



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

*PLANNING DIVISION*

**TO:** Zoning Board of Appeals  
**FROM:** Planning Staff  
**DATE:** August 2, 2011  
**RE:** 35R Lexington Ave Updated Conditions

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A neighborhood meeting was held at 35R Lexington Ave on July 27, 2011. The following are updates from that meeting, as well as updated proposed conditions since the Planning Board recommendation of July 14, 2011.

**Updates**

- Planning Staff have requested that the applicant provide a rendering/elevation of the garden shed/trash storage area as was requested by the neighbors.
  - At the community meeting, Michael Avery from the Fire Department stated the outdoor fireplace needs to be 10 feet from all buildings. After the meeting, Planning Staff measured the distance between the proposed fireplace and the closest point to a building on the site plan. There are 12 feet between them which meet the separation requirement.
  - The City Traffic Engineer gave an updated comment about the revised site plan. The applicant seeks a special permit to have two principle structures on a lot. The updated site plans incorporates the past requirements related to Traffic and Parking: the snow drop area has been removed for the elbow of the passageway, the location of the “parabolic mirror” is indicated on the plan and warning signs for exiting and entering vehicles are proposed conditions of the special permit. Parking requirements are in compliance with the Somerville Zoning Ordinance (SZO). Provided the above is incorporated Traffic and Parking has no objections to this application.
  - The City Engineer gave an updated comment about the drainage plan.  
“The drainage analysis has been prepared using standard engineering methods.  
The only item that could remain outstanding (in my opinion) is soil testing to confirm that the assumed soils and infiltration rate match those used in the drainage report.  
If there are enough people concerned about the drainage, we could include the requirement for that analysis in the condition as well.
1. Applicant shall complete soil testing at the proposed infiltration location(s) to confirm separation from groundwater and verify estimated infiltration rate.
  2. Results shall be provided to the Engineering Department for review prior to construction of the infiltration system. Engineering Department reserves the right to require modifications



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to the drainage system design based on the testing results.” Please see updated condition 2 below.

## Conditions

Based on the discussion at the community meeting and staff comments above, Planning Staff recommend the following modifications to the conditions in the Planning Board recommendation.

- Condition 2 was amended to require soil testing related to the infiltration system proposed.
- The timeframe for compliance of condition 26 regarding determining the extent of fire lanes on Lexington Ave has been changed from CO to the Applicant must contact the Fire Department once the fence at 33 Lexington is removed. Applicant must install fire lane signs before CO.
- Condition 27 was modified to specify that in addition to both the deeds and condo documents indicating that no more than 2 units be on the lot, these documents must also incorporate all other operational perpetual conditions on the project, including that the sprinklers must remain operational.
- Condition 36 was amended to require additional parking spaces to be provided onsite if more than one space is lost on Lexington Ave due to fire lanes (SZO section 9.6.1). The plan currently has one additional parking space so the number of parking spaces would only need to increase if more than one space was taken off of the street. An additional parking space(s) must be provided onsite for the second or subsequent number of spaces that is (are) removed from the street.
- Condition 40 was added by the Planning Board at their meeting on July 14 requiring a community meeting before the Zoning Board of Appeals hearing. This condition was satisfied by the community meeting that was held on July 27, 2011 and therefore it is not needed in the final decisions and can be struck.
- Condition 40 should become a new condition to require that the Applicant provide final material samples for siding, trim, windows and doors to the Planning Staff for review and approval prior to construction to ensure the buildings’ aesthetic matches what is depicted on the plan.

Additions are underlined, deletions are ~~struck~~

| #                            | Condition | Timeframe<br>for<br>Compliance | Verified<br>(initial) | Notes |
|------------------------------|-----------|--------------------------------|-----------------------|-------|
| <u>Application and Plans</u> |           |                                |                       |       |

| 1                               | <p>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:</p> <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>9/8/2009<br/>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> <p>Any changes to the approved site plan that are not de minimis must receive ZBA approval.</p>                                  | Date (Stamp Date)                                     | Submission  | 9/8/2009<br>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) | Building Permit / CO | Plng. |  |
|---------------------------------|---|---|-------------|---------------------------------|--|--------|--|----------|--|---------|--|----------------------|-------|--|
| Date (Stamp Date)               | Submission  |   |             |                                 |  |        |  |          |  |         |  |                      |       |  |
| 9/8/2009<br>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)  |   |             |                                 |  |        |  |          |  |         |  |                      |       |  |
| 2                               | <p>The Applicant shall submit plans to the Engineering Department <u>including soil testing at the proposed infiltration location(s) to confirm separation from groundwater and verify estimated infiltration rate. Results shall be provided to the Engineering Department for review prior to construction of the infiltration system.</u> 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. <u>Engineering Department reserves the right to require modifications to the drainage system design based on the testing results.</u></p> | Building Permit                                       | Engineering |                                 |  |        |  |          |  |         |  |                      |       |  |
| 3                               | <p>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.</p>  | Prior to landscape work                               | Plng./ISD   |                                 |  |        |  |          |  |         |  |                      |       |  |
| 4                               | <p>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.</p>   | Building Permit                                       | Plng./ISD   |                                 |  |        |  |          |  |         |  |                      |       |  |
| Agreements on Abutting Land     |   |   |             |                                 |  |        |  |          |  |         |  |                      |       |  |
| 5                               | <p>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.</p>   | Building Permit or March 31, 2011, whichever is first | Plng.       |                                 |  |        |  |          |  |         |  |                      |       |  |

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| 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 / Plng. |   |
| 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                                   | Plng.                   |   |

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|----------------------------|--|-----------------------|------------|--|
| 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   | Plng/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        |  |

|                                     |   |   |                 |  |
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| 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.                               | <u>Applicant must contact FD once fence at 33 Lexington is removed. Applicant must install fire lane signs before CO.</u> | Fire Prevention |  |
| <b>Impacts of Completed Project</b> |   |   |                 |  |
| 27                                  | The owner shall provide condominium documents <u>and the deed</u> to planning staff prior to occupancy. Documents shall specify that no more than 2 units shall be on this lot <u>and all other operational perpetual conditions on the project, including that the sprinklers must remain operational.</u>   | 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 <u>except that an additional parking space(s) must be provided onsite for the second or subsequent number of spaces that is (are) removed from the street due to required fire lanes.</u>   | 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                  | <del>The Applicant shall meet with the neighborhood before the ZBA hearing.</del>  | <del>ZBA Hearing</del> | <del>Plng.</del> |  |
| <u>40</u>           | <u>Applicant shall provide final material samples for siding, trim, windows and doors to the Planning Staff for review and approval prior to construction.</u>   | <u>BP</u>              | <u>Plng.</u>     |  |