



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

SEPTEMBER 7, 2022 MEETING MINUTES

This meeting was conducted via remote participation on GoToWebinar.

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

City staff present: Charlotte Leis (Planning, Preservation, & Zoning), Wendy Sczechowicz (Planning, Preservation, & Zoning), Emily Hutchings (Planning, Preservation, & Zoning), and Andrew Graminski (Planning, Preservation, & Zoning)

The meeting was called to order at 6:01pm and adjourned at 8:47pm.

OTHER BUSINESS: Election of Clerk

Chair Fontano asked for nominations for Clerk. Member Brockelman nominated Katherine Garavaglia as Clerk. No other nominations were made.

Following a motion by Member Brockelman, seconded by Member Fullerton, the Board voted unanimously (4-0) to elect Katherine Garavaglia as Clerk of the Zoning Board of Appeals.

PUBLIC HEARING: 10 Washington Street (P&Z 21-134)

The applicant team stated that other than a Special Permit, the project is by-right. The team provided a summary of the project's timeline and presented an overview of the site context, the parking plan and need for relief, the anticipated public benefits of the project, the sustainability goals of the building, the building programming by floor, the landscaping plan, and the overall design of the building.

Chair Fontano opened public testimony.

Marc Russell (30 Adams St) - was opposed to this project. Mr. Russell is a Somerville resident and a union carpenter, and he stated that this developer is not going to hire people who can continue to afford to live in Somerville. This developer has not spoken to any union contractors. If this project goes through, Marc, his family, his father, and hundreds of union members will have to consider leaving Somerville. Mr. Russell said that this developer is not good for Somerville and after so much progress with developers, they shouldn't take a step back and let this one in.

Chair Fontano closed public testimony.

The Board and applicant team discussed the parking arrangement with the adjacent garage, the amount of parking relief being requested, the difference between long-term and short-term bicycle parking, the floating bus stop, the Staff Memo recommendations, the Board's concerns regarding parking overflowing into the neighborhood, and the possibility of allocating a certain number of parking spots in the parking easement agreement in perpetuity.

Attorney Jen Schultz appeared on behalf of the applicant. Attorney Schultz believed there are a couple ways the parking concern could be solved; the Board could condition the Special Permit approval to require that off-site parking spaces be assigned to and dedicated to this property, it could be done through a condition, or they could modify the easement/write a new easement.

The Board and Staff discussed imparting a condition relating to parking and the fact that the Mobility Division did not feel the need for any conditions related to parking given the proximity to public transit. The applicant team stated that the Mobility Division's direction was to have this be a no-parking project with the understanding that the building would have access to spaces in the adjacent garage, which is 90% completed. The team also noted that their objective was in line with the Mobility Division's objectives, which was to reduce parking and to encourage people to use public transportation as much as possible.

The Board stated that they understand how the city wants to reduce parking, but they feel that some parking is needed so that it doesn't get pushed into the neighboring streets. The applicant team confirmed that they are willing to accommodate any number of parking spaces that the Board feels is appropriate. Attorney Schultz noted that a Special Permit condition could include a requirement for a minimum number of parking spaces and then up to 78 spaces to keep the project zoning compliant. The applicant team suggested 45 as minimum number of spaces to satisfy users of the building from a tenant perspective.

The Board and applicant team continued the discussion with the transit analysis they conducted to arrive at the minimum parking number proposed, how the city has been supporting less parking in transit areas, and how the applicant team plans to provide Blue Bike memberships and transit passes to the tenants of the building to urge them to use public transportation.

The Board considered their parking concerns and the Staff Memo recommendations relating to parking. The Board agreed that they would like to include a condition regarding parking, including a range of parking spaces to be provided. Staff confirmed that the Board can provide a statement explaining what they would like to accomplish with the condition, and Staff can provide the exact condition language prior to the decision being recorded. The Board and applicant team agreed that was acceptable.

Following a motion by Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to approve the Site Plan Approval as presented, with the conditions recommended in the Staff Memo.

Following a motion by Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to approve the Special Permit for parking relief, with a condition setting a floor and ceiling for parking ranging from 45 to 78 spaces with the terms to be recorded.

RESULT:	APPROVED WITH CONDITIONS
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PUBLIC HEARING: 141 Central Street (P&Z 21-104)

The applicant team explained that they have an unsafe deck that is falling apart on the back of their house. They are substantially rebuilding it in-kind, only slightly larger, and are repositioning the stairs so that they come off the deck in a different manner.

The Board and Staff discussed how this case went to the Historic Preservation Commission (HPC) and received approval, how you can see only part of the deck from the street, and why this case is before the ZBA this evening.

Chair Fontano opened public testimony. No one indicated they wished to speak. It was noted that the Board did receive the Neighborhood Meeting notes. Chair Fontano closed public testimony.

Following a motion by Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to approve the Special Permit to construct a conforming building component on a non-conforming building type, with the conditions included in the Staff Memo.

RESULT:	APPROVED WITH CONDITIONS
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The Board went into recess at 7:45pm and reconvened at 7:52pm.

PUBLIC HEARING: 10 Oak Street (P&Z 21-132)

The applicant team is seeking the maximum extension to a Special Permit granted in 2018. The team's attorney presented a summary of the project history including how the prior owner demolished the entire structure without permission and therefore received a stop-work order. The new owner had nothing to do with the previous missteps considering they purchased the property out of foreclosure in 2021 and they would like to build the originally proposed project that was approved by the ZBA in 2018. They noted that under the new zoning ordinance, this lot is unbuildable by-right due to its size. Therefore, the best way to move forward and to meet the city's zoning goals is to approve an extension of the previously approved Special Permit. Should the ZBA grant the extension, the applicant team is ready to move forward as quickly as possible to get the project completed, so that the lot is no longer just an empty foundation. If the ZBA does not grant the extension, the lot will sit empty and will be unbuildable. It was also noted that if the ZBA approves the extension, the team would have to return to the Board to revise condition 1, as it states that the project will be built in accordance with the plans and considering that the structure has already been demolished, that cannot fully happen. However, regardless of the demolition, the result of the building will be the same.

Chair Fontano opened public testimony.

Michelle Hewitt (7 Holts Ave) – asked why an extension is needed if the property was bought last year, what have they been doing, and how long will the extension be.

The applicant team's attorney responded that they are seeking a 1-year extension. The applicant bought the property in 2021 and the team has been working with city to determine the best path forward.

Jennifer Civitella Hilario (9 Bolton St) – stated that the Board should consider what the applicant has done in the 15 months since buying the property, in order to make a thoughtful decision about whether the project should move forward. From the neighborhood's point of view, there has not been much activity since being bought. The property is a blight, and the developer has been a bad neighbor. Ms. Civitella Hilario is worried that the project will just be sold again to another developer.

The applicant team's attorney responded that they filed an application in June 2021 to modify the project and they have three different P&Z tracking numbers on this case because they have been going back and forth with the city on how to move forward. They have filed for everything they could to get things moving, including filing the project under the new zoning, this extension, and a proposal to revise the old permit. This is the only current active case.

Elaine Koury (101 Beacon St) – stated that other neighbors on Oak Street maintain their properties, but this lot is totally abandoned and neglected; resulting in bugs and rats. The neighbors have begged to have this blight cleaned up and unlike this owner, people live in and care about this neighborhood. An extension should not be considered until the owner cleans up the deteriorating property, as that would show good faith to develop the property, rather than just sell the opportunity to build.

Dorinda Jaquith (6 Oak St) – is a direct abutter and was involved with first person who got a Special Permit who immediately flipped the project. This is the 4th owner of this property. The property is a swamp and an absolute mess. The applicant's attorney wants neighbors to overlook those problems and feels that they are threatening that if this permit extension doesn't get approved nothing will get built. She stated that it speaks volumes that the applicant was not present and shows that they have no consideration for the neighborhood. Ms. Jaquith also opposed this becoming three stories. Since the original approval was given, there have been multiple large buildings put up and the neighborhood doesn't need more.

Tom Booth (14 Oak St) – opposed the extension. It has been a long time since the applicant did any work on the property and they are not working in good faith. He does not think the foundation there now is structurally sound. Mr. Booth thinks that the developer should give it another try to get something that is closer to the new zoning ordinance.

Andrew Campanella (9 Oak St) – stated that the property has been a blight on the neighborhood and has been submerged in 4-6" of water, which has been a mosquito breeding ground. The applicant has not acted in good faith, so he doesn't support the application. Mr. Campanella would like to see something happen with this property but would like to see action by the applicant that indicates some form of good will/good faith.

Ed Marakovitz (6 Oak St) - agreed with everyone else. There are many examples of good and bad developers in the immediate area - 10 Oak Street just fell down; another case had a condition to install a mansard roof and just didn't; another developer did really shoddy work that all had to be redone once it was purchased. So, he was concerned with competence. The other cases heard tonight have had neighborhood meetings, this one hasn't. Mr. Marakovitz would like the ZBA to consider competence and good faith of the applicant when considering approvals.

Ward Councilor JT Scott stated that the previous owner negligently demolished the existing structure and built a new foundation, and now that foundation has sat vacant for a number of years. He noted that this new owner's actions also indicate a reckless disregard of the city's ordinances regarding safety and pests. Councilor Scott has urged the Inspection Services Department (ISD) to enforce the ordinances and noted that citations have not been as frequent as he would like. However, the ZBA is charged with either extending the Special Permit or not. He does not agree with the threat that if the ZBA does not grant the permit extension, that this lot will sit abandoned. Mr. Scott spoke about the higher density zoning benefits that have been in place since 2019 and expressed that it is the ZBA's decision to either extend projects under the old zoning or encourage projects to comply with the new zoning ordinance that is more in-line with the city's goals. He added that this is not a case of a re-use of an existing building, this is a case of whether or not to allow a case, that has been a nuisance to the entire neighborhood, to proceed according to outdated rules. Councilor Scott urged the ZBA to reject this proposal.

The applicant team's attorney stated that the property sat vacant for three years before this applicant was even involved, they do not usually hold Neighborhood Meetings for time extension cases, and the fact that they did not ask the applicant to be present tonight considering they expected the discussion to be focused on legal matters. The applicant team's attorney also noted that ISD required the team to perform an inspection of the current foundation to confirm that it is still in good standing, considering it has been exposed to the elements for many years. The foundation seems to be sound, but the inspection has not been completed yet. They also stated that they were not trying to threaten that the lot would sit vacant, they were just quoting from the Staff Memo and making a statement about what he thinks will happen. Anything the applicant team proposes on this site under the new ordinance would require a Hardship Variance.

Chair Fontano stated that applicants should be present at meetings to answer question, especially when they are virtual. There is no excuse for their absence this evening.

Chair Fontano closed public testimony.

The Board and the applicant team's attorney discussed the lack of maintenance of the property over the last 15 months, if there is a contractor lined up with a contract in place, how the developer is essentially asking for a favor but they have done nothing to support the community, and how the Board is willing to allow the applicant team to come back with a plan for cleaning up the site and a timeline for next steps.

Following a motion by Clerk Garavaglia, seconded by Member Brockelman, the Board voted unanimously (4-0) to continue the case to 21 September 2022.

RESULT:

CONTINUED

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.