



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: PB 2017-18
Date: August 17, 2017
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 654 Mystic Avenue

Applicant Name: Anthony Fava & Ryan Hunt
Applicant Address: 11 Elkins Street, #250, Boston, MA 02127
Property Owner Name: Fieldcom Realty Trust
Property Owner Address: P.O. Box 2307, Woburn, MA 01888
Agent Name: Gordon E. Meyer & Associates, P.C.
Agent Address: 8 Winchester Street, Boston, MA 02116-5424
Alderman: Tony Lafuente

Legal Notice: Applicants, Anthony Fava & Ryan Hunt, along with Property Owner, Fieldcom Realty Trust, seek Design and Site Plan Review per Section 8.8 and 5.4 of the SZO for lot splits to divide one lot into three lots. BB zone. Ward 4.

Date of Application: Most recent application: July 31, 2017

STAFF SUMMARY

The most recent time that the Planning Board heard the case of 654 Mystic was on July 13, 2017¹.

¹ The Planning Board approved this project in December, 2016 as a subdivision with Design & Site Plan Review in December, 2016. Since that time, it was brought to the Planning Division's attention that, in fact, the correct review to be requesting was for a "series of lot splits" and not a subdivision. The language in Chapter 6: Rules & Regulations Pertaining to Design & Site Plan Review was amended to address the circumstances under which the Planning Board would review lot splits. After that language was updated, the applicant re-applied to the Planning Board for lot splits, and this case was first heard on July 13th.

Since the December, 2016 Planning Board approval, the Applicant/Owners have made a few minor changes to the design of the building in order to ensure that it complies dimensionally as a "by-right" project. There have been no changes to the plans submitted on July 31st from those shown at the meeting on July 13th.



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The Board reviewed the case on July 13th, approved the lot splits and a decision was filed.

At this time, the applicant is seeking to replace the decision on July 13th. Subsequent to the July 13, 2017 Planning Board hearing, two issues have been raised:

- a. The development team noted that the section numbers indicated in the staff report that was incorporated into the July 13th decision were incorrect. These errors were corrected on the filed decision and noted as such, but since the Board voted to accept the recommendation, it would be better to have a staff report that matched the correct section numbers, and allow the Board to take a position on that item.
- b. A neighbor filed a complaint about the open meeting law, regarding this item. The City has responded to this complaint, and outlined why there was no violation of open meeting requirements for the July 13th Planning Board meeting. Nonetheless, in circumstances like this, sometimes applicants would prefer the opportunity to re-hear a case to ensure its legal status is solid.

After reviewing the circumstances surrounding the July 13th decision, the applicant for the 654 Mystic Avenue proposal has elected to re-submit their application to the Planning Board for it to be heard once again. As this is considered a “new” filing, a new case number has been assigned.

The staff report submitted herein to the Planning Board for their review prior to the August 17, 2017 hearing is updated to reflect the corrected SZO sections and associated recommendations. Staff analysis, findings, recommendation and associated conditions remain unchanged. The Planning Staff continues to recommend approval of this site plan request.

I. PROJECT DESCRIPTION

1. **Subject Property:** The subject property is a 9,583 square foot lot containing an 830 square foot commercial structure formerly housing an auto garage. The subject property is covered with bituminous material (asphalt) and presents a retaining wall running along the rear length of the property. A shorter, stepped retaining wall runs along the Moreland Avenue frontage. Currently, there are three, large curb cuts providing access to the property from Mystic Avenue. For some time, a chain-link fence has run the length of the Mystic Avenue frontage. The property overlooks Mystic Avenue and I-93. The property is located in the BB zone, but the rear of the property abuts an RA zone.

Fig. 1, below: Aerial view of subject parcel.



Fig. 2, below: View of parcel from corner of Moreland looking toward Somerville



Fig. 3, below: Right corner of lot as it abuts Moreland Street.

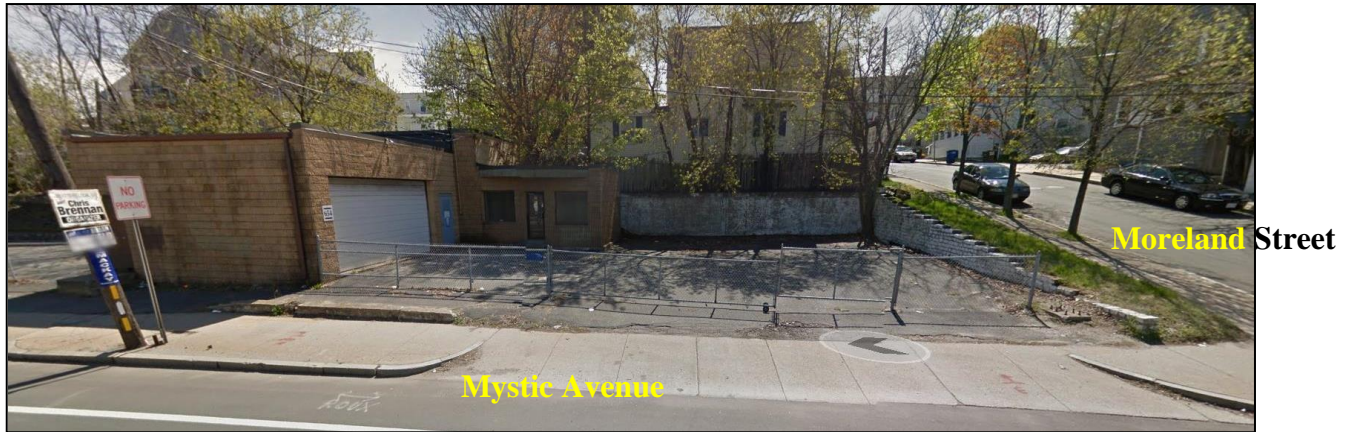


Fig. 4, below: Left corner of lot as it abuts 640 Mystic Avenue. The property at 640 Mystic Avenue (off-image, left) has been demolished since this google image was taken in spring, 2016)



- 2. Proposal:** The Applicant proposes to divide this parcel at 654 Mystic Avenue into three lots. Lot 1, which would abut Moreland Street, is proposed at ~3,178 square feet. Lot 2, to the left, is proposed at ~3,251 square feet. Lot 3, which would abut 640 Mystic Avenue, is proposed at ~3,316 square feet. Further, the Applicant proposes three (3) dwelling units on each lot for a total of nine (9) dwelling units across the original parcel.

Lot size/lot size per dwelling unit: Since the BB zone does not have a minimum lot size requirement all of the proposed lots are buildable lots. The current proposal presents each of the nine dwelling units with a minimum of 1,000 sf each. This amount is greater than the minimum required lot area per dwelling unit ratio of 875 square feet. At 1.43, 1.40, and 1.28, the proposed dwelling units are well under the maximum-allowed FAR of 2.0 in this zone.

Front, rear and side yards: There are no side yard minimums required for this project as the side yards of this BB lot do not abut a residential district. The rear yard, because it abuts an RA district line, must be no less than 15 feet deep as per *SZO §8.5.i footnote 12*. The proposal complies with this requirement.

Landscaping/pervious/ground coverage: The majority of the existing parcel is covered with bituminous material, leaving approximately 1% “landscaped” under current conditions. The Applicant’s proposal would bring 45% landscaping or more to each of the proposed parcels.

Section 8.5.g footnote 5 allows the reduction of front yard setbacks, but for those setbacks to be no less than 10 feet. The Applicant’s proposal allows for 10’ to 15’ front yard setbacks.

With regard to pervious material, overall ground coverage and landscaping, the Applicant does not create any new non-conformities and the proposal improves upon the existing conditions.

Building height: Normally, in the BB zone, buildings may have a maximum height of 50 feet and be up to four stories. However, in cases such as 654 Mystic where the property abuts an RA district line, any structure (or portion of a structure) within thirty feet of that district line shall be limited to three stories and forty feet in height. The design of the proposed residences causes the roofline to step down as the building reaches the rear of the lot. The front-most portion of the building, which is 30-feet from the RA district line, is presented as 3 stories and 40 feet in height, complying with the district requirements.

II. RECOMMENDATION

Site Plan Approval under §5.4

Section 5.4.1 and 8.8 of the SZO allows the Planning Board to consider approval of lot splits under Section 5.4 of the Ordinance, as follows:

- a. *SZO Section 5.4.6(A) and (B) indicates the basis under which a Design and Site Plan Review shall be approved or may be disapproved.*
 - *Section 5.4.6(A) indicates that the board shall make any positive findings indicated for the specific district for which the process is applied.*

No specific findings are identified in the SZO for this district. The proposed use and structures are permitted by-right in this zoning district.

- *Section 5.4.6(B) indicates that the Board may only deny an application when:*
 - i. *The submission fails to furnish adequate information required for review*

A complete submission shall include the information in item 4.C of Chapter 6 of the Rules and Regulations (Rules and Regulations Pertaining to Design and Site Plan Review).

Staff finds that the Applicant has submitted documentation satisfying the requirements via the application documents, architectural, landscaping, and engineering plans and related reports.

ii. *The imposition of reasonable conditions would not ensure compliance to the standards, as applicable*

Staff finds that the conditions outlined in the table at the end of this report to be reasonable and shall be implemented on this project. All future plans and associated documents that are submitted to the City of Somerville for review/approval/permitting henceforth regarding the development of this land shall reflect these conditions.

iii. *the submittal, although proper in form, includes or creates an intractable problem so intrusive on the needs of the public in one regulated aspect or another and cannot be adequately mitigated.*

Staff finds that, as conditioned, the project has no intractable problems.² The project proposal complies with the requirements of the SZO.

Based upon this standard and the above findings, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SITE PLAN APPROVAL**.

The Applicant has provided a complete application, reasonable conditions can be placed on the proposal to ensure that the project conforms to the standards and criteria set forth in Section 5.4, and the project complies with applicable requirements of the Somerville Zoning Ordinance.

² It's worth noting that this standard originates from case law interpreting the intent and legality of Site Plan Approval as a home rule element in zoning. No appellate court decision has upheld a denial of a site plan approval on the basis of an intractable situation. Therefore, Planning and Zoning Boards typically work towards establishing adequate conditions to address concerns of by-right proposals submitted through site plan review processes.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is for the division of parcel 46/C/1 into three lots of the following approximate dimensions: Lot One 3,178 ± sf; Lot Two 3,251 ± sf, Lot Three 3,316 ± sf.</p> <p>Approval is conditional upon using the three lots to build the structures submitted on the attached and referenced plans.</p> <p>No building permit shall be issued until the plan set is updated so that the design matches the renderings dated May 10, 2017.</p> <table border="1" data-bbox="248 697 886 1272"> <thead> <tr> <th data-bbox="248 697 566 737">Date (Stamp Date)</th> <th data-bbox="566 697 886 737">Submission</th> </tr> </thead> <tbody> <tr> <td data-bbox="248 737 566 833">July 31, 2017</td> <td data-bbox="566 737 886 833">Application filed with City Clerk.</td> </tr> <tr> <td data-bbox="248 833 566 932">July 31, 2017</td> <td data-bbox="566 833 886 932">Schematic dated May 10, 2017 submitted to OSPCD (plan set)</td> </tr> <tr> <td data-bbox="248 932 566 1272">July 31, 2017</td> <td data-bbox="566 932 886 1272">Accessibility letter, Phase 1 & Phase 2 Environmental Assessment statements, copy of new planning board rules, Accessibility Letter, & 640 Mystic Ave Staff Report (ZBA) submitted to OSPCD</td> </tr> </tbody> </table> <p>ANY other changes to the approved plans shall be submitted to Planning Staff for their review prior to implementation of said changes. Planning Staff shall determine if the changes proposed are <i>de minimis</i> in nature or if the proposed changes require Planning Board review.</p> <p>The use of these lots for any purpose or structure other than those shown on these plans will be subject to review and approval of the Planning Board.</p>	Date (Stamp Date)	Submission	July 31, 2017	Application filed with City Clerk.	July 31, 2017	Schematic dated May 10, 2017 submitted to OSPCD (plan set)	July 31, 2017	Accessibility letter, Phase 1 & Phase 2 Environmental Assessment statements, copy of new planning board rules, Accessibility Letter, & 640 Mystic Ave Staff Report (ZBA) submitted to OSPCD	BP	Plng.	
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2	Trash and recycling storage for all 9 units shall be located inside of the structures.	Perpetual	Plng./ISD									
3	For developments with 7 or more residential units or commercial development, the Owner/Applicant is required to hire a private company to remove trash and recycling on a regular basis.	Perpetual	ISD/Planning									

4	All snow shall be carted off-site.	Perpetual	ISD/Planning	
5	The Applicant shall submit to Planning Staff certified copies of the recorded/registered documents.	Building Permit	Plng.	
6	There shall be no parking in the front yard of any of the parcels. All front yards shall be landscaped/patio area and shall contribute to and not detract from landscaping and pervious surface calculations.	Perpetual	Plng./ISD	
7	The Applicant shall present updated civil plans to the Planning Office and to the City's Engineering Department depicting how much fill will be added to the site, of what the fill is comprised, where the fill comes from, and detailing engineering renderings of what the actual finished grade will be. Planning and Engineering must sign off on these plans before any permits are issued for work on the site.	BP/site prep	Plng/Engineering/ISD	
8	The roof shall remain flat and there shall be no roof decks permitted on the site.	Perpetual	ISD/Planning	
9	Landscaping shall be installed exactly as rendered on the plans dated October 20, 2016. There shall be no reduction in plant count or changes in plant type without prior submission to and approval by Planning Staff	CO	Plng/ISD	
10	The applicant shall ensure that all landscape/pervious calculations match submitted plans.	BP	Plng/ISD	
11	<p>Prior to the start of construction, an engineering report shall be submitted on the retaining wall at the back of the lot. The engineering report shall:</p> <ul style="list-style-type: none"> • Present a plan for addressing the structural integrity of the existing retaining wall in relation to the proposed project; • Be presented to the City Engineer for review and sign off prior to the issuance of a building permit. <p>Implementation of engineering plan:</p> <ul style="list-style-type: none"> • The engineering plan shall be followed exactly as signed off by the City Engineer • The City Engineer shall sign off on all work performed on the existing or new retaining wall. 	BP	Plng/Engineering	
12	All environmental reports and testing shall be submitted to Planning Staff as they are completed. Staff reserves the right to ask that these reports be "peer reviewed" by a city consultant at the cost of the Applicant.	BP	Plng/Engineering	
13	ALL materials proposed for the exterior of the new construction will be presented to Planning Staff for their review and approval PRIOR TO their installation	CO	Planning/ISD	

14	A new hydrant shall be installed on Ash Avenue. Said hydrant and its <u>exact</u> location shall be shown on revised civil plans.	BP	Fire Prevention/Planning/ISD	
15	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	BP	Wiring Inspector/Electrical	
16	The Applicant shall meet all of Fire Prevention's requirements	CO	Fire Prevention	
17	ALL exterior lighting on ALL facades of the building shall be downcast and shall not cast light only any abutting properties.	CO/Perpetual	ISD/Planning	
18	The Applicant shall consult with Lights and Lines to determine the need/location for transformers/conduits and the like on the property and/or the upgrade of any pole/line capacity.	BP	Lights & Lines	
19	The Applicant shall work with the Sustainable Neighborhoods Initiative coordinator to review air handling and filtration systems in the building. Air intakes shall not be located between the building and Mystic Avenue, shall provide adequate filtration systems to address the particulates that typically come off I-93. The final plan for particulate handling shall be submitted to Planning/ISD prior to the issuance of a building permit.	BP	ISD/Sustainable Neighborhoods/Planning	
20	The project shall be subject to the city stormwater policy, including the required removal of infiltration and/or inflow based upon providing either construction to reduce the inflow/outflow or a mitigation payment as established by the City Engineer's office.	BP	Engineering/Planning/ISD	
21	Any venting pipes shall be wrapped to match the color of the roofing material through which it protrudes or shall be painted to match the color of the siding through which it protrudes.	Perpetual	Planning/ISD	
22	There shall be no venting on the Mystic Avenue façade of the buildings.	Perpetual	Planning/ISD	
23	All greenery shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Planning/ISD	
24	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.	Perpetual	Planning/ISD	
25	Storm water runoff shall not be routed into the City sewer system. Plans for such runoff must be approved	BP	Engineering	

	by the Engineering Department and shall not create storm water maintenance issues for abutting properties or the City.			
26	The Applicant must provide an accessibility narrative prior to the issuance of a building permit.	BP	ISD/Plng.	
27	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	BP	Plng/OSE	
28	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	BP	OSE/FP/BOH	
29	Any new curb cuts shall be poured in accordance with the specifications of the Highway Superintendent	CO	Eng./Highways/Planning/ISD	
30	Venting from the garage shall be on the front of the building, and not adjacent to abutting properties at the side or rear	CO/Perpetual		
31	The design of the wall (required by condition #8) shall incorporate the design of the French drain that will collect water by the wall and discharge it.	BP/Perpetual	Eng./Planning/ISD	
32	The garage area in the back yard shall be covered by a minimum of 18 inches of dirt.	CO/Perpetual	Planning/ISD	
33	Each unit shall include two deeded parking spaces. The remaining two parking spaces in each garage shall be available to visitors of all three of the units that share the garage.	CO/Perpetual	Planning/ISD	
34	If granted access by the abutting rear property owner at 50 Ash Avenue, the applicant shall remove the fence that is on the 50 Ash Avenue property just beyond, but alongside the adjacent property line with this property. The applicant shall then clear the area between the fence and the property line, and then the applicant shall install a new fence along the entire rear property line. <u>Fence material and design shall be subject to Planning Staff review and approval prior to installation.</u>	CO	Planning/ISD	
35	Applicant and Planning Board agree and acknowledge that this approval vacates and replaces the previous decisions filed for the division of land on the site.	Perpetual	Planning	