



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: PB 2011-06
Date: April 7, 2011
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 65 & 75 Mystic Avenue

Applicant Name: David Corsetto for Home Depot
Applicant Address: 75 Mystic Ave, Somerville MA 02145
Property Owner Name: Stephen Bobrow
Property Owner Address: 661 Boylston St, Boston MA
Agent Name: none
Alderman: Roche

Legal Notice: Applicant, David Corsetto for Home Depot and Owner, Stephen Bobrow seek a Special Permit with Site Plan Review (SPSR) to be able to revise SPSR # 91.49 to allow for outside display of garden plants that will be purchased inside of the building.

Zoning District/Ward: ASMD / 1
Zoning Approval Sought: Special Permit with Site Plan Review
Date of Application: March 14, 2011
Dates of Public Hearing: Planning Board 4/6/11

I. PROJECT DESCRIPTION

1. Subject Property: On November 13, 1991 the Planning Board approved three special permits with site plan review (application #91.49) to develop an 11.646 acre parcel at 75 Mystic Avenue under the Business Park Assembly Zoning District and the Highway Overlay District. The approval allowed for the construction of a 127,156 gross sf retail building materials store (Home Depot), a 20,086 gross sf retail garden center (Home Depot), and a 34,519 gross sf general retail merchandise or department store (Circuit City).



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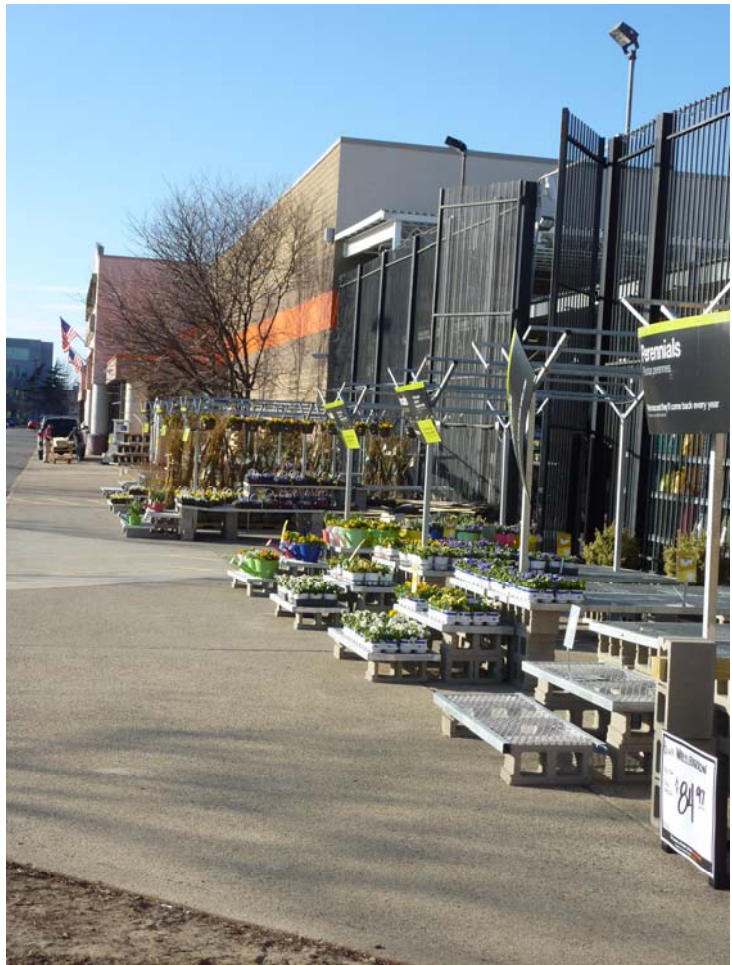


The development required a variance for failure to meet the minimum landscaped area requirement and the Zoning Board of Appeals issued the variance on October 23, 1991. The requirement was for 20% of the site to be landscaped and the variance allowed for 12% of the site to be landscaped. The proposed landscaping included approximately 1,800 plantings and 111 trees and 5 heavily planted central islands that were 20 feet by 40 feet, and landscaped endcap islands to breakup the expansive parking area. Evergreen trees were proposed to screen the rear façade of the building. To mitigate the variance request, off-site plantings were proposed for New Road to create a boulevard effect along the road including flowering trees. The landscaped area included less square footage than is required; however, the number of plantings proposed was more than that required to balance the request. The variance conditions state that there shall be a minimum of 53,000 square feet of landscaping on the site; there shall be at least one additional and preferably two additional landscaped islands in the southeast parking area in front of Circuit City; there shall be up to 25 street trees on New Road; and the Developer shall work with the City's Planning Department and Law Office to develop an appropriate maintenance agreement. The conditions were met: there are two landscaped beds in front of Circuit City and 24 trees on New Road including the trees on the subject property and those in the median; however, the landscaped areas have not been well maintained.

The parking requirement was for 642 parking spaces including approximately 570 square feet of stockroom space in Circuit City in the calculations for the parking requirement. The storage space was included in case another tenant that did not require as much storage space (one-third of the floor area) tenanted the building. If this space was not counted in the parking calculation, 60 spaces could be removed.

In 2004, the Planning Board issued a minor revision (# PB 2004 –49a) to undertake various interior and exterior improvements. These improvements included but are not limited to; the introduction of a tool rental center, a new fence, CMU wall and gate at the lumber receiving area and other smaller improvements such as new sloped sidewalks. In 2005, the Planning Board approved a revision (# PB 2004 –88) to the original special permit with site plan review in order to construct an exterior area for equipment and fuel storage associated with a tool rental center and for the expansion of an existing entry vestibule.

Condition 2 of the Special Permit with Site Plan Review states that “outdoor storage or outdoor operations, in part or whole, are prohibited for the building materials retail store under SZO 7.11.9.9.1.c and for the general retail merchandise/department store under SZO 7.11.9.2.c”. Throughout the special permit and revision hearings, the Board reiterated that outdoor storage and outdoor displays are not allowed at the site. The Home Depot is currently in violation of



this condition. The following items are currently displayed/stored outside of the store in the front and west side of the building: bags of mulch, wheel barrels, flowers, picnic tables, grills, pallets and compacted cardboard.



2. Proposal:

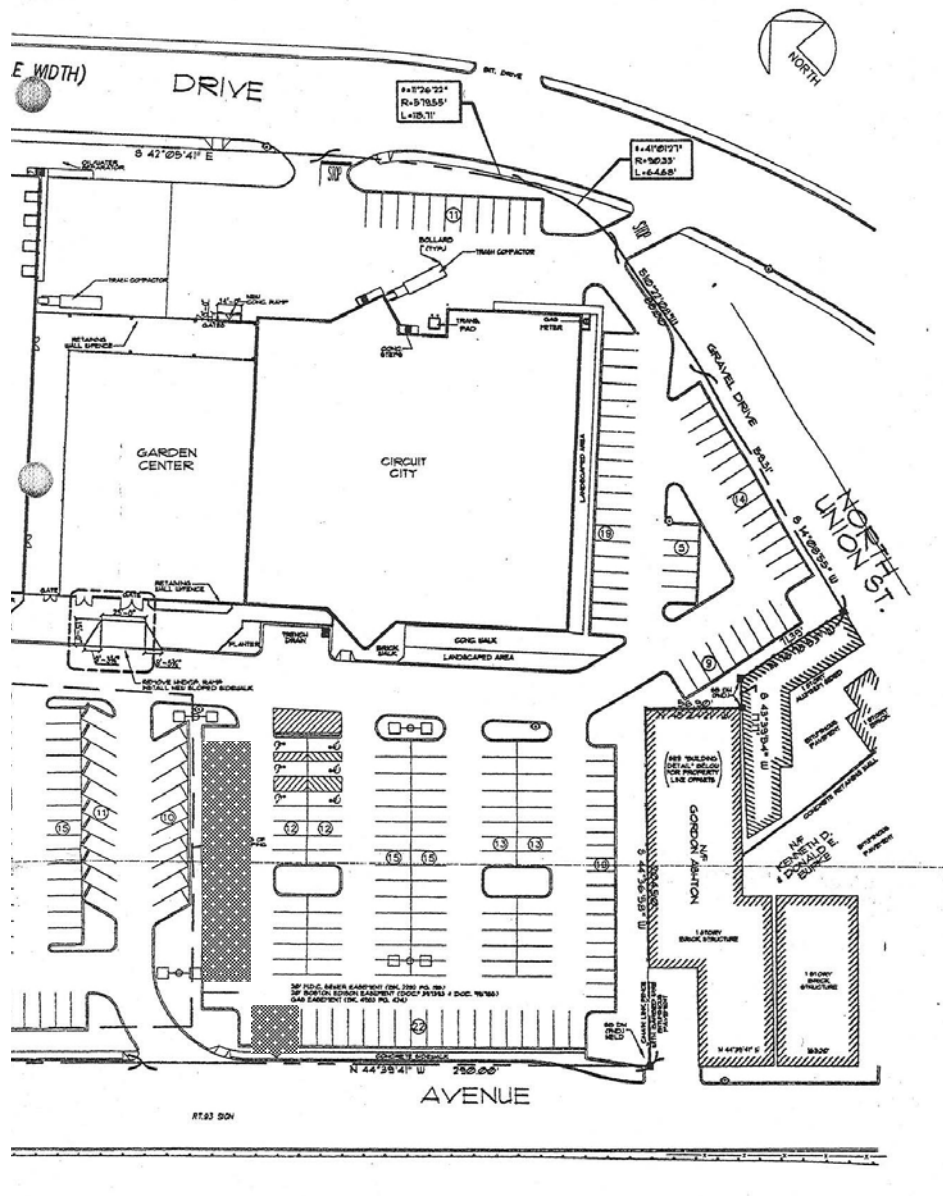
The applicant is requesting to change condition number two of the original special permit to allow for temporary outdoor displays of products and merchandise. The products would be limited to the area in front of the building between the main entrance and the end of the garden center.

In addition, the applicant is seeking to temporarily allow for the outdoor display of garden plants that will be purchased inside of the building.

The applicants will set up 16 concrete block and board tables in the Circuit City parking lot in approximately 20 parking spaces as shown in dotted area on the site plan below. The plants would be sold from 8am to 8pm and the tables would be staffed by one to eleven associates at various times during the day. Circuit City is no longer in business and the building is vacant so the parking spaces are not



being utilized. A tenant is being sought to occupy the space and when this occurs, the outdoor displays in the parking lot will no longer be possible.



3. Nature of Application: SZO section 5.3.8 states, “[u]pon the issuance of a Certificate of Occupancy for a development, revision rights shall lapse, and further development or use changes shall be subject to the zoning applicable at that time.” Since the Certificate of Occupancy was issued for the site, the Applicants must apply for a new Special Permit with Site Plan Review to change condition 2 of the original Special Permit with Site Plan Review to allow for outdoor display of plants.

4. Surrounding Neighborhood: The surrounding area is in a transitional period with new construction planned including the proposed Orange Line MBTA station, large-scale mixed-use

development, IKEA and a self-storage, café and community space at 50 Middlesex Avenue. Assembly Square Drive, located behind the site is currently under renovations for utility installation and roadway improvements. This site does serve as a visible front to the Assembly Square development that is due to happen behind it, as it is visible from both Mystic Avenue and the highway.

5. Impacts of Proposal: The outdoor display of other merchandise in front of the building is a typical practice at Home Depot stores and does not have a negative impact on the community or surrounding properties unless the products are limiting the access way into the building. Displaying products for sale differs from storing products outside, and this practice will still be prohibited. The trash at the western side of the site needs to be cleaned up and this area needs to be maintained. The landscaping at the site that was originally proposed to include high density and quality plantings should be restored.

The proposed temporary display of plants in the parking lot is not proposed to negatively impact the area. Since the Circuit City space is vacant, the parking spaces are not needed for this building. Also, the material on display will be limited to plants, which are visually appealing.

6. Green Building Practices: None are listed on the application form.

7. Comments:

Ward Alderman: Alderman Roche indicated that he is supportive of the Planning Staff recommendation.

II. FINDINGS FOR SPECIAL PERMIT with SITE PLAN REVIEW (SZO §5.2):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail. The proposal does not impact the structure or the site and therefore many of the required findings are not applicable to this application. The following finds are applicable.

1. Information Supplied: The Staff finds that the information provided by the Applicant conforms to the requirements of §5.2.3 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."

All of the uses in the Zoning Ordinance Use Table are to be conducted within an enclosed building with the exception that temporary outdoor display of products and merchandise during operating hours is allowable. Condition 2 of the original Special Permit with Site Plan Review for this site further limited outdoor operations and storage. This application, as conditioned, would allow for temporary outdoor display of plants and other seasonal items. Allowing this practice as conditioned would comply with the City standard and limit the Applicant to a location, timeframe, and material that would not be contradictory to the spirit of the original condition. The original condition was intended to avoid having outdoor storage of materials that would be an eyesore on the site and could remain for indefinite periods of time. No new zoning violations would be triggered as a result of the plant displays.

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 encouraging the most appropriate use of land throughout the City as the outdoor display/sale area can support the business without negative impacts, and the temporary parking lot sale area is currently underutilized due to the vacant retail space. The proposal does not conflict with the purpose of the Assembly Square Mixed-Use District, which is to encourage the best of use of the area physically, economically, environmentally and socially.

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."

The outdoor display of the other seasonal merchandise will be limited to the front of the store between the main entrance and the end of the garden center. Display of items for sale outside does not include storage of materials. The trash that often accumulates at the western side of the site should be removed and that area should be maintained. The landscaping at the site was originally proposed to include dense plantings. The dead trees and/or shrubs at the site should be replaced and additional plants should be planted to add color and interest to the planting beds. The site should also be improved by creating a bike rack that is secure.

The proposal for additional temporary sale in the parking lot is designed in a manner that is compatible with the surrounding area. The material on display in the parking lot will be limited to plants, which are visually appealing and will add color and greenery to the large paved area.

5. 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.

The display tables will be located in the parking spaces at the edge of the Circuit City parking lot to minimize conflict between vehicles and pedestrians. There is an abundant number of parking spaces at the site especially with the Circuit City space vacant and therefore occupying approximately 20 parking spaces is not anticipated to create traffic congestion or increase the potential for traffic accidents. The products in the front of the store are currently on display and do not interfere with access to the store.

III. RECOMMENDATION

Special Permit with Site Plan Review under §5.2

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT with SITE PLAN REVIEW to revise SPSR # 91.49. The following conditions supersede the operational conditions attached to the original special permit that remain in effect and the revisions (PB # 91.49a). The conditions relative to the design of the site, as well as the design shown on the original site plans shall remain in effect and enforceable unless specifically superseded by these conditions.**

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is for the display of items for sale along the front of the store between the main entrance and the end of the garden center, and also includes temporary outdoor display of garden plants in approx 20 parking spaces in the 65 Mystic Ave parking lot. This approval is part of a 1991 Special Permit with Site Plan Review for 127,156 gross sf retail building materials store (7.11.9.9.1.c), a 20,086 gross sf retail garden center (7.11.9.8.2.c), and a 34,519 gross sf general retail merchandise or department store (7.11.9.2.c). Approval does not include a supermarket use since no information was presented in the application relative to such a use and its associated impacts, and therefore no positive determination has been made for a supermarket use as is required by SZO §5.2. This approval is based upon the complete application information for the original 1991 approval for this site, as amended, as well as 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>Mar 14, 2011</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Aug 1991 with 20 parking spaces indicated for location of planting display</td><td>Plans submitted to OSPCD (site plan)</td></tr></table> <p>Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Mar 14, 2011	Initial application submitted to the City Clerk's Office	Aug 1991 with 20 parking spaces indicated for location of planting display	Plans submitted to OSPCD (site plan)	BP/CO	Plng.	
Date (Stamp Date)	Submission									
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2	<p>Outdoor storage or outdoor operations, in part or whole, are prohibited from the building materials retail store and for the general retail merchandise/department store except as allowed for the seasonal displays of products and merchandise, which can be located between the main entrance and the end of the garden center. ADA compliant access along the sidewalk shall be maintained at all times.</p>	Tenant occupies space	Plng. / ISD							
3	<p>The sale of the plants and other seasonal items display outside shall occur inside of the building.</p>	Perpetual when allowed	Plng. / ISD							

4	The applicant shall be allowed to display and sell garden plants in the parking lot at 65 Mystic Avenue as shown on the attached plan during the 2011 season. This provision shall expire on November 1, 2011, unless permission is granted by the Planning Board to continue this activity beyond this date.	Until 11/1/11	Plng. / ISD	
5	Trash and materials to be recycled shall be removed from the parking lot and stored in an enclosed area.	Perpetual	Plng. / ISD	
6	The existing landscaped areas shall be improved by July 1, 2011 by: re-grading of islands, upgrading the mulch, cutting back/removing dead shrubs and trees, planting additional shrubs in the two large front islands, maintaining the snow damaged areas. Landscaping shall be improved by July 1, 2012 as follows: the trees and large shrub containment shall be pruned. Final sign-off of 2011 and 2012 landscape improvements shall be subject to review and approval by Planning Staff. Maintenance/improvements to the landscaping shall be conducted on an annual basis. Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
7	Designate and utilize the 11 spaces within the rear loading/service area (adjacent to Assembly Square Drive) as employee parking.			
8	The dense planting of evergreens at the rear loading bay area shall be maintained.			
9	There shall be a minimum of 53,000 sf of landscaped area on the site. The Developer shall work with the Planning Staff and take every effort to increase the landscaped area beyond this to the extent possible.			
10	The trees planted on the median in New Road are essentially provided in lieu of on-site landscaped area and the Developer shall be responsible for maintenance of these off-site plantings as if located on its own site. The maintenance agreement that the Developer and the City created shall continue to be valid.			
11	The bicycle rack shall be secured in a fixed location to be reviewed and approved by Planning Staff.	Perpetual	Plng. / ISD	
12	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	
13	The Owner shall not impede closing of the curb cut along Sturtevant Street by New Road.	Closing of curb cut	DPW	

14	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.	
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