



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2015-01-E1-0316
Site: 290 Highland Avenue
Date of Decision: April 6, 2016
Decision: Extension Approved
Date Filed with City Clerk: April 20, 2016

ZBA DECISION

Applicant Name:	290 Highland Avenue, LLC, Brent Berc
Applicant Address:	784 Tremont Street, Suite A, Boston, MA 02118
Property Owner Name:	290 Highland Avenue, LLC
Property Owner Address:	784 Tremont Street, Suite A, Boston, MA 02118
Agent Name:	Sean O'Donovan, Esq.
Agent Address:	741 Broadway, Somerville, MA 02144

<u>Legal Notice:</u>	Applicant & Owner, 290 Highland Ave LLC, seek a time extension (SZO §5.3.10) for Special Permit ZBA 2015-01 to alter a nonconforming structure, a Special Permit with Site Review to establish 7 units and Variances for dimensional requirements such as lot area per dwelling unit, building story height, and setbacks. A Variance is required for parking relief.
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<u>Zoning District/Ward:</u>	RC zone/Ward 5
<u>Zoning Approval Sought:</u>	§5.3.10
<u>Date of Application:</u>	March 1, 2016
<u>Date(s) of Public Hearing:</u>	April 6, 2016
<u>Date of Decision:</u>	April 6, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2015-01-E1-0316 was opened before the Zoning Board of Appeals at Somerville City Hall on April 6, 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
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
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DESCRIPTION:

The proposal is to demolish the majority of the existing structure to construct a 4 story building with a retail first floor and seven dwelling units on floors 2-4. The building will front along Highland Avenue with a 1,550 square foot commercial space and a residential entrance. The existing curbcut on Highland Avenue will be closed which will make room for 3 new street spaces and street trees. The vehicular entrance will be off of Cedar Street. There will be six parking spaces behind the retail space and underneath the upper floors of the building.

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.

The original application was approved on May 6th, 2015, and would expire on May 6th, 2016. If approved, the extension will last until May 6th, 2017.

Demonstration of Hardship

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

The Applicant experienced hardship on account of the time that the utility company has taken to design the required transformer for the site. The Applicant’s attorney submitted a letter stating that the transformer design from Eversource was extremely delayed, and not within control of the applicant.

Good Faith Effort to Overcome Hardship and Expedite Progress

The Applicant’s attorney stated that the Applicant is moving forward with the project. The Applicant has already completed the first phase of work (demolition), and is hoping start construction as soon as possible.

Based on the above, the Board finds that the Applicant is making good faith efforts to overcome the demonstrated hardships and the permitting for the construction will need to happen in an expeditious manner in order for the approval to remain valid.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for an Extension. Elaine Severino 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, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

Attest, by the Administrative Assistant:

Dawn M. PereiraCopies 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 _____

