



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

**2 SEPTEMBER 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> |         |
| Zachary Zarembo | Member      | <i>Present</i> |         |
| Brian Cook      | Alt. Member | <i>Present</i> |         |
| Sisia Daglian   | Alt. Member | <i>Present</i> |         |

City staff present: Kit Luster (Planning Division); Madison Anthony (Planning Division); Dan Bartman (Director of the Planning Division)

The meeting was called to order at 6:01pm and adjourned at 7:04pm.

*Member Mobayed sat as Acting Clerk.*

**GENERAL BUSINESS: Meeting Minutes**

Following a motion by Acting Clerk Mobayed, seconded by Member Brockelman, the Board voted unanimously (5-0) to approve the 5 August 2026 meeting minutes.

**RESULT:**

**APPROVED**

**GENERAL BUSINESS: MGL 40A Changes to Variance Criteria**

Staff explained that the Governor signed the fiscal year budget for the State which included an emergency add-on item that amended MGL 40A, fundamentally changing how variances work in the state of Massachusetts.

The first of the three large changes is to the first sentence which used to read that the permit granting authority 'shall have the power to grant.' This was changed by deleting the words 'have the power to.' This language now reads that a permit granting authority "shall grant" a variance if the subsequent sections are satisfied.

The second change was to the test that is used by the Board to determine if a variance should be granted. The old version was focused on soil conditions, the shape or topography of the land, or the shape of a structure, and how these might cause a substantial hardship. The new version is focused on zoning. It is no longer the land causing the problem; the subject of the test is whether or not the ordinance itself causes a practical difficulty. The State commissioned a housing needs assessment which concluded that zoning is the primary problem across the Commonwealth inhibiting the construction of residential units. The State has determined that there is a need for 220,000 housing units across the Commonwealth. The State has identified that the primary barrier to achieving that goal is zoning itself. The Board previously used the substantial hardship test, but the new language is focused on whether or not the ordinance itself is out of alignment with what would be practical for delivering a building. The new language reads that strict enforcement of the ordinance would result in a practical difficulty. The Board will weigh the benefits to the applicant and to the public against a detriment to the public health, safety, and

welfare of the immediate neighborhood, while also prioritizing the production of housing in coming to a conclusion.

The third change was that the old version of 40A authorized municipalities to decide whether or not they wanted to allow use variances. Allowing use variances undermines the decision-making in creating districts and deciding what uses are allowed to be in those areas. The change to State law will now mandate that municipalities have to allow and offer residential use variances, if the proposal satisfies the practical difficulty test. This will allow applicants to move forward with building residential units where the City may have previously planned for commercial development.

The Board asked if the City would consider going through the ordinance line by line to determine where the potential practical difficulties may already exist. Staff stated that a five-year review project for the Somerville Zoning Ordinance (SZO) was launched at the beginning of this year and can consider this item. The phrase 'practical difficulty' is not defined in the legislation, making this more difficult.

### **GENERAL BUSINESS: Board Jurisdiction Zoning Amendment**

The proposed Board Jurisdiction Amendment deals with the FY2027 budget goal of permit streamlining. This proposed amendment changes the permit granting authorities for some of the zoning districts, which is in line with the Mayor's budgeting goal for streamlining the permitting process. This will consolidate the review of Site Plan Approval and Special Permits in the City. Somerville calls it Site Plan Approval, but other municipalities call it Site Plan Review; this is a permitting process created by cities and held valid by the MA Supreme Judicial Court.

In the FY2027 Economic Development Bond Bill at the State level, it is proposed to include language that establishes uniform rules for Site Plan Approval/Review across the Commonwealth. The language is not yet finalized because the House and Senate have passed different versions of the bill. The City's proposed amendment will support the Mayor's 2027 permit streamlining budget priority by preparing Somerville's permit granting authorities to specialize on permit types and corresponding timelines, findings, criteria, and decision requirements, also based on the changes to MA General Law 40A. In Somerville, the Zoning Board of Appeals (ZBA) has additional responsibilities, such as being the permit granting authority for certain districts: the Neighborhood Residence, Urban Residence, Commercial Business, Commercial Industry, Tufts University, and the Floodplain Overlay District. The Planning Board currently processes Site Plan Approval and Special Permits for all the Mid-Rise districts, the High-Rise, Fabrication, Commercial Core, Research and Development, and the special districts: Civic, Powderhouse School, Assembly Square, and the mixed-use special districts. The proposed zoning amendment would enable the Planning Board to be responsible for all the Site Plan Approval and Special Permits across all zoning districts in Somerville. It would also enable the ZBA's purview to be in line with the permits required by MA General Law Chapter 40A. In last fiscal year, the ZBA heard 25 variances, six Special Permits, and three Administrative Appeals. The year before that, it heard 31 variances, 11 Special Permits, six Administrative Appeals, and one Site Plan Approval. If these changes are adopted by City Council, any previously permitted Site Plan Approval or Special Permit could return to the ZBA for a Plan Revision. Pending the adoption of any zoning amendments, the ZBA and Planning Board would need to update their Rules of Procedure and Policy to be in line with the SZO and the amendment.

The Board asked if the City is aiming to finalize this reorganization as soon as possible, or if the City is waiting to better understand the changes to the State law. Staff explained that the variance changes, which were part of the State's Budget Bill, were made effective with a retroactive date of July 1st. The boards are being asked to focus on variances, appeals, and 40Bs as a response to things that have already happened. The anticipation of the passing of the Economic Development Bond Bill is because the language around Site Plan Approval is very similar in the Senate and House bills. The amendment has been submitted, and Staff is now waiting for the Land Use Committee and Planning Board to organize a Joint Hearing, likely sometime in September or October.

In response to a question from the Board, Staff explained that the Planning Board would still have purview over Site Plans for lot splits. The language on the books would still allow them to be handled administratively, unless this were otherwise changed.

**PUBLIC HEARING: 180 Somerville Ave (ZP26-000057)**

The Board noted that there are materials missing from the application which they would like submitted prior to holding the hearing. The applicant team stated that the only things being proposed are interior work. There are no changes in use or changes to the exterior of the building proposed under this permit. A traffic study, along with some of the other materials, do not seem necessary for this proposal. The Board stated that there are certain requirements put forth by the City which they believe the applicant should comply with.

Following a motion by Acting Clerk Mobayed, seconded by Member Brockelman, the Board voted unanimously (5-0) to continue this hearing to 14 October 2026.

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| <b>RESULT:</b> |
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| <b>CONTINUED</b> |
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*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.](#)*