



City of Somerville
ZONING BOARD OF APPEALS
City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

JULY 13, 2022 MEETING MINUTES

This meeting was conducted via remote participation on GoToWebinar.

NAME	TITLE	STATUS	ARRIVED
Susan Fontano	Chair	<i>Present</i>	
Anne Brockelman	Member	<i>Present</i>	
Ann Fullerton	Member	<i>Present</i>	
Katherine Garavaglia	Alternate	<i>Present</i>	

City staff present: Charlotte Leis (Planning, Preservation, & Zoning), Emily Hutchings (Planning, Preservation, & Zoning), Andrew Graminski (Planning, Preservation, & Zoning), Sarah Lewis (Director of Planning, Preservation, & Zoning)

The meeting was called to order at 6:00pm and adjourned at 8:38pm.

GENERAL BUSINESS: Meeting Minutes

Following a motion by Acting-Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to approve the 20 April 2022 and 4 May 2022 meeting minutes.

PUBLIC HEARING: 14 Sycamore Street (P&Z 21-176)

The applicant team submitted a written request to continue to 3 August 2022, prior to the meeting.

Following a motion by Acting-Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to continue the case to 3 August 2022.

RESULT:

CONTINUED

PUBLIC HEARING: 515 Somerville Avenue (P&Z 22-069)

Director Lewis explained that downward lighting in this location would probably be more disturbing to neighbors and pedestrians, and that upward lighting is appropriate but currently prohibited by the condition language. Director Lewis clarified that the lighting has been installed but has not been used except to take photographs to show the Board.

The applicant team further explained that they are seeking a revision to condition 37 to eliminate the requirement that the light cast downward, as they feel they are complying with the spirit of the condition with the upward lighting but wanted to make sure that the wording of the condition permits it. They confirmed that they have left the lighting off until the Board votes on this request, other to take photos.

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

The Board and applicant team discussed the color of the lighting, if the lighting would change from what is currently being shown, and if there are any other lights at the rear.

Following a motion by Acting-Clerk Garavaglia, seconded by Member Fullerton, the Board voted unanimously (4-0) to strike the language “cast light downward” from Condition #37 of ZBA 2018-122.

RESULT:

APPROVED

PUBLIC HEARING: 205 Beacon Street (P&Z 22-027)

The applicant team presented the by-right 12,000 square foot residential building in the Urban Residential (UR) district, with 10 units and 11 parking spaces. They stated that currently all of the rough construction of the building has been completed and they are working on installing the windows. They expect to move forward with the interior fit-out and hope to have the project completed by the end of the year.

The applicant team stated that the Somerville Zoning Ordinance (SZO) requires that the façade buildout be at least 70% of the lot width. They noted that they received their Certificate of Zoning Compliance in February 2021 and their Building Permit in June 2021. They went on to explain that the issue with the 70% façade buildout came up when they were drafting plans with the required 20’ setback in mind. Considering the specific location of the property next to the Neighborhood Residential (NR) district, the applicant team is unable to meet both the requirements for the façade buildout and the 20’ setback.

The applicant team explained that this lot is unique for UR lots because it is right next to the NR district, which requires a 20’ setback. That requirement does not apply to every parcel in the UR district, and they are only off by 10’. They also expressed that the new building does not have a substantially different setback from the lot line on Ivaloo Street compared to the previous building and this specific design is an expression of Somerville by bringing an urban feel to the area with lots of light and glass elements.

The applicant team stated that they have already spent \$4 million on this project and being unable to complete the project would have a negative impact on the owner. They noted that the developer plans to live there, therefore the hardship would be on a personal level and would potentially be excluding a responsible owner-occupant from living there. The owner will be a good neighbor, for example they voluntarily spent \$100,000 to put the transformer in a vault rather than putting it on a pad in the yard. They also noted that a 70% façade buildout would eliminate the private patio area at the rear of the building, which would be detrimental to the residents. The developer also reduced the number of units from 11 to 10 to allow for a common roof deck, which shows that he is not just out to maximize profit.

The applicant team declared that this project is not substantially different from the intent of the SZO since it meets many of the factors that the community finds desirable, using good building materials and taking dense residential property and making it truly special. The team is asking for a variance for 10’ of façade, which is not going against the SZO but trying to work within competing standards of the SZO for this property. This would cause a substantial hardship and is a unique situation because of the proximity to the NR district, if the parcel was one block down, they wouldn’t have this issue.

Chair Fontano opened public testimony.

JT Scott (Ward Councilor) – stated that he had not been briefed on the project nor had he spoken to PPZ Staff about it; however, if a review had been conducted properly this issue would’ve been caught. Another building type could have fit without a problem. Mr. Scott stated that having the building extend closer to property line would cause more annoyance for neighbors and he wished this had been caught earlier.

Chair Fontano closed public testimony.

The Board and applicant team discussed how Neighborhood Meetings are not required for this case, how 50% of the building was completed when the decision was made to go from 11 to 10 units, how the applicant team decided to proceed at risk after Inspectional Services (ISD) raised the compliance issue with them due to the state of the construction industry, how 65-70% of the building is currently completed, and how the team immediately started the Hardship Variance process as soon as they were informed about the issue by ISD. They continued the discussion by reviewing the zoning atlas of the area that shows where the NR and UR boundaries are located, how the Board can understand how the team thought they were following the correct protocol considering they received a Certificate of Zoning Compliance although architects should be doing their due diligence, what would need to happen to have a compliant building, and how an apartment building could fit on the lot without violating any dimensional standards since the same standards do not exist for all building types.

The Board and applicant team spoke about how corner lots are more likely to cause this problem since they have two fronts, the side setbacks, how a letter of support from the abutting neighbors on Ivaloo Street would have helped their argument, how the applicant team took a big risk by continuing to build, and how the Board's goal is to support the Somerville Zoning Ordinance. They addressed the need to review the zoning review process, how the architectural team should be creating diagrams before the project starts to address problems early on, how the Board generally chooses options that benefits all the neighbors and open space when there is a conflict, and the goal of the zoning ordinance is to increase housing.

They discussed the patio at the rear of the building, how the team should have stopped building after they found out about needing a variance, and while the Board may be frustrated with the Hardship Variance process recently, they need to view this case individually. The applicant team noted that moving forward with the project wasn't a snub to the Board, it was just a desire to get a construction project done; they tried to comply, and this is just an unfortunate circumstance.

The Board reviewed the Hardship Variance criteria; 1) this particular location, immediately adjacent to the NR district, is unique in that enforcing the 20' setback requirement causes a violation of the 70% façade buildout requirement; 2) the literal enforcement is not possible and it is beneficial to the neighbors to have a larger green space between the building and the neighbors; and 3) it will benefit the neighborhood, rather than hurt it.

Following a motion by Acting-Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to approve the Hardship Variance for relief from the façade buildout requirement with the conditions outlined in the Staff Memo.

RESULT:	APPROVED WITH CONDITIONS
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PUBLIC HEARING: 151 Linwood Street (P&Z 21-153)

(continued from 1 June 2022)

Director Lewis explained that this project is seeking 12 Hardship Variances. Staff advised the applicant team against going forward with the application, but applicants are entitled to submit a proposal for what they want to see on their property. She mentioned that Planning, Preservation, & Zoning has been working on a neighborhood visioning plan for the Brickbottom area during the last two years. While the plan would maybe consider higher than 4-story zoning on this property, the idea of expanding a storage facility is not something the neighborhood has expressed an interest in as part of the vision for Brickbottom. The vision is to move toward a mixed-use complete-neighborhood and to keep the funky light manufacturing and art uses that have always been a part of the Brickbottom area; uses such as a storage facility tends to generate more vehicular traffic which will create problems in the area. Director Lewis stated that it is a difficult project to support for where the neighborhood has

expressed a desire to go. The Board noted that folks in this area have been very vocal about keeping things user-friendly and art focused.

The applicant team explained their proposal, the process they've been through thus far including the communications they have had with the community, the unique topography of the parcel, how they plan to reduce vehicular traffic, and how the variances they are seeking will not be detrimental to the neighborhood but rather enhance the property and make it more accessible. They also spoke about the existing conditions including the locations and sizes of the curb cuts, the plan to demolish the existing structure and design a new state of the art facility, the parking plan, the proposed height of the building, and the significant increase in green space. The applicant team reviewed the hardship variances they are seeking and expressed that they are looking to stay in the area for another 50 years, bring tax revenue to the city, and grow with the neighborhood.

Chair Fontano opened public testimony.

JT Scott (Ward Councilor) – hosted two 1.5-hour long neighborhood meetings for this proposal, both recordings can be found online at tinyurl.com/151linwoodnm1 and tinyurl.com/151linwoodnm2. During both of those meetings and through several other forms of communication, the universal community sentiment has been opposition to this proposal. This proposal does not reflect the needs or wants of the community or the future of the Brickbottom neighborhood, it does not enhance the public realm, and does not fit in the high-density area right next to a transit stop. Mr. Scott hopes to see a future proposal that considers the planning that has been done for the area and that will benefit the neighborhood. He agreed with the community consensus and opposed the proposal.

The applicant team responded that they have seen the plan for the Brickbottom neighborhood, and it has no consideration for a building that has been there for 50 years. The sidewalks are municipal issue, not part of their property or their problem but they are attempting to make improvements to the public realm. They stated that they could leave the building as is, but U-Haul doesn't want to leave the neighborhood or Somerville and they are proposing significant improvements for the parcel.

Heather Van Aelst (1 Fitchburg St) – stated that this is one of the closest lots to the new GLX station. This project may be in line with the building heights of the new plan, but it is not in line with the goals or spirit. Ms. Van Aelst asked that the Board not grant variances, for this application or others, that applicants are seeking just to minimize neighborhood detriment, but only ones that actively help the neighborhood. She noted that if U-Haul wants to stay in Somerville, they should be more creative with their design.

Randal Thurston (1 Fitchburg) – stated that relief should not be granted. The neighborhood's vision depends on pedestrian access and diverse industries in the neighborhood; this doesn't help those goals. The number of curb cuts on this project flies in face of it being promoted as pedestrian friendly. Mr. Thurston appreciated that there has been some work done on the green space but it's minimal and it does not reflect what the neighborhood needs.

Bill Valetta (1 Fitchburg) – stated that he is not opposed to some variances for modernization of use. He noted that the responsibility of the ZBA is not to put its own vision into place, but to try and implement the Somerville Zoning Ordinance (SZO) and comprehensive plan, and the SZO says this use is appropriate. Mr. Valetta stated that there are grounds for hardship based on how this building gets modified, but it doesn't justify two extra floors. There are some grounds for curb cuts, etc. but they could do a much better job of laying out plans and ensuring there is some more green space. Mr. Valetta didn't think they made a particularly strong case regarding the width of the sidewalks and how the building fits and faces the streets.

Chair Fontano stated that public testimony will remain open.

Staff stated that an 8' difference across a linear distance of 350' is not a topographical hardship, as many sites in Somerville have a much more significant grade change than that, the soil composition was brought up but how

that creates a hardship was not explained, and how a 6-story use that is vehicle-oriented has a significantly different impact on the neighborhood than an 8-story mixed-use pedestrian-oriented development which is what will be allowed in the future. Staff also noted that the Board should not be considering hardship in context of site plan, but only in context of the hardship variance criteria and whether those are really being met. All of the criteria must be met to issue a hardship variance. Staff also stated that the plan does not reflect a collaboration with Staff; the applicant team has been respectful, but they have not reached out to request collaboration in terms of site design.

The Board and the applicant team discussed the number of variances being requested, how U-Haul seems to be looking at this site to serve surrounding communities rather than thinking about how it serves the immediate community, and how the Board would like to see a proposal that serves the goals of the neighborhood. The Board noted that it seems that the team designed a facility they wanted, then looked at the SZO to determine what they violated, but they should be looking at the site constraints and parameters first and working backwards so that they can be a good community partner. The Board agreed that while they would like U-Haul to remain in Somerville, this building as designed, is too tall, commercial, and harsh for this neighborhood.

Brickbottom is an important part of the soul of Somerville that needs to be protected, but the rest of Somerville has a lot of young professionals and students that use U-Haul services, however there is room to reduce the number of requested variances. The Board agreed that this proposal needs a complete redesign and if they were to vote this evening, they would deny the application.

The applicant team requested that the proposal be withdrawn, so that they can have further discussions with Staff and the neighborhood.

Following a motion by Acting-Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to allow the applicant to withdraw without prejudice.

RESULT:

WITHDRAWN

OTHER BUSINESS: Anticipated Comprehensive Permit

Staff notified the Board that they will be reviewing a Comprehensive Permit application for 299 Broadway soon; it is expected to be submitted in September and the hearing to begin in October. The Comprehensive Permit is subject to MGL Chapter 40B, rather than MGL Chapter 40A which is what the ZBA operates under for all the other cases. Staff will provide the Board with training materials and guides by the end of the week. The site is currently an empty parking lot and an abandoned building and has been that way for a few years. There is an active Urban Renewal Plan for the site and the Somerville Redevelopment Authority is involved.

Staff noted that the applicant team decided to pursue the 40B process, rather than the conforming project they had originally planned on which would have required the team to go to the Planning Board rather than the Zoning Board of Appeals. Staff also noted that the Planning Board is aware of the project and is interested in the current status. Staff will provide a memo to the Planning Board explaining the status and will ensure them that the Zoning Board of Appeals will request their input on the proposal as an advisory recommendation.

Staff also gave a brief overview of the process the applicant team will be required to follow.

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.