



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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MAYOR

PLANNING DIVISION

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Case #: PB 2010-01
Date: February 16, 2010
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 29 Mystic Avenue

Applicant Name: Mauricio Quiroga, Boston Home & Barstool

Applicant Address: 844 Elm St, Manchester, NH 03101

Property Owner Name: 29 Mystic Avenue Realty Trust, Michele and Maddalena Abruzzese

Property Owner Address: 7 Driftwood Lane, Lynnfield, MA 01940

Agent Name: none

Alderman: William Roche

Legal Notice: Applicant, Mauricio Quiroga, Boston Home & Barstool, & Owner, 29 Mystic Avenue Realty Trust, Michele and Maddalena Abruzzese, seek a Special Permit under SZO §4.4.1 to construct a 845± sf addition to the nonconforming structure for a by-right retail use, a Special Permit under SZO § 9.13.d for parking on a separate lot, and a Special Permit for signage (§6.4.14.C).

Zoning District/Ward: ASMD / 1

Zoning Approval Sought: Special Permit under SZO §4.4.1, § 9.13.d and §6.4.14.C

Date of Application: February 9, 2010

Dates of Public Hearing: Planning Board 3/4/10

I. PROJECT DESCRIPTION

1. Subject Property: **Prior zoning relief?**
2. Proposal:
3. Nature of Application:



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4. Surrounding Neighborhood:

5. Impacts of Proposal:

6. Green Building Practices:

7. Comments:

Fire Prevention:

Engineering:

Historic Preservation: Local or National Register Historic District?

Traffic & Parking:

Ward Alderman:

II. FINDINGS FOR SPECIAL PERMIT (SZO §XXXXX):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Staff 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.

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."

In considering a special permit under §4.4 or 4.5 of the SZO, Staff find / do not find that the (alterations/use) proposed would not be substantially more detrimental to the neighborhood than the existing (structure/use).

6.1.4. NB - Neighborhood Business Districts.

B. Specific District Standards and Guidelines. All developments within the NB district that require a special permit with design review or special permit with site plan review should comply with the following guidelines to the highest degree practicable.

1. When a fourth floor is included, provide a minimum five (5) foot deep setback from the front lot line building wall, such as a balcony or deck, for the purpose of promoting a scale appropriate to surrounding neighborhoods.
2. Give preference to locating on-site, off-street parking at the rear of the lot, behind the building or below street level, providing vehicular access from either a side street or alley where possible.

6.1.5. CBD - Central Business Districts.

B. Specific District Standards and Guidelines. All developments within the CBD district that require a special permit with design review or special permit with site plan review should comply with the following guidelines to the highest degree practicable.

1. Across the primary street edge, the building should complete the streetwall.
2. At the street level, provide continuous storefronts or pedestrian arcade which shall house either retail occupancies, or service occupancies suitably designed for present or future retail use.
3. Massing of the building should include articulation which will blend the building in with the surrounding district. At the fourth floor, a minimum five-foot deep setback is recommended.

4. Locate on-site, off-street parking either at the rear of the lot behind the building or below street level; parking should not abut the street edge of the parcel.
5. Provide access to on-site, off-street parking from either a side street or alley. Where this is not possible, provide vehicular access through an opening in the street level facade of the building of a maximum twenty-five (25) feet in width.

6.1.6. BA - Commercial Districts.

2. Specific District Standards and Guidelines. All developments within the BA District that require a special permit with design review or special permit with site plan review should comply with the following guidelines to the highest degree practicable.

1. Give preference to locating on-site, off-street parking at the rear of the lot, behind the building or below street level, providing vehicular access from either a side street or alley where possible.
2. Give preference to providing landscaping along the primary street edge.

In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to The purposes of the Ordinance are to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to encourage housing for persons of all income levels; and to preserve and increase the amenities of the municipality.

Check for purpose of specific Article.

The proposal is consistent with the purpose of the district, which is, “

6.1.1. RA - Residence Districts.

Purpose. To 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.

6.1.2. RB - Residence Districts.

Purpose. To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.

6.1.3. RC - Residence Districts.

Purpose. To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.

6.1.4. NB - Neighborhood Business Districts.

A. Purpose. To establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods.

6.1.5. CBD - Central Business Districts.

A. Purpose. To preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas. A primary goal for the districts is to provide environments that are safe for and conducive to a high volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses.

6.1.6. BA - Commercial Districts.

1. Purpose. To establish and preserve business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic.

6.1.7. BB - Commercial Residential Districts.

Purpose. To establish and preserve general commercial and high density residential areas consisting of multi-family developments, shopping centers, commercial strips and automobile related establishments where customers reach individual businesses primarily by automobile.

6.1.8. IA - Industrial Districts.

Purpose. To establish and preserve areas for industrial and related uses which are not incompatible with commercial uses; uses which are most appropriately located as neighbors of industrial uses including living and studio space for artists; and uses which are necessary to service the immediate needs of industrial establishments in those areas, and accessory uses to industrial uses such as day care centers, cafeterias, health facilities, and the like.

6.1.9. IB - Industrial Districts.

Purpose. To establish and preserve areas for necessary industrial and related uses of such a nature that they require isolation from many other kinds of land uses, and to make provision for commercial uses which are necessary to service the immediate needs of people in these areas.

6.1.10. IP - Industrial Park Districts.

Purpose. To provide opportunity for development in an environment free of excessive noise, odor, smoke, dust, glare, heat, visual disarray, or other nuisance. The specific goals of the Industrial Park Zoning District are as follows:

- Encourage the development of light intensity, clean industry, serving the expansion and diversification of the local economy;
 - Provide quality employment opportunities for Somerville residents;
 - Provide appropriate locations with adequate transportation access for light intensity industry;
 - Reduce conflicting land uses which detrimentally affect surrounding properties and neighborhoods.
- Provide appropriate buffers of greenspace, structural screens between industrial and residential areas; and
- Insure that industrial development is an aesthetic compliment to the City of Somerville.

6.1.13. OS - Open Space Districts.

Purpose. To encourage the preservation of open space for parkland, recreation, reservations, community gardens, rivers and streams and their shorelines, waterfront access, cemeteries, historic sites, urban plazas and squares, and similar uses by permanently protecting these open space resources, which enhance the quality of life for the City's residents. The open space district is intended to include publicly owned open

space land of the types mentioned above, and may include land in private ownership upon consent of the owner(s). The district may also be used as a means for permanent land use protection of usable open space as defined by and provided for under the provisions of this Ordinance.

6.1.14. UN - University Districts.

Purpose. To establish and preserve areas primarily for university uses.

Check §6 for Overlay Info

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."

5. Adverse 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.

6. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

7. Fast food establishments: In special permit applications for fast-order, take-out or automobile oriented food service establishments, there shall be establishment of a need for such a facility in the neighborhood or in the City, and impacts on traffic circulation, parking and visual, physical, or historical characteristics of the particular location shall not be detrimental.

For SPD or SPSR under SZO §5.1.5/5.2.4 Design Guidelines...

III. RECOMMENDATION

Special Permit under §XXXXXX

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

(Updated Recommendations for XX/XX/XXXX meeting)

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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Approval is for the _____. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.									
<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td></td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td></td><td>Modified plans submitted to OSPCD (page numbers)</td></tr><tr><td></td><td>Modified plans submitted to OSPCD (page numbers)</td></tr></table>				Date (Stamp Date)	Submission		Initial application submitted to the City Clerk's Office		Modified plans submitted to OSPCD (page numbers)		Modified plans submitted to OSPCD (page numbers)
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Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive ZBA approval.											
Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD									
There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.											
All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Plng.									
One tree must be planted and maintained according to National Nurseryman's Standards, and in accordance with SZO §10.2.2 and §10.6.2;	CO	Plng.									
Conditions may require front, side or rear yards up to fifty percent (50%) greater than the minimum required by this Ordinance;											
Conditions may require orientation of ground floor uses so as to achieve desired relationship of uses to street and neighbors;											
Conditions may require screening of parking areas of other parts of the premises from the street by specified walls, fences, planting or other means;											
Conditions may require modification of the design of the structure in terms of size, but not deducing the allowable floor area ratio by more than twenty percent (20%) and, when applicable for special permit with design review, in terms of materials or other architectural elements in accordance with the design review guidelines of § 5.1.5;											

	Conditions may require limitation of the occupancy and method or time of operation, so as to minimize any adverse impacts the proposed use and operation may have on the surrounding neighborhood;			
	Conditions may require regulation of the number, size, design, and location of access drives or other traffic features so as to minimize hazard or inconvenience to vehicular or pedestrian traffic on public streets;			
	Conditions may require neighborhood impact mitigation including road or intersection improvements, landscaping plans or lighting specifications (on or off-site)			
	Conditions may place limits on time frames (limiting uses to a certain number of years or time of year, be made personal to an applicant's ownership (SP), or unlimited as to time. IN ALL EVENTS TIME LIMITATIONS SHOULD BE SPECIFICALLY STATED.			
	Conditions may reference the need of the applicant to obtain other permits or approvals.			
	In the case of a variance, a condition may identify the work necessary to constitute the exercise of the variance in order to avoid question whether the variance was exercised timely.			
	In the case of a SP, a condition may identify the work necessary to constitute substantial use of the permit in order to eliminate questions whether the permit has lapsed. (important with multiple phase projects)			
	Conditions may require off-street parking up to twenty percent (20%) in excess of that required by the Ordinance, when there is a finding that the proposed use, due to its specific nature or location, will generate a need for significantly more parking than the normal requirements of this Ordinance;			
	Conditions may control of the location, size and lighting of signs			
	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
	Applicant will screen the dumpster with fencing that blocks any view of the dumpster itself.	CO	Plng.	
	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO		
	Applicant will supply ___ bicycle parking spaces, which can be satisfied with _____ type bicycle rack.	CO	Plng.	

Written certification of the creation of affordable housing units, any fractional payment required, or alternative methods of compliance, must be obtained from the Housing Department before the issuance of a Certificate of Occupancy (C.O.).	CO	Housing	
Affordable Housing Implementation Plan (AHIP)	Prior to vote on SPSR	SPGA / Housing	
No certificate of occupancy shall be issued until the OSPCD Housing Division has confirmed that the Condominium Documents have been approved and the Developer has agreed to a form of Deed Rider for the Affordable Unit(s).			
Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
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.	Cont.	ISD	
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	
All construction materials and equipment 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	
To the maximum extent feasible applicant will utilize strategies during construction to mitigate dust and control air quality, to minimize noise and to implement a waste recycling program for the removed debris.	During Construction	OSE/ISD	
Snow plowed from the development shall be limited to the on-site storage area as shown in plan	Cont.	ISD.	

	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.	CO	Plng.	
	The applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
	The suspected underground fuel tanks on this site must be removed under the supervision of the Fire Prevention Bureau. Permits will be required for these removals.	CO	FP	
	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, good 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	
	Prior to the issuance of a building permit the Applicant shall identify the environmental engineering firm and Licensed Site Professional (LSP) responsible for the removal of any soil contamination at the site. The LSP shall submit to the Zoning Board and Planning Staff evidence showing that site cleanup has been carried out and has met the standards and requirements of the Massachusetts Department of Environmental Protection (DEP).			

	<p>Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division:</p> <p>a) a copy of the Response Action Outcome (RAO) Statement, signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or</p> <p>b) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.</p>	Foundation Permit	Plng/ISD	
	<p>Before demolition/building permits are issued, soil tests must be conducted. If soil contamination is observed by soil test results, the Applicant shall identify the Licensed Site Professional (LSP) responsible for the removal of any soil contamination at the site. The LSP shall submit to ISD and the Office of Sustainability and Environment (OSE) evidence showing that site cleanup has been carried out and has met the standards and requirements of the Massachusetts Department of Environmental Protection (DEP) OR a professional opinion by the LSP justifying the safety of the site in terms of health and safety of the workforce and occupants after submittal of Immediate Response Action Completion (IRAC) report to DEP but prior to filing Response Action Outcome (RAO) or Activity and Use Limitation (AUL).</p>	Demolition /Building Permitting	ISD	
	<p>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.</p>	CO	OSE/FP/BOH	
	<p>Linkage payments will be required to be paid to the Somerville Housing Trust Fund before a CO is issued.</p>	CO	Plng.	

	<p><i>Compliance with Noise Control Ordinance.</i> Prior to the issuance of a Certificate of Use and Occupancy Permit for the installation of the wireless telecommunications facility, the Applicant shall submit to the Inspectional Services Division, with a copy to the Zoning Board of Appeals, a sound level measurement certified as accurate by a professional acoustician and shall perform such sound level measurements six months after issuance of the certificate of occupancy, with subsequent sound level measurements annually on or before the anniversary date of the original six month measurement to document that all of the Applicant's installed equipment complies and continues to comply with the decibel level standards established by the City of Somerville, Noise Control Ordinance. The Applicant shall provide the results of such measurements and certify that the facility complies with the decibel level standards established by the City of Somerville, Noise Control Ordinance, with a copy to the Zoning Board of Appeals.</p>			
	<p>Compliance with Federal Communications Commission Guidelines for Human Exposure to Electromagnetic Fields. To ensure compliance with the standards established by the Federal Communications Commission Office of Engineering and Technology ("FCC") in OET Bulletin 65 as adopted by Massachusetts Department of Public Health under 105 CMR 122.021, the Applicant shall perform measurements, within two (2) months of the date that the Applicant's wireless telecommunications facility commences operation and at intervals of twelve (12) months thereafter, to establish that the Applicant's wireless telecommunications facility complies and continues to comply with the FCC guidelines and applicable state regulations for human exposure to radio frequency electromagnetic fields for human exposure to radio frequency electromagnetic fields. The Applicant shall provide the results of such measurements with certification of compliance to the City of Somerville Health Department, with a copy to the Zoning Board of Appeals.</p>		BOH	
	<p>Any antenna that is not operated continuously for a period of twelve (12) months shall be considered abandoned, and the owner of such antenna shall remove the same. Failure to remove may result in a fine or penalty.</p>	CONT.	ISD	

	The Applicant shall legally combine all parcels comprising the development into a single parcel, and shall file copies of the plan with the City's Planning and Assessing Departments.	BP	Planning/ Assessing	
	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services 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.	