



City of Somerville

ZONING BOARD OF APPEALS

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

FEBRUARY 2, 2022 MEETING MINUTES

This meeting was conducted via remote participation on GoToWebinar.

NAME	TITLE	STATUS	ARRIVED
Susan Fontano	Chair	<i>Present</i>	
Josh Safdie	Clerk	<i>Absent</i>	
Anne Brockelman	Member	<i>Present</i>	
Ann Fullerton	Member	<i>Present</i>	
Katherine Garavaglia	Alternate (Acting-Clerk)	<i>Present</i>	

City staff present: Charlotte Leis (Planning, Preservation, & Zoning), Rebecca Cooper (Planning, Preservation, & Zoning)

The meeting was called to order at 6:05pm and adjourned at 7:20pm.

PUBLIC HEARING: 636 Mystic Ave (P&Z 20-025)

The applicant gave an overview of why he is requesting an Artisanal Production Use Special Permit. The applicant develops beer recipes at their home and then has it produced at commercial facilities off site. They need Zoning Board approval to renew their state and federal licenses. They are not making any changes to the property, and there is no noise, shipping, customer interaction, or significant volumes of waste associated with the business at this site. The state would like to see that the Zoning Board is aware of what is happening at the property. They had a neighborhood meeting and no one attended or contacted them with any concerns. They had one neighbor who requested additional information from them and then said they were excited about seeing this happen.

Chair Fontano opened public testimony. No one indicated they wished to speak. Chair Fontano closed public testimony.

The Board, applicant, and Staff discussed where the retail sales are actually occurring, how the applicant produces 4-5 test batches per year onsite, and if there is a limit on the amount of production that can be produced onsite. Staff confirmed that the state regulates the amount of onsite production. The Board expressed a desire to add a condition limiting onsite production to no more than 15 gallons at any given time, or the maximum set by state law, whichever is lower.

The Board questioned the hours of operation of 7:00am – 9:00pm. Staff stated that this is one of the required considerations in granting a Special Permit, not a time proposed by the applicant. The Board asked the applicant if he would be amenable to a condition changing the hours of operation to 9:00am – 5:00pm. The applicant stated that no retail sales are planned, so he can work around whatever the Board feels is best. Staff confirmed that a retail sales use in the NR district would require a different permit. Therefore, the Board decided to add a condition that no onsite retail sales are permitted.

Following a motion by Acting-Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to approve the Special Permit for an Artisanal Production Use with the conditions recommended in the Staff Memo and the two additional conditions discussed at this meeting.

RESULT:

APPROVED

The Board took a recess at 6:28pm and reconvened at 6:31pm.

PUBLIC HEARING: 21 Eastman Road (P&Z 21-121)

Chair Fontano noted that they received additional information right before this meeting, and that she and other Board Members have not had sufficient time to review the materials. The applicant team said they didn't get the abutter's engineers report until Monday, so sent their response to it late rather than never. They have also found a way to get rid of one more variance (upper story fenestration) and so wanted to add that minor change so the Board would have a full set in front of them.

The applicant team noted two errors in the Staff Memo that they wanted to address so it will be corrected in the decision: they will not be bringing in large amounts of fill, or be constructing retaining walls.

The applicant team discussed removing two variances that they were previously requesting: fenestration and habitable space depth requirements. Staff noted that ISD issued an informal, but soon to be formal, interpretation of the code regarding ground story dwelling unit depth. Staff read aloud that the intent of the section is to prevent garages in the front portion of a dwelling; ISD deemed this section to be unenforceable and it will be redrafted. It is unclear to Staff if a variance will be necessary with this change. The applicant team stated that they would rather seek the variance anyway, just to be safe.

The structural engineer for the applicant team was in agreement with the abutter's requests about the grading. The team will protect the footings as necessary depending on weather conditions when doing construction. They also intend to do pre-construction, during-construction, and post-construction surveys to monitor at all times as a way to protect everyone involved. The team will preserve the roots of the existing tree onsite, as well as monitor the conditions during construction. The team plans to tie the existing retaining wall into the new retaining wall that they will build.

Chair Fontano noted that they had previously closed the public testimony portion of this case.

Chair Fontano asked whether the Board agreed with the findings and recommended conditions of the Steep Slope Special Permit.

Following a motion by Acting-Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to approve the Steep Slope Special Permit.

The Board discussed each Hardship Variance and made findings about each one:

1. Dwelling Units not Stacked Vertically (Building Type) (1): plot is strangely shaped and the topography is steep; literal enforcement of the zoning code would make it so different dimensions would be necessary to make a project on this site viable; if the building were taller, it would create more shadows and would have a bigger impact that would be a detriment to the neighborhood.
2. Number of Stories (1): topography and shape of the land requires more stories to be built into the land; if less stories were built it would require a lot of fill and more retaining walls which would be a financial hardship; and would be a substantial detriment to neighborhood – The Board noted that both this and the previous variance are a result of the applicant team responding to the Board's request to mitigate negative aspects of the original proposal and shows consideration for the betterment of the neighborhood.
3. Story Height (1): the design resulted in building into the hill as directed by the Board to keep the overall height down; topography of the site makes this necessary; this is better for neighborhood because reduces shadows.

4. Building Width (1): the topography and shape of the lot and as requested by the Board, the team took this side-by-side design approach; not doing this would create a substantial hardship; having a wider rather than taller building would mitigate the negative effects on the neighbors.
5. Ground Story Elevation (1): allows for a lower entryway related to the building units into the sloped topography at the Board's request; alternative steps into the building would be undesirable; a lower entryway is not detrimental to the neighborhood.
6. Parking within the Parking Setback (1): the garage falls within the parking setbacks but was a result of building into the hill and trying to alleviate the neighbor's concerns regarding parking; literal enforcement of this would cause the vehicles to be parked outside of the garage with little room to maneuver; parking vehicles in the garage would appease the neighbors and is the logical choice.
7. Habitable Space Depth (2): the design places the main living story below grade for units 1 and 2; since the topography is so steep the Board asked to minimize the height; not detrimental since it reduces the impact the building has on the neighborhood. The Board noted that the design is the opposite of the usual, but feels the changes improve the design and reduce the impact on the neighborhood.

Chair Fontano stated that variances are serious business and approvals are low, as they should be. She noted that the Zoning Ordinance has been worked on long and hard with public input on what they want for their City. We need to respect the work of the Boards, the City Council, and everyone else that developed the Zoning Ordinance, but this remains an awkward piece of land and the applicant has worked with the Board to make changes and follow the direction of the Board.

Following a motion by Acting-Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to approve the eight requested Hardship Variances in accordance with the findings discussed during this meeting.

RESULT:	APPROVED
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NOTICE: These minutes constitute a summary of the votes and key discussions at this meeting. To review a full recording, please contact the Planning, Preservation & Zoning Division at planning@somervillema.gov.