



City of Somerville

# ZONING BOARD OF APPEALS

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

**TO:** Zoning Board of Appeals  
**FROM:** Planning, Preservation, & Zoning (PPZ) Staff  
**SUBJECT:** Mystic Waterworks Phase II (485 Mystic Valley Pkwy, AKA 2 Capen Court), P&Z 23-025  
**POSTED:** March 7, 2023

**RECOMMENDATION:** Insubstantial Change (Revision to Comprehensive Permit)

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements, and other information from Planning, Preservation, & Zoning Staff to the Review Board members.

## SUMMARY OF PROPOSAL

The Somerville Housing Authority is requesting a revision to their Comprehensive Permit, with changes to one site/building including (1) reducing the building footprint and basement area; (2) changing the third story terrace to residential units, and (3) changing the location and number of handicap accessible parking spaces.

## BACKGROUND

A Comprehensive Permit under MGL Ch 40B was issued for Mystic Waterworks (ZBA 2011-79) on January 18, 2012.<sup>1</sup> Since then, the Applicant is continuing to move forward with the project and is now in the middle of Phase II. The project has seen some changes since its approval, which have been determined insubstantial. The most recent changes, related to the current application, were determined insubstantial in January 2021. That determination and the accompanying plans have been included as staff-provided documents to provide context for this set of proposed changes.

The process for modifying Comprehensive Permits is as follows:

1. The Applicant submits a request to change the permit.
2. The Board must consider the request within twenty (20) days and determine whether the change is “substantial” or “insubstantial.” In Somerville, this is typically done during a regularly scheduled public meeting of the Board.
  - a. If the Board determines that the change is “insubstantial,” the change is permitted with no additional steps necessary.
  - b. If the Board determines that the change is “substantial,” the Board must then schedule and hold a public hearing regarding the request.

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<sup>1</sup> The decision can be found at <https://www.somervillema.gov/departments/ospcd/planning-and-zoning/reports-and-decisions>

This application was deemed complete on February 28, 2023, and is scheduled to be discussed by the Board on March 15, 2023. If the Board determines that any of the proposed changes are substantial, the public hearing will likely be held on April 5, 2023.

## **ANALYSIS**

Each of the changes proposed by the Applicant are addressed individually. The Board may determine that all, some, or none of the proposed changes are insubstantial. Staff believes that all the proposed changes are insubstantial.

### *Change 1: Reduction of building footprint and basement area.*

The Applicant is proposing to slightly reduce the building footprint (by approximately 950 square feet) and change the basement level from a full to partial basement. The Applicant has stated that the change to the basement will require less excavation into the existing slope and will significantly reduce site disruption and costs. Mechanical, management, and storage areas have been reduced to allow for the smaller basement space.

PPZ and Housing Staff have no further comments about the proposed change.

### *Change 2: Change third story terrace to residential units.*

The Applicant is proposing to replace the third story terrace with residential units. The organization of units will be altered as a result of this change, although the individual unit layout will remain the same or similar. A smaller lounge and terrace remain, and there is no change to the building height or overall roofline. This change results in a reduction of resident amenity space.

PPZ and Housing Staff have no further comments the proposed change.

### *Change 3: Change in location and number of handicap-accessible parking spaces.*

The Applicant is proposing the remove two handicapped spaces at the drop-off circle on Capen Court. The Applicant argues the spaces are in conflict with existing grades and are unnecessary due to the two handicapped parking spaces in the adjacent lot. The Applicant is proposing to provide a single handicapped parking space on the Capen Court lot near the second-floor accessible entrance to the building.

PPZ and Housing Staff have no further comments about the proposed change.

## **CONSIDERATIONS & FINDINGS**

The Zoning Board of Appeals is required to determine whether the proposed changes are substantial or insubstantial. If a change is deemed *insubstantial*, it is permitted. If a change is deemed *substantial*, the Board must hold a public hearing regarding the change prior to approving or denying it.

760 CMR 56.07(4)(c) and (d) provide guidance that the Board must consider when determining whether a change is substantial or insubstantial:

(c) The following matters generally will be substantial changes:

1. An increase of more than 10% in the height of the building(s);
2. An increase of more than 10% in the number of housing units proposed;
3. A reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed;
4. A change in building type (e.g., garden apartments, townhouses, high-rises); or
5. A change from one form of housing tenure to another.

(d) The following matters generally will not be substantial changes:

1. A reduction in the number of housing units proposed;
2. A decrease of less than 10% in the floor area of individual units;
3. A change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%;
4. A change in the color or style of materials used; or
5. A change in the financing program under which the Applicant plans to receive a Subsidy, if the change affects no other aspect of the proposal.