



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

PLANNING BOARD MEMBERS

KEVIN PRIOR, *CHAIRMAN*
JOSEPH FAVALORO, *CLERK*
DOROTHY A. KELLY GAY
MICHAEL A. CAPUANO, ESQ.
REBECCA LYN COOPER
GERARD AMARAL, (ALT.)

Case #: PB 2018-01
Site: 654 Mystic Avenue
Date of Decision: February 13, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: February 27, 2018

PLANNING BOARD DECISION

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.

<u>Zoning District/Ward:</u>	BB zone. Ward 4
<u>Zoning Approval Sought:</u>	§8.8 and 5.4
<u>Date of Application:</u>	December 29, 2017
<u>Date(s) of Public Hearing:</u>	1/31/ & 2/13/2018
<u>Date of Decision:</u>	February 13, 2018
<u>Vote:</u>	5-0

Appeal #PB 2018-01 was opened before the Planning Board in the Aldermanic Chambers, City Hall, 93 Highland Avenue. 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 Planning Board took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

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 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.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.

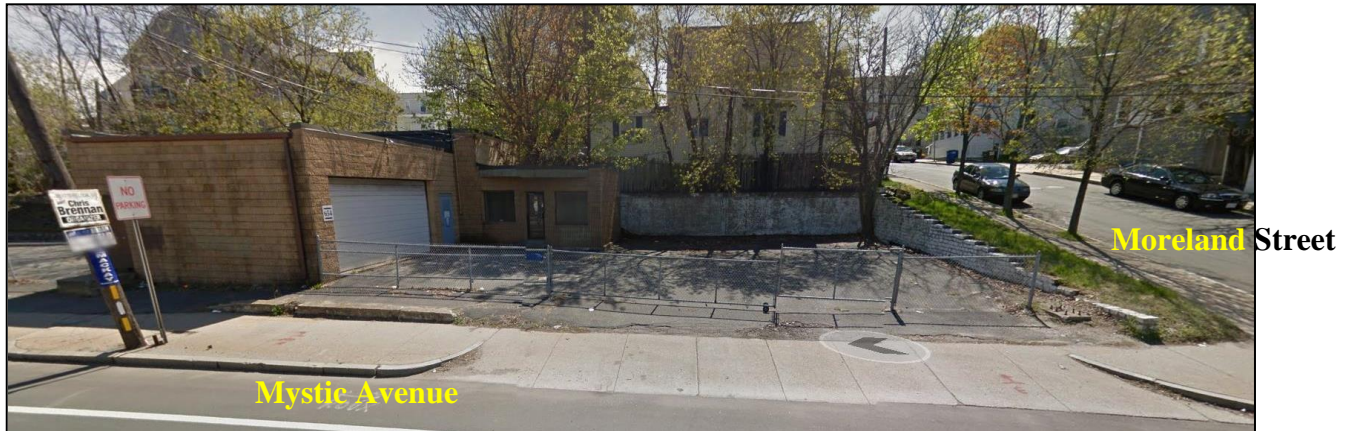


Fig. 4, below: Left corner of lot as it abuts 640 Mystic Avenue. The property at 640 Mystic Avenue (off-image, left) has been demolished since this google image was taken in spring, 2016)



- 2. **Proposal:** The Applicant proposes to 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
- End 654 Mystic property boundary (not to scale)**

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

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.



recording of deed restrictions or covenants ensuring future compliance with specifically applicable standards of SZO section 5.4.”

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is for the split 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 2/9/2018</u></p> <table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>December 29, 2017</td> <td>Application filed with City Clerk’s Office</td> </tr> <tr> <td>February 9, 2018</td> <td>Updated plans submitted to OSPCD</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	Submission	December 29, 2017	Application filed with City Clerk’s Office	February 9, 2018	Updated plans submitted to OSPCD	BP	Plng.	
Date	Submission									
December 29, 2017	Application filed with City Clerk’s Office									
February 9, 2018	Updated plans submitted to OSPCD									
2	Trash and recycling storage for all 6 units shall be located inside of the structures.	Perpetual	Plng./ ISD							
3	A private company shall be hired to remove trash and recycling on a regular basis.	Perpetual	ISD/Plan ning							
4	All snow shall be carted off-site.	Perpetual	ISD/Plan ning							
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	Perpetual	Plng./ ISD							



	and shall contribute to and not detract from landscaping and pervious surface calculations.			
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 February 9, 2018. 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	BP	Wiring Inspector	



	source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.		/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 onto 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 ISD prior to the issuance of a building permit.	BP	ISD/Sustainable Neighborhoods	
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/ 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 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	
34	Prior to the application for a Building Permit being submitted, revised elevations shall be submitted to Planning Staff for their review and approval of materials and palette. The palette of materials shown on the front elevation shall be comprised of four materials: full-sized brick or alternate material, two types of siding, and cementitious panels. The palette of materials approved by Planning Staff for the front elevation shall be similarly represented on the rear of the structure so that there is a coherent expression across the entire building and so that each unit is expressed individually.	BP	Planning/ISD	

Attest, by the Planning Board:



Kevin Prior, Chairman



Joseph Favaloro



Dorothy A. Kelly Gay



Rebecca Lyn Cooper



Michael A. Capuano, Esq.

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 _____

