



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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*PLANNING DIVISION*

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DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2010-70-R1-2/2012

**Date:** February 23, 2012

**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site: 71 Linwood Street**

**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 Company

**Property Owner Address:** One Nstar Way, Westwood, MA 02090

**Agent Name:** Richard G. Di Girolamo, Esq.

**Agent Address:** 424 Broadway Somerville, MA 02145

**Alderman:** Maryann Heuston

Legal Notice: Applicant Herb Chambers Motorcars and Owner NSTAR Electric Company, seek a revision to Special Permit ZBA 2010-70 under SZO §5.3.8 in order to alter a condition to pay the City for the installation of handicap accessible pads instead of actually installing the pads themselves. The original permit was 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.

Zoning District/Ward: IA Zone / Ward 2

Zoning Approval Sought: Revision to Special Permit with Site Plan Review under SZO §5.3.8

Date of Application: January 24, 2012

Dates of Public Hearing: Zoning Board of Appeals – **February 29, 2012**

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**I. PROJECT DESCRIPTION**

1. Subject Property: 71 Linwood Street is a 28,589 square foot lot with a one-story, 18,976 gross square foot office/ light industrial building on it at the intersection of Linwood and Poplar Streets. In May of 2011, the Applicant was awarded a Special Permit with Site Plan Review (ZBA 2010-70) to establish an automobile repair facility (Somerville Zoning Ordinance (SZO) §7.11.5.b and/or §7.11.6.b) in the existing building.



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2. Proposal: The building was previously utilized by NSTAR electric company and Herb Chambers Motorcars is converting the structure into an automobile 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. At no time will customers be at this facility and vehicles to be repaired will be delivered to and from the facility by Herb Chambers Motorcars employees only. The project gained approval through the awarded Special Permit with Site Plan Review in May of 2011. The special permit permitted the use change of the building to an auto repair and storage facility in excess of 5,000 square feet. Over the last ten months the Applicant has completed this work and the fulfilled the conditions of the Special Permit with Site Plan Review with one exception. Condition #5 of the originally approved Special Permit with Site Plan Review required the Applicant to install three handicap accessible pads at the intersection of Linwood and Poplar Streets. One on the Applicant's side of Linwood Street, the second on the opposite side of Linwood Street, and the third across Poplar Street from the subject property.

The current sidewalk situation in the area does not include any ramps that would help someone transition down from the sidewalk to the street level to cross the street at this intersection. All the sidewalks at this intersection are elevated with a six inch high curb. The installation of accessible pads at this intersection would allow for someone in a wheelchair to transition down a ramp from the sidewalk to the street level, cross the street, and then to transition back up a ramp to the elevated sidewalk. The Applicant hired a contractor to perform site improvements at the subject property, including the installation of the handicap accessible pads. Upon a code review of the minimum dimensional requirements (ramp slope, ramp width, etc.) for handicap accessible pads, the contractor determined the pads could not be installed to meet the code requirements due to site constraints including existing chain link fences on the properties located opposite from 71 Linwood Street. The Applicant raised serious concerns that they could be held liable if someone were to be injured as a result of unsuccessfully attempting to use the non-code compliant accessible pads. After consulting with the Inspectional Services Division, the Engineering Department, the Legal Department, and Planning Staff, it was determined that it made more sense to have the Applicant pay into a City of Somerville fund the necessary amount to have the work of installing the accessible pads performed by the City. The City could then go before the Architectural Access Board to request a variance from the code requirements for the handicap accessible pads due to the existing dimensional constraints of the sidewalks in the area. The contractor provided a quote of \$11,750.00 to the Applicant for what it would cost to install the handicap accessible pads. In this proposal to revise the originally awarded Special Permit with Site Plan Review, the Applicant would like to revise Condition #5 to pay \$11,750.00 into a City of Somerville fund to have the City install the accessible pads and to change the entity providing a sign off on this condition from the Traffic and Parking Department to the Planning Staff.

3. Nature of Application: Revisions to Special Permits may be sought under §5.3.8 of the SZO before the final Certificate of Occupancy is issued for a project that received a Special Permit. The proposed revision is not deemed to be de minimis in nature because the requested change, not installing the handicap accessible pads but instead paying \$11,750.00 into a fund to have the City install them, is an alteration to a required condition of the originally awarded Special Permit with Site Plan Review. A requested revision to conditions of a Special Permit are not de minimis in nature. Revisions to Special Permits, Special Permits with Design Review, or Special Permits with Site Plan Review that are not de minimis in nature are subject to the full notice and hearing provisions of the SZO.

4. Surrounding Neighborhood: This area is in an IA – Industrial District zone. The surrounding area contains other uses such as light industry, motor vehicle uses, accessory land for commercial uses, and warehouse space. This property is approximately a tenth of a mile from the Herb Chambers headquarters at 259 McGrath Highway and would compliment their business there.

5. Impacts of Proposal: The goal behind Condition #5 of the originally awarded Special Permit with Site Plan Review was to improve the pedestrian environment of the area by making the intersection of Linwood Street and Poplar Street more handicap accessible and pedestrian friendly. The current sidewalk situation in the area does not include any ramps that would help someone transition down from the sidewalk to the street level to cross the street at this intersection. All the sidewalks at this intersection are elevated with a six inch high curb. The installation of accessible pads at this intersection would allow for someone in a wheelchair to transition down a ramp from the sidewalk to the street level, cross the street, and then to transition back up a ramp to the elevated sidewalk. This proposed revision to the originally awarded Special Permit with Site Plan Review still accomplishes this goal and would not change the intended goal of the condition. Furthermore, since the City would be performing the work, this will ensure that the handicap accessible pads will be constructed to standards that are acceptable to the City. The building at 71 Linwood Street would still remain a single-story structure used for an automobile repair facility and therefore there are no negative impacts anticipated from this proposed revision.

6. Green Building Practices: None indicated.

7. Comments:

*Fire Prevention:* Indicated in an email to Planning Staff on February 10, 2012 that there would be no additional requirements necessary as part of this requested revision to the originally awarded Special Permit with Site Plan Review.

*Ward Alderman:* Alderman Heuston has been contacted but has not yet provided comments.

*DPW/Highway/Lights & Lines:* Has been contacted but has not yet provided comments.

*Engineering:* Has been contacted but has not yet provided comments.

*Inspectional Services Division:* Has been contacted but has not yet provided comments.



Existing Conditions



Existing Conditions

**II. FINDINGS FOR SPECIAL PERMIT REVISION (SZO §5.3.8):**

In order to grant a revision to 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.

The following findings are relevant to the proposed alteration of Condition # 5 in the originally awarded Special Permit with Site Plan Review.

1. Information Supplied: The Staff 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 proposal complies with the standards for issuing a revision to the Special Permit with Site Plan Review. The final Certificate of Occupancy has not yet been issued, the proposal is otherwise in accordance with the originally approved plans and conditions, and notice has been given for the public hearing.

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, with the revised Condition #5, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to providing for and maintaining “the uniquely integrated structure of uses in the City; to secure safety from fire, panic and other dangers; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City.”

The proposal, with the revised condition, is also still 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 characteristics of the built and unbuilt surrounding area, including land uses.”

The Applicant is not proposing any physical changes to the originally approved project plans. The Applicant, as was the case with the original Special Permit with Site Plan Review, will only be performing interior renovations of the existing building to establish the auto repair/usage use, 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. The only change to the originally awarded Special Permit with Site Plan Review is the entity that will actually be installing the handicap accessible pads. In the original approval, the Applicant was responsible for the installation of the handicap pads. As part of this revision to the Special Permit with Site Plan Review, the Applicant will pay into a City of Somerville fund \$11,750.00 to have the City install the accessible pads.

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.

No adverse environmental impacts are anticipated from this proposed revision to the Special Permit with Site Plan Review. No new noise, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception are anticipated as part of this revision. The structure will remain a one-story building being used for auto repair/usage purposes. The proposed use of the site is consistent with industrial uses that are already occurring in the surrounding area. Staff 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 Staff 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 the arrival of the green line. The proposed revision to Condition # 5 will allow the handicap accessible ramps to still be installed at the project site, which will help to improve the pedestrian environment of the 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 Applicant is not proposing to make any changes to the circulation patterns for motor vehicles or pedestrians that were approved in the original Special Permit for the project (ZBA 2010-70). In fact, this proposed revision will allow the handicap accessible pads to be installed at the intersection which will help to realize the goal of improving the pedestrian environment of the area.

**III. RECOMMENDATION**

**Revision to Special Permit with Site Plan Review under §5.3.8**

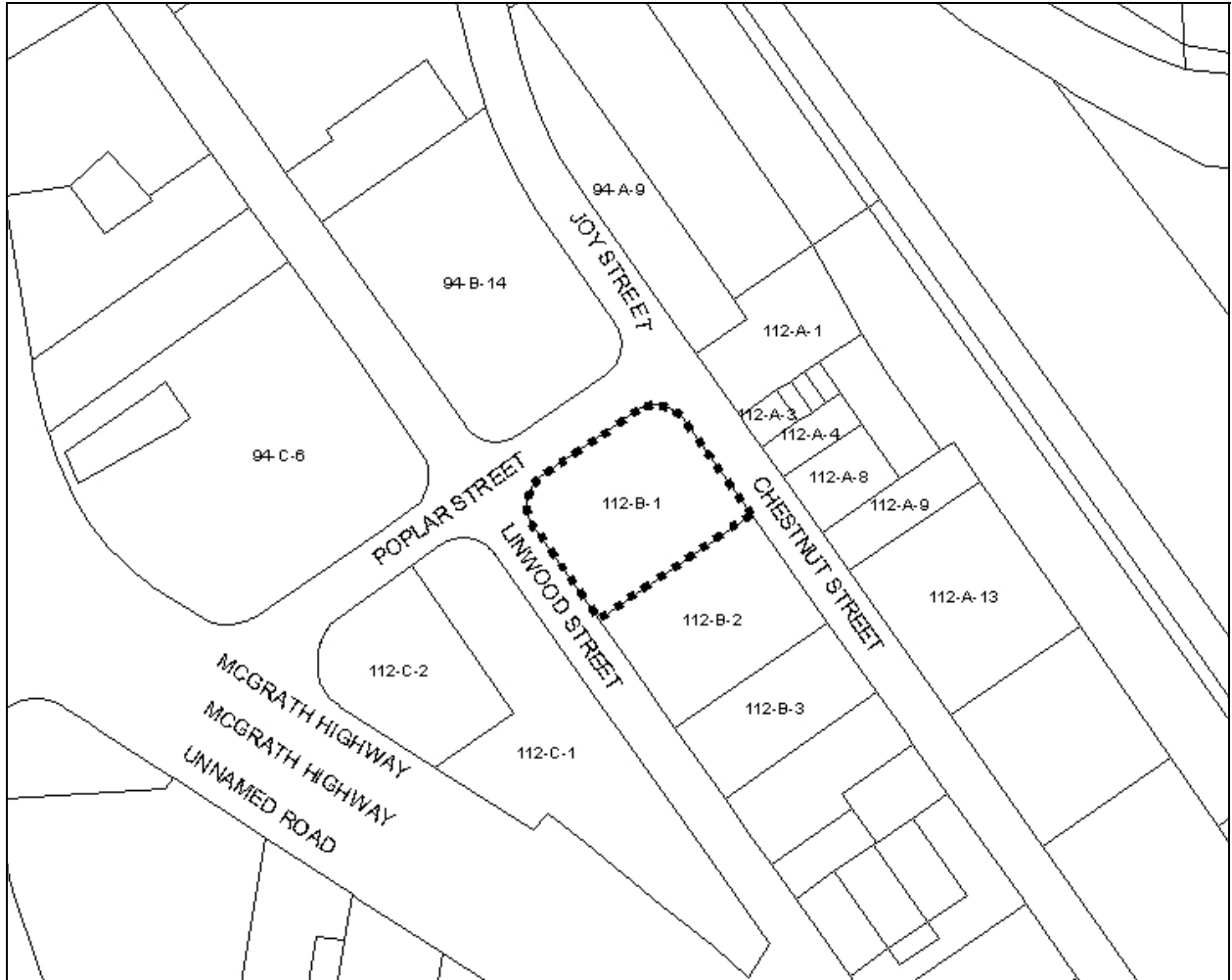
Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **REVISION TO SPECIAL PERMIT with SITE PLAN REVIEW**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

(Deletions ~~struck~~, additions underlined)

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>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:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td><del>September 22, 2010</del> <u>January 24, 2012</u></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> </tbody> </table> <p>Any changes to the approved site plan or use that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	<del>September 22, 2010</del> <u>January 24, 2012</u>	Initial application submitted to the City Clerk's Office	April 25, 2011 (April 27, 2011)	Proposed On-Site Parking Plan	CO / BP	Png.	
Date (Stamp Date)	Submission									
<del>September 22, 2010</del> <u>January 24, 2012</u>	Initial application submitted to the City Clerk's Office									
April 25, 2011 (April 27, 2011)	Proposed On-Site Parking Plan									
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.	Png./ISD							

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	Png.	
5	The Applicant shall <u>pay into a City of Somerville fund \$11,750.00 to 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. The City of Somerville will be responsible for installing the three handicap accessible pads.</u>	CO	<u>T&amp;P Png.</u>	
6	Applicant will screen the dumpster on the property with fencing that blocks it from view.	CO	Png.	
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	Png.	
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	Png.	



**71 Linwood Street**