

Mr. Proakis' Comments

I am George Proakis, Director of Planning in Somerville and have been there for about 5 years. I had a similar position in Lowell for 7 years. We did a citywide comprehensive plan and re-wrote a zoning ordinance that had been in place since the 1950-60s which had been giving Lowell quite a bit of discomfort.

Somerville's code is both a little older and a little newer than Lowell's. The beginnings of it are from the 1920s with the latest updates in 1990, but we are similarly looking at what is the most significant overhaul since 1926. It is a slow, ongoing process and we are in the middle of it right now. We have issued a draft that is online for comment and we have received many comments. We feel we are about a year away from a point where we would have a draft that we are all building consensus behind. Ald. Leary saw my TED talk on the history of zoning, background, and what led me and our staff into looking at a different strategy for zoning for Somerville and where we went with it. I'd like to share some key points that may or may not be relevant to what you're doing.

(The following comments are being made in conjunction with the presentation)

I think it's my Greek background that always causes me to go to the ancient Athenians for a strategy to create cities that are greater, better and more beautiful. They're very concerned at looking at the full span of how zoning can help to create a healthy and better city and how it fits the community we're in and what we are trying to do.

I like stepping way back in my conversations about zoning to Euclid, Ohio. Those of you know the history of zoning know that Euclid, was the first city that had zoning challenged at a significant level. In their 1920 zoning ordinance, divided the city up into districts and within each district had uses and setbacks, as was typical in most 1920s ordinances. These are the most basic elements of zoning: residential district, commercial districts, industrial districts and setbacks. The Amber Realty company was not very happy being in a residential district where they wanted to do commercial work, sued the City of Euclid and took it all the way to the 1926 Supreme Court. The Court said that the zoning ordinance in Euclid was valid because it helped to keep the pig in the barnyard and out of the parlor. The idea being that the separation of uses and the establishment of these districts made sense for the City. The division of districts today accomplishes what you would expect under the circumstances. Euclid, Ohio's map today shows a single family, multi-family, commercial districts and a lot of parking. The division of lots follows what you set up.

Architects always say form follows functions. Those of us who spend a lot of time doing zoning ordinances realize that form follows regulation. Parking regulations in particular. A lot of architects lay out what the parking requirement is first then build what they can based upon that and it drives a lot of other decisions. You look at doing a Main Street or a corner store, or a typical New England neighborhood – you look at the size and shape of lots and sometimes you try to create what should be there, but you don't quite succeed.

The New England style cupola on top on a strip mall was probably a site plan review decision to say hey let's make it look more like a New England look. When I worked in Lowell there were areas of the city that had cul-de-sac development on mainly quarter acre lots and for people in those neighborhoods, they liked that. But when we tried to put that into other neighborhoods that

were traditional walkable neighborhoods it didn't quite fit. Multi-families can get particularly weird when you set up various rules about density and parking requirements and you work around what you get. Commercial district with a typical office building parking requirement, you sometimes get more land for parking than for the building. In Lowell, we had a particular building type that bothered us: a townhouse without a town. These are garage-fronted buildings and were built by-right at the time. This is one reason I knew the ordinance needed a lot of work. You also have the monster home that doesn't fit into the neighborhood and I understand. I grew in Lexington and I drive through town now and don't recognize some of the streets because so many of the houses have been replaced with something completely different. It's something to see.

We have been using from the Euclid days to almost recently, a pretty typical tool kit of conventional zoning tools. What is interesting is that there have been evolutions and improvements on those tools in the last 10-15 years that have allowed us to package this together in different ways. If you look back at conventional tools, it's not that they're particularly bad, it's just that they have their shortcomings. These tools include:

Setbacks essentially is a way to tell you not to build; it does not tell you about anything inside the box, just beyond the box where you can't build. You can have a very successful setback requirement and not necessarily get something that fits. This is a Somerville building that meets the setback requirements – these are 3500 square foot lots – but you can still get a building that is totally out of line with the neighborhood. Setbacks don't solve all your problems.

FAR (Floor Area Ratio) which is the idea of lot size compared to building square footage. It was developed in NYC to deal with skyscrapers. The idea was to have towers go taller and provide more open space and more flexibility between building height and how we used ground space. FAR is like handing a developer a can of play-do and how big the can of play-do is depends upon how big the lot is. You can build very interesting and wonderful buildings with play-do and you can also build dinosaurs with play-do. You don't necessarily know what you're going to get and FAR has its shortcomings. In Somerville we have seen the FAR requirements twisted and turned. We have typical 2.5 story house types in Somerville and people do really creative things. They will open up floor to create two-level spaces then re-create that area somewhere else. So the FAR has not increased but the bulk of the building is growing and growing in different places. Then there are open space requirements and you hope you get something good but sometimes it's not what we had in mind.

People then stack these tools on top of each other and don't look at the holistic total of what all of them would do to create a place, but they are good tools. They have worked somewhat to date.

Then there are land use regulations. The popular thing to do is say you have uses allowed, uses for special permit, uses not allowed and lists are made. Somerville has 297 uses in our code and Lowell started out with about 150. We are trying to get Somerville's down to about 90 because it is unwieldy at this point. One of the founders of the form-based code institute that did all this work with graphical based zoning ordinances, he used to fix codes in California, he used to show this list for one zoning district in one neighborhood in one town in California. A new use would come along and they would change it and adjust it and the list grows. One great thing of one of these lists is nothing is defined so whoever is the Inspectional Services Commissioner can decide

what is what. A potato chip manufacturing plant might have to be different than a corn ship factory. Turkish baths are listed twice! Squeezing and trying to fit things in doesn't always work. Someone says I want to do a combination coffee shop/laundromat/rockclimbing gym and I have no idea what to do with the use table!

Our solution to solve these problems is the special permit. It's an interesting and useful tool and I think that what happens in most communities is they try to have findings and in some places the findings are overwhelmingly vague, I don't know about Newton. For someone looking at and approaching the code it becomes very difficult. Certainly what I find with our community members in Somerville who want to find some comfort that their next door neighbors can't do outrageous things – they say well they could put a 10-plex next to me and if these are the standards, then who knows. Sometimes it depends on how organized you are to oppose something because you could make any determination with some of these findings.

Our Somerville, which is 4.5 square miles with 70,000 people is the densest city in New England. Our challenge is most people know Somerville by its tight, close lots and 2-3 family homes on 3,000-4,000 square foot lots. It has become a very hot real estate market with our proximity to Boston and proximity to transit and our squares like Davis. We have a series of challenges in Somerville which is where and how in-fill housing is working. Everyone wants to build residential and many want to build in the existing neighborhoods: tear something down, attach things to existing things, but things in rear yards, so anything they possibly can. The code is all over the place in guiding us with that.

We have the biggest imbalance of commercial to residential tax base of any city in Massachusetts. We are getting the Green line extension which is exciting and with the Orange line extension which opened in 2014 in Assembly Square, 85% of the city will be within a half mile walk of transit. That sudden change has given us a perspective that we really need to look at where things are going.

A 1925 zoning ordinance had administration, building form, uses, maps and districts - basic stuff; a 1990 zoning ordinance with 450 pages of basically the same thing and lots of parking regulations, open space and some inclusionary zoning and some other things, but this is essentially the format in 1925. What has happened in that time, however, has really changed. The 1990 document is a state-of-the-art document – for 1990. Its solutions for 1990 are exactly what I would have done if I were Planning Director then. But the city has changed, technology, transit even the ability to use GIS to map lots. We have similar problems with district lines as Newton has because people were working without information that is available today. We have a system failure.

So how do we fix a system failure? I look to use this quote from an architect, Christopher Alexander, from Berkeley who has done all this stuff on zoning and walkable cities and making great neighborhoods. He approached someone who had been working on this for years and said we do all these great plans and great ideas to meet zoning challenges and parking rules, and the problem is we know what the appliance is, what we need to find is the plugs to connect to the power grids. The power grids are the legislative process and the administrative processes of the city – everything from the Board of Aldermen to the Fire Chief. Even when I've done everything right under zoning and created a great project, the Chief could come in and say the

driveway needs to be 4 feet wider or I'm not approving that. If this is all addressed up front, we can make that work.

There has been a lot of thought on how to do that and to using the range of tools we've had in the past few years makes it more interesting to look at some of this stuff. Form-based codes are something we've been really excited about and is working for us as a concept in Somerville. Simplifying use tables and trying to get more performance standards for uses – if you do 15 special permits a year for a certain use and you put the same conditions on every one of the 15, it gets to the use point where maybe you allow that use and put those 15 conditions into that, and it might be ok. The way we do special districts, we have ones now where we let people conglomerate land in our industrial districts and create neighborhoods of mixed use and residential. Some departmental solutions – I'm a big fan of having a document that someone can read and understand and figure out where sections are.

I'm going to run real quick through the 7 lessons I've learned from Somerville which may be helpful:

1. Plan first. Where we are has shifted a little bit. The regional planning agency has done a lot of studies on where our needs are. There is a unbelievable need for housing in the greater Boston area. The vast majority of people who want to be near transit and walkable village centers and get to places they go to most days by walking, and yet a lot of housing starts in the region are single-family very large homes on very large lots. These are tear downs or new cul-de-sacs. If we never build another one of those we have met the demand for the next 30 years, but that's where it's easy to build so it's where people go. There is a need for 400,000 housing units and the vast majority want to be where they can walk to a store or a restaurant and don't necessarily need a very large unit. There is also a significant demographic shift nationwide. There are fewer and fewer of the types of families looking for the large single-family house type as well. There is a lot of demand for these mixed use, creative spaces and that has driven our determination on where we are going in Somerville.
2. Growth and Conservation. We focused on doing a comprehensive plan that was both a growth plan and a neighborhood conservation plan. In areas where we felt we needed more work, like where the Green Line was coming, we got more detailed information for those particular neighborhoods to focus on what is going on there. We went out into the neighborhoods – we didn't stay in our offices to do planning. On a couple of occasions we borrowed empty store fronts and sat there with our planning staff and drew what was going on. David Carickle (spelling?) is one of my favorite consultants because he can quick draw an entire neighborhood in 5 minutes. We pin up every idea we have as ridiculous and it might be. It's the best way to eliminate and test things and find what doesn't work, what has impediments, what the community might not like. What is most interesting about Somervision – our neighborhood plan and our conservation plan is how it balances both growth and conservation. We focused on job creation as a big step because of our commercial tax base issue, but also included publicly accessibly open space, much of it we're trying to pride the community to build as we build new commercial centers. This last step is the most important – it splits the city into three types of areas and is where our existing zoning most fails us. Areas to conserve are areas in green and we are pretty happy with the way things are and yet our regulations let you

make changes there that aren't really what we want them to be. Areas in blue are areas we want to change carefully because they often back up onto those residential neighborhoods but you can create little notes. Gilman Square is 5 building lots around a T station that if you build creates a little commercial center and that's a 4-story district of 5 blocks. It creates a place when you walk out of that station. Assembly Square has 400 housing units with another 800 to come...there are other parts that don't seem like Somerville but they are and we can encourage growth with protecting our neighborhoods more than what we have been doing.

3. Measure and Regulate. We went out and measured everything because the biggest challenge has been the way we have addressed land use for our residential neighborhoods to date. It was a popular 1990 solution but the development community has figured out how to do exactly what we don't want them to do. A conforming Somerville house could look awful and another non-conforming actually fits what we would like to see. We have large minimum lot sizes and significantly small setbacks. You can have a large lot and get a large house with a small setback. If you take a typical neighborhood and you blow it up to build something conforming you end up with large lots, build buildings, 3-units a piece and small setbacks. The strategy is to make the city nonconforming. We were actually going to measure and we have in our resident districts, 80% of our lots, 60% of our land area, only 22 conforming lots. That's it. Basically you touch your house, you're into a special permit. This can sometimes lead to some outrageous build-outs that slide through the process and you have the result that you can't build Somerville but you can build something different in our community.

In Somerville you need the special permit which we will get you, but it's a lot of hassle to do that. So instead, we decided to build a code that builds Somerville. I sent interns out to measure the city and we developed a survey that established what our buildings are, look like, dimensions, shapes, lots sizes. Most of Somerville was built before the 1926 code was put in place and no one had done this before. We used the tools of form-based coding to build a code around building types. Basically the new code is based on the idea that there are 13 different buildings types like apartment buildings, row houses, fabrication lots, commercial buildings – each type is described completely on a 2 page spread on the code. Lot standards, building placement, height and massing, uses and features and 90% of what you need to know to build a building of that type is on those 2 pages. On top of that we added some by-right components you could add to an existing building. Even if those buildings are nonconforming, you can add these by-right components on – like a modest dormer window. If you're looking for something bigger then you're back in the special permit area. We are hoping that most people would like to avoid that and find the modest thing that will work. We are a city of front porches and they are part of the zoning variance because they are in the front yard setback. We solved that by saying you can break the front yard setback and you can build a front porch. We use a special permit process to back off from really bad things – we have spent a lot of time trying to calibrate to get to the right thing. It's more like using legos than play-do so you can build buildings that are consistent with the character of the community.

4. Map the Plan. We took the planning ideas, the transforms, the conserve areas and put it all one district in our proposal. We are getting some feedback and we may split it back but in each district we have a page that describes what it is, with some drawings, and

identifications of building types you can build there. This is the way we have been able to tag buildings to lots so we don't end up with oversize buildings on lots. If you have really big lot you can divide it in half and build 2 cottages for example, but that takes the ability right now to build 6 and 10-plexes. Triple-deckers need special permits because sometimes they will work and sometimes not, but we didn't want to give up that typical Somerville house-type and that has been a vibrant topic of conversation in the community as to whether it is still valid. The main street districts we have named 3,4,5-story mixed use and as we got into re-development, 6 and 7 story mixed use. Residential over retail, apartment building, commercial over retail etc. We are having a conversation about whether certain building types in certain districts should have special permits. Because we want more commercial development we have talked about making the residential special permit and commercial development site plan review, try to nudge the commercial ones along. It is still open.

5. Encourage Innovation. We have these maker spaces and interesting spaces that have established themselves in Somerville. Greentown is our green energy start-up business incubator that has 12 businesses in there trying to grow. They have been interesting to us. Rogers Foam is a foam manufacturing and art space in the same building. We have simplified the use table, we have broad categories like personal services for example. So unless it's a body art establishment, funeral home or health club, it's allowed in the business district. One thing we did to encourage the creative stuff is create the fabrication zoning district which is across 28 acres of land with existing industrial buildings. If we do nothing else, those buildings can generate 3000 jobs in these use categories. We can do job creation here and we don't want them to flip to residential uses. We love residential in some places but this is driving the engine of our small business economy and we want to keep it going.
6. People Before Parking. We have taken parking lots and turned it into a food truck plaza for a couple days. No one came up to me and said we lost 13 parking spaces. There was a lot of energy and excitement there. We will try this for a year and test it out. On the zoning side, when we looked at existing code and it allowed development intensity, by the time you laid you a two-story building you had to lay out so much parking that the parking requirement drove the entire site design. Including some underground parking and some shared parking between these buildings, it allowed some smaller buildings to be built without on-site parking. We try to focus on where those pieces can come together. This came out of our neighborhood planning process. When you plan for parking you get cars, when you plan for people, you get people.
7. Administration is Not Easy. This is very unique to the character and perspective of the particular community. The early folks who did form-based code said we are going to make everything by-right all the time. Well, that doesn't work. There are certain things you can make more efficient but the folks who have been doing this for awhile, it has evolved. The reality is you need use regulations, you have to have certain reviews for certain things, you have to determine what is appropriate for the community. I built a ground up system for Lowell and when I went to do the one for Somerville everything I did in Lowell was irrelevant.

Three weeks after I started working in Somerville, I got a petition from 10 registered voters to do a zoning amendment. The amendment was to convert every special permit to be handled by the Board of Aldermen. The Planning Board was doing the major redevelopment districts and the Zoning Board was doing the ones in neighborhoods and it has generally worked for us. But we had 2 or 3 that went to the Zoning Board that were approved and a lot of discomfort came out of that. So there was the idea to have the Board of Aldermen be the special permit granting authority. I embarked on a really intense analysis on how this is done in other communities. Only a few have the Board of Aldermen as the authority, like Newton. I give you credit because it is hard to be the legislative body one day and a quasi-judicial body the next – it is tricky for an elected official to do. It may work but if you ever want to hand it off the best time is when you have a Board of Aldermen that really understands and knows the findings and rules. I know it's been a conversation that comes up every few years. Somerville's Board of Aldermen was dead set against taking it back and they were happy to not have to run for re-election based on how they determined a zoning finding. It is unique to every community.

### **Committee Questions**

*When did you start this process?*

From 2009-2012 we worked on the Comprehensive Plan and starting looking at zoning soon after. We looked at doing a 2 step process like you are doing. Internally we spent a lot of time looking at the clean up issues but we are 2 years into some very intense work. The first year was spent listening and going to community groups, meeting with the Chamber of Commerce, our bike advocates, affordable housing advocates, etc. Then we really started doing most of our writing in 2014 with our first draft. We spent the summer doing a series of topic meetings. We chose 10 topics and did a series of public hearings and did a workshop just talking to people about what they would want. We then spent October and November hiding out and writing and then issued a draft in December. We did a public hearing on that in March and that led us to the comment list we have today and it caused us to say this is not a draft we are passing, but is a draft we learned a lot from. We are leaving that in our Land Use Committee so we can keep talking about it with them, but the time frame for action is expiring. We will submit a new draft new March.

*Did you use consultants?*

We did the vast majority in house because we received a HUD grant in 2011. I hired someone who had been doing zoning consulting, written codes in 7 other communities, as a staff person. They became imbedded in the community. I have two consultants on call – not to write, but as sounding boards. Don Elliott, wrote a book called “A Better Way to Zone” who is based in Denver and wrote the design code for Philadelphia and other big city and small town codes across the country; and Bill Russell who is in western Massachusetts who understands the nuances of Chapter 40A as well as being involved in the Form Based Codes Institute, the group that does form based design issues in zoning. I use them a lot but the day to day writing is being done in-house.

*What pieces of the puzzle have been enacted? You spoke of as of-right add on to a non-conforming structure, for example.*

All of that is in the draft and I expect we will be successful in passing this in 2016. It has been an ongoing process. The by-right add-ons, I think I have consensus behind that. But it is a work in progress. There are a couple of communities that have done deeper work in form based code, Simsbury CT, and they have passed it.

*The monster home problem – what is the solution?*

We created, for a typical size lot, a house type that is a relatively modest 2.5 story house described on a 4-page form sheet. It can only go so far back, has typical setbacks and is based on the measurements of all the other houses in Somerville. You can add a dormer, or a rear addition of one-story. We wanted to allow a family to make modest changes to accommodate a growing family and stay, but at the same time, if you try to pop the thing way beyond it's typical type, you can't do that. A lot of Somerville houses will remain non-conforming and other's may become non-conforming under the new code, but you can add these modest elements. They are all graphical piece and see what they are. You can't create a monster home with all these additions.

*So you're saying in order to get to a desirable design, we will allow you to tweak it some, but you can't start big. We will make small work and you can add a little to small?*

Yes, And we tacked our building types to lots sizes, so if you have a small lot you can built a 1.5 story cottage and that's it. Very simple. If you have an average lot you can have this average size two-family that is typical to Somerville. We are at the point where our Board has universally decided that certain large additions make them unhappy and they want to stop, so that has led us to consensus behind this particular strategy.

*Getting to a form-based model that has vitality in order of preserving the quality of the existing structures, rather than building what setbacks allow, you have to make the zoning more restrictive in the interim in order to make it less restrictive in the long run?*

Yes. And we want economic development and will do significant transformation in the areas we want significant transformation. But for the neighborhoods we are very focused on preserving the character we have and keeping things in context. The Comp plan built the support for that concept and that is what we used to build the consensus. Having a modest house in a neighborhood makes sense but on the edge of Kendall Square into Somerville if someone wants to build a 20-story office building, that would be a good place to do that. It's the balance that has been brought in through the planning process and then made possible through the code.

*How big is a typical residential lot? Any special problems you see?*

Typically about 4400 square feet and the houses have about 2 units of about 1500 square feet each. In some districts where 3-stories are allowed, some people try to make the whole first floor a garage. We had a lot of snout houses in Lowell. We put a simple step in to eliminate them – we had a minimum and maximum front yard set back. The front façade had to be within 15 and 20 feet and a front garage setback of 24 feet. So you could set up a porch at 9 feet, the bay at 12 feet and the front could be 15-20 and the garage had to be 24. This is a place where people were taking stock plans and that pretty much stopped that. I kept pictures on my wall so that people could see how it could be done in a way that was better and not make the garage the prominent feature.



Ald. Johnson said this can all be kept in mind while going through the RFP process for Phase 2.

Mr. Proakis said the code can be found online following the websites. Somerville acquired a program that allows the public to log in and make comments to the PDF document, called Open Comment. It cost about \$4K. That is shut down right now because they are editing the draft. It was helpful to let people start an online conversation about what they like and don't like. There is also a system for map changes requests in case people think they are labeled mistakenly on the zoning map. We have 115 requests that say the map is wrong.

These two websites show all of this information:

[www.somervillema.gov/zoning](http://www.somervillema.gov/zoning)

[www.somervillebydesign.com](http://www.somervillebydesign.com)

The Committee thanked Mr. Proakis for the informative and interesting presentation.