



CITY OF SOMERVILLE, MASSACHUSETTS LAW DEPARTMENT

April 7, 2015

Honorable Board of Aldermen
City Hall
93 Highland Avenue
Somerville, MA 02143

RE: Amending the Text of a Zoning Amendment After a Hearing

Dear Honorable Board Members:

You have asked how much flexibility the Board of Aldermen has in amending the text of a zoning proposal after its hearing, without holding a new hearing with a new publication of notice.

In my opinion, provided that the amendment merely perfects the proposal and is not of a fundamental character and does not change the identity of the proposal before the Board, no new hearing or notice is required. Conversely, if the amendment to the zoning proposal changes the identity of the proposal before the Board or is of a fundamental character, in my opinion, a new hearing with a new publication of notice is required.

The leading case on point is Town of Burlington v. Dunn, 318 Mass. 216 (1945). After a public hearing on the delineation of zoning districts, the planning board acted to amend the original map and submitted a recommendation to town meeting with an amended map. The Court held:

There is nothing in the statute requiring another public hearing whenever, after one hearing, the board decides to amend what had previously been proposed. The amendments were not of a fundamental character. They did not change the identity of the proposal before the board. They were designed merely to perfect that proposal . . . Where a public hearing is required or is had before an officer or board upon a proposed measure it is at least very unusual to require or to hold successive public hearings in respect to perfecting amendments of this character. Id. at 218-219.

If you provide additional specific facts as to proposed text changes and/or map changes, I will provide an additional opinion based on those facts. Furthermore, as a practical matter, if any lack of clarity emerges as to whether the proposed amendment is of a fundamental character, I

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recommend that the Board hold a new hearing with a new publication of notice, prior to taking a final vote on the matter.

Please feel free to contact me with any additional questions.

Very truly yours,

David P. Shapiro
Assistant City Solicitor

cc: Francis X. Wright, Jr., City Solicitor
George Proakis, Planning Director