



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

17 JUNE 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>Present</i>	
Zachary Zarembo	Member	<i>Absent</i>	
Brian Cook	Alt. Member	<i>Present</i>	
Sisia Daglian	Alt. Member	<i>Absent</i>	

City staff present: Lexie Payne (Planning, Preservation, & Zoning); Madison Anthony (Planning, Preservation, & Zoning); Alvaro Esparza (Planning, Preservation, & Zoning); Kelly O’Laughlin (Planning, Preservation, & Zoning); Josh Manion (Inspectional Services Department)

The meeting was called to order at 6:01pm and adjourned at 10:20pm.

Member Cook sat as 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 meeting minutes of 20 May 2026

RESULT:

APPROVED

PUBLIC HEARING: 39 Bartlett Street (ZP26-000025)

(continued from 3 June 2026)

Staff explained that they received updated plans highlighting the lot coverage. With the proposed shed, the lot coverage would equate to approximately 61.1% of coverage. The updated proposed plans show an area that the applicant will remove to stay within the lot coverage proposed.

The applicant team explained that the rear fence was confirmed by a surveyor to be owned by 38 Robinson. The proposal is to remove 7’ of pavement along the side of the front porch to comply with the lot coverage. The shed does not fall under the Building Permit requirements, and no fire-rated materials are required, however they are willing to apply a fire retardant to the exterior in order to mitigate any neighbor concerns regarding emergencies. The shed will be well away from the support wall and fence.

Chair Fontano opened public testimony.

Some Board members expressed concern regarding the proposed size of the structure and a lack of due diligence. The applicant team explained that they reviewed Citizenserve, which stated that any structure under 120 s.f. does not require a Building Permit. A typical shed is 10’ deep and this was built 8’ deep at 112 s.f., thus under the permit requirement. The ordinance allows up to a 12’ height and the shed was built at 9’9” high to the peak.

The Board discussed the potential findings for the case. For the first criterion, it was noted that the back fence is not aligned with the property line. The setback requirement is forcing the Hardship Variance and neither corner of the shed meets the setback requirement. The applicant's argument is that if they moved the shed forward to meet the setback requirement, it would impinge on their ability to access the bulkhead entrance. Part of the issue is the way the house is set on the lot, with the bulkhead opening in an area that it impinges on the rear setback in order to make both functional. For the second criterion, movement of the shed would lead to both a logistical and financial hardship for the applicant for minor impingements on the rear setback. For the third criterion, the Board and applicant team discussed the fire retardant measures proposed for the shed.

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

The Board agreed that there should be an additional condition added to the approval that the applicants will add a fire retardant material to the structure prior to putting on the Tyvek and completing the structure.

Following a motion by Acting Clerk Cook, seconded by Vice Chair Brockelman, the Board voted unanimously (5-0) to approve the Hardship Variance for relief from SZO Section 10.2.2.E for a shed not meeting the setback requirements in the NR zoning district, based on the findings of the required criteria as discussed, and incorporating the condition as discussed, and the additional conditions as detailed in the Staff Memo dated 28 May 2026, and the supplemental Staff Memo dated 12 June 2026.

RESULT:

APPROVED

PUBLIC HEARING: 92R Orchard Street (ZP24-000078; ZP25-000041; ZP25-000042)

(continued from 15 April 2026)

The applicant team reviewed the proposed changes to the plan. The most significant change is that the height of the proposed carport was reduced to below 12', eliminating the need for that variance request.

The applicant team also noted that a slight reduction in the impervious area was made of approximately 19 s.f., though this is still non-conforming. This impervious area of the lot is an existing non-conforming condition, and the proposed design makes a slight increase in that number. Vehicle maneuvering diagrams were submitted and letters of support were obtained from other condominium owners. The proposal is still to construct an open canopy structure for the parking of vehicles at the rear of the property. Currently, four vehicles are parked in that area, and the proposal is to simply provide a canopy; the number of vehicles will not increase. The slight increase in the impervious area is to facilitate the maneuvering of vehicles in and out. The parking structure will have translucent, sandwich panels. The vehicle maneuvering diagram was reviewed with the Board. The applicant team stated that they confirmed that the proposed maneuvering is doable and reasonable. The parking spaces within the canopy are spaced unevenly to allow some of the spaces to avoid hitting nearby obstructions. The minimum dimensions for parking spaces are 8'x16'. The team noted that these are minimum dimensions and there is nothing in the code that prevents the minimum from being exceeded. It is physical impossible to squeeze in five vehicles.

The applicant team also reviewed the criteria for relief. The first item is the number of cars permitted per carport and the second is further reducing non-conforming landscape and permeable area; both require a Hardship Variance. The physical dimensions and shape of the lot, in conjunction with the siting of the existing structure and fences results in a configuration that severely limits vehicular maneuvering on the site. The lot's existing configuration reflects decades of urban evolution and development on a small, constrained parcel which is typical of a dense Somerville building. The existing trees pose a hazard of falling limbs on parked cars. The four spaces are lawfully pre-existing. The applicant is not proposing to increase the number of cars parked on site but is requesting relief to allow this parking to continue under a parking canopy. The zoning provision in question does not take into consideration the number of dwellings served by the carport. The applicant team stated that the existing dwellings

served by the carport are sizable at 3,500 s.f. and 2,800 s.f. These reasonably result in a need for multiple vehicles. Literal application of the ordinance would compel the owner to either abandon use of two of the four spaces, or leave all vehicles unprotected. This would naturally result in a financial hardship due to the cumulative repair and replacement costs associated with unprotected vehicle storage over time. The property's existing physical conditions and the conflict with subsequent regulatory provisions, are not due to the owner's deliberate choices.

The applicant team stated that in terms of the reduction of landscape and permeable area, this issue may be the proper subject of a finding under MGL Section 6, rather than a variance. This is a pre-existing, non-conforming condition. The proposed change will not be substantially more detrimental to the neighborhood. Due to this, a variance may not be required. The intensification of an existing nonconformity may be authorized by a Special Permit or Section 6 finding, rather than the creation of an entirely new and additional nonconformity. The lot coverage non-conformity already exists. The property is at 67.8% coverage, well above the 60% maximum. The proposed work would increase the existing nonconformity, not create a new category of new conformity. The minimal increase in lot coverage is mitigated by the proposed new native plantings and a light-colored reflective roofing membrane, both of which improve the site's stormwater characteristics, reduce heat absorption, and counteract the urban heat island effect. The proposed canopy incorporates design features that affirmatively reduce the environmental impact of the additional coverage and thus mitigate the very concern the lot coverage maximum is designed to address. The team noted that a literal enforcement of the provision would impose a hardship disproportionate to any regulatory benefits. The proposed increase is de minimis in both absolute and relative terms. The relief sought is not a net detriment to the public good. It is properly considered and a modest increase in covered area, paired with design and planting choices that meaningfully offset the environmental impact of that increase. Granting this variance will not nullify or derogate from the purpose of the lot coverage regulation. If anything, it advances that purpose more effectively than a denial which would leave the property unchanged. The applicant team reviewed two letters of support. Granting this variance does not encourage additional parking or vehicle ownership. Denial would impose substantial hardships, both financial, practical, and safety-related, on the petitioner. The relief sought in each instance can be granted without detriment to the public good and without nullifying the intent of the ordinance, particularly given the canopy's reflective roofing material and the proposed introduction of native plantings which actively mitigate the environmental impact of the additional coverage.

Chair Fontano opened public testimony.

David Booth - stated that this seems like a reasonable request.

The Board noted that one constraint is in how the parcel is oriented, in that it is surrounded by parcels that are both perpendicular to, as well as parallel to it.

The Board asked about building a cover for only two parking spaces, which would be permitted by-right. It appears this would not be possible based on the vehicle maneuvering diagram presented and the existing deck structural supports.

The Board reviewed how this lot can be characterized as unique. The lot is uniquely deep for this neighborhood, allowing for two larger properties with ample backyard space. This is a topographical oddity that allows for the existing four parking spots. The depth of the lot, along with the parallel and perpendicular constraints of abutting lots, makes the parcel unique.

There was also discussion regarding whether the applicant team would retain existing trees on property to the greatest extent possible or replace them post-construction if they need to be removed.

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

The Board discussed the second criterion; if the applicant was to follow the code explicitly, they would have to reduce the amount of parking they currently have on site. Also, it is not possible to build a two-car structure and still fit two other cars on site based on the foundation requirements and the turning radiuses.

In terms of the third criterion, there is no objection from abutters, the proposal would not have an impact on the public good and, in fact, may improve some conditions in the neighborhood. The request therefore does not derogate from the requirements of the NR zoning district.

Following a motion by Acting Clerk Cook, seconded by Member Fullerton, the Board voted unanimously (5-0) to approve the Hardship Variance for relief from SZO Section 10.2.2.D regarding the number of cars permitted per carport in the Neighborhood Residence (NR) zoning district, allowing four cars, with the findings on the required criteria as discussed, and incorporating the conditions as detailed in the Staff Memos, dated 10 April 2026 and 10 June 2026.

RESULT:

APPROVED

Following a motion by Acting Clerk Cook, seconded by Vice Chair Brockelman, the Board voted unanimously (5-0) to approve the Hardship Variance for relief from SZO Section 14.1.7.B.2, regarding further reducing non-conforming landscape and permeable area, with the findings of the required criteria as discussed, and incorporating the conditions as detailed in the Staff Memos, dated 10 April 2026 and 10 June 2026.

RESULT:

APPROVED

Following a motion by Acting Clerk Cook, seconded by Vice Chair Brockelman, the Board voted unanimously (5-0) to take a ten-minute recess.

The Board returned at 7:37pm.

PUBLIC HEARING: 24 Berkeley Street (ZP26-000037)

(continued from 20 May 2026)

The representative for the owners of 24 Berkeley Street explained that the Administrative Appeal is only an appeal of the Inspectional Services Department's (ISD) determination related to two Building Permits, issued on 15 December 2025 and 17 December 2025, to his client for construction and foundation of a backyard cottage at 24 Berkeley Street. The appellant is not appealing the Building Permits themselves, he is appealing ISD's response to his request for determination that was filed in March 2026 regarding the issuance of the Building Permits. The appellant's original 16 March 2026 narrative, with his Administrative Appeal, stated that he was appealing the Building Commissioner's determination that the minimum building separation between the backyard cottage and his garage is preempted by the building code.

24 Berkeley's representative stated that in the appellant's 2 June 2026 narrative, he states that he is appealing the classification of his garage as an accessory structure as well; the appellant cannot keep adding appeal issues to the appeal in the middle of the appeal. The issues about misclassification of buildings on other properties, including the appellant's property at 23 Avon Street, are irrelevant and not before the Board this evening. The Administrative Appeal is only an appeal of ISD's determination that the backyard cottage Building Permits were validly issued to his client. The appellant did not appeal the Building Permits themselves within the required 30-day timeline, which started beginning on 14 January 2026 and 16 January 2026. This is only a later appeal, based on the appellant's request to ISD on 10 March 2026, about three months after the Building Permit was issued, and about two months after his client broke ground, posted permits on the property, and raised a company banner on the property. This was still within the 30-day appeal period of the Building Permits issued on 15 December 2025 and 17 December 2025. They stated that this is not an appeal based on the building code, or any other code. This is

an Administrative Appeal under Chapter 40A of the General Laws and Section 15.5.2 of the Somerville Zoning Ordinance (SZO). They stated that the Administrative Appeal should be denied for the fact that it was filed too late. If the Board does not wish to deny the appeal on those grounds alone, the Board should deny the Administrative Appeal on one or more of the other grounds raised in the brief.

Other grounds include that the appellant's garage at 23 Avon St is an outbuilding accessory structure, such that the building separation requirements he is using as the basis of his appeal do not apply. Secondly, the appellant did not seek to classify his garage at 23 Avon as anything other than an outbuilding. This was added to the recent, supplementary narrative. This appeal is not related to Avon Street; it is related to Berkeley Street. The appellant admits to improvements having been made to his garage. However, there were no permits for that work, and someone should not be able to use illegal, unpermitted improvements to claim that a garage is a backyard cottage. The owner of 24 Berkeley relied on ISD's determination and its issuance of the Building Permits in question and spent time and money on building the backyard cottage under those permits over months. Lastly, they stated that the appellant is not aggrieved by the issuance of these Building Permits.

The representative explained that the appellant did not file his Administrative Appeal on time. The issuance of a Building Permit by ISD starts a 30-day appeal period. Once that appeal period runs out, the ZBA lacks jurisdiction to consider an appeal. It was clear before the 30 days ran out that the backyard cottage project at 24 Berkeley was occurring due to a groundbreaking, posting of the permits, and company banner on the property. Also in January 2026, the appellant told his client that he had checked on the project and pulled the drawings filed. His client continued working on the backyard cottage in January, February, and March. The appellant waited until 10 March 2026 to go to ISD and question the permits. They noted that one cannot know about a Building Permit, let the 30-day appeal period run out, and then manufacture a new appeal period by making a request for a determination. The case law on this is clear. The delay in filing the appeal has harmed his client because he continued building in the belief that he had valid Building Permits. His client stopped when the appeal was filed. Current building on the site is for the main two-family building, which is not the subject of the appeal. His client did not know right away that the appeal had been filed because they were not given any notice until right before the hearing on 20 May 2026.

They also stated that if the Board does not want to find that the appeal was too late, the Board could find that the building separation requirements in the SZO do not apply in this case because the appellant's garage is an accessory structure outbuilding, not a backyard cottage, and the requirements do not apply to accessory structure outbuildings. The appellant called his garage a "garage" in a 13 March 2026 text exchange with his client, copies of which were attached to the paperwork. The appellant did not call it a "garage" in his appeal. The appellant only started calling it a "barn" during the May 20th hearing. The garage is taxed as a garage by the City, and the appellant has never asked to change that assessment to a backyard cottage. The garage was called a garage in the 2017 Building Permit application. Calling the structure a barn does not solve anything but actually makes it more of an outbuilding. The structure has always been a garage. The SZO gives ISD the authority to determine whether a structure is an accessory structure or not, based on whether the structure is customarily found with the permitted use, such as a garage. The representative of 24 Berkeley stated that this structure is incidental and subordinate to the principal building, the main house, in terms of its area, size, function, and location, similar to a garage. It is operated and maintained under the same ownership of the principal building, which is the appellant. ISD's determination that the garage is outbuilding is correct. Although, the Board's discussion is regarding the backyard cottage of 24 Berkeley, not the appellant's garage.

The representative also explained that for a structure to be reclassified as something else, like a backyard cottage, it must meet all of the requirements for the new classification and the appellant's garage does not meet all of these for a backyard cottage by his own admission. The size of a structure matters when evaluating its nature. The appellant brought up the case of 21-23 Francesca Avenue. In that case, the owner had a very large carriage house that 1.5 stories tall with a 975 s.f. floor plate, as opposed to the appellant's 300 s.f. footprint garage. The owner of 21-23 Francesca filed for a Building Permit to convert the carriage house into living space. The appellant in the case at hand did not obtain permits to alter his garage at 23 Avon. The appellant admitted that his garage has drywall, residential vinyl windows, and molded baseboards. There are no Building Permits for that work and there is no

Certificate of Occupancy for the structure as a backyard cottage. Until the May 20th hearing, the City and the appellant have called the structure at 23 Avon a garage. The appellant cannot use unpermitted improvements to bootstrap a change in classification of his garage into something as substantial.

The representative reiterated that his client relied on ISD's issuance of the Building Permits and has spent a lot of time and money on the backyard cottage construction. His client built the backyard cottage under valid Building Permits for about three months before the appeal was made. It is not his client's job to determine whether ISD issued the Building Permits properly or whether the appellant's garage is properly classified. Detrimental reliance is not usually applied to public entities, but to do so would negate the requirements of the law intended to protect the public interest. The appellant has made no showing that allowing the existing Building Permits to stand negates the public interest in any way. In fact, creating more housing in a backyard cottage meets the goals of the SomerVision Plan and the purposes of the SZO for the NR zoning district. All relevant codes are met. The City should be stopped from revoking the Building Permits on those grounds. The appellant is not aggrieved by this in any way. The backyard cottage at 24 Berkeley and the garage at 23 Avon overlap by 1.72'; a de minimis amount. The appellant has not shown that this tiny overlap aggrieves him in any way. However, revoking the backyard cottage Building Permits would cause huge harm to his client by forcing them to remove a mostly constructed backyard cottage completed under valid Building Permits due to an appeal filed about three months after the permit was issued.

The appellant noted that the makeup of the Board is different during this hearing than the last one and he asked if all Board members have reviewed the presentation materials. Board members confirmed that they had done so.

The appellant stated that he disagrees with the representative's characterization of the barn at 23 Avon being an outbuilding. The City of Somerville, according to the Assessor's Office, does not record any current outbuilding at 23 Avon Street. Assessor's records indicate that there is 182 s.f. of living space above the garage, which he is paying taxes on. Barn and garage are incidental, everyday terms. Without definition in the current SZO, using these terms in communication does not bind any current or previous owners to a particular building type. The dimensional character and use of the building is what determines the classification. The definition of garage in a previous SZO is irrelevant. The decision of ISD about the classification is at the heart of the appeal. The barn is not an accessory structure because ISD says it is. This is a matter of correctly interpreting the ordinance and for the Board to make its own assessment. The representative of 24 Berkeley stated that the Board should reject this because he did not seek to classify the garage. There is no such application available, nor required to classify a building. Given the SZO building separation, it necessarily requires classifying buildings on abutting lots. The City does not assert that it did this; in fact, it explicitly states in its memo that it did not. The Board is not being asked to change the use of the structure or grant any permits. The Board is being asked to interpret the ordinance and determine the correct classification. The 21-23 Francesca Ave decision did exactly this; it classified an existing structure under the ordinance without changing its use or granting a permit. The City, by its own admission, did not have any prior classification of the barn at 23 Avon Street before he sent an email to ISD, and therefore there was nothing for him to appeal prior to that. His email and the appeal narrative consistently refer to the barn as an accessory building. The representative stated that he did not obtain permits to alter the garage. He does not rely on habitable living space in the barn as a necessity or prerequisite for the building to be classified as a backyard cottage. The SZO defines no minimum square footage for living space for a backyard cottage, and it explicitly defines vehicular storage as a typical use. Habitable living space in the building merely supports the classification according to ISD's own criterion for considering whether a building is an accessory building. Based on the Assessor's record, the living space has been present since the current zoning law regime came into effect in 2019. The barn at that time would have been correctly classified as a backyard cottage, even though the City did not classify the building at that time. The appellant stated that the building separation requirements are in the public interest. The ordinance defines separation, setbacks, and density which exist to protect light, air, and neighborhood character for abutters and the public. The opposition cites that estoppel is presumptively unavailable against a municipality for enforcing the zoning law. Enforcing a building separation requirement is enforcing the public interest.

The appellant stated that the developer spent a large amount of time and money, but perhaps most of this money was spent after the owner of 24 Berkeley and ISD were notified of the violation. The developer continued construction after they were notified of the appeal. The developer had a chance to remedy the violation prior to the pouring of the foundation. ISD could have remedied the known violation by rescinding the permit and issuing a stop work order. The 24 Berkeley representative also stated that he, as the appellant, is not aggrieved. The City acknowledges that he has standing as an abutter. Abutters are entitled to a rebuttable presumption that they are aggrieved persons under the Zoning Act and therefore have standing to challenge a decision in front of the ZBA. As a direct abutter, he is presumed to be aggrieved under MGL 40A Section 11, under the interest of the building separation standards protections of light, air, and buffer between adjoining structures. The 24 Berkeley cottage sits about 6.5' away. The ordinance requires 10'; for a deficiency of 3.5'. This is not de minimis. The overlap of nearly 2' is not a rounding error. MGL 40A provides two means by which an appellant can appeal a decision, via Section 7 and Section 8. Appeals under Section 8 may only be made within 30 days of the Building Permit issuance. The Section 7 enforcement route, which triggers the clock following a decision by a Building Official, rather than the Building Permit, is available to an aggrieved party even if they received notice of the permit. This violation was not ascertainable from the permit record. The set of drawings from the permit that he reviewed in January 2026 did not contain any information that made the zoning violation ascertainable. The set of drawings that ISD produced certified a 10.1' separation, which complies with the SZO. The documents he received did not depict the barn at 23 Avon Street anywhere. A page referenced on the cover sheet was missing from the set he was given. This set was also missing the civil drawings. These drawings are in the current permit file but were not in the one he pulled in January. This left the permit file without any reference or depiction of the 23 Avon Street barn. The package omitted any document that would have given him the opportunity to ascertain a view of the compliance with the SZO. Based on his review of the permit at that point, he assumed compliance with the ordinance. The current drawings for the foundation permit do not provide measurements between the 24 Berkeley cottage and the rear lot line. A reasonable inquiry in January into the only permit that addresses zoning compliance would not have disclosed the violation. Thus, case law supports the use of the Section 7 appeal of the Building Official's decision in this case. His assumption was that the 24 Berkeley Street cottage was not positioned in such a way to trigger a building separation issue. The information provided by the City for the permit did not raise any question on this. The appellant stated that once the violation became ascertainable on the ground, he acted immediately. The actual separation became measurable only when the foundation forms were placed, and he could measure from the face of his building at 83". He reported that to ISD immediately on 10 March 2026. The March 10th request is a valid Section 7 enforcement request. It alleged a present violation in active construction. He stated that the appeal is timely, and the Board has jurisdiction.

The representative for the 24 Berkeley owner showed that the Assessor's card clearly calls the structure as 23 Avon a finished garage. The original appeal challenges the determination of the Building Commissioner that the minimum building separation distance specified in the SZO for the backyard cottage building type is preempted by the Massachusetts State Building Code with respect to fire separation distance. On 2 June 2026, the appellant suddenly added that the accessory structure was misclassified as a garage. Regarding the appellant's statement that there was no application to classify the garage, the representative stated that he has filed a number of applications to reclassify properties through either the Building Permit or Certificate of Occupancy processes. The representative noted a number of text messages in which the appellant classifies his own property as a garage. Based on the City's form based code, all structures must be classified, and this one is classified as an outbuilding. A Building Permit was needed for the improvements made to the garage at 23 Avon, regardless of whether it is considered living space or not. The backyard cottage is entirely up to code. Even with the separation item, regardless of what the garage structure is considered, the representative of 24 Berkeley stated that it is all up to code. There is no public interest in allowing it to stand. The fact that the appellant reviewed the plans in January and was not diligent enough to find this issue at that time is not his client's problem. That does not make the 30-day appeal period for the Building Permit non-existent.

Chair Fontano opened public testimony.

The Board noted that this overlap is under 2' and the cottage is not blocking each other's light or windows. The Board asked about when the appellant was aware of the issue, as the site plan that was submitted to the Board

appears to show the 23 Avon outbuilding structure on it. The appellant stated that this is untrue. He became aware of the document on or around 18 May 2026. The permit drawings pulled in January did not include that document and none of the documents submitted to him by the City showed his barn structure.

The Board asked what was communicated to the appellant in terms of a justification for the less than 10' separation and placement of the backyard cottage at 24 Berkeley in relation to the structure at 23 Avon. An ISD Zoning Review Planner stated that the appellant's application materials dated 13 March 2026 was the only correspondence they personally had with the appellant. In speaking with the Staff member who reviewed the permit, it was indicated that, based on the material review and the GIS classification system file, there did not appear to be a conflict with the building separation, as no backyard cottage existed at 23 Avon. Based on the Staff's Supplemental Memo, ISD's response is that, as a normal homeowner, the appellant was assumed to understand that an accessory structure on his property was default classified as an outbuilding or accessory structure and nothing else.

The appellant stated that he went to ISD in January and got hard copies of the permits. They did not have any reference to his barn on them. The drawings for those permits today look different. The 24 Berkeley representative stated that his client asserts that the civil drawings were always available.

The Board stated that it is unclear if the structure could be classified as a backyard cottage, even if it formally went through a process, due to its proximity to other principal structures and other properties. The Zoning Review Planner stated that ISD fields a number of requests for interpretation about existing building's classifications within the SZO. In general, ISD reviews the dimensional profile of the building, as well as its character and use while leaning conservatively on making a determination that would grant an existing non-conforming property more entitlements or a higher intensity of use than what is currently the character of the structure. The structure in question has a barn door and a garage door. It is not habitable by the definition of the SZO. If ISD had received a request for interpretation by the appellant that the accessory structure be better classified as a backyard cottage, they would have noted the non-conforming setbacks on either side and made the same determination as was made in the case of 21-23 Francesca.

The 24 Berkeley representative explained that as of 6 November 2025, the civil site plans and lot cover plans were uploaded for anyone to see.

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

Following a motion by Acting Clerk Cook, seconded by Member Fullerton, the Board voted unanimously (0-5) to approve the Administrative Appeal of the Building Official's issuance of Building Permits B25-001643 and B25-001644.

RESULT:

DENIED

PUBLIC HEARING: 47 Trull Street (ZP26-000024)

The applicant team explained that 47 Trull Street is part of a three-unit condominium located in two structures. The applicants are on the second and third floors. The site plan shows two structures on the lot; the main house and a secondary detached structure. There is currently exterior work going on, which includes enclosing the second floor front porch. The need for a variance is triggered by the minimum front setback, as the applicant seeks to remove a wall between the three-season porch and the existing living space, and heat the porch. The enclosed porch is by-right but the change leads from it being a building component of a porch to being part of the main massing. This then changes the front setback requirement to where the porch is instead of where the house is. The front setback requirement is 10'. Not counting the porch, the front setback is 10'9". Counting the porch, as it is connected to the inside living space, gives a front setback of 5'7", but in reality, nothing is changing. From the

outside, the house will look the same, whether the variance is granted or not. This is an unusual property, because it has two structures on one lot which crowds the lot. This situation is not shared by the other properties in the neighborhood. There is no other place on the lot for the addition created by connecting the porch to the dwelling space due to the second house on the lot, and the location of the 47 Trull Street main house, which is jammed against the left lot line. There is substantial hardship because the applicants have no interior entry, aside from a very narrow 3.25' wide hallway. This project will allow them to have a coat closet, a usable entry space, and a small office, which would then free up a bedroom for their son. There is no substantial detriment, because the porch enclosure is by-right; it is only the interior connection of the enclosed porch and adding heat that triggers the variance. The interior change is driving the variance request, not the exterior change. The applicant team stated that the relief sought is small and is for the public good to keep with the purpose of the NR zoning district to allow growing families to be able to modify their houses so they can stay. There were six letters of support that were submitted.

Chair Fontano opened public testimony.

Tori Antonino (65 Boston Street) - stated that this is a reasonable request, and she supports the variance request.

The Board noted that this is not an unusual request for the character of the neighborhood, as second floor porches of a similar size were enclosed for many of the houses on this street.

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

The Board discussed the findings. The applicant has clarified the unusual character of the lot and the presence of an additional structure which limits expansion in the way the family would like to expand. There is a financial hardship in that the applicant would not be able to make use of the space in a way it would like for the growing family. This will not violate the public good or derogate from the zoning district; it is somewhat similar to other changes that have been made nearby.

Following a motion by Acting Clerk Cook, seconded by Vice Chair Brockelman, the Board voted unanimously (5-0) to approve a Hardship Variance for relief from SZO Section 3.1.8, regarding the minimum front setback in the NR zoning district to allow for an enclosure of an existing front porch, with the findings on the required criteria as discussed, and incorporating the conditions as detailed in the Staff Memo dated 9 June 2026.

RESULT:	APPROVED
----------------	-----------------

PUBLIC HEARING: 1 McGrath Highway (ZP26-000034; ZP26-000052)

(continued from 20 May 2026)

The applicant team explained that this property is partly in Somerville and partly in Cambridge. The hotel project was previously approved for this site in 2017 but stalled due to unforeseen environmental issues, which caused a redesign. In 2019, the ZBA again approved a revised hotel project with Site Plan Review and variances under the old zoning ordinance. Then the zoning changed, COVID hit, and a nine-story lab building was approved next door at 15 McGrath Hwy. In 2023, both the ZBA and the Planning Board, and the Cambridge Board of Zoning Appeals, approved the hotel. The ZBA granted a Hardship Variance for front façade build-out, and the Planning Board gave Site Plan Approval and two Special Permits. The applicant team noted that approval envisioned a joint driveway and shared parking between the lab building at 15 McGrath. However, that lab building then dug a hole and stopped. The hotel cannot build its building next to a pit and cannot share anything with a project at 15 McGrath which may not happen. The timing between the two projects is no longer aligned. The hotel is proposing a separate driveway located on the Cambridge side of the property and a different sized hotel, pulling it away from the pit in the ground, while still allowing space for a bike/pedestrian ramp from the hotel property up to the bike path and the green line extension at the top of a large retaining wall. A major revision of the prior Site Plan

Approval for the hotel that was approved in 2023 is needed. The applicant also needs a Special Permit to establish the hotel use again and a Special Permit for a formula business use for the hotel. However, for this meeting, the applicant is requesting two Hardship Variances; one to allow surface parking at the site and the other for parking lot landscaping.

The applicant team explained that the proposal is for the Moxy Hotel, a 145-key hotel; 95 of those keys are located within the Somerville city limits. The hotel will be 62,646 s.f. total, with 14,508 s.f. in Somerville. The design is primarily metal panels, with horizontal and vertical corrugated panel, as well as a wood-look accent panel between the windows. This will be a six-story building with guest rooms are on floors 2-6, and a lobby and amenities on the first floor. The building extends out over some of the parking lot, allowing for a drive under area. Behind the property is a massive retaining wall that gets taller as one goes into Somerville. It was very important to the Friends of the Community Path, the Friends of the Grand Junction Path, DOT, Cambridge, and Somerville, that there be a way to get from the cycle track on McGrath/O'Brien to the community path at the top of the retaining wall. The only location for this to work will be towards Cambridge. The applicant team proposes to donate land on the right of the plan for the ramp.

The applicant team further explained that the two variances that are being requested are for surface parking and landscaping buffer requirements. The property is extremely unique. It is bisected by a municipal boundary between Somerville and Cambridge. The team is providing a reserve area that is 14.5' wide for the future path construction at the rear of the property. Due to the elevation, this will be classified as a walkway versus a ramp. Additionally, the site carries contaminated soil that the proponent is dealing with, therefore making subsurface parking economically unfeasible. Currently, the applicant is providing 20 spaces that are situated in Somerville. A portion of these will be uncovered and a portion will be covered. The surface parking itself is completely shielded from public view within the Somerville side. The path location precludes the shifting of the building to modify any of the parking spaces at the rear. An extensive landscape plan has been provided, showing extensive screening in the area between 15 McGrath and 1 McGrath, and substantial screening at the top of the retaining wall. The project meets the green score requirement with the current landscaping.

The second variance is relative to landscape buffers. There is a requirement for an 8' wide landscape buffer, and currently the plan shows just over 3.5'. There are also requirements for an 8' wide interior landscape partition. The City of Somerville has restrictions on the number of spaces allowed in a row before a full 8' wide landscape island is required. The site has very minimal parking, with 20 spaces in the back. Adding those interior islands would lead to the loss of two spaces. Increasing the buffer from the currently 3.5' to 8' would also be a loss of another two spaces. This would be a total loss of four spaces in an already minimal parking area provided for the hotel.

The property has an unusual and unique shape . It contains a very large retaining wall in the rear, which abuts the community path, and the green line extension. The property is partly in Somerville and partly in Cambridge, and each have different zoning ordinances and different requirements. The building also has to get pushed back from McGrath Hwy because the applicant is required to have a certain width sidewalk, and some of the sidewalk is going into the property. The property is contaminated, such that the underground parking would be cost prohibitive. The ramp space means that the building cannot shift any further into Cambridge. The pit on the left means the building cannot shift to the left to create more buffer or other space. There is no other property in the neighborhood of this size, shape, and multi-municipality configuration, with the contamination and allowance of room for a public ramp. The zoning ordinance in Somerville requires landscape islands every five parking spaces, at the end of every row of at least 8' wide, and each with a large tree, The applicant cannot comply with these island requirements and still have a functional parking lot which meets the hotel's needs. Literal enforcement would involve substantial hardship. The 15 McGrath development next door stopped and left a water-filled pit, forcing the hotel building to be shifted over from where it was previously approved. The applicant is proposing to give up space for the ramp because that was a commitment previously made. The property's odd shape makes compliance not feasible in light of the issues already raised. The relief sought does not cause substantial detriment to the public good or substantially derogate from the intent or purpose of the High-Rise (HR) zoning district, because the surface parking and lack of the required islands in the buffer will not be visible from McGrath Highway, as these will be behind the building and below a large retaining wall. The project has been approved several times before, over a number of

years, by both Somerville and Cambridge, because it improves an existing decrepit, abandoned commercial site with a six-story hotel in the HR district. The project meets the goals of SomerVision by creating transit-oriented development, adding local jobs, providing open space, and making Somerville a more prosperous and attractive place. The project is harmonious with the SZO, and not injurious to the neighborhood because there are existing hotels on the McGrath/O'Brien corridor with surface parking without the required amount of parking lot landscaping.

Chair Fontano opened public testimony.

David Booth - stated that he is generally in favor of the project, but he is not in favor of the variance as requested. He does not believe the variance is justified as requested. The landscaping variance is dependent on the surface parking variance. Although the developer points out that the ground is contaminated, making underground parking very expensive to excavate, they did not provide any clear justification for not providing above-ground parking instead, as would be required by the City ordinance. The developer states that Cambridge allows surface parking at this property, but Somerville does not. While this is true, it is moot, because Cambridge does not prohibit above ground or underground parking. Therefore, the fact that part of the property is in Cambridge and part is not, does not add any burden to Somerville's requirements. If the Board decides to grant a parking variance, it should be with conditions that mitigate the noncompliance. One would be to require the parking area to be covered either with some kind of green growing roof or reflective/solar panels. Secondly, a condition to require additional landscaping greenery, perhaps more large trees. The developer states that the relief will not cause substantial detriment to the public good because the unique configuration of the building means that the surface parking will not be visible from McGrath Highway. Although that is true, visibility is not the only thing that matters; heat-absorbing and Co2-absorbing greenery matter also.

Tori Antonino (65 Boston Street) - stated that it is unfortunate that the adjacent property is still in the wings, but she opposes granting this variance. The City has worked hard in its zoning to get rid of surface parking. This is a highly paved city, especially this particular area. She does not believe a surface parking lot will include pervious pavers or be green at all. The applicant stated that it would be a hardship to go underground due to cost. This is disingenuous, because the applicant must have known going in that this was a contaminated site and excavation would be difficult. The City needs every single square foot that is required in zoning for landscaping to be landscaped.

The applicant team explained that the project meets the green score. The applicant previously proposed shared parking with the lab building but was never proposing underground parking, because it cannot be done. The lot is entirely paved now. The applicant is proposing a small parking area, some of which will be under the building. The project has a very robust MMP with mobility in terms of shuttle bus access and the parking open to the public. The applicant had to downsize this hotel and move it because the lab building stopped construction and it still wanted to give the ramp. The applicant is not being disingenuous, and the project fundamentally has not changed. It was always going to be somewhat like this. The project proposes a net decrease in impervious cover as it compares to the way the site currently sits with the car wash and the old commercial building. It also currently does not have any drainage; all of the water that currently hits the ground simply flows into the municipal system. The proposed design has collection and infiltration which is a vast improvement.

The applicant team explained that there is not only contamination but a high water table for the site. The project is giving 10% of its land to create the path, and is also squeezed down in size, and so losing 27% of the long-term value of the project.

The Board discussed that the size of the parking lot is very minimal considering the number of keys for the hotel. The Board suggested a commitment to apply the same square footage of lost island areas and green space to either permeable pavers in select areas, or to additional landscaping, such as along the bike path. The Board noted that the important public façade is the horizontal planting area for pedestrians and bikers to look down onto. The applicant team agreed that there will be a robust planting bed in that area.

Jaclyn Pillitteri (31 Mansfield Street) - stated that she opposes this variance. This is a dilapidated commercial area, but the zoning was chosen for a reason and the importance of trees, especially in a hot urban area such as this, for cooling temperatures and mitigating stormwater cannot be overstated.

The Board asked the applicant team how they weighed what landscaping elements would be required and how the green score is met without fulfilling some of the requirements. The applicant team explained that the request is for a variance for two internal landscape islands. There is not enough additional space to install trees of substantial quality on the property to meet the requirements of the green score through this. In creating the streetscape along with the sidewalk, bicycle parking, and space for a future blue bike area, there will be an entire row of trees. The green score requirement is subject to Planning Board approval. As part of the site plan, there are measures in place to ensure that the landscape plan as presented is installed and constructed as shown.

The Board noted that the 3.5' nubs on the western side of the property may not see much successful growth. A suggestion is to extend those out at least 8' wide.

Other Board members stated that they were comfortable with the presentation made by the applicant team in terms of complying with the variance criteria. It was noted that the Board should not make detailed suggestions on changes to the plan, though could continue the hearing to allow the applicant time to consider these suggestions.

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

Following a motion by Acting Clerk Cook, seconded by Member Mobayed, the Board voted unanimously (5-0) to approve a Hardship Variance for relief from SZO Section 5.1.16.B.i, regarding parking types to allow a surface-level parking lot in the High-Rise (HR) zoning district with the findings on the required criteria as discussed, and incorporating the conditions as detailed in the Staff Memo dated 11 June 2026.

RESULT:

APPROVED

Following a motion by Acting Clerk Cook, seconded by Vice Chair Brockelman, the Board voted unanimously (5-0) to approve a Hardship Variance for relief from SZO Section 10.3.7, regarding parking lot landscaping requirements in the High-Rise (HR) zoning district with the findings on the required criteria as discussed and incorporating the conditions as detailed in the Staff Memo dated 11 June 2026.

RESULT:

APPROVED

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.](#)