



# City of Somerville, Massachusetts

## City Council Land Use Committee

### Meeting Minutes

Thursday, October 19, 2023

6:30 PM

#### Joint Meeting with the Planning Board

The meeting took place virtually via Zoom and was called to order at 6:30 PM by Chair McLaughlin and adjourned at 9:10 PM on a roll call vote of 4 in favor (Councilors Wilson, Ewen-Campen, Davis and McLaughlin), none against and 1 absent (Councilor Gomez Mouakad, who had a family obligation).

#### Others present:

Members of the Planning Board (Michael A. Capuano, Amelia Aboff, Jahan Habib, Michael McNeley, Debbie Howitt Easton and Luc Schuster), Dan Bartman – Deputy Director OSPCD, Emily Hutchings – OSPCD, Andrew Graminski – OSPCD, Kevin Roche - Deputy Director of Engineering Services, Peter Forcellese – Legislative Clerk.

The Committee recessed from 6:32 PM to 6:36 PM and from 9:08 PM to 9:09 PM to allow the Planning Board to convene and adjourn their part of the Join Meeting.

#### Roll Call

**Present:** Chairperson Matthew McLaughlin, Vice Chair Lance L. Davis, Ben Ewen-Campen and Jake Wilson  
**Absent:** Beatriz Gomez Mouakad

#### 1. Public Hearings

- 1.1. Mayor's Request (ID # [23-1198](#)) Requesting ordainment of an amendment to the Somerville Zoning Ordinances, Sections 3.1 Neighborhood Residence and 3.2 Urban Residence, to permit the house and triple decker building types without any conditions, and to repeal the lot depth, dwelling units per lot, and development benefits requirements.

Director Bartman gave a presentation on this item and said that the MBTA Communities Act (Act) requires the city to permit 3 dwelling units by right. He noted that this amendment is primarily based off of Chair McLaughlin's encouragement for the Planning Department to review potential changes that were believed to be valuable for the community. He reviewed the proposed changes related to the residential districts for Semi-detached Houses, Building Types, Lot Dimensions and Dwelling Units per Lot. With these changes, all of the building types would be permitted by right within the setbacks, so they would still have to meet open space requirements and green scores. All of those standards would still apply, but they would all be permitted by right. With no location or criteria, lots would be permitted to have one principal building plus the backyard cottage and houses and triple deckers across the city would both be permitted by right and be allowed to

have 3 units.

Chair McLaughlin open the Public Hearing and 8 people offered comments.

Comments from those in favor of the item:

- These changes will ensure that the city is both compliant with State law and achieving its goals of making sure there's enough housing for everyone,
- Urged the Planning Department to look at allowing much larger buildings, especially near MBTA stations where it might be more financially viable to allow for more substantial affordable housing to be built,
- Support stated for triple deckers, but not the reduction of setbacks,
- Support for more housing, but don't want to end up in a situation where everything is packed up with no space in between,

Comments from those opposed to the item:

- Against removing the affordable housing requirements for triple deckers as it will undermine the city's effort to increase for affordable housing stock,
- Concerned about green space,
- Horrified by the notion that the affordable housing requirement would be eliminated,
- There has got to be another way to do this,
- There's a need to take care of the people who want to live here.

One speaker commented that he noticed something that is allowing architects and landscape architects to play with different ways to cut a lot of actual green space and still be compliant and he asked that the city look into this.

The Public Hearing was closed. The record will remain open until noon on October 27, 2023, to receive written comment which may be emailed to the Planning Board at [planning@somervillema.gov](mailto:planning@somervillema.gov) <<mailto:planning@somervillema.gov>> and to the City Council at [publiccomments@somervillema.gov](mailto:publiccomments@somervillema.gov) <<mailto:publiccomments@somervillema.gov>>. Comments may also be sent by U.S. mail to the City Clerk, 93 Highland Avenue, Somerville, MA, 02143.

Planning Board Member Luc Schuster inquired about the state leaving the door open for communities to apply for consideration for something above the 10% affordability requirement in certain circumstances, e.g., the idea of maybe a density bonus above the 3 units by right, to allow a fourth unit that could be affordable, effectively being a 25% affordability requirement. He asked why that wasn't included in the city's plan. Mr. Bartman responded

by saying that it could be something that the city addresses in in the future. The challenge is that you cannot have any affordability requirement on 3 units.

**RESULT: KEPT IN COMMITTEE**

1.2. Mayor's Request (ID # [23-1205](#))

Requesting ordainment of an amendment to the Zoning Ordinance to repeal Section 10.9 Steep Slopes.

Chair McLaughlin explained that the next 3 items were all related to the MBTA Communities Act (Act). Director Bartman gave a presentation covering some background and requirements in the compliance pathway including Home Rule Amendments, the Zoning Act and the Economic Development Bond Bill. He explained that the Act reads that any community that's nearby a train station, bus terminal or subway station or ferry is required to have at least one zoning district of reasonable size that permits multi-family housing by right without any rage, restrictions, force, and is suitable for families, adding that Somerville felt fairly confident when this law first came out, that the city would naturally be compliant or very close to compliant. Over the last 2 years, changes and revisions were being made to the requirements and that's one of the reasons that the city is where it is today. After looking at the city's zoning ordinance and considering all of the requirements, it was determined what changes needed to be made to be in compliance with the Act.

Emily Hutchings continued the presentation with regard to steep slopes and how special permits negatively impact the city's compliance. The city's only compliance measure for this section is to repeal the entire section. She explained that site construction permits provide an alternative process that effectively accomplishes the same goal as the steep slope special permit.

Chair McLaughlin open the Public Hearing. There were no speakers for or against the item.

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**RESULT: KEPT IN COMMITTEE**

1.3. Public  
Communication  
(ID # [23-1305](#))

John Fragione and Agostino Feola, Trustees of Frala Realty Trust, requesting the adoption of an amendment to the Zoning Ordinance Map to change the zoning district of 295-297 Medford Street and 93 Walnut Street from Mid-Rise 3 (MR3) to Mid-Rise 5 (MR5).

Attorney Adam Dash, representing the applicants, gave a brief presentation on the item. He explained that, presently, the lot is vacant and that the reason for the zoning map change is to allow for construction of a 5 story residential structure. The change to MR5 would allow the project to achieve density near transit and create more dwelling units, including affordable units, in the city, meeting SomerVision's 2040 planning goals. The lot is situated on a slope and presents construction challenges, making it hard to justify a 3 story project with that additional cost. Mr. Philip Sima, from Balance Architects, reviewed the shadow study and said that most of the shadows fall on the railroad tracks the bike lane and really have minimal impact on the kind of smaller residential buildings that are in the plan. Attorney Dash added that there's no major impact on the neighborhood for the 2 additional stories and that approving the zoning change does not approve the project. He concluded that his clients believe that the increased tax revenue and having more density by the T station with a green and lead certifiable property and affordable housing units, as well as additional units overall, would be a benefit for the city.

Chair McLaughlin open the Public Hearing and 10 people offered comments.

Comments from those in favor of the item:

- It's entirely reasonable to build more housing and expand the scope of this project,
- It will make the community better,
- It's not worth the value for a playground or a parking lot,
- It's about the transportation and affordable housing,
- The whole point of building the GLX was to allow more people to live near transit and access jobs and if more housing isn't built for them, then more of our neighbors are going to be displaced,
- Try to put as few as possible restrictions on this new development,
- Try to zone for the highest density possible,
- Sounds like the perfect place to have people who aren't going to own cars and will use public transit to commute.

Comments from those opposed to the item:

- The city already changed the zoning,
- The same development could be built within an MR 3 and changing it to an MR 5 would actually make it worse,
- It would bring more traffic congestion and more rats to the neighborhood,
- The lot could be used for other things, e.g., green space, parking for

teachers at the high school, or doing something with the lot for the youth of the city,

- Developer should talk with the Gilman Square neighborhood and negotiate a community benefits agreement,
- If the project is allowed to go to 5 stories, then there needs to be 30% affordable housing, open space, a vegetative roof, biosolor and perhaps no parking at all, except for that required by law.

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Councilor Ewen-Campen commented that he's never supported a kind of one off, seemingly random request from a developer asking for an up zone for a single parcel and although he thinks that that is kind of a city driven process that that makes a lot of sense to pursue., he's befuddled by the kind of request to just upzone one parcel. David Mangan, President of the SomerYouth and Recreation Foundation, responded to the councilor's question, saying that originally, before the rezoning took place, you could build on that lot with 4 stories, but when it got rezoned it was rezoned down to 3. That is one of the main reasons why the developer is requesting rezoning. Additionally, since the building will be on a hill, the cost of the structural work that has to be done to support the foundation is astronomical, so building to 5 stories would make the project cost efficient. Councilor Ewen-Campen stated for the record, that the very next item on our agenda, (unrelated to this item) is a 3 story project on a steep slope, and, functionally, the slope provides an extra floor.

Planning Board Member Amelia Aboff asked if Planning staff could provide a quick update on what city level planning effort is going on for Gilman Square. Director Bartman replied that the city has an interest in engaging with the Gilman Square Neighborhood Council and that there's not currently an active planning project in place. He also noted that there has been some interest in addressing up zoning around all of the city's train stations.

**RESULT: KEPT IN COMMITTEE**

1.4. Public Communication (ID # [23-1306](#))

Mai Lau, 635 Somerville Avenue LLC, requesting the adoption of an amendment to the Zoning Ordinance Map to change the zoning district of 627 Somerville Avenue from Neighborhood Residence (NR) to Mid-Rise 3 (MR3).

Land Use Counsel Jennifer Schultz, along with her colleague, Jordan Smith, represented the applicant and gave a presentation on the item. She explained that what is being asked for is not actually a change of an entire lot from NR to MR3, but rather approximately one tenth of the single legal lot that was rezoned with the zoning overhaul in December of 2019, changing the lot from one unified zone of BA and split-zoned as approximately nine-tenths MR3 and one tenth NR, although the lot itself and the physical buildings that are on the property remain one single unified legal lot.

She reviewed the legal problems and policy conflicts that this creates and said that as far back as at least 1962, and for several following decades, there has been a single unified building there, that in the 2019 rezoning, became split-zoned, perhaps inadvertently.

Among the reasons for requesting this change are:

- Split zoning of this particular lot requires at the very least 3 variances for any development of the single legal lot,
- As a matter of Massachusetts law, any requirement of a lot that automatically requires a variance is strongly disfavored, and the split zoning of this particular lot also treats this one single legal lot differently from all other similarly situated lots, which is illegal in Massachusetts,
- The split zoning cuts against Somerville's own comprehensive plan, as SomerVision 2040 calls out the entire single legal lot, the NR portion and the MR3 portion for increased housing, production and new development in an energy, efficient manager manner, none of which can be achieved with the split zoning scenario.

Attorney Schultz stated that her team has received letters of support that have been shared with both the Planning Board, Planning staff and City Council from every single tenant on the entire property under the control of her client, that is, both commercial tenants and all 10 of the residential tenants, in addition to multiple abutters of the property all in support, and those submissions have been made in writing.

Chair McLaughlin open the Public Hearing and 13 people offered comments.

Comments from those in favor of the item:

- It's clearly it's a zoning mistake that should be changed,
- If the developer does get this zoning amendment please consider more green space, planting native plants, biosolor, vegetative roof, 20% open space and workforce housing,
- The developer or the owner has reached out and the zoning issue does seem to be off,
- In favor of fixing the zoning,

- Somerville is in the midst of a deep housing crisis and more housing needs to be built. As a city, we can do 2 things - pass a Proposition 2 1/2 override, dramatically increase our property taxes and quadruple the funding of the Somerville Housing Authority - or adjust our zoning laws to make it profitable for someone else to build housing,
- Should make it as easy as possible to build all kinds of housing.

Comments from those opposed to the item:

- Concerned about having something that's now zoned as an MR3 on a residential street,
- It's going to change our street and create a ton of parking problems.
- Would like to see the shadow studies,
- Where will the green space be,
- What is being given back to the community,
- Concerned about pollution and the environmental impact of the project,
- This isn't a zoning error,
- As a direct abutter, I have not been in contact with any of the legal teams, the owner or the developers.,
- Consider a third path, which is to break up the lot into smaller lots and recognize that Pitman Street is a residential street and turn the back corner into a proper NR zone that would then allow for the development of one or 2 housing units and preserve the community on Pitman Street,
- This will certainly make that a more dangerous experience on our residential street.
- Pull back the façade,
- Major concerns around the congestion and the additional traffic that will be brought in,
- It's not providing housing in terms of people being able to move in, build out the community and afford to buy a place in Somerville,
- It's going to be a lot of student renters,
- Don't understand how this fits in with affordable housing.

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Councilor Ewen-Campen explained that what is being discussed is not whether or not a housing project can move forward on this lot, but instead

it’s just about the back quarter of a lot, adding that it's not about whether or not a project can happen, it's just about the setback. He commented that the obvious way that one could also approach this is to set the whole project back equally along the entire backside of the lot and he asked why that approach wasn't being followed here. Stating for the record, Councilor Ewen-Campen said that Attorney Schultz’s claim that she obtained letters of support from everyone involved, is not true and that he has heard from many residents who are concerned, specifically about this issue.

Attorney Schultz reiterated the legal issues that she described earlier about treating similarly situated lots differently, and the general disfavor in Massachusetts of having split zoning, adding that she believes, as a matter of law, Councilor Ewen-Campen’s suggestion would also be a violation and would have the same legal issues, and would also continue to conflict with SomerVision 2040 and the city's comprehensive plan and policy. She continued by saying that a down zoning of just a small portion of a lot, especially taking a single legal lot and intentionally down zoning one half of it, would be illegal spot zoning. Attorney Schultz addressed her claim regarding the letters of support saying that, just this morning or yesterday morning, she submitted letters from every single residential tenant and every single commercial tenant in the building. No one was left out. They've all signed their names and submitted letters of support. She said that her claim was an honest and true statement that can be confirmed by all councilors and Planning Board members, and any members of the public who request access to them.

Councilor Davis commented that there's a massive lot here and the most obvious thing to do would be to subdivide the portions of the lot that are on Pitman Street and build a couple of 3 deckers there or sell them off and build a massive building that could provide a lot of housing and affordable housing on the remainder of the property. He went on to say that this is a place where there should be additional density and he doesn’t understand why this has to be so difficult.

Ms. Aboff noted that this is an unusual condition with the secondary frontage being on a private way and she asked if Planning staff had an answer about whether that fact changes any of the setback requirements that Attorney Shultz. Director Bartman will look into it and probably bring an answer to the next meeting.

**RESULT: KEPT IN COMMITTEE**

1.5. Mayor's Request  
(ID # [23-1489](#))

Requesting ordainment of an amendment to the Somerville Zoning Ordinances to replace the text of Section 9.1.11 Residential Use Categories and revise Table 9.1.1 Permitted Uses and the corresponding permitted use table of each zoning district, in accordance with changes to Table 9.1.1, to replace the two residential use categories.



Andrew Graminski continued the presentation, giving some additional background and reviewing the proposed amendment. He reminded the committee members that to be in compliance with the ACT, the city is not allowed to have an occupancy requirement in its zoning.

He said that the 4 unrelated people rule hasn't been evenly enforced in the city and went on to say that government should not define what a family is. The law, he said, is discriminatory towards low income and student populations. He noted that a zoning change to repeal the 4 unrelated people rule has been supported by the City Council and pushed by members of the community. Mr. Graminski stated that the more equitable way to regulate building occupancy is through the building and sanitary codes, so zoning would regulate the number of dwelling units allowed, while building and sanitary codes would regulate the number of people allowed inside each dwelling unit. He stated that the city needs to continually re-examine its zoning to ensure that Somerville can adapt to a rapidly changing environment and should prioritize helping more people who want to stay in the city.

Mr. Graminski spoke about a new proposed use, i.e., Institutional Housing, which is basically housing that's run by an organization, e.g., government, educational, religious, health care, or other organization including, but not limited to, an assisted living facility, chapter house, dormitory, homeless shelter, nursing home, and their substantial equivalents. Group homes or group residences have to remain as a sub use because they're protected by Federal law, and they have to be regulated by right in all zoning districts that allow residential

Chair McLaughlin open the Public Hearing and 2 people offered comments.

Comments from those in favor of the item:

Both speakers stated their support for the item but expressed concern that the change might be exploited, leading to people residing in closets and living rooms, or bedrooms where you have to pass through someone else's room to get to your room. Both speakers inquired if some amendments or specifications could be added to define minimum standards, e.g., square footage, windows, number of bathroom for X number of people, etc.

There were no speakers in opposition to the item.

The Public Hearing was closed. The record will remain open until noon on October 27, 2023, to receive written comment which may be emailed to the Planning Board at [planning@somervillema.gov](mailto:planning@somervillema.gov) [<mailto:planning@somervillema.gov>](mailto:planning@somervillema.gov) and to the City Council at [publiccomments@somervillema.gov](mailto:publiccomments@somervillema.gov) [<mailto:publiccomments@somervillema.gov>](mailto:publiccomments@somervillema.gov). Comments may also be sent by U.S. mail to the City Clerk, 93 Highland Avenue, Somerville, MA,

02143.

**RESULT: KEPT IN COMMITTEE**

Referenced Documents:

- Land Use - 2023-10-19 (with 23-1305)
- Land Use - 2023-10-19 (with 23-1306)
- Land Use - 2023-10-19 MBTA Communities (with 23-1198, 23-1205, 23-1489)
- Land Use - 2023-10-19 627 Somerville Ave Presentation (with 23-1306)