



**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 11, 2011  
**RE:** 35R Lexington Ave Updated Conditions

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At the Zoning Board hearing of August 3, 2011, a few items that require additional information were raised regarding 35R Lexington Avenue. The Planning Staff is submitting these additional comments for your review.

*On-street Parking Spaces*

City Staff do not want to remove more on-street parking spaces than is necessary for a ladder truck to turn into the passageway at 35R Lexington Ave. The Fire Department will bring the ladder truck and pumper truck to the site when access is available to determine how much of the street will need to be designated as a fire lane. Access will be available when the passageway is 18 feet wide once the fence and shed that are encroaching are removed and the wires that are hanging low along the passageway are raised. In the worst case scenario anticipated, the number of on-street parking spaces that may be lost due to fire lanes is anticipated to be 2 based on the following calculation and assumption that people park efficiently on the street and that the average length of a car is approximately 14 feet.

The distance between the driveway of 39 Lexington Ave and the passageway is 40 feet. Two cars are able to fit in this section of street. If 5 feet are designated as a fire lane, 2 cars would still be able to fit in 35 feet, leaving 7 feet for space between, in front and in back of the cars. No spaces are anticipated to be lost in this location.

The distance between the driveway of 37 Lexington Ave and the passageway is 33 feet. Two cars are able to fit in this section of the street. If 5 feet are designated as a fire lane, one space would be lost. There would be 28 feet remaining to park, which is not enough for two cars and space between them.

The second space that would be lost is in front of 38 Lexington Ave, where 20 feet may be designated as a fire lane.



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In the last memo to the ZBA dated August 2, 2011, 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 (per SZO section 9.6.1). The plan currently has one additional parking space so that 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.

The extra parking onsite would not be public parking spaces but would be available for residents or visitors of the property. The Ordinance does not required that the spaces are for the public because the owners of the property would have to take on the liability of the public being on their property and in this case the residents at 37, 39 and 35R would have to deal with additional vehicles and pedestrians in the passageway. Planning staff understands that replacing on-street public parking with off-street private spaces do not provide the same flexibility for the neighborhood, but the circumstances surrounding fire access and the regulations of the zoning require this solution to this situation.

#### *Additional On-Site Parking Spaces*

At the request of the Board, after comments from the public, the applicant has provided a plan showing additional parking spaces. While the Planning Staff understands the appeal of adding on-site parking, Staff do not recommend adding on-site parking spaces beyond those required by SZO section 9.6.1. Providing additional off-street parking attracts buyers with extra vehicles, and encourages owners to buy and keep extra vehicles. Moreover, neighbors expressed concern about the number of people that could be living in these houses. Technically, not more than 4 unrelated people can occupy a single dwelling unit; however, practically, adding more on-site parking spaces is one strategy that could attract more people to live in the houses.

Other negative impacts to adding more parking spaces is the visual impact on neighbors and people on the Community Path who would be looking at a parking lot instead of landscaping and the potential to increase the amount of impervious surface on the site than is required.



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For all of these reasons, the Planning Staff recommended that the applicant reduce on-site parking from their original proposal. At this time, Planning Staff recommends retaining the number of parking spaces at 5 and only increasing this number if it is required under SZO section 9.6.1. Should the Board choose to add additional parking, the Staff would recommend that they be designed using concrete pavers that grow grass between them, to allow for pervious surfaces and a 'green' look to these spaces.

#### *Outdoor Fireplace Location*

The Fire Department indicated that the code requirement related to the proposed outdoor fireplace is that it needs to be 10 feet from all inhabited buildings. The distance between the proposed fireplace and the closest point to a house on the site plan is 12 feet. Since the shed is not an inhabited building, the Fire Department stated that the location of the fireplace in relationship to the house and the shed meets the separation regulations.

#### *Fire Department Site Visit*

Neighbors have inquired about if the Fire Department site visit can occur before the wall of the existing structure is relocated so that there is a 14 foot passageway along the back property line. The purpose of the site visit was to determine the fire lane location(s) on Lexington Ave, if the landscaping proposed in front of unit 1 needs to be reduced further and if the wall proposed next to a parking space for unit 1 could be built or not. The site visit is not to determine if more than a 14 foot passage along the back property line is required for fire truck access. A simulation of pumper truck access prepared by Design Consultants, Inc. shows that this vehicle would have access to the second building on the site. The Fire Department has signed off on the site plan with the condition that both of these single-family houses have sprinkler systems. Access to the equipment on the ladder truck and the reach of water from this truck would be sufficient if it were stopped at the end of the 18 wide passageway.

In order for the mockup with fire trucks to be done before construction happens on the site, the fence that is on the property line would need to be removed and approval for access onto MBTA land would be required. A representative from Transit Realty Associates, LLC, the MBTA's real estate firm, met with City Staff, the property owner and neighbors on August 5 to discuss the situation. The representative stated that it would be acceptable to temporarily use the land for a mockup or move the fence temporary onto the MBTA's land. Before this can happen, the fence and shed that are encroaching on the passage need to be removed and the wires that are hanging low along the passageway need to be raised. The following conditions are altered to reflect the change to the timeframe for when the fire truck mockup occurs.

Additions are underlined, deletions are struck. Note that any decision on behalf of the Board to change parking on the site will require an update to the date of the approved plan, and may require adjustments to condition #36.

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



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| 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<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>   |                      |             |  | 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) |
|  | 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)   |                      |             |  |  |            |                                 |  |        |  |          |  |         |  |
| 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 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. 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. Engineering Department reserves the right to require modifications to the drainage system design based on the testing results. | Building Permit      | Engineering |  |  |            |                                 |  |        |  |          |  |         |  |
|  |  |                      |             |  |  |            |                                 |  |        |  |          |  |         |  |
|  |  |                      |             |  |  |            |                                 |  |        |  |          |  |         |  |



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| 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. <del>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.</del> <u>Once the low-hanging overhead wires are raised, the passage has an 18-ft clear width, the fence along the back property line is removed, and approval from the MBTA to temporarily use the land is obtained, the Owner shall contact the Fire Department 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. The property owner shall provide the materials needed to mockup the dimensions of the site.</u> | Prior to <del>landscape work</del> <u>building permit</u> | Plng./IS D |  |
| 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./IS D |  |
| <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        |  |



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| 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 at 39 Lexington Ave shall not be removed by the Owner of 35R Lexington Ave.   | During Construction   | Owner / Abutter |   |
| 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.           |   |
| 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             |   |



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| 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/OS E   |  |
| 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 |  |



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| 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. <del>Once the chain link fence at 33 Lexington Ave is moved or removed, the Owner shall contact the Fire Department to conduct a site visit to determine if and where the fire lanes are required.</del> The Fire Department will determine the location of fire lanes per the timing as outlined in condition 3. The Applicant must install fire lane signage (per the Manual of Uniform Traffic Control Devices) on the street before a CO issued. | <del>Applicant must contact FD once fence at 37 Lexington is removed.</del> BP for determination / CO for signage | Fire Prevention |  |
| <b>Impacts of Completed Project</b> |  |   |                 |  |
| 27                                  | The owner shall provide condominium documents and the deed to planning staff prior to occupancy. Documents shall specify that no more than 2 units shall be on this lot and all other operational perpetual conditions on the project including that the sprinklers must remain operational.   | 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             |  |



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| 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 snow, 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 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.   | 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                  | Applicant shall provide final material samples for siding, trim, windows and doors to the Planning Staff for review and approval prior to construction.   | BP             | Plng. |  |



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