
Orsola Susan Fontano, Clerk  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
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.



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**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 \_\_\_\_\_



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