



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

**4 MARCH 2026 MEETING MINUTES**

This meeting was conducted via remote participation on Zoom.

NAME	TITLE	STATUS	ARRIVED
Susan Fontano	Chair	<i>Present</i>	
Anne Brockelman	Vice Chair	<i>Present</i>	
Olivia Mobayed	Member	<i>Present</i>	
Ann Fullerton	Member	<i>Absent</i>	
Zachary Zaremba	Member	<i>Present</i>	
Brian Cook	Alt. Member	<i>Present</i>	
Sisia Daglian	Alt. Member	<i>Present</i>	

City staff present: Kit Luster (Planning, Preservation, & Zoning); Dan Bartman (Director of Planning, Preservation, & Zoning); Josh Manion (Inspectional Services Department); David Shapiro (Legal Department)

The meeting was called to order at 6:02pm and adjourned at 7:55pm.

*Member Cook sat as Acting Clerk.*

**GENERAL BUSINESS: Meeting Minutes**

Following a motion by Acting Clerk Cook, seconded by Vice Chair Brockelman, the Board voted unanimously (6-0) to approve the 4 February 2026 meeting minutes.

**PUBLIC HEARING: 17 Hudson Street (ZP25-000094)**

*(continued from 16 January 2026)*

*Member Daglian sat as a voting member.*

*This item was addressed concurrently with the following agenda item.*

The applicant team explained that, due to the lot split policy that Staff has recommended, which the Board will in turn be asked to adopt, and the view that backyard cottages can be luxury condominiums which are not accessory to the main building, regular people are being priced out of Somerville. Neighborhood Residence (NR) zoning districts are being developed at the cost of renters and potential homeowners. This is also creating a hole in the condominium conversion ordinance. These are some of the reasons that four zoning amendments were recently submitted to the City Council on this topic.

The applicant team stated that the argument is that, effectively, Staff, through the Board, has amended the Somerville Zoning Ordinance (SZO) in a manner that does not meet the provisions of Chapter 40A. A Zoning Ordinance may only be adopted in certain ways. It must go to the Planning Board first for a hearing. The City Council then has to approve it by a 2/3 vote, and then the Mayor has to sign it.

The applicant team continued by noting that there is a protection which neighborhoods are deprived of when things do not go to the Zoning Board of Appeals that they would have ongoing control over. The City Council

passed a Rules and Procedures document for the Minor Site Plan Approval process for development activities which do not require the procedural steps for Site Plan Approval but are still deserving of plan review. In the meeting minutes, there was no discussion as to why lot splits fit within this. Under State law, whenever a Zoning Board or other administrative agent of the City is given the authority to enact rules and regulations, they have to give a basis to establish. That was not done in this case. It still deserves plan review and there was no plan review in this case. Thus, there are no protections given to anyone in the neighborhood.

Chair Fontano opened public testimony.

Staff read into the record two public emails received after the established deadline.

The first, from Karen Malloy (197 Highland Ave) asked if the 1,400 s.f. freestanding house on the property is considered an ADU/backyard cottage. If so, it should conform to the statutory limit of 900 s.f. or less than half the square footage of the primary residence. She asked if the City should allow the splitting of house lots in residential neighborhoods in order to multiply the number of housing units built without public notice. Although not pertinent to this case, she mentioned that this allowance could potentially be used as a get-around to avoid affordable housing requirements.

The second, from Marjorie Polster (33 Albion Street) stated that, without notice to abutters, the developer was given permission to split the lot and to build not two, but three dwelling units. The third dwelling unit is being called an accessory cottage but the plans for it do not conform to the definition of an accessory cottage. A cottage is supposed to be no more than 1.5-stories and examples of appropriate uses are as a small dwelling, office, or children's playhouse. The current plan is for a 2.5-story dwelling with three bedrooms and 2.5 bathrooms. This far exceeds the definition and reasonable understanding of what an accessory cottage is meant to be. This plan would also make the accessory building close to equal in size to the main building, whereas a cottage is supposed to be subordinate to the main building. She expressed two main objections to the approval of this plan. First, it violates the established definition of a cottage, which is a protection for neighbors against the negative impacts of overcrowding. Also, the footprint of the accessory cottage is to be 3' from the property line of an abutter, which would make it a potential safety risk and would detract from the abutter's enjoyment of their property. It is disturbing that the plan has been allowed to go forward thus far without soliciting input from the neighbors. This suggests that the interests of developers have been favored over the interests of residents.

Denise Provost (applicant team) - expressed a fear that the SZO intended by the City Councilors is being enforced in a way that does not reflect it fairly. There is a very generous interpretation being used that goes beyond its clear meaning. The backyard cottage in question is 29', looks like a three-story building, and has three inhabited floors. The definition in the glossary of the SZO counts stories from the floor of every habitable segment of the building. Yet, at the last meeting, ISD explained that there is a magical formula which discounts the bottom and top of the building, cutting 1.5-stories out of the middle. She cannot imagine that the City Council knew about this magic formula when they adopted the 1.5-story limit for backyard cottages. The illustrations in the SZO look like 1.5-story structure. It is unclear where the magic formula came from, but it is being used for the front buildings on this site and other sites around the City, to allow for four inhabited floors, while being represented as three-story buildings. The City is supposed to have form-based architecture, but these are not the forms that the City uses. There was an assertion made by a member of the Staff last week that buildings and structures are different things. But again, in the glossary of the SZO, these terms are used interchangeably. It is not logical or intuitive to insist that they are different. The lot split also seems to be a fiction. In terms of the property in question, it seems cynical that a line was drawn down the middle of the lot for the express purpose of multiplying the units on the lot, which now total seven on a 6,000 s.f. lot. Today, there were two excavators working behind her house, one within 1' of her fence because there is only a 3' rear yard setback. This will be a wall of buildings, and she does not believe that is what the City Council expected when they adopted the SZO.

Joe Lynch (10 Henderson Street) – asked if Staff is interpreting the SZO correctly. He asked if the City of Somerville ordinance is contra to State Zoning Law 40A. He asked if the City Solicitor's Office is comfortable with the Planning

Department's recommendation to the Board and its interpretation of the SZO. If the ordinance is supported by Planning and the Solicitor's Office, then he awaits the Board's deliberation and decision regarding the appeal.

Melissa McWhinny (16 Dickson Street) – echoed the questions previously asked. She stated that she does not believe the City Council intended to have large structures running up to the edges of properties and replacing gracious homes with lots of green space. Moreover, consideration of this proposal is incomplete, as there has not been consideration given to the effect of these buildings on the property and vegetation owned by Denise Provost. The greenery on the abutting property will be seriously damaged by the height of this proposal.

Beth Grunko (Berkeley Street) – stated that there is a similar structure across the street from her house, where a two-family house was made into a three-family house, with a very large cottage in a smaller backyard. This is blocking the light from her neighbors across the street. This is a nightmare, environmentally, for Somerville. There is little open land left in the City, and it is being gobbling up for houses.

Jane Bestor (45 Ibbetson Street) – stated that it seems the amount of square footage is open to vast increases through a manipulation of the basement ceiling height. There is no transparency here. Any developer can decide to lower the height of the ceiling by 4", thereby making a travesty of the 1.5-story requirement set in the SZO. This has huge ramifications for affordable housing. The likelihood that rental properties will be built in accessory cottage dwellings is much higher than if condominiums are allowed. The developer's lawyer announced that there are 36 of these so-called cottages currently being built in Somerville. In the last year, there were only 46 affordable units constructed in Somerville. It appears that the affordable housing requirement has been eliminated from residential zones in the City.

Tori Antonino – stated that this permit was not given proper site plan review. Her concern about lot splitting is the fact that the ADA unit will not comply with the intention of having accessory dwelling units which relate to the main building. Lot splitting is bypassing the City's inclusionary zoning, by not having the five-unit trigger. This also goes in the face of the SomerVision plan in terms of sustainability, affordable housing, green space, and stormwater management. Naturally occurring green spaces occurs on private property. The majority of trees are on private property. Lot splitting removes natural affordable housing and natural occurring green space. In addition to losing trees, the City is losing its hawks, foxes, and other built-in rodent mitigation.

Michelle Anders (19 Waldo Street) – stated that this development has been so depressing and emotionally stressful, that she had to stop being involved in the neighborhood emails and groups, due to the way the developers have been proceeding. She does not understand why the City lets this go on. It has been depressing to watch this developer tear up the vegetation, disrespect the street, and idle in front of the houses for hours with their trucks.

Michele Hansen (26 Warren Avenue) – stated that lot splitting worries her in terms of affordable housing. She would like to see some amount of yard and green space preserved. Developers have been eating up every inch of buildable space. This does not seem to be the spirit of what was intended.

Sonja Page Sobecki (7 Hudson Street) – stated that it is hard to get transparency and information about these types of projects, and hard to understand what the accountability structures look like. She would like to see the City help residents navigate this more easily. The process has been distressing, and the gray area makes it easy for developers to take advantage of.

Beth Rosenberg (15 Waldo Street) – stated that this project is not in keeping with the spirit of Somerville, and its emphasis on green space, sustainability, and affordable housing. She asked if the City has sun rights because many people's sun rights are being violated by this project.

Meredith Porter (104 Josephine Avenue) – expressed concern with transparency regarding plans. The process around lot split is concerning and being taken advantage of. The lack of notice to abutters is totally unacceptable

and may be at issue with State law. The original intent of backyard cottages was similar to a granny flat, or something associated with a principal structure. These are called accessory building types in the ordinance.

Attorney Anne Vigorito (representing the developer) – stated that the Building Permit was issued to her client based on zoning and building code requirements. It was not based on an opinion of the Building Department. She stated that the Planning Director was very clear and detailed as to why her client received the permit.

Seeing no additional public comments at this time, Chair Fontano closed public testimony.

The Planning, Preservation, & Zoning (PPZ) Director explained that this is not a hearing regarding whether or not the project should get a permit. This is an appeal of a decision of the Building Official to issue Building Permits.

A member of the Board stated that the Board is being asked to consider many things that are not relevant to the actual decision at hand. The Board needs to determine if the Inspectional Services Department (ISD) made an error in terms of how they interpreted the lot split and the story count. Based on much of the information submitted, it is difficult for the Board not to step outside of its boundaries. The Board is being asked to do more than it should. It is not the Board's responsibility to determine the intention of the ordinance or the Affordable Homes Act.

The PPZ Director explained that much of the City is within by-right zoning districts. The prior SZO regulated almost all of the development across the City through discretionary permitting. With by-right development, there are not public hearings for projects because people are building what the code dictates should be built on lots. Some City Councilors have asked to identify a way to inform members of the public regarding by-right development within their neighborhoods. There can be concern when a new building is built very close to existing ones. Staff is trying to work with ISD and the Engineering Department to determine new construction methods that might be applicable for the City. PPZ, the City attorney's office, and ISD meet nearly every day and collaborated on all of the Staff Memos submitted to the Board for this case.

ISD stated that the City's zoning ordinance, as adopted by the Council in 2019, is quite permissive relative to neighboring communities. The code is quite clear regarding the dimensional requirements and what is considered to be a half-story. ISD stood by the assessments made in the Staff Memo. While the backyard cottage, as an accessory building, does not meet certain people's expectations of what an accessory building should look like, the SZO provides a specific framework for the definition of an accessory building. While these buildings are being built within inches of the tolerances established in the code, they are, in fact, within the tolerances of the code. Staff tries to be as agnostic as possible with regard to cases and is required to enforce the SZO. Section 2.3.1A of the SZO divides principal buildings, accessory buildings, and accessory structures into three different categories. The SZO provides specific dimensional guidelines and regulations regarding how these buildings are built and their uses. Accessory structures are generally outbuildings, garages, etc. that are not used as dwelling units. Accessory buildings, such as a backyard cottage, were intended to be dwelling units, with habitable space inside.

Board members asked if there has been adequate discussion as to whether the Board's delegation of Minor Site Plan Approvals to the administrative process is appropriate. The PPZ Director explained that the administrative chapter of the SZO allows the Board to adopt a process to determine which items do not require a full review process, though a full review of the plans occurs by ISD for every permit. This process is completed through the adoption of the Board's Rules of Policy and Procedure, and handled by a majority vote, conducted through regular business of the Board. Other Board members noted that there is discussion of and a vote on the Board's Rules of Policy and Procedure document each year. One year, there was discussion regarding delegating Minor Site Plan Approval for lot splits to the Director of Planning, Preservation, and Zoning. That discussion resulted in the Board being comfortable with continuing to delegate Minor Site Plan Approvals to the Director of Planning, Preservation, and Zoning. It is within the purview of any Board member to raise a question about this document and for the Board to review it for potential changes.

Board members asked if there are any cases of Minor Site Plan Approval that would require substantive conversation and discussion by the Board. It appears, based on conversation, that the lot split was split by-right

and there was nothing the City or Board could do. The PPZ Director explained that Site Plan Approval typically requires multiple neighborhood meetings, design review, etc. The procedural process can be long or short, depending on the nature of the development. The ZBA and Planning Board are able to delegate the authority for Minor Site Plan Approval to an administrative task.

Board members expressed the importance for the public to feel heard on this item. The closest a structure can be from a lot line is 3'. That will be disruptive in any circumstance. There could be additional guidelines in those cases in terms of being a good neighbor. ISD stated that Building Permits are always accompanied by an approved Construction Management Plan (CMP), which is reviewed by the Building Inspectors and administrative staff. When a practice goes beyond what is permitted in the CMP, members of the community are encouraged to file 311 requests or call ISD and the Building Inspector. Additionally, any project that requires street occupancy needs a Street Occupancy Permit and is meant to follow construction practices as established within those guidelines. Staff is stretched thin but does follow up on complaints as they arise. Board members stated that there could be consideration as to what could be done differently in order to improve things for the public moving forward. The Board expressed the importance of people calling 311 or City Staff again and again if they do not receive a call back.

Board members stated that zoning regulates massing, the City fabric, scale, and use type. They asked if there is a policy that addresses rental versus condo types. The PPZ Director stated that the type of tenure is not regulated. The Board noted that the goal of SomerVision is to increase housing stock and build more housing. There is not a policy around the building being rental versus condo.

The Board asked about the required Green Score for the project. The issue of loss of green space seems to be coming up against the max dimensional buildable area of the lot, and this is controlled by the Green Score. The applicant team explained that the Green Score is not just a number based on the lot percentage. There are many elements which go into the calculation. On lots without a lot of permeable lawn space, in order to achieve the 0.35 Green Score, the lower open space is made up for with more plantings. The Green Score for this project was 0.368. ISD stated that 17% of the Green Score is accounted for through pervious paving on the site, with a depth of 6"-24". Staff has raised the issue that too many points are going to pervious paving and that the Green Score could and should be recalculated to assign more value and weight to actual plantings. This is included in the current 5-year Zoning Review project.

The Board reviewed the backyard cottage aspect of the plan. Section 3.1.12 gives the dimensions for backyard cottages. The maximum width is 24' and the maximum depth is 32'. The floor plate max is 576 s.f. Multiplying 24' by 32' totals 768'. The applicant team explained that an additional metric in the backyard cottage zoning parameters is that the floor plate is limited to 576 s.f. A longer building is allowed but cannot be as wide. A 24'x32' footprint could not be built. The Board stated that the dimensions of the building comply with the regulations.

Following a motion by Member Zaremba, seconded by Vice Chair Brockelman, the Board voted unanimously (0-5) to approve the Administrative Appeal of the Building Official's issuance of Building Permits B25-000078, B25-000079, and B25-000081.

**RESULT:**

**DENIED**

### **PUBLIC HEARING: 17 Hudson Street (ZP26-000009)**

*This item was addressed concurrently with the previous agenda item.*

Following a motion by Member Zaremba, seconded by Vice Chair Brockelman, the Board voted unanimously (0-5) to approve the Administrative Appeal of the Building Official's issuance of Building Permits B25-000072 and B25-000077.

**RESULT:**

**DENIED**

The Board briefly discussed that this was the first case in which AI-generated images were used, which may be acceptable if this is made explicitly clear.

*NOTICE: These minutes constitute a summary of the votes and key discussions at this meeting. A recording of these proceedings can be found online here: [Agendas, Minutes, & More.](#)*