



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2012-92
Site: 761 Broadway
Date of Decision: January 9, 2013
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: January 23, 2013

ZBA DECISION

Applicant Name:	Zipcar Inc.
Applicant Address:	25 First Street, 4 th floor, Cambridge, MA 02141
Property Owner Name:	The 761 Broadway Trust , AL & CW Vinning, Trustees
Property Owner Address:	761 Broadway, Somerville, MA 02144
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant Zipcar, Inc. and Owner, The Seven Hundred Sixty One Broadway Nominee Trust, seek a Special Permit under SZO §4.5.3 in order to expand an existing nonconforming use, an office (SZO §7.11.1), to an office with three (3) parking spaces for car-sharing or flex-car spaces (SZO §7.11.11.14.a).
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<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.5.3, §7.11.1 & §7.11.11.14.a
<u>Date of Application:</u>	October 22, 2013
<u>Date(s) of Public Hearing:</u>	12/12/12 & 1/9/13
<u>Date of Decision:</u>	January 9, 2013
<u>Vote:</u>	4-0

Appeal #ZBA 2012-92 was opened before the Zoning Board of Appeals at Somerville City Hall on December 12, 2012. 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 continuance and one hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The Applicant is proposing to legalize the three (3) existing car-share or flex-car spaces that are being operated by Zipcar at the property. The three (3) existing car-share parking spaces on the lot are the spaces that are closest to the corner at the intersection of Broadway and Pearson Road. They are marked with pavement markings and no other signs.

FINDINGS FOR SPECIAL PERMIT (SZO §4.5.3 & §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 Permit.

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 complies with the standards for issuing a Special Permit. Section 9.3 of the Somerville Zoning Ordinance allows for off-street parking spaces to be shared, leased, or rented to enable car sharing as permitted under Section 7.11.11.14. However, at this site, the zip car spaces are in excess of the required spaces.

Section 9.5 of the Somerville Zoning Ordinance calls for five or six (depending on the number of bedrooms in the two residential units) on-site parking spaces and there are currently eight marked spaces in a parking lot and a driveway at the property. The existing mixed use building is exceeding the zoning ordinance parking requirement by at least three parking spaces. Therefore, the three requested car-sharing spaces would not utilize required parking spaces for the office and residences at the property.

There appears to be no negative impacts of providing three car-share spaces at the site. The Zipcar spaces have been operating in this location for some time now and they are active proof that the car-share spaces are not detrimental to the surrounding neighborhood. Zipcar estimates that for every active Zipcar there are 15-20 fewer individually owned cars on the road. By having these Zipcar spaces on site, it will encourage surrounding residents to not have a vehicle since they will have easy access to these Zipcar spaces.

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 lessen congestion in the streets; to facilitate the adequate provision of transportation; 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."

The proposal is also fairly consistent with the purpose of the district (6.1.2. RB - Residence Districts), which is, "To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." While the mixed use building and car-sharing use is a nonconforming use for this particular zoning district, the use is very compatible with the surrounding predominantly residential neighborhood. Many different users will have access to the Zipcar vehicles, which will provide more transportation options to residents in the area.



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 Zipcar spaces are located and proposed for a very visible spot at the corner of a triangularly shaped lot at Broadway and Pearson Road. Since the property is a corner lot and the parking lot is currently in this highly visible location, there is not an effective way to screen the parking lot from Broadway. There is a landscape strip and chain link fence along the Pearson Road side of the building that could be planted to screen the parking lot and create a visible edge along this side of the site.

The use of the car-share spaces is a compatible use in this residential neighborhood as the cars will be easily accessible for a number of residents in the surrounding area. Staff find that the car-share spaces would have minimal effects on the physical character of the area and the spaces hold the potential to reduce car ownership and the need for parking in the neighborhood.

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 three (3) car-share spaces should have a positive impact on the environment. Zipcar data shows that car-sharing services reduce the need for single-owner vehicles and therefore should reduce traffic congestion in the streets and increase the amenities of the municipality. Providing easier access to Zipcars will encourage residents in the surrounding neighborhood to reduce or eliminate their need to have their own personal vehicle.

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 car-share spaces will not change the circulation pattern at the site because they are already existing parking spaces on the property.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti Elaine Severino and Josh Safdie with Herbert Foster and Danielle Evans absent. 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 **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes	
1	Approval is to expand an existing nonconforming use, an office and 2-residential unit building (SZO §7.11.1 & 7.11.7.1), to permit 3 parking spaces for car-share or flex-car spaces (SZO §7.11.11.14.a) at the property. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.		
	Date (Stamp Date)				Submission
	(October 22, 2012)				Initial application submitted to the City Clerk’s Office
	(December 6, 2012)				Site Plan
	Any changes to the approved use or site plan that are not <i>de minimis</i> must receive SPGA approval.				
2	The Applicant or Owner shall plant vegetation in the area labeled “landscaping” on the plan to make best efforts to screen the parking lot.	Final Sign Off	Plng.		
3	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.		
4	The property owner or tenant shall obtain an outdoor parking license from the City of Somerville.	CO	City Clerk/Plng.		



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
Elaine Severino (Alt.)
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 _____

