



**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 2010-40**  
**Site: 1-3A Beacon Street**  
**Date of Decision: September 1, 2010**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: September 15, 2010**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Josh Childs
<b>Applicant Address:</b>	3 Beacon Street, Somerville, MA 02143
<b>Property Owner Name:</b>	1-3A Beacon Street, LLC
<b>Property Owner Address:</b>	853 Fellsway West, Medford, MA 02155
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicants, Josh Childs and Beau Sturm of Service Bar, LLC, and Owner, Eric Anderson of 1-3A Beacon St, LLC, seek a special permit under SZO §4.4.1 to replace and enlarge the existing windows of a nonconforming structure.
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<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 19, 2010
<u>Date(s) of Public Hearing:</u>	September 1, 2010
<u>Date of Decision:</u>	September 1, 2010
<u>Vote:</u>	5-0

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Appeal #ZBA 2010-40 was opened before the Zoning Board of Appeals at Somerville City Hall on September 1, 2010. 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:**

The proposal is to enlarge three windows on the bar's front façade. The front façade currently consists of three opaque windows approximately 1ft square, a set of larger windows to the right, and three entrances, one of which has a metal roll-down security gate. The proposal replaces the three small windows with two sets of 4'4" x 7'3" casement windows. The existing windows to the right and a set facing Dickinson Street are also replaced by right.

## **FINDINGS FOR SPECIAL PERMIT (SZO §5.1):**

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."

In considering a special permit under §4.4 of the SZO, the Board find that the alterations proposed will not be substantially more detrimental to the neighborhood than the existing structure. The proposed windows will add visual interest to the storefront and may improve the pedestrian experience along this portion of Beacon Street. The enlarged windows will face the street and are not expected to further impact any surrounding structures.

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 providing for and maintaining the uniquely integrated structure of uses in the City. The proposal is also consistent with the purpose of the RC district, which is, "[t]o establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."

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."

The proposal is designed to be compatible with the existing bar and surrounding area. Enlarging the windows to the size of those at the right front will create a more balanced façade. Any increase in light or noise due to the enlargement is expected to be minimal.

To further improve the compatibility with the neighborhood, OSPCD recommends removing the roll-down security gate over the door. The gate serves no purpose with the new large windows. Many communities including Boston and New York are phasing out the use of these gates to improve community aesthetics and safety.



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**DECISION:**

Present and sitting were Members Herbert Foster Orsola Susan Fontano, Danielle Evans, Scott Darling and Richard Rossetti. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling 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 the proposed window enlargement. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>July 19, 2010</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>July 7, 2010</td><td>Plans submitted to OSPCD (elevations, sheets 1-3)</td></tr></table>				Date (Stamp Date)	Submission	July 19, 2010	Initial application submitted to the City Clerk's Office	July 7, 2010	Plans submitted to OSPCD (elevations, sheets 1-3)
	Date (Stamp Date)				Submission					
	July 19, 2010				Initial application submitted to the City Clerk's Office					
	July 7, 2010				Plans submitted to OSPCD (elevations, sheets 1-3)					
Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.										
2	The Applicant shall work with planning staff over the next 12 months to develop a plan for removing the roll-down security gate over the front door.	CO	Plng.							
3	The Applicant shall contact Planning Staff 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.							



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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
Danielle Evans

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Dawn M. Pereira

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 \_\_\_\_\_



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