



**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 # 2010-78**  
**Site: 30 Dane Street**  
**Date of Decision: January 19, 2011**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: January 27, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	William Shea
<b>Applicant Address:</b>	21 Properzi Way, Somerville, MA 02143
<b>Property Owner Name:</b>	JWF, LLC
<b>Property Owner Address:</b>	21 Properzi Way, Somerville, MA 02143
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicant William Shea and Owner JWF, LLC seek special permit to modify a site and building approved by a previous special permit by placing a fence along the eastern lot line and modifying the eastern wall of the structure to accommodate a parking area for trucks associated with the on-site business.
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<u>Zoning District/Ward:</u>	IA zone. Ward 2
<u>Zoning Approval Sought:</u>	§5.1
<u>Date of Application:</u>	December 6, 2010
<u>Date(s) of Public Hearing:</u>	1/5 & 1/19/11
<u>Date of Decision:</u>	January 19, 2011
<u>Vote:</u>	5-0

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Appeal #ZBA 2010-78 was opened before the Zoning Board of Appeals at Somerville City Hall on January 5, 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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## **DESCRIPTION:**

Upon leaving Innerbelt Road, Winebow needed to locate their trucks in a secure location that meets transportation and food security standards and also provides convenient access to their distribution center. The applicant placed their trucks in a parking facility owned by JWF that was used for employee parking for Ames for many years. Modification to this parking area included the addition of a security fence and establishment of a new entrance. After neighboring property owners complained, OSPCD reviewed the situation, and concluded that the lot, within the RC zoning district, had never been approved to be used for truck parking, which is a separate use than running an off-site employee parking lot. OSPCD/ISD informed the owner and tenant to remove the trucks from this location.

The applicant has responded by providing an alternative location for his tenant to store trucks. This location still must be secure, and also should provide electric power to keep trucks warm on cold winter nights. The proposed location is along the eastern edge of the building, between the structure and the lot line. This will require the installation of a fence along this lot line. The addition of this fence, that was not included in the approval of the original site plan at this location, thereby requires a Special Permit.

## **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."

The Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing situation.

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 secure safety from fire, panic and other dangers." The proposed project will create a handicap accessible egress to this portion of the building for the eventual day care center that will be located there.

The proposal is consistent with the purpose of the district, which is, "To establish and preserve areas for industrial and related uses which are not incompatible with commercial uses; uses which are most appropriately located as neighbors of industrial uses including living and studio space for artists; and uses which are necessary to service the immediate needs of industrial establishments in those areas, and accessory uses to industrial uses such as day care centers, cafeterias, health facilities, and the like." The proposed use is an industrial use.

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 project is compatible with the characteristics of the surrounding area. It ensures that the applicant will have a safe place for storage of vehicles without needing to impact abutting residential areas.



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# **DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. 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 to modify a site and building approved by a previous special permit by placing a fence along the eastern lot line and modifying the eastern wall of the structure to accommodate a parking area for trucks associated with the on-site business. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	PIng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(12/6/10)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>6/20/09 (12/6/10)</td><td>Plot Plan</td></tr><tr><td>12/6/10 (12/6/10)</td><td>Plan submitted with application (SK-1)</td></tr></table>				Date (Stamp Date)	Submission	(12/6/10)	Initial application submitted to the City Clerk's Office	6/20/09 (12/6/10)	Plot Plan	12/6/10 (12/6/10)	Plan submitted with application (SK-1)
	Date (Stamp Date)				Submission							
	(12/6/10)				Initial application submitted to the City Clerk's Office							
	6/20/09 (12/6/10)				Plot Plan							
12/6/10 (12/6/10)	Plan submitted with application (SK-1)											
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	The applicant shall meet fire prevention bureau's concerns. The applicant shall not park vehicles in the exit discharge area and shall maintain emergency exit access as needed.	BP	Fire									
3	The applicant will provide the City of Somerville with evidence that the owner of the Market Basket site allows permission for occupancy of the passageway by the fence.	BP	PIng.									
4	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	PIng.									
5	The Applicant shall be permitted to install an eight foot fence in accordance with Plan SK-1 dated December 6, 2010 provided that it is determined by the City Solicitor that the special permit application was appropriately advertised in accordance with MGL 40a and the Somerville Zoning Ordinance.	BP	PIng.									



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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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