



CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

April 23, 2020
REPORT OF THE LAND USE COMMITTEE

Attendee Name	Title	Status	Arrived
Ben Ewen-Campen	Chair	Present	
Lance L. Davis	Vice Chair	Present	
William A. White Jr.	City Councilor At Large	Present	
Matthew McLaughlin	Ward One City Councilor	Present	
Mark Niedergang	Ward Five City Councilor	Present	

Others present: Dan Bartman - OSPCD, [Planning Board members Michael Capuano, Dorothy Kelly Gay, Joe Favaloro, Gerald Amaral], Rebecca Cooper - OSPCD, Rositha Durham - Clerk of Committees, Peter Forcellese - Legislative Clerk.

The meeting took place virtually via GoToWebinar and was called to order at 6:00 PM by Chairman Ewen-Campen and adjourned at 8:36 PM.

The committee recessed at 6:06 PM to allow the Planning Board to begin its meeting, and reconvened at 6:12

Public Hearing re: #209771, 209825, 209790

The Public Hearing was called to order at 6:14 PM to receive public input on this item.

- Attorney Adam Dash commented on cannabis establishments being place in their category, preventing them from locating on a first floor on a pedestrian street. Overall, he is supportive of the proposed changes.
- Meredith Porter spoke about ground floor fenestration, secondary façades, afford housing implementation plans (AHIP) and requiring buyouts to obtain permits.
- Dr. Nikhilesh Gorulanti spoke about being prevented from opening a dental office on the 1st floor of a property he owns and he asked that the restrictions regarding the type of businesses allowed be reconsidered.
- Chris Devers spoke about his experience in trying to add a roof deck to is property and asked that application time constraints be modified to take into consideration the zoning changes and the current circumstances resulting from the COVID-19 pandemic. He also submitted comments via email.

- Lisa Vieira spoke to support Dr. Gorulanti and said that there is a need for more space to serve the community.
- Joanne Tran also spoke in support of Dr. Gorulanti saying that she supports an expansion of Family Dental to provide additional space to treat patients

The Public Hearing was closed at 6:28 PM.

Mr. Bartman addressed the comments that were made and explained that:

- the ordinance stipulates that corner lots have more than 1 lot line and that the primary facade be oriented to the primary front lot line and other walls oriented to secondary front lot lines.
- the MA Legislature passed legislation causing all building permits to be frozen (on March 10th) during the COVID-19 pandemic, therefore, when the freeze is lifted, the clock will resume as if it were March 10th. Currently, permits are being processed but won't be issued until after emergency over.
- an amendment was made with the intent of making anyone with a 2-year permit, whole.
- language was added to clarify the Afford Housing Implementation Plan.

The Land Use Committee meeting was recessed at 6:37 PM to allow the Planning Board to conduct its meeting. Mr. Bartman told the board that the Dever situation has been resolved because of the changes in the law and, if the amendment is passed and the emergency lifted, they could apply for a 1-year extension or move forward now (or later) to apply for a permit.

Chairman Capuano stated that he would like the Planning Board to vote on the amendments so that the Land Use Committee may go forward. He moved approval of the amendments and each was approved, unanimously, on roll call votes of 5 in favor to 0 against.

The Planning Board adjourned at 6:48 PM.

The Land Use Committee reconvened at 6:49 PM.

209771: Requesting approval of an amendment to the Zoning Ordinance to correct procedural requirements, unintended conflicts between regulations, numerical errors, or inadvertent omissions.

Chairman Ewen-Campen called for votes on item# 1, 9, 10, 11, 12, 14, 15,17, 18 and 19 as listed on the document titled "2/25/20 Proposed Corrections to the Somerville Zoning Ordinance (updated)". Each item was approved, unanimously, on Roll Call votes of 5 in favor (Councilors White, McLaughlin, Niedergang, Davis, Ewen-Campen) to 0 against.

RESULT:	APPROVED
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209790: That this Council modify or eliminate the Zoning Ordinance's Use Limitations for parcels that front a Pedestrian Street in various locations such as 4.1.13.b, 4.3.13.b, 5.1.15.b, etc.

Chairman Ewen-Campen moved to replace item# 2, 3, 4, 5, 6, 7 and 8 on the document titled "2/25/20 Proposed Corrections to the Somerville Zoning Ordinance (updated)" with the Mid-Rise

Districts handout dealing with pedestrian streets. The motion was approved on a Roll Call vote of 5 in favor (Councilors White, McLaughlin Niedergang, Davis and Ewen-Campen) to 0 against.

Mr. Bartman reviewed the handout and explained how it works, making it an adaptable document to allow for changes. He told the committee that Planning Department had discussions about various types of permitted uses, including personal grooming businesses.

Much of the committee's discussion dealt with the prohibition against allowing health care practices to open in 1st floor spaces on pedestrian streets. Councilor Niedergang expressed his feelings for a broader range of uses to allow a doctor/dentist office to open in those, adding that he would not vote for the proposal without this change. Chairman Ewen-Campen informed the members that he would be putting forth a motion to allow doctor/dentist offices by special permit. Councilor Davis pointed out that the proposal before the committee does not preclude those businesses from being in Davis Square, it just prevents them from situating in 1st floor spaces. He went on to say that the restriction should be the same city-wide and that there may be too many pedestrian streets identified, warranting another look. He agrees with Planning Department's goal of pedestrian streets and explained that it's not about allowing one use over another - it's about maintaining an area as retail space and maintaining the character of pedestrian streets. Mr. Bartman explained that the ordinance means that the Zoning Board considers at least the things listed in the ordinance, but gives them the authority to go beyond them. This point was challenged by Councilor White.

Councilor McLaughlin said he doesn't understand why the ordinance limits doctor/dentist offices, since there are such offices all over the city and he wondered what possible grounds could be given for denying a special permit for these businesses. Councilor Davis agreed that there are many doctors' offices in the city and he commented that the grandfathering capabilities are extremely broad to allow for a change of health care businesses. The goal, he said, is to make the uses narrow to give character to the area and to maintain a feel in the city's squares. He said that he is not willing to make an exception for one property owner.

Chairman Ewen-Campen replied that he isn't proposing an amendment for one property owner, rather, he believes there are or will be many more people looking for space to open a business which has been removed from the list of pedestrian street allowable uses. He noted that there isn't a lot of such commercial space in the city. He agrees that people love the eclectic level of uses in the city's squares and he doesn't believe that doctors' offices are viewed negatively and he would like them to have the opportunity to open on pedestrian streets.

Chairman Ewen-Campen made a motion **to include health services by special permit following the criteria used in other parts of the city.**

Mr. Bartman read the definition of health care services and Councilor Davis stated that it is far too broad and he requests a narrower definition. He plans on putting forth an amendment to limit the maximum allowable linear or square footage. Mr. Bartman noted that it would be plausible to do something along those lines since many zoning codes restrict the frontage linear footage to maybe 20-30 feet, but not occupancy footage. It could be addressed by the relevant board or by regulation.

Councilor White inquired if the special permit process has the ability to make the permit the granting authority consider the number of a particular business as a criteria for the issuance of a permit. Councilor Davis countered that the number of businesses (doctors' offices) on the street isn't the issue - just don't put them on the ground floor.

Councilor McLaughlin reminded the committee that the city passed a vacant store ordinance prior to the COVID-19 emergency and that there has been a decline in retail. The city is home to plenty of bars and restaurants, yet no one is attempting to prevent more from opening.

Chairman Ewen-Campen stated that he would need to figure out what the criteria for a special permit would be, therefore, the committee could vote tonight and he could work with Mr. Bartman to come up with more criteria to present to council at its next meeting. He stated that there's no way to avoid having a discussion of this matter with the full Council and he favors voting now and sent the committee's recommendation to the Council. Councilor Davis suggested that another option might be to pass the item along to the City Council without a recommendation and bring the amendment up at next week's Council meeting. Councilor Niedergang commented, that since two members of the committee have major reservations about this, he favors moving the amendment at the Council meeting rather than now.

Chairman Ewen-Campen **withdrew his motion**.

The committee discussed other issues for the members to ponder in preparation for next week's Council meeting. Chairman Ewen-Campen would like to include fitness uses by special permit and he plans on making a motion to that effect at the Council meeting. Councilor Niedergang agrees as it doesn't make sense to restrict these kinds of uses from pedestrian streets.

Councilor Davis commented on a prior discussion about design services and how this category could theoretically include a business, like Microsoft. Mr. Bartman explained the challenge was to write the code in a more relaxed, broad manner, however the ability to have a business funded by investors is different from a mom and pop business. Restricting design services really doesn't stop the problem, however, putting a limitation of space could be a solution to this entire problem, effectively ignoring uses and permitting by space.

Councilor Davis motioned to return this item to the City Council without a recommendation. The motion was approved unanimously on Roll Call votes of 5 in favor (Councilors White, McLaughlin, Niedergang, Davis, Ewen-Campen) to 0 against.

RESULT:	DISCHARGED W/NO RECOMMENDATION
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209825: Requesting approval of an amendment to the Zoning Ordinance to extend the validity time frame of previously issued permits, clarify how lot coverage is calculated, correct the threshold for employment linkage, and streamline the language concerning landscape buffers.

Chairman Ewen-Campen called for votes on item# 1, 2, 3, 4 and 5, as listed on the document titled "3/12/20 Proposed Amendments to the Somerville Zoning Ordinance". Each item was approved, unanimously, on Roll Call votes of 5 in favor (Councilors White, McLaughlin, Niedergang, Davis, Ewen-Campen) to 0 against.

RESULT:	APPROVED
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Handouts:

- Comments - Devers (with 209825)
- Comments - Parkes (with 209825)
- 20200225-SZO-Corrections-updated (with 209771)
- 20200312 SZO Corrections (with 209825)
- PStreet Edits - MR, HR, FAB, CC (with 209771, 209790, 209825)