



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #:** ZBA 2014-97  
**Date:** October 9, 2014  
**Recommendation:** Denial

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**PLANNING STAFF REPORT**

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**Site:** 8-12 Main Street

**Applicant & Owner Name:** Nguyen Trivan  
**Applicant & Owner Address:** 120 Second Street Medford, MA 02155  
**Alderman:** Tony Lafuente

Legal Notice: Applicant and Owner, Nguyen Trivan, seek a Special Permit per SZO §9.13 for parking relief to establish 2 residential units. NB Zone. Ward 4.

Dates of Public Hearing: Zoning Board of Appeals - October 15, 2014

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is a 3,569 square foot lot at the corner of Main Street and Edgar Avenue on Winter Hill. The existing structure was built in the late 1980's, early 1990's. It is a two story split block building. There is a liquor store on the first floor and a church on one-half of the second floor. The back half of the building was illegally converted to two residential units. The building owner was issued a violation letter on July 17, 2014. See the streetview image on the next page.



2. Proposal: The proposal is for 1 space of parking relief to establish the residential units.
3. Green Building Practices: None listed on the application.
4. Comments:

*Fire Prevention:* Has been contacted and has no comments at this time.

*Traffic & Parking:* A parking memo is needed to determine if one space of relief is detrimental.

*Wiring Inspection:* The wiring inspector will review illegal work for building/electrical code conformance if the proposal is approved.

*Ward Alderman:* Has been contacted and has no comments at this time.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §9.13):**

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 Staff 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."***

Due to the Neighborhood Business district two dwelling units are allowed by-right. The subject property, at 3,569 square feet also meets the lot area per dwelling unit calculation of 875 square feet per unit.

A special permit is required for parking relief. The SZO §9.4 states that a change in use with no change in floor area should be subject to the following formula:

$$\text{New Use} - \text{Old Use} / 2.$$

The second floor uses, a church and 2 dwelling units, both require 3 spaces for a total of 6. The previous use, a physical therapy office, required 4 spaces. Using the formula above:

$$(4-6)/2 = 1 \text{ space of relief is needed.}$$

Under SZO §9.13 a special permit is required since the Applicant is not provided any parking.

In considering a Special Permit under §9.13 of the SZO, Staff find that the alterations proposed would be substantially more detrimental to the neighborhood than the existing use. Although the City generally encourages a mix of uses along corridors the building form is commercial. The only changes proposed are one-for-one window alterations to make egress windows and a small bit of landscaping in the rear of the building. The City has a preference for commercial development and maintaining commercial buildings. Planning Staff asked the property owner to make more significant changes to the building to signify the residential use on the upper floors but these requests were not granted.

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 not consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to lessen congestion in the streets; to provide adequate light and air; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality. The units, as designed, have limited access to light and air. In particular, Unit 2 has one window.

The proposal is not consistent with the purpose of the district, which is, "To establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods." Planning Staff recommends maintaining the commercial use in a commercial building type that has close proximity to residential buildings.

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 surrounding neighborhood is a mix of uses. The Main Street and Broadway intersection is the last commercial node before Magoun Square. The intersection provides neighborhood services, mostly in residential buildings with a shopfront. OSPCD is currently leading a Somerville By Design neighborhood planning process for Winter Hill and a streetscape planning process for the Broadway corridor.

The conversion of commercial uses to a residential use will be detrimental to the building by providing substandard units with little access to light and air. The use will also be detrimental to the tax base.

6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. One space of parking relief could contribute to traffic volumes or congestion.

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

The project will have no effect on any existing affordable house.

8. 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.*

The property is in the enhance district of the SomerVision Map. The area is a node of commercial activity. One of the SomerVision goal states, "promote municipal financial self-determination and reduce fiscal dependence on state aid and residential taxes and fees." The building, without additional modification, will create substandard housing units in a building originally intended for a commercial use. Since the application, the Economic Development staff have been working with the Applicant to find a commercial tenant for his property. Most recently, Economic Development has notified the Arts Council that this space is available and may work for artists as well. This hasn't resulted in a tenant but possible lessees have viewed the property.

### III. RECOMMENDATION

#### Special Permit under §9.13

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **DENIAL** of the requested **SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.