



City of Somerville  
**ZONING BOARD OF APPEALS**  
City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

**6 NOVEMBER 2024 MEETING MINUTES**

This meeting was conducted via remote participation on Zoom.

| NAME            | TITLE        | STATUS         | ARRIVED |
|-----------------|--------------|----------------|---------|
| Susan Fontano   | Chair        | <i>Absent</i>  |         |
| Anne Brockelman | Acting Chair | <i>Present</i> |         |
| Ann Fullerton   | Member       | <i>Present</i> |         |
| Zachary Zarembo | Member       | <i>Present</i> |         |
| Brian Cook      | Alt. Member  | <i>Present</i> |         |
| Sisia Daglian   | Alt. Member  | <i>Present</i> |         |

City staff present: Andrew Graminski (Planning, Preservation, & Zoning); Emily Hutchings (Planning, Preservation, & Zoning)

The meeting was called to order at 6:02pm and adjourned at 8:07pm.

*Members Cook and Daglian sat as voting members and Member Cook sat in as the Acting Clerk.*

**GENERAL BUSINESS: Meeting Minutes**

Following a motion by Acting Clerk Cook, seconded by Member Fullerton, the Board voted unanimously (5-0) to approve the 16 October 2024 meeting minutes, as presented.

**PUBLIC HEARING: 200 Inner Belt Road (ZP24-000094)**

Following a motion by Acting Clerk Cook, seconded by Member Fullerton, in the matter of 200 Inner Belt Road (ZP24-000094), the Board voted unanimously (5-0) to continue the hearing to 20 November 2024, at the request of the applicant.

**RESULT:**

**CONTINUED**

**PUBLIC HEARING: 241 Willow Avenue (ZP24-000079)**

*(continued from 16 October 2024)*

*Member Fullerton recused herself from this case and exited the meeting.*

The applicant team explained that the request is for a Special Permit to expand an existing two-story rear deck. They stated that the current rear porch is extremely narrow and not useable as an outdoor space. Currently, water stagnates in the rear of the property, and the porch stairs due to the high water table renders sitting out in the yard fairly useless. The team noted that the owners would like to use the porch as a dry outdoor space, but it is too small. The porch will be increased towards the rear lot line by 2'6" on the ground level, and 4' 6" on the second level. The Special Permit is needed as the property is currently nonconforming with respect to the rear setback, as the existing porch extends into the setback by 2.6'. The team stated that the proposal is for a modest porch expansion by a total of 46 s.f. This will be offset with 46 s.f. of existing asphalt ground cover being removed. They

stated that increasing the porch in this modest way meets the goals of the Neighborhood Residence (NR) zone and the SomerVision 2040 Comprehensive Plan by allowing a property to adapt and change to meet the owner's needs, and by allowing them to make a small contextual modification to an existing two-family house. They noted that the proposal is not substantially more detrimental to the neighborhood than the existing status because no new nonconformities will be created. The use of the property is not changing, and the modest porch expansion is not visible from the street. The applicant team stated that there were five emails of support submitted from neighbors, including the rear abutter at 98 Josephine Avenue and there has been no opposition filed in writing.

Acting Chair Brockelman opened public testimony. Seeing none at this time, Acting Chair Brockelman closed public testimony.

The Board stated that this seems to be an existing nonconformity, proposed to be made only very slightly more nonconforming by 2'6". The proportionate use and joy that the owner will get out of their property from this proposal seems to outweigh the minimal request.

Following a motion by Acting Clerk Cook, seconded by Member Zaremba, the Board voted unanimously (4-0) in the case of 241 Willow Avenue (ZP24-000079), to approve a Special Permit finding under MGL Chapter 40A Section 6, to further extend the existing nonconformity for the required rear setback, with the conditions as determined in the 30 September 2024 Staff Memo.

**RESULT:**

**APPROVED**

**PUBLIC HEARING: 44 Josephine Avenue, Apt 2 (ZP24-000086)**

*(continued from 16 October 2024)*

*Member Fullerton recused herself from this case and remained outside of the room during the hearing.*

The applicant team explained that the existing rear two-story porch is too narrow to be used and is currently unsafe. In replacing it for safety concerns, the proposal is to expand it from 6' to 10', or an addition of 4' on the top and bottom. They stated that there was a Neighborhood Meeting, and no opposition was expressed. There is support from the abutting neighbor behind the property.

Acting Chair Brockelman opened public testimony. Seeing none at this time, Acting Chair Brockelman closed public testimony.

The Board stated that this is an existing, nonconforming, structure that the applicant is requesting to make slightly more nonconforming in order to increase functionality, without much impact on neighbors.

Following a motion by Acting Clerk Cook, seconded by Member Daglian, the Board voted unanimously (4-0) in the case of 44 Josephine Avenue (ZP24-000086), to approve a Special Permit Finding under MGL Chapter 40A Section 6, to further extend the existing non-conforming, projecting porch, with the conditions outlined in the 26 September 2024 Staff Memo.

**RESULT:**

**APPROVED**

*Member Fullerton rejoined the meeting and retook her seat.*

**PUBLIC HEARING: 3 Emerson Street (ZP24-000088)**

The applicant team explained that this property has no driveway or parking on site. It is an extremely oddly shaped lot, with two long frontages: one on Emerson Street and one on Newton Street. They stated that the proposal is to install a one-car driveway off Newton Street. They noted that the driveway can only go in the proposed location due to the configuration and placement of the existing structure on the lot. In this location, the sum of the side setbacks will not comply for a front yard driveway. The existing sum of the side setbacks will now become nonconforming by 2'9.5". The team noted that the only proposed modification of the property is the addition of the driveway, and the sum of the side setback issue is related to the setback on the left side of the house, and not related to the driveway whatsoever. The owners have lived in this location for 40 years. They used to be able to park on the street, but now cannot, because of the Union Square development, and there is no parking allowed on their side of Newton Street. The proposed driveway on Newton Street will not remove any parking from the street, as there is no parking on that side of the street allowed. They stated that public transportation does not go everywhere the owners need to go, and it is currently a hardship to come home with heavy items in the car and find no place to park, which is happening more and more often. The request is to allow the owners to use a portion of the property to install a driveway, with a plug for an electric car, which would be charged by the solar panels on the roof. The applicant team noted that this would be in keeping with Somerville's Climate Action Plan. They also noted that there are other driveways on Newton Street and this proposal is for a gravel driveway which would be permeable.

The applicant team stated that per MGL Chapter 40A Section 10, Hardship Variances can be owing to circumstances relating to the lot or the structures. In this case, the basis for the variance is both. The purpose of the Neighborhood Residence (NR) zoning district is to allow contextual modifications to existing detached residential buildings. In this case, the Union Square development has changed the neighborhood context, and the owners seek a small modification to the property to adapt to the new context. They stated that the SomerVision 2040 Comprehensive Plan supports retrofitting existing housing stock to provide owners with necessary resources to make accessibility modifications and retrofit older homes. The proposal also meets the goals of allowing the owners to age in place through the modification and fighting displacement. They noted that a series of letters of support from neighbors were submitted.

The Board asked if street parking is allowed on Emerson Street. The applicant team stated that parking is allowed on Emerson Street. It is a private way. In a few years, there will be a 28 unit affordable housing development nearby that will only be providing eight parking spaces. The owners do not wish to have to fight for a space.

The Board asked about the 2'9.5" dimension that relief is being sought from. The applicant team explained that a 12' sum of the side setbacks is needed for a front driveway in the NR zoning district. The owners currently have 9'2.5" on the left side of the property, or 2'9.5" short. Nothing is changing with regard to the setbacks of the building. The sum of the side setbacks will change as a result of installing a driveway. To conform as the property currently exists, 3' would need to be removed from the house, which would be a hardship.

Acting Chair Brockelman opened public testimony.

City Councilor-At-Large Jake Wilson – spoke in support of the proposed project. He stated that he understands and shares the reluctance around adding curb cuts. In this case, the proposal makes a great deal of sense due to the realities of the situation, such as the unique character of the street. For all the reasons mentioned, particularly the ability to age in place, he strongly supports this.

Ward 2 City Councilor JT Scott – spoke as a direct abutter to this project in support of the project. He noted that the proposed driveway will be directly next to the driveway of the house next door. The lot is oddly contoured, and the elevation change is difficult.

Crystal Huff (52 Elm Street) – stated that she routinely visits this street for her volunteer work with the community fridge around the corner. Parking in the area is tight already. She supports when Somerville approves variance requests in order to increase accessibility and allow people to age in place. It is reasonable to allow this variance, for the several reasons the applicant team gave, in particular, the consideration of climate change goals.

Betsy Larkin (2 Emerson Street) – spoke in support of the proposal. She stated that the parking situation in this area has been a source of frustration for the entire neighborhood for many years. There is a brand-new condo building in this area and its driveway is very tightly fit to the property. This proposal looks to add lovely landscaping with the driveway.

The Board noted that it was in support of this proposal. In fulfilling the three Hardship Variance criteria, this is an irregularly shaped lot and street parking is difficult in the area. Not granting the variance may make aging in place difficult for the owners. There has been more development in the area which has made street parking less accessible. This proposal will not be a detriment to the City, and the neighbors are supportive of it. This proposal will take another car off the street in an area that needs less cars parked. The proposal aligns with previous parking allowed by the Board in the past two years.

The Board asked for further clarification regarding the financial or other hardships, if the variance is not granted. The applicant team explained that it has become harder and harder to find a place to park nearby. It is a hardship to carry items a long distance from where parking can be found and it will be a hardship to continue to age in place without a secure place to park. An electric vehicle cannot be considered until a driveway is installed. The change in the neighborhood context is important as a trigger to this problem. The only way for this proposal to comply without a variance, would be to shave 3' off the house.

Acting Chair Brockelman closed public testimony.

Following a motion by Acting Clerk Cook, seconded by Member Fullerton, in the matter of 3 Emerson Street (ZP24-000088), the Board voted unanimously (5-0) to approve the Hardship Variance for zoning relief for the sum of side setbacks for front driveway access based on the statutory criteria findings as discussed, and with the conditions outlined in the 21 September 2024 Staff Memo.

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| <b>RESULT:</b> |
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| <b>APPROVED</b> |
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### **PUBLIC HEARING: 22 Highland Avenue (ZP24-0000100)**

The applicant team explained that the property space has been used as a convenience store dating back to the 1890s as Highland Market, and more recently a restaurant, Highland Pizza. There has been a two-year period of inactivity in the space, necessitating the request for a Special Permit to start a business there, Ginger Exchange. The team stated that Ginger Exchange has other locations, Arlington and Watertown, and the restaurant is proposed to have limited indoor seating. No alcoholic beverages or outdoor seating are proposed. This is in keeping with the SomerVision 2040 plan, supporting small businesses.

Staff explained that this district is in a unique setting; a bar/restaurant/tavern use is not allowed in the Urban Residence (UR) zoning district, but this area also contains a Small Business Overlay District, which allows those uses via Special Permit. Highland Pizza, and the previous uses that were restaurant-related businesses existed as nonconforming uses for some time. Staff also noted that when nonconforming uses are not operating for more than three years, the use goes away, and the right zoning approvals are needed to bring back the use, in this case, a Special Permit.

The Board asked if the Special Permit, if granted, travels with the owners or the property. Staff explained that this would depend on special conditions issued by the Board. If the Board does not apply a special condition where the permit is attached to the applicant, it would apply to the property in perpetuity.

Acting Chair Brockelman opened public testimony.

Milos Kostic (abutter) – asked how loud the proposed business will be. He stated that he is happy that no alcohol will be served. He asked where delivery drivers will park when picking up food.

The applicant team explained that there will not be any music outdoors. There may be soft music playing inside. There are only approximately four tables inside the restaurant, as this is a fast/casual concept. The drivers will likely park in front of the store to pick up food.

Griffin Dunn (Thorpe Street) – stated that he is also concerned regarding delivery drivers, parking, and safety for those biking and walking. People often drive above the speed limit in this area. He is concerned regarding general parking in this area, as much of it is two hour parking or metered. More on-street parking would be useful to those who live in the area with cars.

The applicant team stated that a majority of customers are expected to be walk-in. Other locations for this restaurant have been successful in moving delivery drivers in and out quickly. They want to keep a friendly relationship with the neighbors.

Crystal Huff (52 Elm Street) – stated that Ginger Exchange is a delightful restaurant. The owners seem to be good neighbors, and she supports the variance request.

Griffin Dunn (Thorpe Street) – stated that he is not concerned with the restaurant owners and their control over the delivery drivers. He asked for additional spaces to be added for delivery drivers so that they do not park on the curb, leading to potential safety issues.

Acting Chair Brockelman closed public testimony.

The Board noted that there is currently a loading space in front of the location with a five minute limit. Requesting more loading parking could take away from resident parking. There are serious concerns regarding parking and traffic in terms of safety in this area. There was discussion regarding a condition to an approval of the Special Permit that the owners be required to seek additional parking or another solution from the Traffic Commissioner or elsewhere. Staff stated that this cannot be conditioned, as it is within the purview of the Traffic Commission, not this Board.

The Board discussed whether to attach a condition to this Special Permit attaching it to the owners or the property. There was consensus to attach the Special Permit to the property, due to the number of years it has contained similar uses.

The Board reviewed the findings listed in the Staff Memo.

Following a motion by Acting Clerk Cook, seconded by Member Fullerton, in the matter of 22 Highland Avenue (ZP24-0000100), the Board voted unanimously (5-0) to approve the Special Permit to establish a bar/restaurant/tavern principal use, with the findings and conditions as enumerated in the 21 October 2024 Staff Memo.

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| <b>RESULT:</b> |
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| <b>APPROVED</b> |
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### **OTHER BUSINESS: 299 Broadway (40B Change)**

*Member Fullerton recused herself from this case and exited the meeting for the evening.*

The applicant team explained that the purpose of this evening is to update the Board on 299 Broadway and to review the request for insubstantial changes to the Comprehensive Permit. The team reviewed the history of the

project. The only determination being made this evening is whether the changes requested are insubstantial or not. The CMR and regulations that apply provide good guidance on what is or is not substantial.

Staff stated that, based on State regulations and requirements, the proposed changes should be considered insubstantial. There is a slight change proposed in the number of bedrooms, but there was no change in the number of units, and that is directly related to insubstantial versus substantial changes.

The Board noted that there were some Public Space & Urban Forestry (PSUF) and Engineering Staff concerns in the Staff Memo. Staff stated that those were determined to have been addressed today. There are multiple accessible entrances to the Civic Plaza. While there are some steps shown in the changes up to the Civic Plaza, there are no concerns with that change. There are other areas within 5'-10' that are fully accessible.

The Board asked what is within its purview with respect to the updated waiver list versus the conditions of approval. Staff stated that it is within the Board's purview to determine whether to approve these waivers. For 40B Comprehensive Permit projects, it should be noted that waivers should not be withheld unless there are significant concerns about the public interest. Staff believes these waivers are for insubstantial design elements.

The Board asked about three landscape changes proposed on the plans. The applicant team stated that site design has led to these proposed modifications. At the end of the day, the plan still surpasses the required Green Score needed. The proposed changes to the trees and reduction in permeable paving due to the location for electrical equipment and potential freezing/thawing issues.

The Board discussed the updated waiver list and its correspondence to the design. It was noted that these changes are clearly moving towards the goal of energy efficiency and a tighter envelope.

Acting Chair Brockelman opened public testimony.

Ward 4 City Councilor Clingan – requested support for the insubstantial changes. Regarding change #49, the designation of the Sewell Street lot to the City's designee, he stated that he asked the developer for this change specifically to be deeded to the Somerville Community Land Trust in order for them to build affordable housing units on it.

Staff noted that City Staff provided the proposed language in coordination with the Law Department, and it was confirmed with the applicant team that there are no concerns. This allows the City to designate the Trust to receive that parcel.

Crystal Huff (52 Elm St) – stated that she is a volunteer coordinator with Mutual Aid of Medford and Somerville. The group has a community garden at 36 Sewell Street, one of the abutting properties of this project. It used to be the site of a community fridge for neighbors to help each other with food insecurity issues. She is hugely in support of this project but noted that the community garden is a wheelchair accessible garden. There is concern that, as part of this development, the garden, and particularly its accessibility, will be disrupted if not removed. She stated that she has continued to discuss this as part of the project.

The applicant team stated that they would follow-up with Ms. Huff regarding this concern.

Following a motion by Acting Clerk Cook, seconded by Member Zaremba, in the matter of 299 Broadway (40B change), the Board voted unanimously (4-0) to determine that the proposed changes are insubstantial and to approve the waiver changes.

Following a motion by Acting Clerk Cook, seconded by Member Daglian, in the matter of 299 Broadway (40B change), the Board voted unanimously (4-0) to amend the decision to accept the proposed changes to the findings and conditions of approval for the Comprehensive Permit.

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| <b>RESULT:</b> | <b>APPROVED</b> |
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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 [zoningboard@somervillema.gov](mailto:zoningboard@somervillema.gov)*