



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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Case #: ZBA # 2010-70
Site: 71 Linwood Street
Date of Decision: May 4, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 16, 2011

ZBA DECISION

Applicant Name:	Herb Chambers I-93, Inc. d/b/a Chambers Motorcars
Applicant Address:	259 McGrath Highway, Somerville, MA 02145
Property Owner Name:	NSTAR Electric
Property Owner Address:	One NSTAR Way, Westwood, MA 02090
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant Herb Chambers Motorcars and Owner NSTAR Electric Company, seeks a Special Permit with Site Plan Review under SZO §5.2.1 to use the existing structure for an automobile repair facility (SZO §7.11.5.b and/or §7.11.6.b). IA zone. Ward 2.

<u>Zoning District/Ward:</u>	IA zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.11.5.b & §7.11.6.b
<u>Date of Application:</u>	October 22, 2010
<u>Date(s) of Public Hearing:</u>	12/15/10, 1/5, 1/19, 2/2, 2/16, 3/2, 3/16, 4/6, 4/20 & 5/4/11
<u>Date of Decision:</u>	May 4, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2010-70 was opened before the Zoning Board of Appeals at Somerville City Hall on December 15, 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 building has previously been utilized by NSTAR electric company. Herb Chambers Motorcars would like to convert this use to an auto repair facility. Repairs and improvements will be performed here for used vehicles to prepare the vehicles for resale or to be sent to auction. The space may also be used to repair customer vehicles during peak times and during the construction at the main facility at McGrath Highway. But, at no time will customers be at the facility. Vehicles to be repaired will be delivered to and from the facility by Herb Chambers Motorcars employees.

FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §5.2):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

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 with site plan review.”

In considering a special permit under § 4.5 of the SZO, the Board find that the use proposed would not be substantially more detrimental to the neighborhood than the existing use.

3. Purpose of District: The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.

The proposal is consistent with the purpose of the district, 6.1.8. IA - Industrial Districts 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.”

4. Site and Area Compatibility: The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.

The Applicant is only proposing to perform interior renovations of the existing building which would maintain the compatibility of the existing building with those in the surrounding area. The site modifications with regard to parking and landscaping will be an improvement to what is currently on the site.

5. Functional Design: The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”

The Board finds that, with the proposed conditions, the site would meet standards for a functional design. A proposed condition is that the Applicant complete site design improvements which would include the installation of three handicap access points at the intersection of Linwood Street and Poplar Street as there are currently no accessible access points to cross the street at that intersection.

6. Impact on Public Systems: The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”



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The renovated structure will not have an adverse impact on the public services and facilities serving the development. There are already public utilities serving the subject property and there will be no need to increase their capacity to serve the new use. The proposal will improve the existing sidewalk and footpaths for pedestrian traffic and as well as improve the pedestrian traffic pattern in the area.

7. Environmental Impacts: “The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”

The proposed use of the site is consistent with industrial uses that are already occurring in the surrounding area. The Board is concerned that the long-term plans for redevelopment of the area will require this building to remain in an area where other lots may be improved for more pedestrian-oriented purposes, but feels that the proposed exterior redesign will ensure that the site can operate for this use with minimal impacts on higher-value development that may occur in the area in the long-term after arrival of the green line.

8. Consistency with Purposes: “Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”

The proposal is 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 conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City.”

9. Preservation of Landform and Open Space: The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”

There is currently minimal landscaping on the site along the Linwood Street side of the property but the rest of the entire site is paved or covered by the existing structure. The Applicant has submitted a site plan that would improve the parking organization at the site and minimally increase the amount of landscaping on the site. The Board is recommending an updated landscaping plan that would improve the proposed landscaping area. As is noted in the comments from the Transportation and Infrastructure Department, a minimum planting bed width of three feet is recommended to maintain the vegetation that is proposed to be planted there for the long term.

10. Relation of Buildings to Environment: The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”

The Applicant is proposing no external changes to the existing structure with regard to height, form, or scale.

11. Stormwater Drainage: The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and powered area, and routed through a well-engineered system designed with appropriate storm water management techniques.



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Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”

The Applicant is not proposing to make any changes with regard to site surface drainage or the removal of surface water. The Applicant has submitted a site plan that displays an improved parking layout at the site and along with a small increase in the landscape area.

12. Historic or Architectural Significance: The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”

The existing structure is not of historical significance and interior renovation of the structure will not be a detriment to the neighborhood.

13. Enhancement of Appearance: The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”

The current state of the site is not appealing with a disorganized parking arrangement at the site creating an unsafe and unclear pedestrian environment. The Applicant has submitted a site plan that should mitigate this unorganized vehicular environment. The small landscaped area is a start to limiting vehicular access directly onto Poplar Street, but the Board would prefer to see a stronger separation between the pedestrian area along Poplar Street and the parking area for 71 Linwood Street. The Board would also like to see the landscaped area increased in width to at least three feet to help sustain the vegetation planted there for the long term.

14. Lighting: With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”

Lighting at the site is currently adequate with seven exterior flood lights situated on three sides of the building to enhance the street light pole that sits at the corner of Poplar and Chestnut Streets.

15. Emergency Access: The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”

The structure on the site has two pedestrian access points, one on the Linwood Street side and the other which on the Poplar Street side, which is handicap accessible. Staff has not received any comments or concerns from Fire Prevention at this time.

16. Location of Access: The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”



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Access to the site will be from the existing access points at the corners of Linwood and Poplar Streets and Poplar and Chestnut Streets, as well as the existing access off of Linwood Street in the south corner of the site. All of these site access points have existing curb cuts.

17. Utility Service: The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”

The Applicant is not proposing to install any new utilities at the subject property.

18. Prevention of Adverse Impacts: The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development;”

The proposed use will not include machinery which emits heat, vapor, light or fumes in excess of what is already occurring in the area. The light, air and noise impacts will be typical of the other industrial uses currently in the neighborhood. There is currently minimal landscaping on the site along the Linwood Street side of the property. The Applicant is proposing to install a small, one foot wide landscaping area between the existing parking area and the sidewalk along Poplar Street. The Board would prefer to see this landscaping area increased to at least three feet in width to sustain vegetation in this proposed landscaping area for the long term.

19. Signage: The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”

The Applicant is not proposing any signage or advertising for the structure.

20. Screening of Service Facilities: The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”

The existing dumpster on site is located in the screened-in area on northeast side of the site. Currently there is an exposed transformer box on the Poplar Street side of the site situated against the existing structure. No changes to the trash collection areas or transformers are proposed.

21. Screening of Parking: The Applicant has submitted a site plan that displays an improved parking layout at the site, including the proposed striping of 11 parking spaces including one handicap accessible space. None of this parking is proposed to be screened but the parking in this area has not been screened in the past.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino. Upon making the above findings, Richard Rossetti 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:



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#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the use change of a building to an auto repair and storage in excess of 5,000 sq. ft. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>September 22, 2010</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>April 25, 2011 (April 27, 2011)</td><td>Proposed On-Site Parking Plan</td></tr></table>				Date (Stamp Date)	Submission	September 22, 2010	Initial application submitted to the City Clerk's Office	April 25, 2011 (April 27, 2011)	Proposed On-Site Parking Plan
	Date (Stamp Date)				Submission					
	September 22, 2010				Initial application submitted to the City Clerk's Office					
April 25, 2011 (April 27, 2011)	Proposed On-Site Parking Plan									
Any changes to the approved site plan or use that are not <i>de minimis</i> must receive SPGA approval.										
2	The property shall get final approval for fire protection systems.	CO	FP							
3	The special permit for this use shall be issued only to the applicant, Herb Chambers Motorcars, and shall not be transferrable. The special permit shall expire when Herb Chambers Motorcars is no longer using the space for the purpose intended in the application. Any future user seeking to secure this use will need to apply to extend the special permit.	Cont.	Plng./IS D							
4	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete; the applicant shall complete all sidewalk and parking layout improvements as shown on the plan provided.	CO	Plng.							
5	The Applicant shall furnish to the City three handicap accessible pads at the corner of Linwood Street and Poplar Street. One on the Applicant's side of the street, the second across Linwood Street, and the third across Poplar Street.	CO	T&P							
6	Applicant will screen the dumpster on the property with fencing that blocks it from view.	CO	Plng.							
7	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD							
8	Applicant shall submit a landscape plan showing a planting strip along Poplar Street that is at least three (3) feet wide and submit it to Planning Staff for approval before construction can commence.	BP	Plng.							

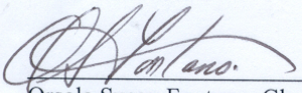


9	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
10	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
11	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.	

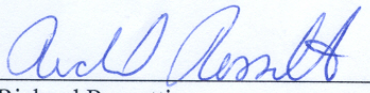


Attest, by the Zoning Board of Appeals:

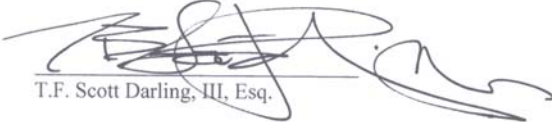
Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Evans
Elaine Severino (Alt.)



Orsola Susan Fontano, Clerk



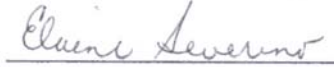
Richard Rossetti



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.

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



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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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