



CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES

October 22, 2019

REPORT OF THE LAND USE COMMITTEE

Attendee Name	Title	Status	Arrived
Lance L. Davis	Chair	Present	
William A. White Jr.	Vice Chair	Present	
Katjana Ballantyne	Ward Seven City Councilor	Present	
Stephanie Hirsch	City Councilor At Large	Present	
Mary Jo Rossetti	City Councilor at Large	Present	

The meeting was held in the Council Chamber and was called to order by Chair Davis at 6:10pm and adjourned at 9:04pm.

Others present: Dan Bartman - OSPCD; Sarah Lewis - OSPCD; J.T. Scott - Ward 2 City Councilor; Ben Ewen-Campen - Ward 3 City Councilor; Mark Niedergang - Ward 5 City Councilor; Kimberly Wells - Assistant Clerk of Committees

Approval of the Thursday, September 19, 2019 minutes

RESULT:

ACCEPTED

Approval of the Tuesday, October 01, 2019 minutes

RESULT:

ACCEPTED

208702 - Requesting the adoption of a New Zoning Ordinance (v4.0 update) to supersede the current Zoning Ordinance as originally adopted on March 23, 1990.:

Mr. Bartman's presentation can be found, along with other information, at somerillezoning.com, or directly at <http://3pb8cv933tuz26rfz3u13x17-wpengine.netdna-ssl.com/wp-content/uploads/sites/2/2019/10/20191022-v4-Discussion.pdf>. The public comment period will remain open until November 1st.

There was discussion about permeability of surfaces and, in particular, driveways. The ordinance currently suggests that any new driveway be constructed as a ribbon driveway. It does allow for permeable driveways to both count as landscaping and not count against the lot coverage metric (60% for all buildings in NR Districts). Impermeable driveways ARE counted against the lot coverage. Chair Davis suggested that it be clarified that driveways are not landscaping,

regardless of type. Councilor Ballantyne wondered as well why an earth driveway wouldn't count. Currently, permits are required for paved driveways. Councilor Ballantyne noted that there are other countries where use of permeable surfaces are incentivized through the tax code. The update currently does not have guidelines on materials for driveways. Councilor Rossetti agreed with Chair Davis that there have been instances where pavers created confusion about what a section of property was used for, and caution should be exercised to make this clear. The new ordinance prevents the parking of automobiles in the "frontage zone" (from the front of the building to the lot line). In the new ordinances, parking spaces are only counted 20 feet deep and beyond. Chairman Davis noted that tandem parking in driveway areas will continue to occur, and should be counted as driveways and not toward the landscaping requirement. The definition of landscaping should be changed to specifically exclude driveways. Councilor White asked whether de-paving a driveway would trigger a zoning review if these changes are made. Chair Davis suggested that this could be clarified, but we want to be careful on the other end to not to allow pavers to be used to "game the system" and called landscaping while actually serving as parking spaces. Councilor White noted that pervious surfaces are better for the environment, and wondered if there was a drastic difference in price for these vs impermeable surfaces. Councilor Hirsch asked what surfaces are best for run-off and noted that it should also be considered how enforceable any of these potential solutions are from Inspectional Services. Councilor Rossetti expressed that permeable or ribbon driveways should be required, not recommended, at least while they are investigated further. Mr. Bartman added that an impermeable driveway could be allowed only be special permit if there was a particular water run-off or flooding concern. Mr. Bartman will continue to develop permeable parking lot design standards.

The Committee discussed certain provisions related to affordable housing. There are some building types in NR and UR Districts that do not require affordable housing. The standard was for larger developers to kick in at 6 units. There is a tool being developed to adjust the number of affordable units and at what price to determine where the requirement becomes burdensome and discourages development. Councilor Hirsch encouraged that the ordinance should trend toward more affordable requirements, as the region is in a housing crisis and developments that do not increase our affordable housing stock do not add appropriate value to the community. She suggested that all developments over one unit might have to contribute something to affordable housing. Chair Davis added that the inclusionary affordability requirements should apply to any building type, including Multiplex. He suggested that the existing inclusionary provisions be applied to all units 4 and above to encourage the default toward more rather than less affordable housing units.

Councilor Rossetti expressed concern about the exemption for the City of Somerville, specifically the elements related to open space and sustainability. Ms. Lewis cautioned that an angry abutter could stymie a project that is needed for citywide benefit, but will take the sustainability concerns into consideration. Mr. Bartman added that there is a legal question about whether municipalities are subject to zoning at all, regardless of any specific exemptions. Councilor White clarified that under the current zoning ordinance, the exemption is not specified. Mr. Bartman further noted that state grant funds are often lost if variances or special permit requirements result in extended delays.

Regarding existing parking requirements, Councilor Hirsch wondered if we should consider going further that the currently proposed parking minimum/maximums to prohibit provision of parking spaces for new residential developments, provided that those residents would not be eligible for on-street resident permits. Mr. Bartman noted that restrictions on parking permits will be addressed in the Traffic and Parking Committee. Off-street parking requirements were historically implemented to attempt to solve congestion problems, but there was never a

requirement that they be utilized (by prohibiting on-street permits). If maximums are imposed, there must be additional policies blocking access to on-street permits. To the best of Mr. Bartman's knowledge, there is no North American city currently prohibiting parking that is not under an order from the EPA.

Councilor Hirsch recused herself from the discussion of Backyard Cottages (i.e. Carriage Houses) as it potentially could affect a property that she owns (her home). Councilors Scott and Ewen-Campen left the Chambers. Mr. Bartman has been working on revisions to this section with Councilor Niedergang. Mr. Bartman noted that the terminology "carriage houses" may be dated, so "backyard cottages" may be an alternative solution, not to be confused with the "cottage" building type. These are an accessory building type which could be used for a variety of purposes; this could include a dwelling unit but must be smaller than a cottage principle dwelling unit, at no larger than 1.5 stories, and would remain subject to the unit count maximums that otherwise would apply. The maximum width and depth of the building have also been changed in the revision, as have the story height and roof type. A further qualification will be made for windows if the building is used as a residence, whereas they will not be required if used for parking or storage. Chair Davis wondered if the minimum size could be smaller or if, other than as required by building or health codes (or other applicable law), there was even a need to state any minimum size requirement in the zoning. This would allow for small units to be available, if a property owner so chooses. Mr. Bartman noted that many smaller units currently exist, and the focus could shift away from having a minimum as long as the maximum is not exceeded, particularly if the use is for storage or workshops rather than parking and dwelling. Councilor Ballantyne agreed that the maximum seems more relevant than the minimum size. Chair Davis wondered whether uses other than dwelling should be considered a completely separate category. If existing thresholds are met for landscaping, pervious surface, and lot coverage, it might be acceptable for multiple accessory units to exist on one lot (but not more than one dwelling unit). Councilor Niedergang agreed with the direction, but cautioned that there may be a need for a minimum size for backyard cottages that will be used as residential dwellings.

Mr. Bartman shared that there are currently 1,870 detached garages or other buildings that could potentially be converted to a backyard cottage. Under the revised version, an existing structure could be used as a dwelling unit so long as no height is added and subject to other restrictions. For such conversions (of accessory structures), a municipality holds authority greater than that outlined in MGL 40A relative to nonconforming structures. For example, non-conforming setbacks and separation distance cannot be made further non-conforming but buildings can be modified to be used as dwelling units if none of the nonconformities are altered. Each nonconformity (dimension) is considered separately, and thus a conforming component could be modified, so long as any nonconforming element is not altered. Councilor Niedergang added that there are large carriage houses that currently exist, and this could encourage repair in order to use as dwelling units.

Councilor White clarified that if the backyard cottage became the third dwelling unit for a property, the affordable requirement would be triggered, and asked whether that unit would have to be the affordable one or if the owner could choose an existing unit in the main structure. Mr. Bartman replied that this is best handled through the administrative process, and should not be dictated by the code. Most often, this building type will produce a smaller unit, as larger backyard cottages could only be those that currently exist and that are converted.

RESULT:**KEPT IN COMMITTEE**

Handout:

- 20191022-v4-Discussion (with 208702)