



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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RICHARD ROSSETTI, CLERK  
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ELAINE SEVERINO  
JOSH SAFDIE (ALT.)

**Case #: ZBA 2014-125**  
**Site: 654 Mystic Avenue**  
**Date of Decision: April 1, 2015**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: April 3, 2015**

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**ZBA DECISION**

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<b>Applicant Name:</b>	FMS Auto Sales, LLC
<b>Applicant Address:</b>	682 Mystic Avenue, Somerville, MA 02145
<b>Property Owner Name:</b>	Fieldcom Realty Trust
<b>Property Owner Address:</b>	11 Wheeling Avenue, Woburn, MA 01880
<b>Agent Name:</b>	Adam Dash, Esq.
<b>Agent Address:</b>	48 Grove Street, Suite 304, Somerville, MA 02144

Legal Notice: Applicant, FMS Auto Sales LLC, and Owner, Fieldcom Realty Trust, seek a Special Permit with Site Plan Review under SZO §7.11.11.7.b to establish a used motor vehicle sales and service business.

<u>Zoning District/Ward:</u>	BB zone/Ward 4
<u>Zoning Approval Sought:</u>	§7.11.11.7.b
<u>Date of Application:</u>	December 17, 2014
<u>Date(s) of Public Hearing:</u>	1/21, 2/4, 2/18, 3/18 & 4/1/15
<u>Date of Decision:</u>	April 1, 2015
<u>Vote:</u>	5-0

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Appeal #ZBA 2014-125 was opened before the Zoning Board of Appeals at Somerville City Hall on January 21, 2015. 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 five hearings of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The Applicant proposes to establish a second location for an existing used car dealership, American Auto Gallery, which is currently located across Moreland Street at 682 Mystic Avenue. The Applicant's original proposal was to delineate 27 parking spaces on the lot, to park up to 27 motor vehicles for sale at this second location. The approval was for 16 motor vehicles. The existing building will be used as an office. No physical changes will be made to the property, only the change in use. The Applicant will repaint the existing signage for the new establishment. The vehicles on-site will not be regularly running or moving, and will likely remain parked at one consistent location until purchased.

**FINDINGS FOR SPECIAL PERMIT:**

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."*

The size of the parcel and the intended use as a used car sales establishment is noted in the existing ordinance as requiring a Special Permit with Site Plan Review. The Applicant is choosing to proceed at risk because the proposed zoning ordinance for which a public hearing has been advertised will not allow for a change from an office to an auto-oriented use at this site. If the proposed ordinance is adopted, the allowance of the use will have to be reevaluated at that time.

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 Commercial Residential district, which is, "To establish and preserve general commercial and high density residential areas consisting of multi-family developments, shopping centers, commercial strips and automobile related establishments where customers reach individual businesses primarily by automobile."

This corridor is currently business and automobile oriented. While the new zoning will propose this portion of the corridor as residential, the auto orientation nature of the area will likely remain for the near future. Therefore, under the new zoning ordinance, this would still be an appropriate for the site.

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 parcel is located at the corner of Mystic Avenue and Moreland Street, across the street from Interstate 93 and the City of Medford. Behind, on the south side of this parcel, is a residential district composed primarily of single-family homes. This parcel acts as a buffer to Mystic Avenue, a major thoroughfare.

There will be no physical changes to the site and the use is consistent with the auto orientation of this corridor and the first location for this establishment is located across Moreland Street.



Design Guidelines for Business Zones

1. Maintain a strong building presence along the primary street edge, continuing the established streetwall across the front of the site so as to retain the streetscape continuity; however, yards and setbacks as required by Article 8 shall be maintained.
2. Differentiate building entrances from the rest of the primary street elevation, preferably by recessing the entry from the plane of the streetwall or by some other articulation of the elevation at the entrance.
3. Make use of the typical bay widths, rhythms and dimensions prevalent in buildings adjacent to the site, especially in new construction or substantial redevelopment.
4. Clearly define these bay widths, rhythms and dimensions, making them understandable through material patterns, articulations and modulations of the facades, mullion design and treatment, etc.
5. Provide roof types and slopes similar to those of existing buildings in the area.
6. Use materials and colors consistent with those dominant in the area or, in the case of a rehabilitation or addition, consistent with the architectural style and period of the existing building. Use of brick masonry is encouraged, but not considered mandatory.
7. When parking lots are provided between buildings, abutting the primary street and breaking the streetwall, provide a strong design element to continue the streetwall definition across the site, such as a low brick wall, iron works or railing, trees, etc.
8. Locate transformers, heating and cooling systems, antennae, and the like, so they are not visible from the street; this may be accomplished, for example, by placing them behind the building, within enclosures, behind screening, etc.
9. Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.

The proposal does not alter the physical site or existing building; the existing conditions will remain with regard to the design of the building and where parking is located.

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

The proposal meets the accepted standards and criteria for a functional design. The Board has conditioned that vehicles shall not back out onto Mystic Avenue nor be located within the right-of-way.

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 approval of a Special Permit with Site Plan Review shall be contingent upon a determination by the City Engineer that no adverse impact on public systems will result from the proposed project.

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.”*

As there are no proposed physical changes to the site, the use does not propose adverse impacts.

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 provide for and maintain the uniquely integrated structure of uses in the City; 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.”

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.”*

The footprint will not be altered. The land form will not change as there are no proposed physical changes to the site. There are additional landscaped beds proposed that will increase the attractiveness of the site.

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.”*

There are no physical changes to the site that would alter the existing situation with regard to this relation.

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 paved area, and routed through a well-engineered system designed with appropriate storm water management techniques. 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.”*

While additional review is required of drainage plans, any approval of the Special Permit with Site Plan Review should be conditional upon approval by the City Engineer. Planning Staff therefore proposes a condition for the Applicant to demonstrate that the project meets the current City stormwater policy.

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.”*

There is no historical or architectural significance to this site or building. The change in use will not impact the heritage of the city.

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 appearance of the site will improve slightly from its existing condition. There will be landscaping and a fence installed to beautify and screen the site.

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 will be appropriate to the auto-centric use of the site.

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.”*

There is access to the site from multiple curb cuts along Mystic Avenue as well as Moreland Street.

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.”*

Staff has conditioned that vehicles shall not encroach within the vehicular or pedestrian right-of-way and that vehicles shall not back out onto Mystic Avenue.

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 project does not require alterations or an increase in utility service.

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 project does not propose a detrimental affect to adjacent properties or the general neighborhood as the site will remain similar to existing conditions in that cars will be parked in an organized manner and there are no proposed physical changes.

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.”*



Signage will remain consistent with the existing. The Applicant will retain the existing signage, therefore the same footprint and technology will be used.

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.”*

This will become a used car sale lot; there will be no service facilities.

21. Screening of Parking:

Screening can occur with dense landscaping or the appropriate fence height and still maintain visibility from Mystic Avenue. The updated site plan address is this issue.

22. 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>	<u>Existing</u>	<u>Proposed</u>
<i>Commercial Sq. Ft.:</i>	870	870
<i>Estimated Employment:</i>	Unknown	Unknown
<i>Parking Spaces:</i>	Undetermined/many	16

The change in use does not oppose the SomerVision plan, nor does this project wholly comply with the goals and policies presented within. Since the change in use proposes to essentially retain the existing conditions, the Board does not find the proposal detrimental to the goals and policies outlined in the comprehensive plan. Rather, this proposal continues with a use similar to the existing and will likely serve as a transitional use for this site until the Winter Hill plan is completed. This plan will provide more detail regarding community vision for this area moving forward.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Josh Safdie 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 with Site Plan Review to establish a used motor vehicle sales and service business. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(December 17, 2014)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(April 1, 2015)</td> <td>Plot plan submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(December 17, 2014)	Initial application submitted to the City Clerk's Office	(April 1, 2015)	Plot plan submitted to OSPCD
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(April 1, 2015)	Plot plan submitted to OSPCD									
Any changes to the approved site plan or use that are not <i>de minimis</i> must receive SPGA approval.										
<b>Site</b>										
2	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy.	BP	Eng.							
3	The Applicant shall provide a site plan for Planning Staff review and approval with 16 parking spaces on the site that are aligned in a row to the left and right of the building.	CO	Plng							
4	Applicant shall not block access to the fire hydrant located along Mystic Avenue.	CO	Plng.							
5	The closing of the curb cut on Mystic Avenue is subject to the approval of Mass DOT.	CO	Plng.							
<b>Traffic &amp; Parking</b>										
6	Vehicles shall not back out onto Mystic Ave nor shall vehicles be parked or stored in any manner on the Mystic Ave right-of-way (roadway and sidewalk).	CO	Traffic/pkg							
<b>Public Safety</b>										
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
8	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>										



9	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.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino  
Josh Safdie (Alt.)

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 \_\_\_\_\_

