



**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**

HERBERT F. FOSTER, JR., *CHAIRMAN*  
ORSOLA SUSAN FONTANO, *CLERK*  
RICHARD ROSSETTI  
T. F. SCOTT DARLING, III, ESQ.  
DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2012-71**  
**Site: 453 Somerville Avenue**  
**Date of Decision: October 3, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: October 5, 2012**

---

**ZBA DECISION**

---

<b>Applicant Name:</b>	Akimenko Meats
<b>Applicant Address:</b>	7 Quincy Street, Apt. 2, Somerville, MA 02143
<b>Property Owner Name:</b>	Samylee, LLC
<b>Property Owner Address:</b>	33 Third Street, Medford, MA 02155
<b>Agent Name:</b>	N/A

Legal Notice: Applicant Akimenko Meats and Owner Samylee LLC, seek a Special Permit under SZO §4.5.1 to change a nonconforming use (an automotive repair shop) to another nonconforming use in order to open a butcher shop (SZO §7.11.9.3.a). The Applicant and Owner are also seeking a Special Permit under SZO §4.4.1 to make alterations to the façade of the existing nonconforming structure including new door openings.

<u>Zoning District/Ward:</u>	BA/RB zone. Ward 2
<u>Zoning Approval Sought:</u>	§4.5.1, §7.11.9.3.a & §4.4.1
<u>Date of Application:</u>	August 21, 2012
<u>Date(s) of Public Hearing:</u>	9/19 & 10/3/12
<u>Date of Decision:</u>	October 3, 2012
<u>Vote:</u>	4-0

---

Appeal #ZBA 2012-71 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on September 19, 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



## **DESCRIPTION:**

The Applicant is proposing to convert the former automotive repair shop into butcher shop that will sell locally raised and grown meats and vegetables. The Applicant's business, Akimenko Meats, will be open Monday through Saturday, 10:00 AM to 7:00 PM and employ up to seven people. The butcher shop will sell different cuts of beef, pork, lamb, goat, and venison, among other meats, as well as vegetables that are raised and grown within a 250 mile radius of this location. Meats and vegetables will be brought to this location by local farmers in small vehicles such as vans and prepared for retail sale to customers. There will be no wholesale, cooking, or slaughtering of animals occurring at this location. The former auto repair shop will be outfitted with a retail area, a kitchen/prep area, a walk-in refrigerator with a rail system, a dish room, a small bathroom, and an office. Waste from the meats that are brought in should be minimal as most of the product will be internalized through the preparation of cuts for retail sale or used in the making of broths. Trash and waste will be disposed of in three different health code containers that will be stored on the left side of the building in a fenced in area. Waste pick up will occur at least twice a week or more frequently if necessary.

The existing garage door on the front of the building will be retained and a rail system inside the structure will be installed to provide easy transportation of meat into the walk-in refrigerator. There will be some alterations to the outside of the structure to provide better access into and out of the building. The window to the immediate left of the garage door will be replaced with a person-door and become the main entrance to the store. On the left side elevation, a new egress door will be installed and in the small projection at the front of the building, the existing person-door and adjacent window will be removed. The signage will display the business name, "AKIMENKO MEATS", and be painted onto the front façade of the building just above the garage door. The Applicant is also hoping to use the garage door as a display space for public art. The nine space parking space area in front of the building will be reserved only for the customers and employees of Akimenko Meats.

## **FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §4.5.1 & §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."

In considering Special Permits under §4.4.1 and §4.5.1 of the SZO, the Board finds that the proposed use and alterations to the existing structure would not be substantially more detrimental to the neighborhood than the former use of the property as an automotive repair shop. The proposal will take a former potentially noxious and environmentally hazardous use out of the surrounding neighborhood and replace it with a more residentially and commercially compatible use. The use will provide neighborhood residents with access to locally raised and grown meats and vegetables, providing a healthy food alternative to the neighborhood. The butcher shop will also fit fairly well into the mixed use environment that can be found along this stretch of Somerville Avenue, just outside of Union Square. There will be no cooking or slaughtering of animals at the site and this should avoid any issues of smells or odors permeating into the surrounding neighborhood. Construction and renovation of the building to outfit the space for the butcher shop will primarily occur on the interior of the building, with the exception of the creation of the new doors for egress purposes. The installation of the new front door that faces Somerville Avenue will give the building a more inviting street presence. The new use will be providing more than the required number of parking spaces on site and therefore, there is little to no concern that customers or deliveries will create parking issues along Somerville Avenue or in the surrounding neighborhood.

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 protect health; 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 consistent with the purpose of the BA zoning district (6.1.6. BA - Commercial Districts) which covers the front portion of the property. The district’s purpose is, “To establish and preserve business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic.”

The proposal is also consistent with the purpose of the RB district (6.1.2. RB - Residence Districts), which is the zoning district where the structure on the property is located. The purpose of this district 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 proposed use is not a residential one, the use is compatible with and convenient to the residents of the surrounding area as it provides a locally owned business selling locally raised and grown meats and vegetables to the surrounding neighborhood.

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 proposed butcher shop/meat market would not be more detrimental to the surrounding neighborhood than the last use at the property. The proposal will take a former potentially noxious and environmentally hazardous use out of the surrounding neighborhood and replace it with a more residentially and commercially compatible use. Therefore, there shall be minimal, if any, negative impacts or disruption to the surrounding neighborhood. The new use will be providing more than the required number of parking spaces with nine on-site spaces via the curb cut along Somerville Avenue. The installation of the new front door that faces Somerville Avenue and the new signage will give the building a more inviting street presence. Ultimately, the proposal will take a currently vacant former automotive repair shop property, renovate the existing building, and implement a commercial use that is quite compatible with the surrounding 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.

No adverse environmental impacts are anticipated as part of this proposal. The proposal will take a former noxious and potentially environmentally hazardous use out of the surrounding neighborhood and replace it with a much more compatible commercial use at the site. The Applicant has submitted an environmental report which indicates that conditions of No Significant Risk of Harm to Human Health, No Significant Risk to the Environment, No Significant Risk to Public Welfare, and No Significant Risk to Safety all exist at the site. Additionally, no new noise, glare, dust, 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 the project. There will be no cooking performed at the site and the vast majority of meat that is brought into the shop will be internalized through the preparation of meats for sale and through the creation of broths (this includes bones). Waste at the site is anticipated to be minimal and will be stored in health code compliant trash receptacles. The Applicant has indicated that these receptacles will be emptied at least twice a week or perhaps more frequently if the need arises.

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.



Date: October 5, 2012  
Case #: ZBA 2012-71  
Site: 453 Somerville Avenue

The proposed new butcher shop will be retaining the existing nine space parking layout at the front of the property. These spaces will be reserved for only customers, employees, and delivery vehicles of Akimenko Meats, which differs from the current situation as the lot is being rented for use by a nearby restaurant. All vehicles will enter and exit the site via the curb cut onto Somerville Avenue.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Herbert Foster, Scott Darling and Josh Safdie absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino 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 change a nonconforming use (an automotive repair shop) to another nonconforming use in order to open a butcher shop (SZO §7.11.9.3.a) under SZO §4.5.1. Approval is also to make alterations to the façade of the existing nonconforming structure, including new door openings, under SZO §4.4.1. 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>(August 21, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(September 27, 2012)</td> <td>Site Plan</td> </tr> <tr> <td>August 28, 2012 (September 12, 2012)</td> <td>Existing Front and (Left) Side Elevations (A.101 and A.102)</td> </tr> <tr> <td>August 28, 2012 (September 12, 2012)</td> <td>Existing Floor Plan (A.100)</td> </tr> <tr> <td>August 28, 2012 (September 12, 2012)</td> <td>Proposed Front and (Left) Side Elevations (A.104 and A.105)</td> </tr> <tr> <td>August 28, 2012 (September 12, 2012)</td> <td>Proposed Floor Plan (A.103)</td> </tr> <tr> <td>(September 12, 2012)</td> <td>Proposed Signage Image</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(August 21, 2012)	Initial application submitted to the City Clerk's Office	(September 27, 2012)	Site Plan	August 28, 2012 (September 12, 2012)	Existing Front and (Left) Side Elevations (A.101 and A.102)	August 28, 2012 (September 12, 2012)	Existing Floor Plan (A.100)	August 28, 2012 (September 12, 2012)	Proposed Front and (Left) Side Elevations (A.104 and A.105)	August 28, 2012 (September 12, 2012)	Proposed Floor Plan (A.103)	(September 12, 2012)	Proposed Signage Image
	Date (Stamp Date)				Submission															
	(August 21, 2012)				Initial application submitted to the City Clerk's Office															
	(September 27, 2012)				Site Plan															
	August 28, 2012 (September 12, 2012)				Existing Front and (Left) Side Elevations (A.101 and A.102)															
	August 28, 2012 (September 12, 2012)				Existing Floor Plan (A.100)															
	August 28, 2012 (September 12, 2012)				Proposed Front and (Left) Side Elevations (A.104 and A.105)															
	August 28, 2012 (September 12, 2012)				Proposed Floor Plan (A.103)															
(September 12, 2012)	Proposed Signage Image																			
Any changes to the approved site plans, elevations, or use that are not <i>de minimis</i> must receive SPGA approval.																				
2	The Applicant shall meet the Fire Prevention Bureau's requirements.	CO	FP																	
3	All exterior lighting must be confined to the subject property or adjacent rights of way, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.																	
4	The Applicant shall remove the chain link fence along the front property line and install some type of planters or buffer to separate the parking spaces from the public sidewalk.	CO	Plng.																	



5	Trash and recycling bins that are kept outside shall be screened by buildings, fencing, or vegetation that blocks any view of them.	CO	Plng.	
6	Public art displays shall be confined to the garage door on the front façade and shall not advertise goods and/or services that are sold and/or rendered on or off the premises.	Cont.	ISD/Plng.	
7	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.	
8	The Applicant shall have Pest Management Plan in place prior to the issuance of a Certificate of Occupancy for the building.	CO	Plng.	
9	The Applicant shall install a secondary, smaller trash enclosure around the roll away containers with a locking mechanism.	CO	Plng.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*  
Richard Rossetti, *Acting Clerk*  
Danielle Evans  
Elaine Severino (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 \_\_\_\_\_

