



City of Somerville

ZONING BOARD OF APPEALS

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

TO: Zoning Board of Appeals
FROM: Planning, Preservation, & Zoning (PPZ) Staff
SUBJECT: 17 Hudson Street, ZP25-000094
POSTED: November 26, 2025

RECOMMENDATION: Deny (Uphold ISD's Decision)

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

This memo summarizes the administrative appeal submitted for 17 Hudson Street and provides analysis or feedback as necessary. The application was deemed complete on November 19, 2025, and is scheduled for a public hearing on December 3, 2025. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

LEGAL NOTICE

17 Hudson Street – Denise Provost seeks an administrative appeal of the Building Official's issuance of Building Permits B25-000078, B25-000079, B25-000081.

SUMMARY OF PROPOSAL, GROUNDS FOR APPEAL

Denise Provost (the applicant) appeals building permit applications B25-000078, B25-000079 and B25-000081 for 17 Hudson Street. The Applicant is arguing that the Inspectional Services Department (ISD) should not have approved the permits on the basis of the following claims:

1. The Lot Split was wrongfully approved because the Zoning Board of Appeals' delegation of approval for lot splits to the Director of Planning, Preservation, and Zoning violates the Somerville Zoning Ordinance and Massachusetts General Law 40A.
2. The approval process deprives the City of affordable housing benefits.
3. The proposed structure does not meet the definition of a backyard cottage.

BACKGROUND

17 Hudson Street is located in the Neighborhood Residence (NR) zoning district in the Spring Hill neighborhood represented by Ward 5 Councilor Sait. An Administrative Appeal is a petition to rectify a failure to act, denial of a permit, decision made, or enforcement action taken by the Building Official or Director of Planning, Preservation &

Zoning in an administrative development review case when an alleged error or misinterpretation has been made in the enforcement or application of the provisions of this Ordinance. The Zoning Board of Appeals is the decision-making authority for all administrative appeals.

PPZ Staff want to emphasize that while the appeal involves the Zoning Board of Appeals, the decision that this appeal was predicated upon was a decision by the Building Official and Director of Planning, Preservation, and Zoning.

ANALYSIS

The analysis for this application will be split into sections according to the Notice of Appeal submitted with this appeal:

1. The Lot Split was wrongfully approved because the Zoning Board of Appeals' delegation of approval for lot splits to the Director of Planning, Preservation, and Zoning violates the Somerville Zoning Ordinance and Massachusetts General Law 40A.

The first claim that the Applicant makes is that the Zoning Board of Appeal's review was conducted in private with no notice to anyone. Minor Site Plan Approvals (mSPA) do not require public notice requirements, and the decision is delegated from the ZBA to the Director of Planning, Preservation, and Zoning (the Director). Site Plan Approvals are not governed by Massachusetts General Law Chapter 40A (MGL 40A).

The applicant argues that "The Director [then] evidently reviews the lot split application in the abstract on a plan of land without examining the Building Permit Development. Given the simple standards that the Director thereafter must apply to such a lot split application, the Director's perfunctory approval is mandatory." Site Plan approval by nature is a mandatory approval should the proposal meet the findings and is zoning compliant. The Director found that the proposal met the criteria for a mSPA and was zoning compliant with the standards in the NR zoning district.

The applicant argues that the provisions of SZO 10.1.1.c. requires the Zoning Board of Appeals to follow the comprehensive site plan approval process set forth in 15.3.2 for a lot split and that the Building Permits were issued without the ZBA implementing the Site Plan Approval procedure, including the review of the Building Permit development as required by the SZO. It is the City's opinion that SZO 15.7 enables the ZBA to determine certain development activities as mSPA. The ZBA's Rules of Policy and Procedure (RPP) allows the Director of PPZ to review and approve lot splits. The Building Permits in question are a by-right, zoning compliant proposal and thus no review by the Zoning Board of Appeals would be appropriate or necessary. The ZBA has no purview over zoning compliant by-right developments.

The applicant claims that SZO 15.3.2 expressly mandate that the lot split application include the development that is proposed. SZO 15.3.2.a.i. states that “Site Plan Approval is the administrative review and approval of a development review application that is conforming to the provisions of this Ordinance to address any potential development impacts”. The SZO defines development as: The subdivision or land platting of a development site; the construction or modification of any principal building type; accessory building type, or other structure; the excavation, fill or grading of land; and the establishment, change, or expansion of any use of any structure or land”. The lot split was the development that occurred during the lot split and review of further development plans was not necessary at the time. The development permitted by the Building Permits is a by-right development which does not require review by either the ZBA or the PPZ Director.

Another argument made by the Applicant is that the Zoning Board of Appeal’s delegation of the approval of the lot split to the Director of PPZ violated the SZO and MGL 40A. Massachusetts General Law does not govern the Site Plan Approval process. The Zoning Board of Appeal’s Rules of Policy and Procedure had a typo that incorrectly referenced the Somerville SZO’s Planning Board Delegation of minor Site Plan Approval activities. This has since been remedied by a vote on August 6, 2025. Additionally a typo in the RPP does not nullify the power delegated to the Zoning Board of Appeals to allow the PPZ Director the ability to make decisions regarding mSPAs. The Somerville ZBA’s original delegation of lot splits was approved on February 26, 2020.

The Applicant claims that the ZBA does not have the power to delegate lot splits as mSPA because the SZO gives that express permission to the Planning Board in 15.7.3.d.iv.d. but that language is not present in 15.7.2., the section of the SZO pertaining to the ZBA. 15.7.2.d.iv.c states that “The Zoning Board of Appeals may adopt rules of procedure and policy as it deems necessary to conduct its affairs, including but not limited to the following subjects: c). rules and procedures of a minor Site Plan Approval process for development activities that do not require the procedural steps for Site Plan Approval, but that are still deserving of plan review.” This omission of express permission in 15.7.2 does not restrict the ZBA from delegating lot splits, lot mergers, and lot line adjustments as minor site plan activities, as the Board gives those permissions in the Rules of Policy and Procedure.

2. The approval process deprives the City of Affordable Housing Benefits

The Applicant argues that “because the Building Permit Development resulted in a lot split with two or more lots intended for residential use and development, the

entire Building Permit Development should have been submitted as part of the Lot Split Application for a determination of affordable housing requirements” Affordable housing requirements are not applicable to the NR Zoning District. If the proposal had gone through the process at the same time, there would be no change to the requirement to provide or amount of affordable dwelling units. The applicable section of the ordinance the applicant is referencing says that “[This Section] is applicable to all development required to provide one (1) or more affordable dwelling units (ADUs) and to any subdivision or lot split that results in two or more lots intended for residential use, sale, legacy, or development at any time”. If this proposal was in the UR district, this section would be applicable to ensure that the affordable housing requirements are being upheld in the event of a lot split. No deprivation of affordable housing benefits occurred as part of this mSPA as the subject property is in the NR district.

The Applicant also argues that the backyard cottage does not qualify as an Accessory Unit because it is not in common ownership to any of the units in the primary building. The accessory building type of a backyard cottage is incidental and ancillary to the main use of housing. Accessory structures are not tied to ownership but rather tied to land use.

3. The proposed structures does not meet the definition of a backyard cottage.

The Applicant argues that the proposed structure permitted under B25-000081 does not meet the definition of a Backyard Cottage. ISD found no zoning compliance issues with this structure. The structure meets the dimensional requirements to be considered a backyard cottage. The images provided in the SZO are for illustrative purposes only.

CONSIDERATIONS & FINDINGS

For this Administrative Appeal petition, the ZBA must vote to either (1) deny the Administrative Appeal and uphold the Building Official's decision to issue Building Permits B25-000078, B25-000079, B25-000081 at 17 Hudson Street, or (2) approve the Administrative Appeal and overturn the Building Official's decision to issue the Building Permits for 17 Hudson Street. The effect of the latter would be to rescind or suspend the Building Permits for 17 Hudson Street.

When considering the facts of the case, the ZBA should consider whether errors have been made by the granting authority (the Building Official) and whether there is sufficient evidence to approve the Administrative Appeal and overturn the Building Official's decision.

M.G.L. ch.40A, Section 15 states that the ZBA must clearly state its reasoning within any motion to either uphold ISD's decision or overturn ISD's decision and must clearly set forth the reason for its decision and for its official actions. Lastly, if the ZBA votes to overturn the Building Official's decision, clear findings must be made related to any procedural or interpretation-related errors identified by the ZBA.



City of Somerville

ZONING BOARD OF APPEALS

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

MINUTES

Wednesday, February 26, 2020 at 6:00 pm

Visiting Nurses Association

3rd Floor Conference Room, 259 Lowell Street

Somerville, Massachusetts

Board Members present: Susan Fontano (Chair), Danielle Evans (Clerk), Elaine Severino, Anne Brockelman, Drew Kane (Alt.)

Board Members absent: Josh Safdie

Planning & Zoning Division staff present: Charlotte Leis, Dan Bartman

Meeting was opened at 6:00pm.

PUBLIC HEARINGS

AA#2020-0001

515 Somerville Ave

Ms. Evans opened the hearing.

Charlotte Leis informed the Board that the applicant, Claudia Murrow, had reached out to Planning staff earlier in the day to say that she was sick and to request a continuance to March 11th.

Ms. Evans made a motion to approve the request for a continuance to March 11th. Ms. Severino seconded. Motion passed 5-0.

OTHER BUSINESS

Dan Bartman provided the Board with a copy of proposed amendments to the Rules and Regulations.

Mr. Bartman went over the changes proposed for the fee schedule. The new fee schedule reflects the permits created by the new code, and the fees are structured so that larger and more impactful projects will be assessed higher fees than smaller projects. Because so many more projects are by-right under the new code than under the old, more projects will be able to avoid paying zoning relief fees. Fees for variances are much higher than they used to be in order to discourage people from applying for them. The Board had questions about how some of the fees are calculated and suggested that Planning staff consider having newspapers directly bill applicants for the cost of advertising their case. The Board also discussed charging applicants if their case needs to be re-advertised.

Meredith Porter (104 Josephine Ave) said that fee changes need to be adopted by both the PB and the ZBA before going into effect.

Ms. Evans made a motion to adopt the proposed amendments to Appendix 1a of Chapter 1 as presented by Planning Staff. Ms. Severino seconded. Motion passed 5-0.

Mr. Bartman explained the proposal for a minor site plan approval process. The Board reviewed what businesses

are allowed in the Neighborhood Residential district and the small business overlay district and how their operating hours may impact the neighborhood if they have outdoor seating.

Mr. Bartman explained the reasoning behind the proposal for a Hardship Variance application and what variances would be allowed to pursue it. Some projects need variances to be financially feasible, and don't want to go through full DRA process if their variance will get denied in the end. The Board discussed the submittal requirements for a hardship variance application and whether those requirements should be different for smaller versus bigger projects; the Board doesn't want to burden small projects with extensive submittal requirements. Ms. Leis clarified that the Hardship Variance process would be completely optional, and that smaller projects could request variances through the normal DRA process. The Board asked where other variances would fit into the process. Mr. Bartman said that other than the specific variances called out in the Rules and Regulations, all other variances would need to go through the standard process.

Mr. Bartman explained the proposal to change the site plan approval process for backyard cottages. The "neighborhood" for back yard cottages would be defined as only direct abutters rather than everyone within 300 feet. It would also not require backyard cottages to go to the Urban Design Commission and have a second neighborhood meeting. The Board asked how backyard cottages would relate to compliance with the green score and other standards, and Mr. Bartman said that the site would still need to comply with those requirements or get a variance.

Mr. Bartman explained how sign regulations have changed with the new zoning.

The Board expressed a desire to learn more about the new zoning and the proposed changes before voting.

The Board discussed the implications of having minor site plan approval. Meredith Porter (104 Josephine Ave) said that some of the changes only effect the Planning Board.

Ms. Evans made a motion to approve the portions of section a, paragraphs a, b, and c that are under purview of the ZBA. Ms. Brockelman seconded. Motion passed 5-0.

The Board continued to discuss the implications of having a Hardship Variance application and how that would change the process for a project. Meredith Porter (104 Josephine Ave) said that the Board had concerns about giving up leverage, and asked if applicants could provide more information like a landscaping plan, rough elevations, etc. The Board discussed how the green score works.

Ms. Evans made a motion to close the hearing. Ms. Severino seconded. Motion passed 6-0.

Meeting was adjourned at 9:30pm.

Plans and reports are available to view in person in the Planning Office, 3rd Floor of City Hall or at the City of Somerville website via the following link: <https://www.somervillema.gov/departments/ospcd/planning-and-zoning/reports-and-decisions>

NOTICE: While reasonable efforts have been made to assure the accuracy of the data provided in these minutes, do not rely on this information as the complete and accurate portrayal of the events in the meeting without first checking with the Planning Division staff. If any discrepancies exist, the decisions filed by the Board serve as the relevant record for each case. The Planning Division also maintains audio recordings of most Board meetings that are available upon request.



City of Somerville

ZONING BOARD OF APPEALS

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

Zoning Board of Appeals Rules of Procedure & Policy

1. General

a. Authority

- i. These Rules of Policy and Procedure ("Rules") are adopted by the Zoning Board of Appeals of the City of Somerville ("Board") pursuant to M.G.L. Ch 40A, §12, M.G.L. Ch 40B, §§20 through 23, and the Somerville Zoning Ordinance (SZO) §15.7.2.d.

b. Adoption of Rules

- i. These Rules were adopted by the Board on August 6, 2025.
- ii. The Board may, from time to time, amend these Rules in accordance with the voting requirements of §4.g.
 - a). The Board shall file a written copy of the amended Rules with the City Clerk within fourteen (14) calendar days of adoption.
- iii. These Rules and any amendments to them are applicable on the date of adoption.

c. Responsibilities

- i. The Board's responsibilities are specified by the SZO as:
 - a). The decision-making authority for all development that requires Site Plan Approval or a Special Permit in the Neighborhood Residence (NR), Urban Residence (UR), Commercial Industry (CI), or Commercial Business (CB) districts.
 - b). The decision-making authority for development that requires a Hardship Variance in all zoning districts.
 - c). The decision-making authority for all Administrative Appeals.
- ii. The Board's responsibilities are specified by M.G.L. Ch 40B, §§20 through 23 as the decision-making authority for all Comprehensive Permits.

2. Board Organization

a. Membership

- i. The Board is composed of five (5) full members and two (2) alternate members.
 - a). Unless otherwise specified, "member" refers to both full and alternate members.
- ii. Members are appointed by the Mayor and confirmed by the City Council for three (3) year terms.

b. Officers

- i. At the first meeting of each calendar year, the Board shall elect from among its full members a Chair, Vice-Chair, and Clerk.
- ii. Duties
 - a). Chair
 - (i). The Chair is the presiding officer for all Board meetings. The Chair's responsibilities include at least the following:

- 1). Ensure orderly meetings and public hearings, whether through the use of Robert's Rules of Order or another means;
- 2). Call for any necessary votes on matters before the Board;
- 3). Appoint subcommittees as necessary or desirable;
- 4). Decide all points of order, unless overruled by majority of the Board;
- 5). Transact official business of the Board;
- 6). Request assistance from City Staff as necessary or desirable; and
- 7). Exercise general supervisory responsibilities of the Board's work.
- 8). Sign Subdivision Plan Approval plans on behalf of the Board, pursuant to SZO §15.3.1.

b). Vice-Chair

- (i). The Vice-Chair is responsible for performing all duties of the Chair if the Chair is unable to perform their duties.
- (ii). The Vice-Chair may request assistance from City Staff, with notification to the Chair, as necessary or desirable to aid in the Board's work.

c). Clerk

- (i). The Clerk is responsible for reading public notices at meetings prior to opening a public hearing.
- (ii). If the Clerk is absent, the Chair shall designate another member to serve as Clerk for the meeting.
- (iii). The Clerk is responsible for performing all duties of the Chair if both the Chair and Vice-Chair are unable to perform their duties.
 - 1). If the Clerk must perform the duties of the Chair, they shall designate another member to serve as acting Clerk for the meeting.

c. Staff to the Board

- i. The staff of the of Planning, Preservation, & Zoning Division of the Mayor's Office of Strategic Planning & Community Development serves as Staff to the Board ("Staff").
- ii. Staff is responsible for:
 - a). Maintaining records of Board proceedings;
 - b). Ensuring proper notification and advertisement of public hearings and public meetings in accordance with relevant laws;
 - c). Assisting the Board in running an efficient meeting;
 - d). Drafting and filing of written decisions of the Board;
 - e). Acting on behalf of the Board as specified in these Rules; and
 - f). Acting on behalf of the Board as directed by the Board or Chair.

d. Subcommittees

- i. The Chair may, at their discretion, establish subcommittees to facilitate the Board's work.

3. Standards of Conduct

a. Meeting Attendance

- i. All members shall attend every Board meeting.
- ii. Notwithstanding emergency situations, any member unable to attend a meeting shall notify the Chair and Staff at least three (3) weeks prior to the meeting.

- iii. Members may attend meetings remotely in accordance with relevant state laws.
- iv. If remote participation in meetings is not available under relevant state laws, the Board and City Staff will work together to establish safe protocols for in-person meetings that comply with applicable laws.

b. Meeting Participation

- i. If a member is absent from one (1) meeting at which an application is discussed, the member may participate in discussions and votes related to the application if, prior to the start of the next meeting at which the application is scheduled to be discussed, they:
 - a). review the evidence presented at the meeting, including materials presented for the case, minutes, or an audio or visual recording of the meeting; and
 - b). submit an affidavit to Staff attesting to that fact.
- ii. If a member is absent from two (2) or more meetings at which an application is discussed, or if the member fails to submit an affidavit in accordance with the previous section, the member shall not participate in any discussion or votes related to the application.
- iii. Alternate members may participate in discussion on any item before the Board but may not vote unless designated by the Chair to act in the place of a full member who is absent, has a conflict of interest, or is otherwise unable to vote on the item.

c. Conflicts of Interest

- i. Members shall act in accordance with the provisions of M.G.L. Ch 268A, as amended.
- ii. Members shall notify the Chair as soon as practicable about any known or suspected conflicts of interest and recuse themselves from the subject case.
 - a). Members should consult the Somerville City Solicitor's Office prior to participating in any matter for which they believe a conflict of interest may exist.
- iii. Recused members shall not participate in the discussion or vote for any matter for which they have a conflict of interest.
- iv. Recused members are encouraged, but not required, to leave the physical or virtual meeting room during the discussion of the case for which they are recused.

d. Open Meeting Law

- i. Members shall act in accordance with the provisions of M.G.L. Chapter 39, §§18-25, ("Open Meeting Law") as amended.
- ii. Members should consult the Somerville City Solicitor's Office with any questions regarding compliance with Open Meeting Law.

4. Meetings & Hearings

a. Public Meeting Schedule

- i. Regular Meetings
 - a). Regular meetings of the Board are scheduled the first and third Wednesdays, unless municipal holidays or conflicts with other events require adjustments to this schedule.

- (i). The Board shall publish an annual calendar prior to the start of each calendar year.
- ii. Special Meetings
 - a). A special meeting is any meeting held on a day other than those listed on the annual calendar adopted pursuant to §4.a.i.a).(i). of these Rules.
 - b). Special meetings may be scheduled at the discretion of the Chair, or at the request of three (3) members.
 - c). Special meetings may include, but are not limited to, the following:
 - (i). meetings to discuss administrative business;
 - (ii). subcommittee meetings;
 - (iii). joint meetings and hearings with other City Boards and Commissions; and
 - (iv). joint meetings and hearings with the City Council.
- b. Meeting Management
 - i. Public Meetings
 - a). Except at the discretion of the Chair, public meetings will follow this procedure:
 - (i). Call to Order
 - (ii). General Business
 - 1). Minutes
 - 2). Reports from subcommittees
 - (iii). Continuances and requests to withdraw applications
 - (iv). Public hearings for applications
 - (v). Other Business
 - (vi). Adjournment
 - b). Except by a majority vote of the Board, no items of business will be taken up after 10pm.
 - ii. Public Hearings
 - a). Except at the discretion of the Chair, public hearings will follow this procedure:
 - (i). Reading of the legal notice
 - (ii). Applicant presentation
 - (iii). City Staff presentation
 - (iv). Testimony from any elected official
 - (v). Public testimony
 - (vi). Questions from the Board
 - (vii). Closing the public hearing
 - b). Following the closing of the public hearing, the Board will deliberate and vote.
 - iii. Recess
 - a). At the discretion of the Chair, the Board may take a recess at any time during a meeting or hearing.
 - b). Prior to taking a recess, the Chair shall announce the current time and the length of the recess.
 - c). Following the recess, the Chair shall announce the current time and return to session.
 - iv. Executive Session
 - a). The Board may enter into executive session in accordance with M.G.L. Ch 30A §21.
 - b). Prior to entering into executive session, the Chair shall:

- (i). Take a roll call vote on whether to enter into executive session;
 - (ii). State the purpose for the executive session; and
 - (iii). Announce whether the open session will reconvene following the executive session.
 - v. Public Participation
 - a). Public Meetings
 - (i). Public testimony is permitted during public meetings only at the discretion of the Chair.
 - b). Public Hearings
 - (i). Public testimony will be taken during every public hearing.
 - 1). Unless otherwise stated by the Chair, written public testimony will be accepted until 7:30pm on the Thursday before the public hearing.
 - (ii). The Chair may, at their discretion, limit the amount of time each individual may provide testimony during a public hearing. The Chair shall not limit this amount of time to less than two (2) minutes.
 - (iii). Following the close of a public hearing, additional public testimony is permitted only at the discretion of the Chair or if substantively new information is received by the Board.
 - 1). The Chair shall use their best judgment to determine whether any information received following the close of public testimony is substantively new.
 - c). Standards of Conduct
 - (i). Prior to providing public testimony, all individuals must provide their name, street name, and city of residence for the record.
- c. Notice Requirements
 - i. Public meetings must be advertised in accordance with M.G.L. Ch. 30A, §§ 18-25 and SZO §15.1.7.
 - ii. Public hearings must be advertised in accordance with M.G.L. Ch 40A, § 11 and SZO §15.1.7.
- d. Attendance
 - i. Board Members
 - a). A quorum of the Board is required to conduct any business.
 - (i). For all matters related to administration of the SZO and M.G.L. Ch 40A, a quorum is four (4) members.
 - (ii). For all matters related to administration of M.G.L. Ch 40B, a quorum is three (3) members.
 - (iii). For all matters related to administration of the Board, a quorum is three (3) members.
 - b). If a quorum is not present for an item of business, the Chair shall continue that item to the next regular meeting of the Board at which a quorum is anticipated.
 - ii. Applicants
 - a). Applicants will appear on their own behalf or will be represented by an agent.
- e. Motions by the Board on Applications
 - i. Continuance

- a). The Board may vote to continue the public hearing to a future meeting.
 - (i). If the Board votes to continue the public hearing to an unspecified date, the Applicant shall pay an additional public notice fee in accordance with §5.a.ii. of these Rules.
- b). The Board may require that the public hearing be re-advertised.
 - (i). If the Board votes to require an application to be re-advertised, the Applicant shall pay an additional public notice fee in accordance with §5.a.ii. of these Rules.
- ii. Request to Withdraw
 - a). The Board may vote to allow an Applicant to withdraw their application without prejudice.
 - (i). If the Board denies an Applicant's request to withdraw without prejudice, the Board shall then vote to approve, approve with conditions, or deny the application based on the available information.
- iii. Incomplete Applications
 - a). Pursuant to SZO §15.1.5.c.v., if the Board deems an application scheduled for a public hearing to be incomplete, the Board shall do one (1) of the following:
 - (i). deny the application;
 - (ii). allow the Applicant to withdraw the application without prejudice according to SZO §15.1.5.d. Withdrawal and §4.e.ii. of these Rules; or
 - (iii). allow the Applicant to waive the procedural time requirements according to SZO §15.1.8.d Continuance.
- iv. Approve, Approve with Conditions, or Deny
 - a). The Board may vote to approve an application as presented, approve an application with conditions, or deny an application.
 - (i). The Board may deny an application for administrative permits only when:
 - 1). the submittal fails to furnish adequate information required for approval;
 - 2). the imposition of reasonable conditions would not ensure compliance to standards, as applicable; and/or
 - 3). the submittal, although proper in form, includes or creates an intractable problem so intrusive on the needs of the public in one regulated aspect or another and cannot be adequately mitigated.
 - b). The Board shall summarize its findings regarding each of the review criteria required by the SZO. The Board may also make additional findings beyond those required.
 - c). If voting to approve an application with conditions, the Board shall identify the conditions of approval.
 - (i). If the Board references staff memoranda issued regarding an item when voting to approve with conditions, it will be understood as referencing all staff memoranda related to the application unless otherwise specified.
- v. Additional Process
 - a). Applicants may be directed to hold an additional Neighborhood Meeting.
 - (i). Neighborhood Meetings must comply with the procedural requirements of SZO §15.1.3.
 - b). Applicants may be directed to visit the Urban Design Commission for Design Review.

f. Written Decisions

- i. Following a Board's decision to approve, approve with conditions, or deny an application, Staff shall write a decision summarizing the findings made by the Board and identifying any conditions the Board included in its decision.
 - a). The written decision must be filed with the City Clerk within fourteen (14) calendar days of the Board's vote.

g. Voting

- i. Voting must be initiated by the Chair, or their designee, asking for a motion.
- ii. The number of members that must vote in favor of a motion for it to pass is the same as the number of members required for a quorum, as identified in §4.d.i.a).
- iii. The record shall show the vote of each member upon each motion, or if a member is absent or fails to vote.

h. Minutes

- i. The Board shall maintain accurate meeting minutes, including a record of all votes taken at a meeting.
 - a). Meeting minutes for any executive sessions must be maintained separately.
- ii. The Board shall approve minutes for a meeting within three (3) regular meetings.
- iii. Approved minutes shall be publicly accessible.

5. Applications

a. Submission Requirements

- i. Documents
 - a). The Board shall adopt submittal requirements and a fee schedule for all applications to be heard by the Board.
 - b). Staff shall establish and maintain all necessary application submission requirements.
 - c). The submission requirements must, at a minimum, identify documents and information necessary to enable the Board to make findings for any relevant review criteria in the SZO.
 - d). Unless a waiver is requested pursuant to §5.a.iii. of these Rules, all required documents must be submitted to have a complete application and be scheduled for a Public Hearing.
- ii. Fees
 - a). All required fees must be submitted to have a complete application.
 - b). Withdrawn applications are not entitled to a refund of any required fees.
- iii. Waivers
 - a). Applicants may submit a written request for a waiver from any of the information required for an individual application.
 - (i). Written requests must be submitted to Staff and must include at least the following information:
 - 1). Identification of the specific item(s) a waiver is being requested from; and
 - 2). The Applicant's reasoning for why the Board should grant the waiver.

- b). Upon receipt of a written request pursuant to this Section, Staff shall place the request on the agenda of a regular meeting within thirty (30) days.
 - (i). If the Board does not meet within thirty (30) days, the Chair shall grant or deny the waiver request on behalf of the Board.
- b. Submission Deadlines
 - i. Prior to Advertisement
 - a). An application may be submitted at any time following completion of any pre-submission steps required by the SZO.
 - ii. Following Advertisement
 - a). The Applicant shall submit all information at least seven (7) calendar days prior to the hearing at which it will be discussed.
 - (i). Information submitted within seven (7) calendar days of a hearing may only be discussed at the hearing at the discretion of the Chair.
 - b). The Applicant shall submit any information that requires review by Staff at least fourteen (14) calendar days prior to the hearing at which it will be discussed.
 - (i). Staff shall provide an updated memo to the Board no later than the Friday prior to the hearing.
 - (ii). Information submitted within fourteen (14) calendar days of a hearing may be reviewed at Staff's discretion.
 - c). Staff shall provide all information submitted regarding an application to the Board no later than the Friday prior to the hearing at which it will be discussed.
- c. Application Review
 - i. Determining Completeness
 - a). An application is complete when the Applicant has submitted all documents and fees required by the submission requirements (see §5.a. of these Rules).
 - b). Staff shall review applications to determine completeness and shall promptly notify the Applicant with the results of their review.
 - (i). If the application is incomplete, Staff shall identify the reason(s) for that determination to the applicant.
- d. Withdrawal of Applications
 - i. Prior to the advertisement of a public hearing, an Applicant may withdraw their application without prejudice at any time.
 - ii. Following advertisement of a public hearing, an Applicant may withdraw their application with prejudice at any time, or may withdraw their application without prejudice with the approval of the Board (see §4.e.ii of these Rules).
- e. Extension of Procedural Requirements
 - i. The Director of PPZ shall serve as the decision-making authority for requests to extend procedural requirements in accordance with SZO §151.8.d.
 - ii. Agreements between the Applicant and the Director of PPZ to extend any time limits for procedural requirements must be recorded in writing.
- f. Minor Site Plan Approval

- i. The Director of PPZ shall serve as the decision-making authority for all Minor Site Plan Approvals.
- ii. Applicability
 - a). Pursuant to SZO §15.7.2.d.iv.c the following development activities are minor, do not require all of the typical review procedures necessary for Site Plan Approval, and may be permitted through an administrative plan review process referred to as Minor Site Plan Approval:
 - 1. Lot Line Adjustments
 - 2. Lot Mergers
 - 3. Lot Splits
 - 4. The construction or modification of any ground floor awning, entry canopy, lobby entrance, or storefront following the original site plan approval for the building.
 - 5. Screenings for rooftop mechanical equipment
 - 6. Modifications of parking lots limited only to zoning-compliant pavement markings and zoning-compliant landscaping changes.
 - 7. Changes to the number of ground story commercial spaces from two (2) units into one (1) unit within an existing structure for the expansion of an existing use.
 - 8. Any increase in the number of ground floor commercial spaces within an existing structure.
- iii. Review Procedures
 - a). Notwithstanding SZO §15.3.2.d, Minor Site Plan Approval requires only the following review procedures:
 - (i). Step 1: Pre-Submittal Meeting
 - (ii). Step 5: Development Review Application
 - (iii). Step 6: Application Review
 - (iv). Step 9: Decision
 - (v). Step 10: Appeal Period
 - (vi). Step 11: Certification of Decision
 - b). Minor site plan approvals do not require neighborhood meetings, design review, public notice, or a public hearing.

6. Consultant Review

- a. General
 - i. If the Board determines that, in order to review an application, it needs technical assistance beyond what Staff can provide, it may hire outside consultants in accordance with M.G.L. Ch 44, §53G.
 - ii. The Board may engage engineers, planners, traffic consultants, attorneys, urban designers, financial analysts or any other appropriate professional who can assist the Board in analyzing the project and to ensure compliance with all relevant laws, ordinances, and regulations.
 - a). Specific consultant services may include, but are not limited to, application analysis and review, identification of impacts on neighboring properties or the surrounding neighborhood or district, hydrogeologic and drainage analysis, traffic and environmental analysis, permit conditioning, and environmental or land use

- law. Services may also include on-site monitoring during construction, or other services related to the project as deemed necessary by the Board.
 - iii. The consultant will be chosen by, and report only to, the Board and, at the Board's discretion, Staff.
- b. Selection
- i. Prior to selecting a consultant, the Board shall vote to approve a written scope for the services it wishes to receive.
 - ii. Following the Board's approval of a written scope, Staff shall work with the City's Chief Procurement Officer to identify qualified consultants to provide services to the Board.
 - a). At the request of the Chair, Staff shall provide an update to the Board regarding the status of the consultant selection process.
 - iii. Following selection of a consultant, Staff shall notify the Applicant by electronic mail, first class mail, or hand-delivered notice.
 - a). The notice must contain at least the identity of the consultant(s), the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety.
- c. Fees
- i. Required fees must be received in their entirety prior to initiation of consultant services.
 - a). Following initiation of consultant services, the Board may require additional fees if necessary review requires a larger expenditure than originally anticipated.
 - b). Except in the case of an appeal pursuant to §6.d. of these Rules, the Board shall consider the application incomplete if the Applicant does not pay the consultant fee specified by the Board within ten (10) business days.
 - (i). The Board shall notify the Applicant that the application is incomplete and that no additional review or action will be taken on the application until the Applicant has paid the requested fee.
 - (ii). The Board may deny the application if the Applicant fails to pay the consultant fee specified by the Board within ten (10) business days of the notice that the application is incomplete.
 - ii. Fees must be deposited in a dedicated account and kept separate from other money.
 - a). The Board may expend fees, including accrued interest, from this account without further appropriation.
 - b). Fees may only be spent on consultant review for the specific application for which the fees were collected.
 - iii. Any fees, including accrued interest, that are not expended during the course of review of the application will be returned to the Applicant or their successor in interest.
- d. Appeal
- i. Prior to payment of the fee in accordance with §6.c. of these Rules, the Applicant may appeal the Board's selection of a consultant to the City Council.
 - a). The appeal must be made in writing to the Somerville City Clerk within twenty (20) days of notice being given in accordance with §6.b.ii. of these Rules.

- (i). A copy of the appeal must be simultaneous delivered to the Board and Staff.
- b). The grounds for such an appeal are limited to the following:
 - (i). That the outside consultant has a conflict of interest, or
 - (ii). That the outside consultant does not possess the following minimum required qualifications:
 - 1). An educational degree in or related to the field at issue, or
 - 2). Three (3) or more years of practice in the field at issue or a related field.
- ii. The required time limits for action upon an application by the Board will be extended by the duration of the appeal.
- iii. If the City Council has not issued a decision on the appeal within thirty (30) days of the filing of the appeal, the selection made by the Board will stand.

7. Comprehensive Permits

a. General

- i. Definitions
 - a). "Chapter 40B" refers to M.G.L. Ch 40B, §§20 through 23, as amended.
 - b). "DHCD Regulations" refers to 760 CMR 56, as amended.
 - c). "Comprehensive Permit" refers to an application subject to Chapter 40B.
 - d). "Local Board" refers to the term as defined by 760 CMR 56.02 and may include, but is not limited to, the Planning Board, the Historic Preservation Commission, the Condominium Review Board, the Conservation Commission, and the Board of Health.
- ii. This Section specifically addresses Comprehensive Permits subject to Chapter 40B and DHCD Regulations.
- iii. Unless otherwise specified, Sections 1 through 6 of these Rules apply to Comprehensive Permits. If there is a conflict between Sections 1 through 6 and this Section, the requirements of this Section apply.
- iv. These Rules must be read in conjunction with and implemented in a manner consistent with Chapter 40B and the DHCD Regulations.
 - a). If there is a conflict between these Rules and Chapter 40B or the DHCD Regulations, the requirements of Chapter 40B and the DHCD Regulations apply.

b. Applications

- i. Submission Requirements
 - a). Documents
 - (i). Staff shall, on behalf of the Board, establish submission requirements for Comprehensive Permits.
 - 1). The submission requirements must include, at a minimum, the information required by 760 CMR 56.05(2).
 - 2). The submission requirements may not require information that would not be required for a non-Comprehensive Permit of the same scale and scope.
 - b). Fees

- (i). Notwithstanding the requirements of §5.a.ii.a). of these Rules, the application fee for a Comprehensive Permit is \$350 plus \$150 per dwelling unit.
 - ii. Submission Deadlines
 - a). Prior to Advertisement
 - (i). An application may be submitted at any time following:
 - 1). issuance of a Project Eligibility Letter by a Subsidizing Agency; and
 - 2). completion of any pre-submission steps required by the SZO.
 - b). Following Advertisement
 - (i). The Applicant shall submit all information at least seven (7) calendar days prior to the hearing it will be discussed at.
 - 1). Information submitted within seven (7) calendar days of a hearing may only be discussed at the hearing at the discretion of the Chair.
 - (ii). The Applicant shall submit any information that requires review by Staff at least fourteen (14) calendar days prior to the hearing it will be discussed at.
 - 1). Information submitted within fourteen (14) calendar days of a hearing may be reviewed at Staff's discretion.
 - iii. Application Review
 - a). Staff shall, within two (2) business days of receipt, review an application to confirm that all documents required by the submission requirements are included.
 - (i). If any documents are missing, Staff shall give the Applicant written notice of an incomplete application and identify the missing documents.
 - b). If an application is incomplete, the Board may delay the advertising and opening of the public hearing until the application is complete.
- c. Public Hearing & Decision
 - i. Procedure
 - a). Within seven (7) calendar days of receiving a complete application pursuant to §7.b. of these Rules, Staff shall forward a copy of the application to any Local Boards for review.
 - (i). Local Boards may include, but are not limited to, the Planning Board, the Conservation Commission, the Urban Design Commission, and the Traffic Commission.
 - b). Within thirty (30) calendar days of receiving a complete application pursuant to §7.b. of these Rules, the Board shall open the public hearing for the application unless the time period is extended by mutual agreement of the Board and Applicant.
 - c). Presuming the Applicant has made timely submissions of materials in response to reasonable requests of the Board, the public hearing must not extend beyond one hundred and eighty (180) calendar days from the opening of the hearing, except with consent of the Applicant.
 - ii. Review Criteria
 - a). Pursuant to 760 CMR 56.05(4), the Board shall make findings considering whether the Comprehensive Permit is consistent with Local Needs.
 - b). In addition, the Board shall make findings considering, at least, each of the following considerations:

- (i). The comprehensive plan and existing policy plans and standards established by the City.
 - (ii). The intent of the zoning district where the property is located.
 - (iii). The recommendation(s) of any Local Boards.
 - (iv). The proposed alignment and connectivity of the thoroughfare network.
 - (v). The gross floor area allocated to different use categories
 - (vi). Mitigation proposed to alleviate any adverse impacts on utility infrastructure.
 - (vii). Proposed development phasing.
 - (viii). Proposed on-street parking to address demand by customers of Retail Sales, Food & Beverage, or Commercial Services principal uses.
 - (ix). Mitigation proposed to alleviate any impacts attributable to the proposed development.
- iii. Disposition
 - a). The Board may dispose of a Comprehensive Permit, by majority vote, in one (1) of the following manners:
 - (i). Approve the Comprehensive Permit on the terms and conditions set forth in the application;
 - (ii). Deny a Comprehensive Permit as not Consistent with Local Needs if the Board finds that there are no conditions that will adequately address Local Concerns; or
 - (iii). Approve a Comprehensive Permit with conditions that address Local Concerns.
 - b). The Board shall review and consider the requirements of 760 CMR 56.05(8)(b)-(d) when considering conditions to include when disposing of a Comprehensive Permit.
- iv. Review of Financial Statements
 - a). If the Applicant asserts that a condition imposed by the Board is Uneconomic, the Board may request a pro forma review in accordance with 760 CMR 56.05 (6).
- v. Decision
 - a). The Board shall issue a decision, in accordance with §7.c.iv. of these Rules, on a Comprehensive Permit within forty (40) calendar days of closing the public hearing.
 - b). The Board shall file a written decision with the City Clerk within fourteen (14) calendar days of issuing a decision.
- d. Consultant Review
 - i. General
 - a). If the Board determines that, in order to review an application, it requires technical advice in such areas as civil engineering, transportation, environmental resources, design review of buildings and site, or review of financial statements that is unavailable from City Staff, it may employ outside consultants at the expense of the Applicant.
 - b). The Board must comply with requirements of 760 CMR 56.05(5).
 - ii. Selection
 - a). Whenever possible, the Board shall work cooperatively with the Applicant to identify appropriate consultants and scopes of work and to negotiate payment of

the consultant fees by the Applicant. Alternatively, the Board may, by majority vote, require that the Applicant pay a reasonable review fee in accordance with 760 CMR 56.05(b) for the employment of outside consultants chosen by the Board alone.

- b). If the Board decides to select outside consultants rather than negotiating with the Applicant, the Board shall follow the procedures outlined in §6.b. of these Rules.
- iii. Fees
 - a). See §6.c. of these Rules.
- iv. Appeal
 - a). See §6.d. of these Rules.
- e. Appeals
 - i. An Applicant may appeal the Board's decision in accordance with 760 CMR 56.06.
 - ii. Other aggrieved parties may appeal the Board's decision in accordance with SZO §15.5.3.
- f. Post-Decision Changes
 - i. An Applicant may submit a change in accordance with 760 CMR 56.05(11) at any time following the filing of a written decision with the City Clerk.
 - a). The Applicant should meet with Staff prior to submission of a change to identify any necessary information that must be provided.
 - ii. The Board shall review the change during a public meeting within twenty (20) days of receipt and determine whether the revision is substantial or insubstantial.
 - a). The Board shall consider 760 CMR 56.07(4) in making this determination.
 - b). If the Board does not review the change within twenty (20) days, the change is deemed approved.
 - c). If the Board determines that the change is insubstantial, the Board shall issue a letter documenting that determination.
 - d). If the Board determines that the change is substantial, the Board shall hold a public hearing within thirty (30) days of its determination. (See 760 CMR 56.05(11)(c) for more information.)