



CITY OF SOMERVILLE, MASSACHUSETTS
ZONING BOARD OF APPEALS
JOSEPH A. CURTATONE, MAYOR

MEMBERS

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RICHARD ROSSETTI
T. F. SCOTT DARLING, III, ESQ.
DANIELLE FILLIS
ELAINE SEVERINO (ALT.)

Case #: ZBA 2008-38

Site: 259 McGrath Highway

Date of Decision: September 3, 2008

Decision: *Petition Approved with Conditions*

Date Filed with City Clerk: September 12, 2008

ZBA DECISION

Applicant Name:	The Herb Chambers Companies
Applicant Address:	259 McGrath Highway, Somerville, MA 02145
Property Owner Name:	The Herb Chambers Companies
Property Owner Address:	259 McGrath Highway, Somerville, MA 02145
Agent Name:	Salvatore Sachetta
Agent Address:	259 McGrath Highway, Somerville, MA 02145

Legal Notice: Applicant & Owner: Herb Chambers Co. seeks Special Permit with Site Plan Review approval under SZO §7.11.11.1 to expand the existing auto dealership corporate offices with a second floor addition and to make façade alterations. IA zone. Ward 2.

<u>Zoning District/Ward:</u>	IA zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.11.11.1
<u>Date of Application:</u>	July 14, 2008
<u>Date(s) of Public Hearing:</u>	8/20 & 9/3/08
<u>Date of Decision:</u>	September 3, 2008
<u>Vote:</u>	5-0

Appeal #ZBA 2008-38 was opened before the Zoning Board of Appeals at Somerville City Hall on August 20, 2008. 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.

DESCRIPTION:

The Herb Chambers Company is proposing to construct a 6,614 g.s.f (5,358 n.s.f) second story addition on the southwestern portion of the property above the existing single-story structure which serves as the "Smart

Center". The proposed addition would be an extension of the second floor of the adjacent building section. The addition would have a slight overhang of the structure below. The height of the structure with the proposed addition would be increased to 34' and would be 4' greater in height than the existing two-story structure that adjoins it to the left/north. The addition would allow Herb Chambers to expand their corporate offices and eventually add 16 new employees.

**FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §7.11
11.1):**

In considering the requested special permits with site plan review the Board must consider and make findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in more detail.

1. Information Supplied: The Applicant must comply "with the information requirements in Section §5.2.3;" The information provided by the Applicant allows for a comprehensive review of the proposed development and is in general compliance with the requirements set forth under §5.2.3 of the SZO.
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". As conditioned, the proposal will comply with these standards.
3. Purpose of the 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 project site is located within an IA district. The IA district seeks 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 use 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 project is consistent the purpose of the IA zoning district. Motor vehicle sales and office space is a commercial use that would be compatible with the commercial and industrial uses in the area.

4. Site and Area Compatibility: The Applicant has to ensure that the project "Is 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 buildings are compatible with those prevalent in the surrounding area."

Since the lot has previously been developed prior natural features have been significantly altered. The Board finds the existing building, with proposed addition, to be compatible with the surrounding neighborhood in terms of height, scale and massing. The building is in a highly visible location as drivers enter Somerville from Cambridge along McGrath Highway. The appearance of the existing building on the site will be altered, and the new physical structure will be generally in character with the surrounding buildings

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

The project meets accepted standards and criteria for the functional design of facilities, structures, and site construction. Any necessary mitigation or minor design changes have been incorporated into the recommended conditions section of this report.

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."

The original SPSR application for the construction of the building received approvals from the City Engineer and a determination was made that no adverse impacts on public systems would result from the development. The Board finds that the proposed addition and the anticipated 16 additional employees would have a minimal impact on any public systems.

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."

Because of the nature of the proposed use no adverse environmental impacts are anticipated. The area surrounding the proposed facility includes a four lane highway and a waste transfer station which together produce pollution in the form of noxious fumes and noise. The Board finds that this facility would not contribute to the emissions that are now experienced in the area. During construction efforts will be made to mitigate dust and control air quality, and to minimize noise.

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."

As the required findings of Article 5 have been made, and the proposal satisfies the purposes of Article 1, including Purpose, Interpretation and Scope, and of Article 6, as already described, The Board finds the proposal to be consistent with the purposes of the SZO.

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 proposed location for the new construction is in an area that will be highly visible from McGrath Highway as drivers enter the city from Cambridge. Due to this location the proposed addition and façade alteration should be visually appealing. The Board has met with the Somerville Design Review Committee and incorporated their comments into the building's design.

14. 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 Fire Prevention Bureau has commented on the plans. No outstanding concerns have been communicated to the Planning Board.

15. 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 Board finds the signage to reflect the scale and character of the building.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Elaine Severino with Danielle Fillis absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit with Site Plan Review. 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	<p><u>This approval incorporates, updates and replaces conditions of all prior zoning approvals except the ZBA variance (case # 1989-75) and (case #1993-26) for signage.</u></p> <p>Approval is to construct a 6,614 g.s.f second story addition. This approval is based upon the following application materials and the plans submitted by the Applicant and/or agent:</p> <table><tr><th>Date</th><th>Submission</th></tr><tr><td>July 14, 2008</td><td>Initial application and plans submitted to the City Clerk’s Office</td></tr><tr><td>August 5, 2008</td><td>Plans and elevations for the second floor addition submitted to OSPCD</td></tr><tr><td>August 29, 2008</td><td>Three renderings of second floor addition submitted to OSPCD</td></tr></table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.</p>	Date	Submission	July 14, 2008	Initial application and plans submitted to the City Clerk’s Office	August 5, 2008	Plans and elevations for the second floor addition submitted to OSPCD	August 29, 2008	Three renderings of second floor addition submitted to OSPCD	BP/CO	ISD/PIng.	
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2	A code compliant fire alarm and suppression system shall be required.	BP/CO	FP									
3	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	CO	DPW									

	damaged as a result of construction activity. All new sidewalks and driveways must be constructed of concrete subject to DPW approval.			
4	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	
5	Any HVAC or other rooftop equipment shall be screened with materials that are visually similar to the façade.	CO	Plng.	
6	The applicant shall eliminate the proposed "Autohaus"-themed façade alterations from the plans. (see 8/29 renderings)	Building Permit	ISD/ Plng.	Modified after PB meeting in response to DRC comments.
7	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	CO	Plng.	
8	The Applicant should consider acknowledging "Somerville" in the signage on its building and operations.	CO	Plng.	

Attest, by the Zoning Board of Appeals:

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

Attest, by the Zoning Board of Appeals 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 _____