

Town of Somerset

Council Meeting Minutes

12/4/2023

Attendees

Mayor & Council: Jeffrey Slavin (Mayor) (Warwick Pl.); Stephen Surko (Council President) (Uppingham St.); Robin Barr (Essex Ave.); Debbie Heller (Falstone Ave.); Kabir Kumar (Trent St.); Shannon Rovak (Cumberland Ave.); **Town Staff:** Matthew Trollinger (Town Manager); EJ Hardwick (Deputy Town Manager); Linda Williams (Office Administrator); Ron Bolt (Town Attorney); **Members of the Public:** Deborah Shulman (Falstone Ave.); Harry Holzer (Falstone Ave.); Scott Wilets (Wilets Architecture); Carrie Wofford (Essex Ave.); James Gillis (Essex Ave.); Alison Hooker (Essex Ave.); Kumar Vaswani (Trent St.)

7:00 p.m. Public Comment Period

Mayor Slavin opened the meeting and Mr. Trollinger reminded the audience of protocol for making comments on Zoom. Members of the public were invited to make public comments.

Deborah Shulman (Falstone Ave.) and Harry Holzer (Falstone Ave.) commented on the difficulties that they have had in getting a permit for a rear yard addition, which triggers stormwater restrictions for the Town. The Mayor reminded the Council and residents that the specifics of their application cannot be discussed outside a hearing. The Mayor and Council suggested the residents meet with the Town Manager to review the process for applying.

Carrie Wofford (Essex Ave.) reminded the Council that the Tennis Committee had done a report on pickleball, and that the Council should be mindful of that information when discussing any future pickleball opportunities. In addition, she noted that several town residents were particularly interested in the topic and have expressed a desire to be part of a committee or survey-making process. Mayor Slavin noted that the thought process behind a survey would be to have a neutral party write it so that the language would not be biased and to provide the Council with as much information as possible for any future discussions.

7:20 p.m. **Motion:** To consider approval of the agenda

Town Manager Trollinger recommended the Council make the following adjustments to the agenda:

- 1) Remove the permit hearing for 5529 Surrey St. Because of the staff's conversations with the applicant earlier that day, the application needs to be amended and further reviewed.
- 2) To enter into a closed session per the Maryland Open Meetings Act General Provisions Art. Sec. 3-305(b): to obtain legal advice from counsel. The Town Attorney can offer advice pertinent to future THRIVE Montgomery and Zoning Text Amendments.

Council President Surko motioned to approve the agenda as amended. Councilmember Barr seconded. All in favor. **Action: Agenda approved on a vote of 5-0.**

7:21 p.m. Consent Agenda

Mayor Slavin introduced the consent agenda as follows:

- Minutes from the November 6, 2023 Council Meeting;
- 2024 Town Council Meeting calendar;
- The appointment of Rohit Khanna (Falstone Ave.) to the Public Safety Committee; and
- The appointment of the following Youth Council members for terms lasting from January 1 – June 1, 2024:
 - Peter Kumar (Grade 11)
 - Ari Peters (Grade 11)
 - Pierpaolo Baldassari (Grade 10)
 - Alexandra Finn (Grade 10)
 - Sara Guinand (Grade 10)
 - Kalman Levitin (Grade 10)
 - Tabitha Cutler (Grade 9)
 - Zoe Gibson-Johnson (Grade 9)

Councilmember Barr motioned to approve the consent agenda. Councilmember Heller seconded. All in favor. **Action: Consent agenda approved on a vote of 5-0.**

7:23 p.m. **Public Hearing/Motion:** To consider approval of a building permit amendment request submitted by James Gillis and Alison Hooker for the extension of a front porch on the property located at 4816 Essex Ave. The applicant is seeking two variances from Sec. 11-14(C)(1)(c) of the Town Code as part of the application amendment:

Mr. Trollinger introduced the application, which was an amendment to a permit that had already been granted. The applicants sought to extend a stoop in their front yard, which is existing non-conforming, and therefore requires a variance.

The applicants, Mr. James Gillis and Ms. Alison Hooker, explained that they were seeking a variance because the current stoop is narrow and tight. The proposed stoop and eave extension will provide them with a practical sheltered entranceway when approaching the front door. In addition, the stoop preserves the mid-century character of the building and enhances the streetscape. They also asserted that the stoop would allow the option to install an accessible ramp that is easy to approach by a person with a disability, and that the stoop reinforces community building by promoting interaction among neighbors. Furthermore, they asserted that the proposed alteration maintains light and air between residences, remains compatible in scale, massing, and character, and does not adversely affect the use, enjoyment or value of nearby properties.

The Council asked the Town Manager whether the Town had received any comments, to which the Town Manager replied that there were no comments either in favor or against the proposal and that the Town had delivered via email and hard copy, announcement of the plans and the variances, along with a site plan.

The Council discussed the merits of the case. The Council agreed with the applicants' arguments and noted that there was no opposition. Councilmember Barr motioned to approve the permit amendments and variances. Councilmember Heller seconded. Councilmembers Surko and Rovak voted in favor; Councilmember Kumar abstained. **Action: The permit amendment was approved by a vote of 4-0.**

7:38 p.m. **Public Hearing/Motion:** Building Administrator's Report

Mr. Trollinger reviewed the Building Administrator's Report. The Council had no follow-up questions.

7:45 p.m. **Motion:** To consider the Introduction of a Resolution establishing a Consent and Release form for the use of residents' photographs in media, as recommended by the Communications Committee.

Mayor Slavin asked the Town Attorney to explain the Resolution. Mr. Bolt explained that the form would require consent to use people's pictures in the Town Journal and other media.

The Council discussed its process, and whether it could be adopted at once. The Town Attorney noted that although the Council can adopt Resolutions at the time of adoption, the Council had previously adopted a practice of following the same process of introduction, followed by Public Hearing and Adoption, to provide for greater transparency in the process.

Councilmember Heller relayed that the Communications Committee would further review the proposal at its upcoming meeting and provide further feedback for the Council.

Councilmember Heller motioned to introduce the Resolution; Councilmember Kumar seconded. All in favor. **Action: Introduced by a vote of 5-0. It will be considered for Adoption at the subsequent Council meeting.**

7:52 p.m. **Motion:** To consider the Introduction of a Resolution in support of the Maryland Municipal League legislative priority advocating for a state bill that would allow municipalities to issue citations for red light cameras; and advocating for municipalities to use stop sign cameras, as recommended by the Traffic Committee.

Councilmember Barr noted that the language had been tweaked after learning more about the Maryland State Assembly's plans for the upcoming session. Councilmember Barr motioned to Re-introduce the Resolution. Councilmember Heller seconded. All in favor. **Action: Resolution Introduced by a vote of 5-0. It will be considered for Adoption at the subsequent Council meeting.**

7:56 p.m. **Motion:** To consider the Introduction of an Ordinance to amend the Code of Ordinances to clarify that above-grade stormwater collection and drainage devices, including micro-bio-retention planter boxes, are subject to building regulations.

Mr. Trollinger noted that this would codify the staff's existing understanding of micro-bio-retention boxes, consistent with the Town's other requirements for setbacks and definitions for structures that may encroach. The Town Attorney further noted that the County has not provided clear guidance on how these structures should be defined.

Councilmember Kumar motioned to Introduce the Code amendment. Councilmember Surko seconded. **Action: Ordinance Introduced by a vote of 5-0. It will be considered for Adoption at the subsequent Council meeting.**

8:05 p.m. **Public Hearing/Motion:** To consider the Adoption of an ordinance to amend the Code of Ordinances to add intents and purposes; add building height requirements applicable to main and accessory buildings; add definitions; clarify the applicability of existing provision; add a grandfathering provision for buildings; and amend provisions for internal consistency.

The Town Manager provided a breakdown of the staff's survey of the Town's existing houses and building heights. The staff reviewed a total of 144 houses throughout the Town, and compared the heights with the three height regulations that were previously considered:

- 1) The "County" method, which sets a maximum height of 35' or a maximum mean height of 30'. *139/144 houses conform to this standard.*
- 2) The "Chevy Chase" method, which sets a maximum height of 35' and a maximum mean height of 30'. *128/144 houses conform to this standard.*
- 3) The "Martin's Additions" method, which sets a maximum height of 33' and a maximum mean height of 28', while also providing for an Established Building Height of up to 35' and 30', respectively. *95/144 houses conform to this standard.*

The methods were so named to represent the other nearby municipalities that have adopted similar measures. Mr. Trollinger noted that Chevy Chase Village had the closest equivalent lot sizes, but that they vary, similar to Somerset.

The Council discussed the proposal under consideration, which would adopt the "Martin's Additions" regulation, setting building heights at 33' and 28'. The Council unanimously agreed that there should be height restrictions in Town to avoid buildings that are not in keeping with the mass and scale of other houses in town. The Council discussed whether 33/28' or 35/30' was the more appropriate restriction.

Councilmember Kumar suggested that 35' and 30' would catch the houses that have drawn residents' concerns in the past and that the 33' and 28' restrictions were not appropriately decided on based on the characteristics of Somerset, as Martin's Additions has characteristics different from those in Somerset – notable that the houses are closer on average.

Mr. Trollinger noted that one resident had submitted a comment. Ruth Albert (Falstone Ave.) had expressed support for height restrictions via email, though she did not specify the measurements that she felt appropriate.

The Council discussed whether the Established Building Height was appropriate, or whether there should be just one measurement throughout the Town. Councilmembers Kumar and Heller expressed concern that this could create areas of Town where some houses are allowed to be built bigger than others and may have unintended consequences.

Council President Surko motioned to adopt the ordinance as introduced, with the 33' and 28' maximums, and established building height. Councilmember Barr seconded. Councilmember Kumar stated that he would support 35' and 30' but was not in favor of the ordinance as written. Councilmembers Surko, Barr, Rovak, and Heller voted to approve. Councilmember Kumar voted in opposition. **Action: Code Amendment Adopted by a vote of 4-1.**

8:48 p.m. **Public Hearing/Motion:** To consider the Adoption of an ordinance to amend the Code of Ordinances to provide that notice of planned removals of trees in the public right-of-way will be issued by the Town to abutting owners.

No public comments were made.

Councilmember Kumar motioned to adopt the ordinance. Councilmember Barr seconded. All in favor. **Action: The Code Amendment was Adopted by a vote of 5-0.**

8:52 p.m. **Public Hearing/Motion:** To consider the Adoption of an ordinance to amend the Code of Ordinances to provide that notice of building permit applications will be issued by the

Town; to delete the neighbor signature sheet requirement; and to change the application processing deadline.

No public comments were made.

Councilmember Rovak motioned to adopt the ordinance. Councilmember Kumar seconded. All in favor.

Action: The Code Amendment was Adopted by a vote of 5-0

8:55 p.m. **Motion:** To enter into a closed session per the Maryland Open Meetings Act General Provisions Art. Sec. 3-305(b): to obtain legal advice from counsel regarding THRIVE Montgomery and County Zoning Text Amendments.

Councilmember Barr motioned to enter into Closed Session. Councilmember Kumar seconded. All in favor. Action: The Council entered into closed session, and asked the Town Manager to clear the Town Hall meeting room and virtual meeting room until the meeting reconvenes.

9:28 p.m. The Council re-entered into Open Session

Mayor Slavin suggested that the Council adjourn for the evening. Mr. Trollinger told the Council that if they have any questions about his report that they can contact him directly to discuss.

9:31 p.m. Adjourn

The Council adjourned by unanimous consent.

Mayor Slavin is nominating the following residents to serve as Chairs of their respective Committees for the calendar year 2024:

- Budget – Ann Bolten (Cumberland Ave.)
- Communications – Leslie Caplan (Essex Ave.)
- Environment – Barton Rubenstein (Dorset Ave.)
- Equity & Inclusion – David Sacks (Trent St.)
- Parks & Natural Resources – Josh Rosenthal (River Rd.)
- Pool – Matt Zaft (Dorset Ave.)
- Public Safety – Kumar Vaswani (Trent St.)
- Revenue – Nick Fox (Cumberland Ave.)
- Swim Team – Dario Fuentes (Cumberland Ave.)
- Tennis – Carrie Wofford (Essex Ave.)

The following Committees will be filled or resolved at a later date to confer with Committee members and/or consider alternative structuring:

- Audit
- History & Archives
- Newcomers
- Revenue
- Traffic