



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: PB 2018-01
Date: January 31, 2018
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 654 Mystic Avenue

Applicant Name: Anthony Fava & Ryan Hunt
Applicant Address: 11 Elkins Street, Ste 205, Boston, MA 02127
Property Owner Name: 654 Mystic LLC
Property Owner Address: 11 Elkins Street, Ste 205, Boston, MA 02127
Agent Name: Gordon E. Meyer & Associates, P.C.
Agent Address: 8 Winchester Street, Boston, MA 02116-5424
Alderman: Jesse Clingan

Legal Notice: Owner, 654 Mystic LLC and Applicants, Anthony Fava & Ryan Hunt 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: December 29, 2018
Date of Planning Board Hearing: January 31, 2018

STAFF NOTE: The property at 654 Mystic Avenue has appeared before the Planning Board several times in the last year. Initially, in December of 2016, the Planning Board approved a subdivision with Design & Site Plan Review. This approval would have allowed the Applicant to create three building lots with three dwelling units on each lot. Since this initial approval was conferred, the Applicant has been back before the Planning Board to correct procedural errors and minor design changes.

The purpose of 654 Mystic Avenue appearing before the Planning Board on January 31, 2018, is



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to request approval for a modified proposal:

The Applicant seeks to split the existing lot into three conforming building lots but seeks to construct three, 2-unit residential structures on each lot (instead of the originally-approved 3-unit residential structures on each lot).

I. PROJECT DESCRIPTION

1. **Subject Property:** The subject property is a 9,745 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. , 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.

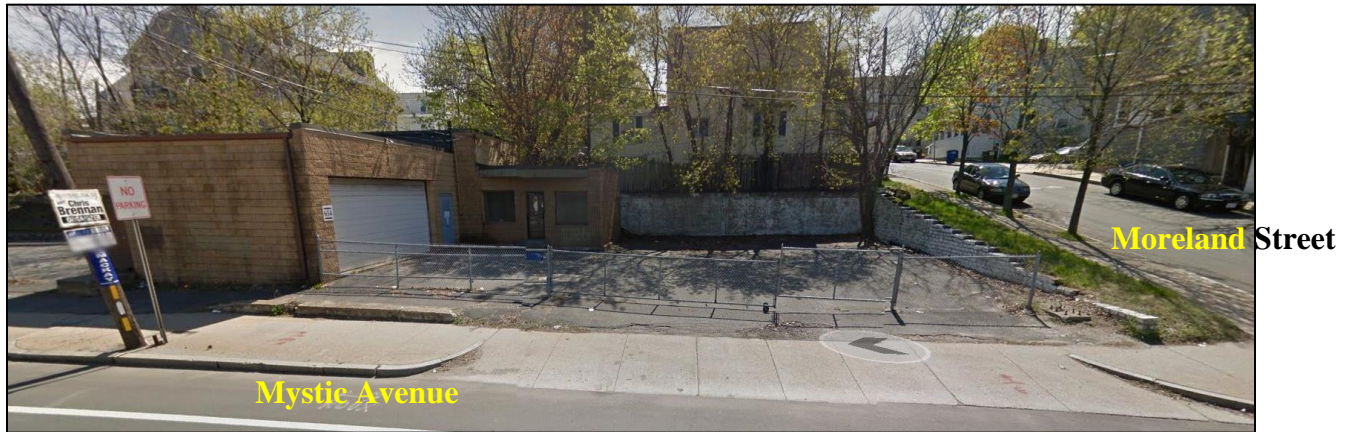


Fig. 4, below: Left corner of lot as it abuts 640 Mystic Avenue. The property at 640 Mystic Avenue (off-image, left) has been demolished since this google image was taken in spring, 2016)



2. **Proposal:** The Applicant proposes to split this parcel at 654 Mystic Avenue into three buildable lots. The details of the Applicant’s proposal area as follows:

Lot size: Since the BB zone does not have a minimum lot size requirement all of the proposed lots are buildable lots. Irrespective of this, the Applicant proposes three building lots of the following sizes:

- 3,127 square feet
- 3,163 square feet
- 3,168 square feet

Lot area per dwelling unit: The Applicant proposes two (2) dwelling units on each lot for a total of six (6) dwelling units across the original parcel. The minimum lot area per d.u. in the BB zone is 875 square feet. The Applicant proposes lot area per d.u. as follows:

- 1,563 of lot area per unit (2 units on lot)
- 1,581 of lot area per unit (2 units on lot)
- 1,584 of lot area per unit (2 units on lot)

This amount is greater than the minimum required lot area per dwelling unit ratio of 875 square feet.

FAR: At 1.05, 1.04, and 1.00, the proposed dwelling units are well under the maximum-allowed FAR of 2.0 in this BB 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 states that it would bring 52%, 52%, and 56% landscaping on each of the three parcels.

Front yard setback: Section 8.5.g footnote 5 of the SZO allows for the reduction of front yard setbacks, but for those setbacks to be no less than 10 feet. The Applicant will meet a 15-foot front yard setback.

Pervious area: 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 38’-9” high, 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.¹ 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.

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.

The Rules and Regulations Chapter 6, Section 6.C. state that, “[w]hen an application is deemed generally acceptable, but is of a nature where specific approval of each standard or criteria of SZO Section 5.4.6 cannot be reached (such as in subdivision [lot splits], where all physical site development plans may not be finalized at the time of the plot recording), the Planning Board may attach a condition(s) requiring recordation of deed restrictions or covenants ensuring future compliance with specifically applicable standards of SZO section 5.4.”

¹ 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 subdivision of parcel 46/C/1 into three lots of the following approximate dimensions: 3,127 ± sf; 3,163 ± sf; 3,168 ± sf.</p> <p><u>No building permit shall be issued until the plan set matches the plans dated 12-28-2017</u></p> <table border="1" data-bbox="248 1318 886 1457"> <thead> <tr> <th data-bbox="248 1318 566 1356">Date (Stamp Date)</th> <th data-bbox="566 1318 886 1356">Submission</th> </tr> </thead> <tbody> <tr> <td data-bbox="248 1356 566 1457">December 29, 2017</td> <td data-bbox="566 1356 886 1457">Application filed with City Clerk's Office</td> </tr> </tbody> </table> <p><u>ANY</u> 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> | Date (Stamp Date) | Submission | December 29, 2017 | Application filed with City Clerk's Office | BP | Plng. | |
| Date (Stamp Date) | Submission | | | | | | | |
| December 29, 2017 | Application filed with City Clerk's Office | | | | | | | |
| 2 | Trash and recycling storage for all 6 units shall be located inside of the structures. | Perpetual | Plng./ ISD | | | | | |

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|----|--|-----------------|----------------------|--|
| 3 | A private company shall be hired 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 plan set dated December 28, 2017. 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 | |

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| 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 Preventio n/Plannin g/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 /Electrica l | |
| 16 | The Applicant shall meet all of Fire Prevention's requirements | CO | Fire Preventio n | |
| 17 | ALL exterior lighting on ALL facades of the building shall be downcast and shall not cast light onto any abutting properties. | CO/Perpetual | ISD/Plan ning | |
| 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 ISD prior to the issuance of a building permit. | BP | ISD/Sust ainable Neighbor hoods | |
| 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 | Engineeri ng/ 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 | |

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|----|---|--------------|-------------------|--|
| 25 | Storm water runoff shall not be routed into the City sewer system. Plans for such runoff must be approved by the Engineering Department and shall not create storm water maintenance issues for abutting properties or the City. | BP | Engineering | |
| 26 | The Applicant must provide an accessibility narrative prior to the issuance of a building permit. | BP | ISD | |
| 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 | ISD/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/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 | |