



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE (ALT.)  
BRANDY BROOKS (ALT.)

**Case #: ZBA 2014-71**  
**Site: 166 Boston Avenue**  
**Date of Decision: August 21, 2014**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: August 25, 2014**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Souhail Berbara
<b>Applicant Address:</b>	565 Pleasant Street, Norwood, MA 02062
<b>Property Owner Name:</b>	S&S Realty Trust
<b>Property Owner Address:</b>	91 Longwood Terrace, Norwood, MA 02062
<b>Agent Name:</b>	N/A

Legal Notice: Applicant, Souhail Berbara, and Owner, S&S Realty Trust, seek a Special Permit under SZO §4.5.1 to alter a nonconforming use from an automotive service use to include two car-sharing spaces and three spaces for used car sales.

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.5.1
<u>Date of Application:</u>	July 17, 2014
<u>Date(s) of Public Hearing:</u>	August 20, 2014
<u>Date of Decision:</u>	August 20, 2014
<u>Vote:</u>	5-0

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Appeal #ZBA 2014-71 was opened before the Zoning Board of Appeals at Somerville City Hall on August 20, 2014. 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 Applicant proposes to alter the existing non-conforming auto service use to include two spaces for car-sharing and three spaces for used auto sales. The Applicant has a license for two car-sharing spaces, although zipcar currently only has one vehicle located next to the driveway from Mystic Valley Parkway. The Applicant proposes to park three used autos next to this zipcar space, which would be for sale.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.5.1):**

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."*

Under SZO §4.5.1, a nonconforming use may be changed to another nonconforming use only by special permit. This is a residential A zoning district, which does not allow the existing use; therefore, this auto service use is currently non-conforming.

In considering a special permit under §4.5 of the SZO, the Board finds that the use proposed would not be substantially more detrimental to the neighborhood than the existing use. The existing non-conforming use has been in operation for several decades and altering this non-conformity to include two car-sharing and three spaces for used auto sales will not be detrimental to the adjacent residential neighborhood. These vehicles will be parked on-site, will not block views, and will not affect adjacent properties.

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 promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."

The proposal is consistent with the purpose of the Residential A district, which is, "To establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts."

The proposal is compatible with and convenient to the residents of the adjacent residential district. This nonconforming use has been in operation for several years; the alteration of this use to include 3 used auto sales and 2 car sharing spaces will continue the compatible and convenient nature of this use at this corner parcel.

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 residential along Boston Avenue, industrial behind or north of the project site, and green open space across Mystical Valley Parkway. The existing non-conforming use has been located at this site for several years. Altering this use to include car-sharing and 3 used car sales will not detrimentally impact the adjacent neighborhood. These vehicles will be parked on-site, will not block views, and will not affect adjacent properties.

5. Adverse 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 project will not constitute an adverse impact on the surrounding area.

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.*

The circulation patterns will not change as a result of this project. The 3 car-sale vehicles will be stationary unless sold, whereby the vehicle will be removed from the lot. The car-sharing space will continue to operate from this location but likely would not be a cause of congestion.

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

The project will not affect or add to affordable housing.

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.*

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Estimated Employment:</i>	2	2
<i>Parking Spaces:</i>	8	8

This project complies with the goals of SomerVision in that this expands and integrates additional uses onto one site that is non-conforming. This continues the auto-service use and would add the amenity of car-sharing and 3 used-car sales.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 Special Permit under SZO §4.5.1 to alter a nonconforming use from an automotive service use to include two car-sharing spaces and three spaces for used car sales. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(July 17, 2014)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 2, 2009 (August 14, 2014)</td> <td>Site plan submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(July 17, 2014)	Initial application submitted to the City Clerk's Office	February 2, 2009 (August 14, 2014)	Site plan submitted to OSPCD
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February 2, 2009 (August 14, 2014)	Site plan submitted to OSPCD									
Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.										
<b>Site</b>										
2	There shall be no more than 3 used cars for sale located at this site at any given time.	CO	Plng.							
<b>Public Safety</b>										
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
4	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.							
<b>Final Sign-Off</b>										
5	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:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Danielle Evans  
Elaine Severino

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 \_\_\_\_\_

