

Town of Somerset

Council Meeting Minutes

11/6/2023

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); Dr. Tolbert Feather (Town Arborist); **Members of the Public:** Hayley Blunden (Surrey St.); Karl Blunden (Surrey St.); Guido Bracciale (Cumberland Ave.); Lucy Freeman (Falstone Ave.); Rohit Khanna (Falstone Ave.); Brian Pilot (Greystone St.); 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. No public comments were made or submitted.

7:03 p.m. Motion: To consider approval of the agenda as presented

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

7:04 p.m. Consent Agenda

Mayor Slavin introduced the consent agenda as follows:

- Appointment of Lucy Freemean (Falstone Ave.) to the Public Safety Committee (term ending Dec. 2025); and
- Appointment of Cinzia Furlanetto (Dorset Ave.) to the Environment Committee (term ending Dec. 2025).

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

7:05 p.m. Public Hearing/Motion: To consider approval of a tree removal application submitted by Hayley and Karl Blunden for the removal of a dead tree (White Oak, 26") at the property located at 5820 Surrey St.

Mr. Trollinger introduced the Town Arborist, Dr. Feather, who reported that the tree in question was dying, would not revive, and should be considered hazardous. Dr. Feather recommended the Council approve of the removal due to its health. The applicants thanked the Council for their time and

consideration and offered no additional comments. The Council had no questions or comments. No public comments were made or submitted.

Councilmember Surko motioned to approve the tree removal due to the condition of the tree. Councilmember Barr seconded. All in favor. **Action: Tree Removal Application Approved on a vote of 5-0.**

7:08 p.m. Public Hearing/Motion: To consider approval of a tree removal application submitted by Brian and Rebecca Pilot for the removal of a tree (Tulip Poplar, 37") at the property located at 5518 Greystone St.

Dr. Feather gave his report on the tree. He stated that the tree is not dead, but needs branches trimmed. Because the tree is healthy, he did not recommend removal.

Mr. Pilot (Greystone St.) explained that the poplar is fast-growing, and has dropped heavy limbs in recent years, including puncturing his roof several years ago which required the roof to be replaced. The tree has been trimmed, but continues to drop limbs, and leans towards the house. Mr. Pilot stated that the tree is planted too close to the house and is at risk of causing damage to the house's foundation. Additionally, he is concerned that shallow root depth may make the tree susceptible if the soil becomes saturated during heavy rain. Finally, he expressed his willingness to plant a replacement tree.

Council President Surko asked whether a replacement tree be planted in the same area as the tree proposed for removal. Mr. Pilot stated his preference for a smaller tree without large roots that could impact the foundation. He would be willing to plant a larger tree towards the back of the property. The tree is roughly 16 feet from the house.

Dr. Feather agreed that the tree is closer to the house than is optimal for the size of the tree.

The Council discussed other potential risks of the tree, including that the tree branches that extend over the house present a danger, and that the tree sways when there are strong winds. The Council asked Dr. Feather for his assessment of why the tree was dropping limbs, and to provide an estimate of when the tree might begin to decline. Dr. Feather noted that the tree is most likely over 100 years old and that it is common for mature trees to drop limbs.

There were no public comments.

The Council deliberated on the facts of the case. They determined that although the tree is not in decline, it could be considered dangerous because of how close it is to the house, its old age, and that it has dropped limbs and caused damage already. Furthermore, Tulip Poplars can grow easily and quickly in the area. There is an opportunity to plant shrubbery where the tree currently is. The Council encouraged the applicant to look into planting to help mitigate any impacts of stormwater, as the tree likely soaks up water during rainstorms. The Council considered whether replanting should be required as a condition of the permit, but agreed that because the applicant had already offered to do so, that would suffice.

Council President Surko motioned to approve the application due to the size, age, and close proximity to the house and foundation. Councilmember Barr seconded. All in favor. **Action: Tree Removal application approved on a vote of 5-0.**

7:26 p.m. Public Hearing/Motion: To consider approval of the fall tree planting list, as recommended by the Town Arborist and Parks and Natural Resources Committee:

- 4520 Cumberland Ave. – Black Gum
- 4910 Cumberland Ave. – Redbud
- 4603 Dorset Ave. – Redbud
- 4605 Dorset Ave. – Redbud
- 4719 Dorset Ave. – Yellowwood
- 4721 Essex Ave. – White Fringe Tree
- 4801 Essex Ave. – White Oak
- 4807 Essex Ave. – White Fringe Tree (2)
- 4921 Essex Ave. – Redbud (2)
- 4803 Falstone Ave. – Yoshino Cherry
- 5404 Surrey St. – White Oak
- 5524 Warwick Pl. – Serviceberry (2)
- 5525 Warwick Pl. – Yoshino Cherry
- 5601 Warwick Pl. – Willow Oak
- 5601 Warwick Pl. – American Beech
- 5802 Warwick Pl. – Willow Oak
- 5811 Warwick Pl. – Red Maple

Mr. Trollinger noted that PNRC has reviewed and that residents were notified of the proposed list. The list was slightly changed from the original draft proposal due to resident feedback. Otherwise, the residents had offered support for the proposal.

Dr. Feather noted that smaller trees are planted under the wires. He also mentioned that the PNRC had suggested another tree be considered for planting in front of 5524 Greystone St., but that he had not had an opportunity to evaluate the area before the list was submitted. Therefore, he would consider that location for planting in spring.

Councilmember Kumar motioned to approve the fall tree planting list as presented. Council President Surko seconded. All in favor. **Action: Fall Tree Planting list approved by a vote of 5-0.**

7:31 p.m. Motion: To consider the Introduction 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.

Mr. Trollinger noted one comment will be shared ahead of public hearing, as a resident had written an email expressing that the Town should ensure proper notice be given to abutting properties to review plans.

Councilmember Barr motioned to introduce the Code amendment. Councilmember Kumar seconded. All in favor. The Council asked that the Town staff write an article for the Town Journal explaining the substance of the Code amendment. **Action: Ordinance Introduced by a vote of 5-0. It will be considered for Adoption at the subsequent Council meeting.**

7:33 p.m. Motion: To consider the Introduction 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.

Mr. Trollinger noted that this is common practice, and that the Town had received public comments in the past in favor of advanced notification when possible, as residents have a stake in the trees that are planted in front of their property.

Councilmember Kumar motioned to Introduce the Code amendment. Councilmember Barr second. All in favor. The Council asked the Town staff to write an article for the Town Journal. **Action: Ordinance Introduced by a vote of 5-0. It will be considered for Adoption at the subsequent Council meeting.**

7:37 p.m. Public Hearing/Motion: To consider the Adoption of an ordinance to amend the Code of Ordinances to revise and clarify stormwater drainage requirements, and to require a permit for a new or replacement driveway.

Mr. Trollinger explained the amendment and the Council's process ahead of consideration for adoption. The Council discussed whether the new provisions would apply only if a permeable driveway were not to be installed, or if it would apply to all driveways above 5%, regardless of whether or not permeable materials were used. Mr. Bolt noted that as written, the amendment says that the condition would apply only if a permeable driveway is not installed. Councilmember Barr noted that the County would not permit a permeable driveway above a 5% slope. Mr. Bolt confirmed this to be true by internal policy. He suggested removing language that says, "*and permeable materials are not used.*" The Council also discussed how this impacted whether houses would be raised or not. The Council agreed that it would not stop houses from being raised, but if a house is raised, it closes the loophole on their driveway.

Councilmember Rovak requested that house height change and driveway height change be included in future application packages.

No public comments were made or submitted.

Councilmember Kumar motioned to amend the Ordinance with the following amendment on page four: the phrase, "and permeable materials are not used," is deleted. Councilmember Barr seconded. All in favor. Council President Surko motioned to Adopt the Ordinance as amended. Barr second. All in favor. **Action: Code Amendment Adopted with Amendment by a vote of 5-0.**

7:48 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 Council discussed the proposed amendment. The Council reviewed the data that was gathered by the staff. The data was taken primarily from Cumberland Ave., Falstone Ave., and Dorset Ave. because they were the largest streets. Mr. Trollinger noted that the information included some estimation, depending on what was provided in older plans. The data showed that 57 out of the 91 homes that were surveyed would comply with the proposed building height restrictions. These restrictions entail capping

the maximum peak height at 33 feet and the maximum mean height at 28 feet. Mr. Trollinger explained that more time would be needed for the staff to survey more houses.

The Council discussed the Established Building Height element of the proposed amendment, including whether it should be included. The Council also discussed the grandfathering clause in the proposed amendment. The Town Attorney confirmed that it was only applicable for an accident that caused substantial loss and that it would limit to the setbacks and dimensions that existed prior to any accident.

Councilmember Kumar suggested that more data would be helpful to determine the impacts this might have on the community, and that a clearer explanation for why the specific maximum height numbers (33' maximum height and 28' maximum mean height) were developed. The Council considered Somerset's property sizes in comparison to the other municipalities that have height restrictions.

The Council asked for a clearer understanding of what maximum height vs. maximum mean height was. Mr. Trollinger explained that mean height is applicable for gabled roofs and that the current Montgomery County Code requires either the maximum height or maximum mean height must be met. The current proposal would require both.

Kumar Vaswani (Trent St.) asked the Town Manager to provide him with the specific data for the houses not included in the three main streets studied. He also expressed his views that there should not be an established building height or grandfathered exception for houses that sustain a loss due to accidental causes.

Councilmember Barr motioned to table consideration to January. Councilmember Kumar seconded. Council President Surko proposed a friendly amendment to the motion, tabling consideration until the December Council meeting. Councilmember Barr accepted the friendly amendment. Councilmember Kumar seconded the amendment. All in favor of the amendment. All in favor of the original motion as amended.

Councilmember Kumar motioned to re-introduce Ordinance 9-23-1. Council President Surko seconded. All in favor. **Action: The amendment was re-Introduced, but not adopted, and will be further discussed at the November Work Session and considered for adoption at the December Council meeting, pending further discussion.**

8:13 p.m. Manager/Staff/Building Report

Mr. Trollinger made special note that the solar panel installation was complete at the Town Hall and inspections will take place on Tuesday, November 7 and Wednesday, November 8. In addition, LED streetlight installations began throughout Town the first week of November. Finally, the pool renovation project has progressed mostly on schedule, with only minor delays due to weather and poor soil. A small change order was made to replace clay soils, but the project continues under budget.

8:17 p.m. Adjourn

Mayor Slavin adjourned the meeting. All in favor.