



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

*PLANNING DIVISION*

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**Case #:** ZBA 2009-45

**Date:** July 14, 2011

**Recommendation:** Conditional Approval

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**PLANNING BOARD RECOMMENDATION**

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**Site:** 35R Lexington Avenue

**Applicant Name:** Christos Poutahidis

**Applicant Address:** 147 Willow Ave, Somerville MA 02144

**Property Owner Name:** same

**Agent Name:** Richard G. Di Girolamo

**Agent Address:** 424 Broadway, Somerville MA 02145

**Alderman:** Sean O'Donovan

**Legal Notice:** Applicant/Owner Christos Poutahidis is seeking a Special Permit with Site Plan Review (SZO §5.2) to have two principle structures (two single-family homes) on a lot (§7.2) and a Special Permit to alter a nonconforming structure (§5.1 & §4.4.1). The applicant/owner is seeking to alter the existing structure by demolishing a portion and renovating it into a single family home, and is seeking to build an additional single family home on the 14,875 square foot lot.

**Zoning District/Ward:** Residence A / Ward 5

**Zoning Approval Sought:** Special Permit with Site Plan Review SZO §7.2, §5.2,  
Special Permit §4.4.1, §5.1

**Date of Application:** September 8, 2009, completed October 2010, revised February 10, 2011

**Dates of Public Meeting • Hearing:** Planning Board 4/7/11 & 7/14/11 • Zoning Board of Appeals  
– the case has been continued since 11/3/10

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Dear ZBA members:

At its regular meeting on July 14, 2011 the Planning Board heard the above-referenced application. Based on materials submitted by the Applicant and the Staff recommendation, the Board voted (5-0), to recommend **conditional approval** of the requested **Special Permit**.



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In conducting its analysis, the Planning Board found:

## I. PROJECT DESCRIPTION

1. Subject Property: 35R Lexington Avenue is an L-shaped lot including a passageway to Lexington Avenue. It is a 14,875 square foot lot including the “passageway” and 12,985 square feet excluding the “passageway”. The passageway is a 21-foot wide portion of the parcel with a driveway from Lexington Avenue into the site. There is a wall, fence and shed from abutting neighbors that encroach a few feet onto this portion of the parcel, limiting the driveway width to approximately 15 feet.

On the parcel is a two-story office/workshop of 2,510 square feet and an attached one-story garage/storage area of 4,180 square feet in fair to poor condition. The exterior area had been used as a contractor yard.

For many years, a fence has separated the site from the Community Path, but this fence has been located with a portion of the MBTA land on the applicant’s side of the fence, leaving an unsettled encroachment that has been the

subject of legal action in the past. At this time, Planning Staff understands that this applicant has a license from the MBTA to occupy this space for as much time as it may take to remove existing fencing and repair the encroachment area. The building, fence and asphalt that encroached on the MBTA land has recently been removed, but landscaping in this area has not been restored. The posts to the fence currently remain. A temporary construction fence has been placed at the approximate location of the property line.

The Zoning Board of Appeals issued a special permit (ZBA #2006-49) in 2007 to convert the existing structure into two dwelling units. The permit was never exercised and has since expired.

2. Proposal: The applicant proposes to convert the existing two story structure to a single family residence and add a small addition, for a total of 2,467 square feet of habitable space, and to demolish the existing garage. In addition, the applicant proposes to build a second single-family house of approximately 3,290 square feet, approximately 82 feet from the existing building.



*Top: view looking from the northern corner of the site towards the building that will be renovated. Bottom: view from the western corner of the site towards the location of the new structure and driveway.*



The renovated structure would consist of 4 bedrooms and 2 baths on the second floor, and living, dining, study, ½ bathroom, and eating space on the first floor. The new single family home would have 3 bedrooms, a study, and 2 baths upstairs, and living room, family room, study, kitchen and a half bath on the first floor. The new home would also have an unfinished basement and attic for storage. The 359 square feet in the attic (half-story), which could be used as living space if it was finished in the future, was included in the floor area ratio calculation.

Each unit would have outdoor patios and green space. There would be a total of five parking spaces in a parking area between the two buildings.

3. Nature of Application: Changes to the existing structure along the nonconforming yard requires a special permit under §4.4.1. Sitting of a second structure on a single lot requires a special permit with site plan review per § 7.2. The proposal complies with all other dimensions of the Somerville Zoning Ordinance.

For the purposes of zoning, the passageway and the remainder of the parcel are one lot, as they are owned in common by the applicant, and even though an easement allows others to use the passageway. The street frontage for this parcel is 21 feet, which is less than the required 50 feet; however, this lot is exempt from the frontage requirements per Section 8.6 of the SZO which states that the frontage shall not apply to lots in existence prior to May 19, 1988 (when frontage requirements were first created) which were non-conforming to these requirements.

At 14,875 sf the lot size for this parcel is larger than the minimum required 10,000 sf for the Residence A zoning district. The size of the lot provides ample space to meet the required minimum lot area per dwelling unit at 7,436 sf per unit. Because the footprint of the proposed single family home is smaller than the existing garage structure slated for demolition, and the footprint of the existing two-story structure is reduced, the gross floor area of footprints for all buildings will be reduced to 3,243 square feet, decreasing ground coverage area from 37.3% to 21.8%, which is within the zoning requirement of no more than 50% coverage. The site plan calls for 40% of the lot to be landscaped area, an improvement to the existing condition of the lot, which is generally not landscaped. The proposed landscaping is more than the required 25%. Net floor area is also reduced to 5,972 sf (from 6,690), in turn reducing the FAR to 0.39, well within the permitted 0.75.

The current building that will be renovated will remain at 20.25 feet in height, and the new 2½ floor structure will measure 33.5 feet tall. These are both within the allowed 35 feet. The only nonconforming setback is for the existing structure that is 0.11 feet from the property line and will remain as such in the new proposal. The new structure will meet the setback requirements. It will be setback 20.8 feet from the southern property line. Proposed rear yard setbacks (from the northern property line) are 14 feet for the renovated existing structure and 13.5 feet for the new structure. As outlined in footnote 13 of § 8.6, "For each foot by which a lot is less than one hundred (100) feet deep on the effective date of this Ordinance, three (3) inches may be deducted from the required depth of the rear yard". The parcel qualifies as a shallow lot at 68 feet, resulting in a permitted set back of:  $100 - 68 = 32 \times 3 \text{ inches} = 96 \text{ inches}$  or an 8 feet reduction of the required setback to 12 feet. Side yard setbacks for the left and right are 38.7 feet and 12.0 feet, respectively, and fall within the zoning requirements.

The parking requirements for each of these units is two, and the applicant has exceeded this requirement by providing 5 parking spaces in the proposal. The fire access to the driveway may require removing an on-street parking space. The Somerville Zoning Ordinance (Section 9.6.1) requires that the number of on-street parking spaces lost as a result of a development must be provided onsite in addition to the number required for the development. In this case 4 parking spaces are required and 5 will be provided to make up for the lost space on the street.

4. Surrounding Neighborhood: Reflective of the underlying zoning, the subject property is located in a residential neighborhood, comprised primarily of one- and two-family homes that are 2 ½ stories in height. Per the below table, it can be seen that surrounding properties predominantly contain structures that are 3,000 s.f. or greater on 3,600 s.f. parcels.

Living Area per Parcel (1 to 39 Lexington Avenue)		
Bldg Size (sf)	Lot Size (sf)	FAR
3,402	3,600	0.95
3,363	3,600	0.93
3,249	3,600	0.90
3,246	3,600	0.90
3,188	3,600	0.89
3,180	3,600	0.88
3,137	3,600	0.87
3,108	3,600	0.86
3,066	3,600	0.85
2,995	3,600	0.83
2,942	3,600	0.82

5. Impacts of Proposal: Creating two single-family dwellings would put the parcel into a use that better aligns with that of abutters and the surrounding neighborhoods. Renovation of the site and addition of a new single family home would enhance the visual appeal of the site, especially as it abuts the Community Path behind Lexington Ave. The large size of this particular parcel provides ample space to construct an additional home while remaining within the guidelines prescribed by Residence A zoning. The proposal would not result in a significant increase in traffic, pollution, noise, odor, or glare. The proposed structures would not significantly impact water or sewer capacity. The design of the property is such that it would not alter the character of the neighborhood.

Planning Staff attended the November 29, 2010 neighborhood meeting. At that meeting, neighbors asked many questions about the zoning ordinance and the nature of the proposal, and then voiced the following concerns regarding the proposal:

- The possibility that the new house would become a two-family house
- Outdoor trash storage and pickup
- The location and noise from air conditioning and other utility equipment location
- The applicant's use of the MBTA land for construction vehicle access to the site
- Strategies for protecting a tree on the abutting property line

Staff has responded to these concerns by recommending conditions to the Planning Board and ZBA that would further protect the neighborhood from these impacts.

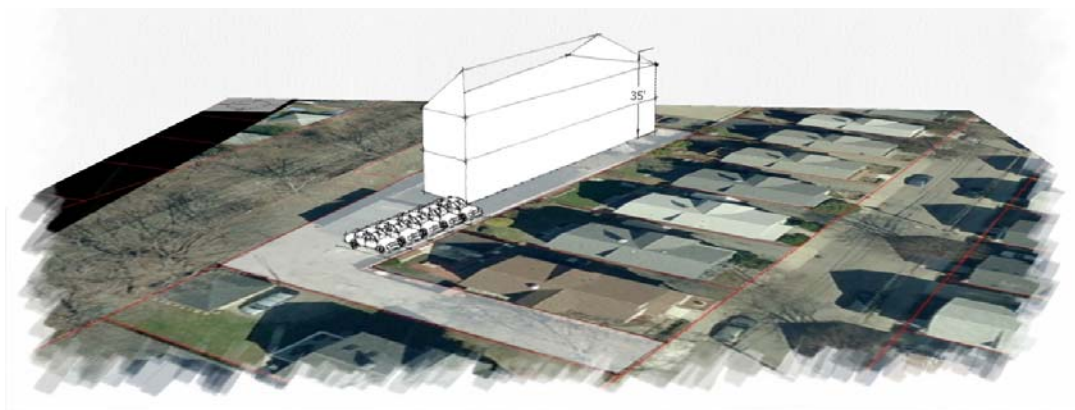
A significant line of discussion surrounded the size of the new single-family home. This home is the same size as many other structures in the neighborhood, and the total density as measured by lot area per unit on this project site is much lower than on other lots in the neighborhood. In fact, any of the two family structures already on the block could convert to single family houses by right and would be equal or larger than the proposed new home. Further, while other developers have used the special permit

exceptions of Sections 7.3 of the ordinance to develop up to six units (with one affordable unit) on similar sized RA zoned lots, this application includes no such request. Instead, this application is limited to the two units allowed by-right in the zoning district.

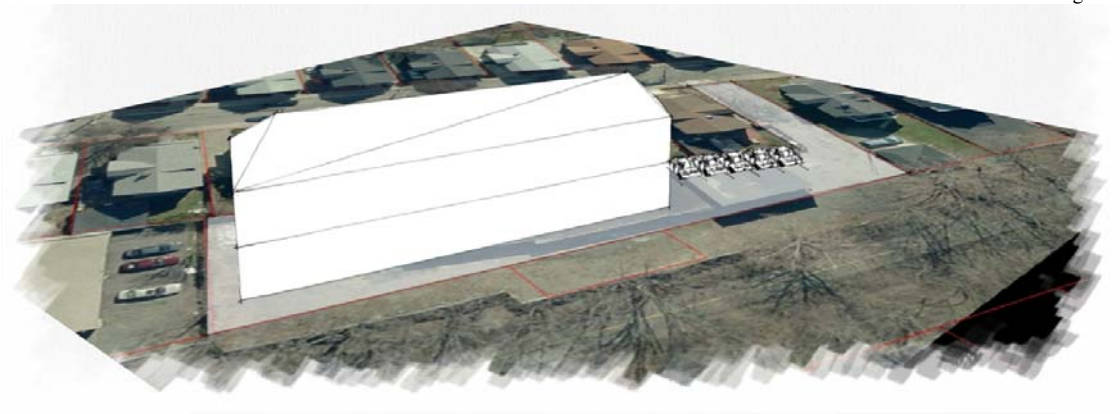
Under the current zoning, the developer could build two attached units on the site, but the Planning Board believe such development could be larger, bulkier, more detrimental to the neighborhood and could present a far less appealing appearance along the Community Path. The new building would have to conform to the dimensional requirements of the RA zoning district, including a 2.5 story height requirement but could be as much as 11,156 s.f. in size and up to 35 feet in height. If the applicant elected to build a by right project, the only issues to be reviewed would be building permit and public safety issues addressed by the Inspectional Services Division and Fire Department. There would be no ZBA public hearing, and no direct neighborhood input. Planning staff developed an image that shows the basics of the bulk of what could possibly be built by-right (image below).



*Image of the massing that would be allowed by-right on the site (building footprints – left, looking north and south – below)*







While the proposed project requires a special permit for developing detached structures, it will allow for two individual homes to be built on the site, each of a size that can accommodate a family. There is a high demand and short supply of free-standing single family homes and of properties with units of three or more bedrooms. This project addresses both needs, and develops two very desirable homes in a very desirable and well-loved neighborhood. The larger home would not be able to be converted to more than one unit, as both the conditions recommended by the Board and the underlying zoning would not allow it.

Additional comments may be submitted before the Zoning Board of Appeals closes the public hearing.

6. Green Building Practices: The renovation of the existing structure will meet or exceed code requirement for energy efficiency, and the new structure will exceed requirements for the new energy code for single family home construction.

7. Comments:

*Fire Prevention:*

Regarding the conditions of our approval, the 14-foot access along the back of the property needs to be a designated fire lane with signs to be installed and maintained by the owner. We have allowed this fire lane to be less than the minimum required because the building is sprinklered and 18 feet is not available.

The passageway must also have signs designating it as a fire lane. It must be at least 18 feet because it is available. The small shed and stockade fence will have to be moved to provide the 18' width. If either passageway was not designated as a fire lane, the access to these buildings would most likely be blocked more often than not.

The architect may need to reduce the depth of the landscape/walkway at the entrance to unit #1 to widen the roadway along the entire radius at this corner and also amend the plan for the wall next to the 2 parking spaces for unit #1 so that the corner turn into auto court can be made by our engine companies. Once the existing building is altered to the proposed dimensions, a company truck should be brought to the site to finalize these elements of the site plan.

A [20 foot] fire lane in front of 38 Lexington Avenue and fire lanes for approximately 5 feet on each side of the driveway leading to the site may need to be established. Code compliant fire alarm and sprinkler systems need to be installed with plans to be approved by Somerville Fire Prevention.

Electrical, phone and cable lines running from the street down the driveway need to be raised as they are drooping very low.

*Engineering:*

A drainage report was submitted; however, the utility and grading plan can be submitted after the Zoning Board of Appeals review. The plans must meet the Engineering Department's requirements regarding utilities, grading and drainage.

*Traffic & Parking:*

*Note that these comments are based upon an earlier version of the plan. The snow drop areas have been moved and the mirror has been added to the plan:*

The applicant is seeking a Special Permit to have two principle structures of a lot. Parking requirements for these structures are in compliance with the Somerville Zoning Ordinance (SZO). However access to the parking spaces is via a two-way "elbow" shaped passageway. The width of this passageway varies and has a minimum width of 10' 9". The SZO requires a two way passageway width to be a minimum of 18'.

Traffic and parking has been informed that this substandard passageway has been "grandfathered" for this project.

A location for a "snow drop" has been created at the elbow of the passageway. Due to encroachment of the snow bank on the passageway lane width at the elbow and potential sight line problems it is recommended that the so called snow drop be relocated to a different location. Also due to vehicle direction of travel conflicts associated with the substandard width of the passage way the following is recommended:

- The property management company properly and securely install a "parabolic mirror" so that vehicles exiting the property can view oncoming traffic.
- Warning signs be installed for exiting vehicles with the legend "Yield to Entering Vehicle".
- Warning signs be installed for entering vehicles with the legend "Caution Two Way Traffic".

Provided the above is incorporated Traffic and Parking has no objections to this application.

*Ward Alderman:* Alderman O'Donovan would encourage the Planning Board to reduce the size of the proposed new single-family house by 15% to 20% in size, and suggested that the applicant should place any air conditioning equipment near the bike path and away from abutting properties.

*Design Review Committee:*

The DRC reviewed the plan in 2009, and was generally supportive of the plans. The Committee's recommendations were incorporated into the current plans. Details regarding the recommendations can be found in the DRC minutes from February 26, 2009. Although the plans have changed in the last two years, the basic design principles remain the same in the current plan.

*Transportation and Infrastructure Division of OSPCD:*

Provided the following recommendations and comments:

- Remove the existing fence
- Place a lockable, high-quality wooden or black-iron fence, for resident use, facing the Community Path at the development line
- Place attractive plantings along the fence facing the Community Path to improve aesthetics and limit runoff

- The plantings chosen for the site are satisfactory; however, the City's tree inventory indicates that Maple trees are overplanted. The Autumn Blaze Maple proposed should be replaced with a different tree of a similar size.
- It would be beneficial to have a tree planted closer to the Community Path. There appears to be space in the eastern corner of the site that could be adequate for a tree, while maintaining an open yard for the residents.

*Public Comment:* The comments received thus far are summarized in the Impacts of Proposal Section above. Planning staff also provided an e-mail response to a series of questions asked by the community about the process to date, the design, and the by-right project. That response was sent on March 9, 2011 and is attached. Additional testimony may be submitted through the close of the public hearing.

## **II. FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §4.4.1 and §7.2):**

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2 of the SZO. This section of the report goes through §5.2.3 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. After a significant delay with an incomplete application, the applicant completed the application requirements in October of 2010, and provided an updated design to address concerns expressed by Traffic & Parking. The applicant has also committed to a schedule to correct the encroachment on the MBTA land, and has begun to come into compliance. The Board is recommending conditions to address the need to follow through and complete that commitment. The Applicants submitted revised drawings on February 10, 2011 to address concerns of the fire department and some of the issues that arose at the November 4, 2010 Planning Board meeting. At the April 7, 2011 Planning Board meeting, the Board asked for the City and Applicant to work towards a plan that satisfied the needs of Fire Prevention and to the maximum extent possible preserves the neighbors' fencing on the subject property. The Applicants submitted a Fire Truck Simulation Plan dated June 23, 2011 that shows that fire truck access is sufficient with the removal of 30 feet of the chain link fence at the entrance from Lexington Avenue into the passageway.

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 with site plan review."

In considering a special permit under §4.4 of the SZO, the Board does not find that the alterations proposed would be substantially more detrimental to the neighborhood than the existing structure and use. The only opening in the structure in the setback is a glass block window which was chosen to minimize privacy concerns.

In considering a special permit under §7.2 of the SZO, the Board finds that the addition of an additional structure to the parcel will not be detrimental to the neighborhood, given the available space on the lot, and the proposed design of the new home, which will be of a similar nature to other homes in the surrounding neighborhood. Placing all development in one building at the center of the lot, as allowed by –right, would be more disruptive to neighborhood character than the proposed development.

3. Purpose of District: The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".



The proposal including two single-family homes is consistent with the purpose of the Residence A District, which is, “[t]o establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

4. Site and Area Compatibility: The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.

The renovation of the existing building would improve the current state of the property, which is in disrepair. The proposal will bring a non-conforming use into its prescribed use as a residential structure. Having two smaller structures on the lot is consistent with the pattern of 2 ½ story houses in the area, and breaks up what would otherwise be a larger bulky building. The new house is the same size as the houses in the neighborhood and will provide housing for a single family as conditioned. There is a need for single-family homes in Somerville, and such houses offer the opportunity to provide for family housing, which is difficult to come by in the City. Many of the houses in the City were carved up into smaller units making housing of this type increasing rare.

The design of the houses is cohesive and includes detailing such as cornices, entry canopies, a porch and wood and stucco siding. The site plans is comprehensive and places landscaping and fencing in locations that screen the yards from the existing adjacent yards.

5. Functional Design: The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”

As conditioned, the site would meet standards for a functional design. The Board proposes a condition that the Applicant install warning signs exiting vehicles with the legend "Yield to Entering Vehicle", and warning signs for entering vehicles with the legend "Caution Two Way Traffic". The snow drop has been moved, and the applicant has proposed to include the parabolic mirror requested by Traffic & Parking.

6. Impact on Public Systems: The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”

The two residential structures will not have an adverse impact on the public services and facilities. The residential use will most likely have less of an impact than the prior use as a garage and office. The water runoff from the site will be improved with the proposed landscaping and drywells.

7. 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 proposal includes a 6-foot wooden fence next to the structure along the southwestern property line and evergreen shrubs to screen the site and reduce the noise from the residential abutters. The residential uses will not emit noxious or hazardous materials or substances, pollute the water ways or transmit signals that will interfere with radio or television reception. From a regional perspective, there is a

growing demand and price pressure on housing near transit options, and housing units not built here will be developed instead in farmland or forests where it will have a far greater environmental impact.

8. Consistency with Purposes: “Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to conserving the value of land and buildings and encouraging the most appropriate use of land throughout the City.

9. Preservation of Landform and Open Space: The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”

The amount of landscaping on the site will improve from the current state with no landscaping to 40% of the site being landscaped. The location of the existing driveway and building dictates where the landscaping is located. Some of the landscaping will be visible from the bike path, which is the public right of way where the proposal is most visible to the neighborhood. The site does not have land forms or grading that will be altered.

10. Relation of Buildings to Environment: The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”

The building that will be reused, which is along the property line, will have a 6 by 6 glass block window facing the rear yard of the adjacent property. The second building which will be of new construction is setback 20 feet from the rear yard of its adjacent neighbor. A wooden fence and evergreen shrubs are proposed, where possible, to minimize the intrusion of views from the existing buildings. The Architect has provided sections of the proposal along the bike path and passageway which show that the proposed buildings are compatible in scale to the surrounding area.

11. Stormwater Drainage: The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and paved area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”

The Applicants submitted a drainage report that includes a plan to install drywells to collect runoff from the roof and pavers to be installed for the paved patios and parking spaces. The report states that there will not be an increase in runoff from the site.

12. Historic or Architectural Significance: The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”

The existing structure is not of historical significance and demolition of part of the structure will not be a detriment to the neighborhood. The renovation to the existing structure and the new structure will be compatible with the existing 2 ½ story structures in the area.

13. Enhancement of Appearance: The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”

The current state of the site is not appealing with dilapidated structures and broken pavement. The new structure and landscaping will improve the appearance. A proposed condition is that landscaping be placed along the Community Path to further improve the appearance of the site from the much traveled path.

14. Lighting: With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”

The lighting for the site is not specified on the plans; however, it will consist of typical residential lighting. There are no public spaces on the site to illuminate. The Board recommends a condition that lighting be limited so that it does not illuminate adjacent properties or the night sky.

15. Emergency Access: The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”

The site is unique in that there is a 21-foot passageway to access the site. The Fire Department has requested conditions that the buildings contain sprinkler systems and the driveways are marked as fire lanes to account for the maneuverability of trucks on the site. There is a wall, fence and shed from abutting neighbors that encroach a few feet on the 21-foot passage. The passage will have to be widened so that 18 feet are unobstructed. Also, a 20-foot fire lane will be placed in front of 38 Lexington Avenue to provide the turning radius into the passageway.

16. Location of Access: The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”

The site is unique in that it is only accessible from a 21 foot preexisting passageway from the street. But, since this is an existing passageway the location of the access will not have an impact of traffic congestion.

17. Utility Service: The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”

The installation of utilities must comply with the City’s regulations. The existing lines that run to the site are hanging low and need to be raised to allow sufficient access for fire apparatus.

18. Prevention of Adverse Impacts: The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development;”

The residential uses will not include machinery which emits heat, vapor, light or fumes. The landscaping on the site will result in an overall reduction in the amount of hard surface ground cover. The light, air and noise impacts will be typical of any single family home. Conditions are proposed by the Board to ensure that equipment on site does not make noise that disrupts abutting neighbors.

19. Signage: The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”

There are no proposed signs or advertising structures for this residential development.

20. Screening of Service Facilities: The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”

Two accessory garden and trash/recycles sheds are shown on the plans. The sheds will screen trash and storage. A condition of approval will be that trash will be picked up from the lot by a trash disposal company so that residents do not place receptacles at the curb in front of adjacent properties

21. Screening of Parking: The five proposed parking spaces will be screened from the path by vegetation, which is a proposed condition. The parking will be screened from the residential abutters by a wood fence and evergreens.

### III. RECOMMENDATION

#### Special Permit with Site Plan Review under SZO §4.4.1 and §7.2

Based on the above findings and subject to the following conditions, Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT with SITE PLAN REVIEW**.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes										
Application and Plans														
1	Approval is for the renovation of a non-conforming structure, and the building of an additional structure on the parcel. This approval is based upon the following application materials and the plans submitted by the Applicant:	Building Permit / CO	Plng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>9/8/2009 10/18/10 (complete)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>2/9/11</td><td>Modified plans submitted to OSPCD (A0, A1, A2, A3)</td></tr><tr><td>10/27/10</td><td>Modified plans submitted to OSPCD (A4)</td></tr><tr><td>12/9/10</td><td>Modified plans submitted to OSPCD (A5)</td></tr></table>				Date (Stamp Date)	Submission	9/8/2009 10/18/10 (complete)	Initial application submitted to the City Clerk's Office	2/9/11	Modified plans submitted to OSPCD (A0, A1, A2, A3)	10/27/10	Modified plans submitted to OSPCD (A4)	12/9/10	Modified plans submitted to OSPCD (A5)
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Any changes to the approved site plan that are not de minimis must receive ZBA approval.														
2	The Applicant shall submit plans to the Engineering Department. The utility, grading and drainage plans must meet City regulations, and may be amended per request of the City Engineer to meet these standards. The project may not create additional runoff to city streets, the bike path or abutting properties, and shall reduce existing runoff to the extent practicable.	Building Permit	Engineeri ng											
3	The 5 foot masonry wall next to the parking space for Unit 1 may need to be removed from the plan and the landscaping in front of Unit 1 may need to be reduced to allow for sufficient turning radius for fire apparatus. Once the building is altered to provide a 14 ft driveway along the rear property line, the Owner shall contact Fire Prevention to conduct a site visit to determine if the wall can be constructed or not and to determine the extent of the landscaping in front of Unit 1.	Prior to landscape work	Plng./ISD											

4	The proposed Autumn Blaze Maple shall be replaced with another species of tree of a similar size. Three of the required trees on the site must be of a 3" minimum caliper. Tree species and caliper shall be subject to review and approval of Planning Staff.	Building Permit	Plng./ISD	
<b>Agreements on Abutting Land</b>				
5	The applicant shall submit proof that the MBTA and Applicant have executed the License for Entry (LI-7014) that was submitted by the Applicant's agent to the Planning Board on March 1, 2007 and stamped in at the Office of Strategic Planning and Community Development on March 2, 2007.	Building Permit or March 31, 2011, whichever is first	Plng.	
6	The applicant shall remove all improvements (including pavement) on the area of approximately 3,200 square feet that is owned by the MBTA and leased by the City of Somerville for the Community Path. This is the area that is beyond the lot area shown on the plan, adjacent to the Path. The applicant shall remove the posts of the chain linked fence and maintain a temporary construction fence along the property line indicated on the plan until the fence required in Condition #6 can be installed. The applicant shall have an arborist investigate the tree that is directly impacted by the fence post to determine if the tree can be saved. If it cannot be saved, the applicant shall plant one additional 3 inch caliper tree in its place of a species to be determined by Planning Staff.	Building Permit or April 30, 2011, whichever is first	Plng.	
7	The applicant shall deliver to the City of Somerville a recordable release deed, with an original copy to the MBTA, naming the MBTA as grantee, relinquishing any claim to any right, title or interest to the area of encroachment onto the property of the MBTA.	Building Permit	Law	
8	The Applicant shall install high-quality black wrought-iron fence, facing the Community Path along the property line marked on the plan. The applicant shall stake the fence location and have the applicant's engineer and city engineer confirm that it is on the property line prior to installation of the permanent fence. The applicant shall include a gate in the fence that allows residents of the project to access the path. The applicant shall provide material samples to Planning Staff for approval prior to installation of the fence.	CO	Plng.	
9	The Applicant shall place attractive plantings along the fence facing the Community Path to improve aesthetics and limit runoff. Prior to planting, the Applicant shall provide a planting plan for this area to Planning Staff for review and approval.	CO	Plng.	
10	The Applicant shall abide by the "easement/driveway" agreement dated March 1, 2007 (or a similar recordable document), signed by the Applicant and residents of 39 Lexington Avenue (identified on the agreement as "Catherine and Jerry Dunlap (Unit 1)" and "Lara and Joshua Winn (Unit 2)") that was stamped in at the Office of Strategic Planning and Community Development on March 2, 2007.	Building Permit	Plng.	The driveway easement has been recorded
<b>Construction Impacts</b>				



11	The applicant shall work with the owners of 39 Lexington Ave to prune the tree near the sidewalk and property line of 35R and 39 Lexington Ave, if it poses a hazard or creates access problems. The tree and the wall located along or adjacent to the property line of 39 Lexington Ave shall not be removed by the Owner of 35R Lexington Ave.	During Construction / Continuous	Owner / Abutter / PIng.	
12	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	PIng.	
13	The applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
14	Rodent control should be in effect seven days a week prior to the demolition and abutters should be notified by mail of rodent control activities.	Demo	ISD	
15	Hours of operations for trucks Monday-Friday 7am-7pm, Saturday and Sunday 9am-5pm. Hours of operation for heavy equipment vehicles are to be Monday-Friday 8:30am-2:30pm and Saturdays 9am-5pm (No Sundays or Holidays).	During Construction	ISD	
16	All construction materials, equipment and vehicles must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
17	The applicant shall only use the Lexington Avenue driveway for access by construction equipment. No construction access shall be allowed from the MBTA property.	During Construction	ISD	
18	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.	During Construction	OSE/FP/BOH	
19	The applicant shall strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	During Construction	PIng/OSE	
20	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	

21	The applicant shall comply with all applicable law concerning any and all contamination of the property that is the subject of the application, including, but not limited to, the elimination of all contamination and other hazardous materials on the area of encroachment onto the property of the MBTA, in accordance with applicable DEP requirements and G. L. c. 21E.	Building Permit	BOH	
<b>Traffic and Parking</b>				
22	The Applicant shall install warning signs for exiting vehicles with the legend "Yield to Entering Vehicle".	CO	T&P	
23	The Applicant shall install warning signs for entering vehicles with the legend "Caution Two Way Traffic".	CO	T&P	
24	The passageway into the site shall have an unobstructed width of 18 feet and the driveway along the north side of the property shall have an unobstructed width of 14 feet. The Applicant shall remove the encroaching fence and shed and move them to the property line or replace them if damaged. The Owner shall install and maintain fire lane signage along these paths. The passage shall be kept clear of ice and snow.	Perpetual	ISD	
25	The pitch of the driveway must stay the same with the pitch away from the garage.	CO	Engineering	
26	A fire lane may be required for approximately 20 feet in front of 38 Lexington Ave and for approximately 5 feet on each side of the driveway leading to the site. Once the fence at 33 Lexington Ave is moved or removed and the driveway clearance has been provided, the Owner shall contact the Fire Department to conduct a site visit to determine if and where the fire lanes are required.	CO	Fire Prevention	
<b>Impacts of Completed Project</b>				
27	The owner shall provide condominium documents to planning staff prior to occupancy. Documents shall specify that no more than 2 units shall be on this lot.	CO	Plng.	
28	A code compliant fire alarm systems and sprinkler system must be installed in both buildings. Plans for the systems shall be provided to the Somerville Fire Prevention Office for review and approval. Water lines for sprinklers must be separate from the domestic lines.	CO	FP / DPW	
29	If the drainage plan allows, a 3" minimum caliper tree shall be placed at the eastern corner of the site.	CO	Plng.	
30	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties or the night sky.	CO	Plng.	
31	Trash and recycling will be kept in the designated shed until the day of pickup. Trash shall be picked up from on the lot, per the agreement with the trash disposal company provided by the applicant. If city trash crews will not pick up trash from on the lot, owners must arrange for private trash removal. No trash is to be placed at the curb in front of adjacent properties.	Perpetual	ISD	
32	The shrubs between the patio for building 2 and the neighborhood shall be 8-10 feet high and the spacing shall be the recommended distance to function as screening.	Perpetual	ISD	

33	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
34	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	ISD	
35	Snow plowed on the development shall be limited to the on-site storage area as shown in plan or removed from the premises. No snow may be placed from the lot onto abutting properties, City rights of way, or the Community Path. If no adequate snow storage is available for a given storm, snow must be trucked to an off-site location.	Perpetual	ISD.	
36	The Owners may not pave additional areas on the lot nor provide more on-site parking.	Perpetual	ISD.	
37	All AC equipment and other utility equipment shall be located along the Community Path side of the buildings, away from neighboring properties.	Perpetual	ISD.	
38	The electrical, phone and cable lines above the passageway shall be raised to allow sufficient height for a fire truck to enter the site. New electrical, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection.	CO	ISD.	
<b>Final Review</b>				
39	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit 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.	
40	The Applicant shall meet with the neighborhood before the ZBA hearing.	ZBA Hearing	Plng.	

Sincerely,

Kevin Prior  
Chairman

Cc: Agent: Richard Di Girolamo

