



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**PLANNING BOARD MEMBERS**

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DOROTHY A. KELLY GAY  
MICHAEL A. CAPUANO, ESQ.  
REBECCA LYN COOPER  
GERARD AMARAL, (ALT.)

**Case #: PB 2016-06**  
**Site: 434 McGrath Highway**  
**Date of Decision: July 14, 2016**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: July 28, 2016**

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**PLANNING BOARD DECISION**

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<b>Applicant Name:</b>	Zipcar, Inc.
<b>Applicant Address:</b>	35 Thomson Place, Boston, MA 02210
<b>Property Owner Name:</b>	MBP Realty Trust, Melissa Piantidosi, Trustee
<b>Property Owner Address:</b>	161 Broadway, Somerville, MA 02145
<b>Agent Name:</b>	Richard G. Di Girolamo
<b>Agent Address:</b>	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant Zipcar, Inc. and Owner MBP Realty Trust, Melissa Piantidosi, Trustee, seek a Special Permit to convert one nonconforming use to another, by leasing space for a car share program. Zone CCD 45, Ward 3.

<u>Zoning District/Ward:</u>	TOD 55 zone/Ward 1
<u>Zoning Approval Sought:</u>	Special Permit
<u>Date of Application:</u>	April 27, 2016
<u>Date(s) of Public Hearing:</u>	June 23 & July 14, 2016
<u>Date of Decision:</u>	July 14, 2016
<u>Vote:</u>	5-0

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Appeal #PB 2016-06 was opened before the Planning Board at the June 23, 2016 meeting. 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 Planning Board took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The subject property is a 0.84 acre lot containing a vacant gas station and a car share lot which is not properly permitted. The proposal is for Special Permit approval to legitimize the car share program on the site for 8 spaces.

**FINDINGS FOR SPECIAL PERMIT:**

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 application is to change from one nonconforming use to another nonconforming use.

In considering a special permit under §4.4 or 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.

6.1.22.G CCD. All new developments shall meet the following standards:

1. Penthouses and Mechanical Equipment. All elevator and stairwell penthouses, roof-mounted mechanical equipment (including enclosure, if any) and other similar rooftop installations shall be set back behind a plane inclined at 45 degrees from the vertical, beginning at the maximum height of the building, along all street lines and rear lot line and shall be screened pursuant to the screening provisions in Section 14.3. Ventilation for restaurants and other businesses producing odors should vent away from residential districts. Equipment shall be designated to comply [with] the City's Noise Ordinance during operation. The first fifteen (15) feet in height of such equipment shall be exempt from the calculation of maximum height; if such equipment is greater than fifteen (15) feet in height, the additional height shall count toward the building's height.

NA

2. Service Areas and Loading Spaces. Ground level mechanical equipment, utility and trash enclosures, loading docks and other utilitarian and service elements shall not abut the street edge(s) of the parcel and shall be visually and acoustically screened (sufficient to conform to the City's Noise Ordinance during operation). Access to these areas shall not interrupt pedestrian and sidewalk treatments. The SPGA may limit the hours of delivery so as to minimize any adverse impacts the service and loading aspects of proposed use may have on the surrounding neighborhood. Generally, loading times should take local traffic patterns into consideration.



NA

3. Pedestrian Oriented Requirements. To promote pedestrian activity, buildings shall be designed with separate front entrance doors to lobbies, cultural spaces, retail and business, and other sources of pedestrian activity. These entrances shall be oriented to existing public sidewalks and other open space (as opposed to a central "mall" entrance).

NA

4. Lighting. Lighting shall be appropriate to the historic and pedestrian-oriented character of surrounding neighborhoods and buildings, and shall enhance safety and security while minimizing glare and light trespass.

NA

5. Transition to Abutting Residential District. The minimum side or rear yard setback of a property abutting or spanning a residential district line (RA, RB, RC) shall be 20 feet from the district line with outermost 10 feet of the setback to consist exclusively of vegetative landscaping. The building shall have a 15 foot Upper Level Setback at a Tapering Height of 35 feet from the property line(s) abutting the residential district. The building shall be designed so that its massing is concentrated along the commercial corridor and away from properties in residential zoning districts to the extent possible.

NA

6. Parking Design. Refer to Section 9.17 for parking requirements. Parking and loading areas shall be hidden from view from public ways. They may be located at the side or rear of a lot or in concealed structures shall be suitably screened both visually and acoustically from the street and abutters (sufficient to conform to the City's Noise Ordinance during operation). Any views into parking structures shall be minimized through use of landscaping or architectural treatment.

NA

7. Payment in Lieu of Parking. With the approval of the SPGA, the applicant may make either a cash payment in lieu of providing the required parking, or a partial cash payment combined with a partial provision of the required vehicle or bicycle parking. Applicants wishing to make use of this option are strongly encouraged to meet with the Planning Director prior to formal submission of an application to help determine project compliance. Payment must be made in an accordance with an adopted plan for payment-in-lieu of parking, and must be applied to the nearest planned or existing municipal facility to the site in question.

NA

8. Credit for Provision of Land for Public Infrastructure. Where land is to be dedicated to the City of Somerville for public infrastructure (including roadways, sidewalks, public paths, parks, and other public infrastructure), the area of dedicated land shall be applied to calculations for dimensional requirements except for setbacks requirements.



NA

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 The purposes of the Ordinance are to promote 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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.

#### 6.1.22 Corridor Commercial Districts (CCDs).

A. Purpose. The Corridor Commercial Districts have been established to promote appropriate infill development along heavily traveled transportation corridors, especially where those corridors meet at named Squares. The district recognizes that such corridors present opportunities for an active mix of uses while also addressing development challenges posed by smaller lots and nearby existing residential development and the need to be accessible by multiple modes of transportation. The major objectives of the districts are to:

1. Encourage active mid-rise commercial and residential uses that contribute to a multi-modal-friendly street;
2. Increase commercial investment in high-profile, accessible areas including retail that is largely neighborhood-serving in multi-tenant, mixed use buildings;
3. Preserve and complement historic structures;
4. Discourage inappropriate auto-oriented, significant trip-generating uses along transit corridors; and,
5. Promote pedestrian and bicycle activity.

•CCD-45. This sub-district shall provide for mixed-use or commercial development at a small to mid-rise scale.

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."*



*Surrounding Neighborhood:* The site is located at the edge of a neighborhood on the downhill side and adjacent to the McGrath Highway. There are a mix of buildings of various uses and architectural styles, but the dominant physical feature of the area is McGrath Highway.

*Impacts of Proposal (Design and Compatibility):* The impacts on the neighborhood will be minimal, and the use is generally consistent with the transit oriented nature of this specific site. Eventually the site will be developed, which is why the permit for this particular use is limited to 2 years.

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.*

*Impacts of Proposal (Environmental):* No adverse impacts on the surrounding area anticipated as a result of excessive noise, illumination, glare, dust smoke or vibration, or from emissions of noxious materials, or pollution of water ways or ground water, or interference with radio or television signals.

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.*

*Impacts of Proposal (Circulation):* No traffic congestion or potential for accidents are anticipated as a result of this structure.

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

9. Impact on Affordable Housing: *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

No impact on affordable housing.



**DECISION:**

Present and sitting were Members Kevin Prior, Joseph Favaloro, Michael Capuano, Dorothy Kelly Gay, Gerard Amaral with Rebecca Lyn Cooper abstained. Upon making the above findings, Gerard Amaral made a motion to approve the request for a Special Permit. Michael Capuano seconded the motion. Wherefore the Planning Board 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 the special permit to expand a nonconforming use. This approval is based upon the following application materials and the plans submitted by the Applicant:  <table border="1" data-bbox="246 663 885 800"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>4/27/2016</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> </tbody> </table>	Date (Stamp Date)	Submission	4/27/2016	Initial application submitted to the City Clerk's Office	BP/CO	ISD/Plng.	
	Date (Stamp Date)	Submission						
4/27/2016	Initial application submitted to the City Clerk's Office							
Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.								
<b>Miscellaneous</b>								
2	The Special Permit Approval for this use shall expire on 2 years after a final certificate of occupancy is issued.	CO	ISD/Plng.					
3	The number of vehicles permitted to be located on the site at any one time for the purposes of a car-share program shall be limited to no more than 8 vehicles.	CO/perpetual	ISD/Plng.					
<b>Final Sign-Off</b>								
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	Plng.					



Attest, by the Planning Board:



Kevin Prior, Chairman



Joseph Favaloro



Michael A. Capuano, Esq.

  
Dorothy A. Kelly Gay

Gerard Amaral

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 \_\_\_\_\_

