



CITY OF MEDFORD  
ZONING BOARD OF APPEALS

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**Decision of the Board**

**No. A-2022-12**  
**October 27, 2022**

**595 Broadway**

Jacqueline Doherty  
*Chairperson*

Michael Caldara  
André Leroux  
James Tarani  
Yvette Velez  
*Voting Members*

Jamie Thompson  
*Associate Member*

Denis MacDougall  
*Clerk*

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**I. APPLICANT**

Fidelis Bridge Loan Venture V REO LLC

**II. PROPERTY LOCATION**

595 Broadway, Somerville, Massachusetts

**III. APPLICATION**

The applicant seeks to construct a multiple dwelling building consisting of seven (7) residential dwelling units in a Commercial One (C-1) Zoning District, allowed use, with insufficient:

- Lot Area, Lot Width, Landscape Area, Usable Area, Front & Side Yard Setbacks
- Off-Street Parking
- Parking Space Size
- Width of Access Aisles
- Width of Entrance & Access Drives
- Maximum Allowed Height and Number of Stories

**IV. DATE OF PUBLIC HEARING**

September 29, 2022  
October 27, 2022



## **V. MEMBERS OF THE BOARD PRESENT AND VOTING**

Jacqueline Doherty, Chairperson  
Yvette Velez, Voting Member  
André Leroux, Voting Member  
Michael Caldera, Voting Member  
Jamie Thompson, Associate Member

Denis MacDougall, Clerk

## **VI. EVIDENCE PRESENTED AND REVIEWED**

In addition to un-sworn testimony offered at the public hearings, including the statements presented by the Applicant, the Board has also considered the following documents and submissions:

- a) Permit Refusal from the Building Commissioner;
- b) Application for Variances;
- c) Worksheet in support of Application for Variances;
- d) Zoning Evaluation Sheet;
- e) Certified Abutters List;
- f) Area Plan;
- g) Plot Plan;
- h) Architectural Plans;
- i) Existing Plans;
- j) Variance Status Matrix; and
- k) Letter of Approval from the Medford Community Development Board.

## **VII. APPLICABLE LAW**

### **A. The Board's Power to Grant Variances**

This Board is empowered to grant variances from the Medford Zoning Ordinance pursuant to state statute. *See* M.G.L. c. 40A, § 10. Massachusetts General Laws, Chapter 40A, Section 10 provides a four-part test to determine when a variance may be granted, stating that the Board has the power to grant a variance from the terms of the applicable zoning bylaw where the Board specifically finds that:

- 1. [O]wing to circumstances relating to the soil conditions, shape, or topography of such land or structures;
- 2. [A]nd especially affecting such land or structures but not affecting generally the zoning district in which it is located;



3. [A] literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant;
4. [T]hat desirable relief may be granted without substantial detriment to the public good; and
5. [W]ithout nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

M.G.L. c.40A, § 10.

### **VIII. FACTS AND FINDINGS**

After a review of the submissions, presentation by the Applicant, and public comment, the Board makes the following factual findings:

The Property is located on the north side of Broadway between Albion Street and Alfred Street on land split between two (2) municipalities – Medford and Somerville. The Medford portion of the Property is entirely landlocked, comprising the rearmost portion of the Property, and is comprised of assessor's parcel Y-09-21 (PID 16541) measuring approximately 4,227 square feet. The Somerville portion of the Property fronts on Broadway and is comprised of assessor's parcel 27-C-4 (PID 5099) measuring approximately 2,773 square feet. The total lot area of the Property is therefore approximately 7,000 square feet. The Property is located in the southwestern corner of Medford where Medford shares borders with Somerville to the west.

The Applicant seeks to demolish the existing vacant single-family residence at the Property and construct a new a seven (7) unit multi-family residence development, of which, four (4) units are located within the boundaries of the Medford portion of the Property. The Property is situated on a rectangular lot fronting on Broadway in Somerville, consisting of approximately 7,000 square feet, of which 4,227 square feet are located in Medford's Commercial One (C-1) Zoning District and 2,773 square feet are located in Somerville's Urban Residential (UR) Zoning District. The proposed development will consist of new four (4) story building measuring approximately 9,243 square feet in total and comprised of six (6) two-bedroom units, one (1) one-bedroom unit, ten (10) parking spaces below grade, and bicycle storage facilities accommodating eight (8) bicycles for promotion of alternative means of transportation. Of the building's 9,243 square feet, only 6,104 square feet will be located in Medford.





Pursuant to Chapter 94 of the Revised Ordinances of the City of Medford (the "Zoning Ordinance"), and as identified in the Permit Refusal letter issued by Building Commission Paul Mochi, dated April 26, 2022 (the "Refusal Letter"), the Applicant seeks the following variances relative to the proposed development:

1. The following variances under the Zoning Ordinance, Section 94-171, Table 6.3, Item 4 (the "Dimensional Regulations"):
  - a. Lot Area. The Dimensional Regulations require a lot area of 10,000 square feet for the Applicant's proposed development. The Property has a total lot area of 7,000 square feet, of which 4,227 square feet are in Medford. The Applicant requires a variance of 5,773 square feet from the total lot area requirement when considering the Medford portion of the Property and/or a variance of 3,000 square feet from the total lot area requirement when considering the entire Property.
  - b. Lot Area – Per Dwelling Unit. The Dimensional Regulations require a lot area (as calculated on a "per dwelling unit" basis) of 6,500 square feet for the Applicant's proposed development on the Medford portion of the Property. The Property has a total lot area of 7,000 square feet, of which 4,227 square feet are in Medford. The Applicant requires a variance of 2,273 square feet from the lot area requirement on a per dwelling unit basis.
  - c. Lot Width. The Dimensional Regulations require a lot width of 100 feet. The Applicant's proposed lot width is 70 feet. The Applicant requires a variance of 30 feet from the lot width requirement.
  - d. Landscaped Open Space. The Dimensional Regulations require landscaped open space equal to 10% of the gross floor area. The Applicant's proposed landscaped open space within Medford (1,149 square feet) is equal to 19% of the gross floor area located within Medford (6,104 square feet). The landscaped open space within the Medford portion of the lot is also equal to approximately 12% of the gross floor area for the entire proposed building (9,243 square feet), including those portions located in Somerville. Accordingly, the Applicant does not require a variance from the landscaped open space requirement.
  - e. Usable Open Space. The Dimensional Regulations require usable open space equal 50% of the gross floor area. The Applicant's proposed usable open space is 0% of the gross floor area. The Applicant requires a variance of 50% from the usable open space requirement.
  - f. Front Yard Setback. The Dimensional Regulations require a 15.03' feet front yard setback. The Applicant proposes an 11 feet front yard setback, provided however, the front yard, as defined in the Zoning Ordinance, is located in the Somerville



portion of the Property. The Applicant requires a variance of 4.03 feet from the front yard setback requirement.

- g. Side Yard Setback (Left). The Dimensional Regulations require a 17.5 feet side yard setback. The Applicant proposes a 6 feet side yard setback. The Applicant requires a variance of 11.5 feet from the side yard setback requirement.
  - h. Side Yard Setback (Right). The Dimensional Regulations require a 17.5 feet side yard setback. The Applicant proposes a 15 feet side yard setback. The Applicant requires a variance of 2.5 feet from the side yard setback requirement.
2. Off-Street Parking. Section 94-191(b)(1) require eight (8) parking spaces be provided for the four (4) dwelling units located on the Medford portion of the Property. The Applicant's proposes seven (7) parking spaces in the Medford portion of the Property (with an additional three spaces in Somerville). Therefore, the Applicant requires a variance of one (1) parking space from the parking space requirement.
  3. Parking Space Size. Section 94-191(b)(5)(a) requires that all parking spaces measure not less than nine (9) feet in width and 19 feet in length for all angle parking, or 22 feet in length for parallel parking. The Applicant proposes (i) four (4) standard parking spaces measuring nine (9) feet in width and 18 feet in length and (ii) three (3) compact parking spaces measuring approximately 7.5 feet in width and 18 feet in length. Therefore the Applicant requires variance of approximately (y) one (1) foot in length for each standard parking space and (z) 1.5 feet in width and one (1) foot in length for each compact parking space.
  4. Parking, Access Aisle Width. Section 94-191(b)(5)(b) requires that access aisle width for parking spaces (two-way traffic) be at least 24 feet. The Applicant's proposed access aisle width is 20 feet. The Applicant requires a variance of four (4) feet from the access aisle width requirement.
  5. Width of Entrance and Exit Drives. Section 94-191(b)(6)(a) requires that minimum width of entrance and exit drives shall be 12 feet for one-way use, or for driveways providing access primarily for overnight parking with only incidental day-use, and 20 feet in all other instances. The Applicant's proposed entrance and exit drive width is ten (10) feet. The Applicant requires a variance of ten (10) feet from the minimum width of entrance and exit drive requirement.
  6. Maximum Height Requirement. Section 94-172(f)(3) provides that structures within 100 feet of the boundary of an SF-1, SF-2, GR or APT-1 district shall not exceed four (4) stories or 50 feet in height. The Applicant's proposed development is four (4) stories and 42.2 feet in height. The Applicant does not require a variance from the maximum height requirement.





The Board finds that despite its rectangular shape, the Property's shape is unusual by virtue of being bisected by the mutual border of Medford and Somerville creating a "split lot." This split nature results in the Property being subject to two (2) different zoning schemes with that portion of the Property lying within Medford's jurisdiction subject to the Medford zoning ordinance and that portion of the Property lying within Somerville's jurisdiction subject to the Somerville zoning ordinance. As a result of the location of the east-west municipal boundary, the Medford portion of the Property is landlocked without frontage (other than that provided by the Somerville and, therefore, generally noncompliant under any section of the zoning ordinance. Moreover, the split nature of the Property also renders both the Medford portion and the Somerville portion of the Property, individually, dimensionally insufficient for nearly any proposed use permitted in their respective zoning districts. According to public records, the Property appears to have existed in its current shape and size since at least 1945, with the existing residence on the Property having been constructed in either 1900 or 1910.

Strict application of the Zoning Ordinance would render the use of the entire Property to its fullest potential very difficult. Medford's C-1 district prohibits detached single-family and two-family dwellings, as well as attached single-family dwellings. Within the C-1 district, the Applicant's only options for development are multi-family dwellings (for which the lot is not dimensionally compliant) or commercial and industrial uses, both of which would be out of place sandwiched between the existing residences on either side of the Property. Similarly, the use of the Medford portion of the Property must be harmonious with those uses permitted within the Somerville portion's UR district, which district is intended to be almost entirely residential and characterized by multi-unit buildings with very forgiving dimensional requirements, including smaller setbacks and more permissive lot coverage. Similarly situated lots, including the Property's neighbors to the west at 597 Broadway and 599 Broadway (both split lots) are improved with multi-family buildings on smaller lots with dimensional insufficiencies. Nearly any development of the Property for a permitted use within Medford's C-1 district and Somerville's UR district would trigger the requirement for relief from the Zoning Board of Appeals. Literal application of the dimensional requirements set forth in the Zoning Ordinance will render the proposed project or most any proposed alternative project infeasible from both a practical and economical perspective.

The Board finds that the proposed development of the Property can be accomplished without substantial detriment to the public good and that the development, as proposed, will actually contribute greatly to the community. The proposed use is permitted at the Property as of right under the Zoning Ordinance and the dimensional variances requested will have little impact on the neighboring properties. The Applicant's proposed development is a good fit for the area and in substantial conformity with the character, uses, and streetscape of Broadway and the broader neighborhood. To that effect, the City of Somerville Zoning Board of Appeals previously granted special permits in October 2018 to permit construction of the Applicant's proposed project on the Somerville portion of the Property (see Case # ZBA 2018-94) and the validity of those special permits was extended through February 2023 by the Somerville Zoning Board of Appeals on May 18, 2022 (see P&Z 22-018). The Property is located in close proximity to the General Residence (GR) Zoning District and those portions of the neighborhood located within both the GR and C-1





districts are generally improved with multi-unit residential structures. Specifically, with only a handful of exceptions, multi-family residential buildings dominate the immediate neighborhood, including the six-unit building immediately to the west of the Property at 597 Broadway and several larger mixed-use retail/residential buildings of larger scope than the proposed development farther east of the Property on Broadway including the mixed-used developments located at the corners identified as 42 Alfred Street & 565 Broadway and 87 Medford & 519 Broadway. These larger developments were not found to be out of harmony with the character of the immediately surrounding areas in Medford and Somerville and, in the case of 87 Medford & 519 Broadway, the development was deemed a "modern and attractive...building" and a "substantial improvement to the status quo" (see Medford Zoning Board of Appeals Decision No. A&F-2017-27). Arguably, the Applicant's proposed building will be much more attractive than the existing, aged residential structure built less than two (2) feet from the western lot line. Similarly, the proposed building provides at least one off-street parking space per unit and offers at least one bike storage space per unit, as well. The proposed development will not only add much needed residential units to the stressed housing market in Medford and Somerville but will also contribute to the streetscape of Broadway with a modern façade and bountiful landscaping.

Section 94-1 of the Zoning Ordinance provides that the purpose of the Zoning Ordinance is to "promote the health, safety, morals, convenience and general welfare of its inhabitants, to lessen the danger from fire, congestion, and confusion, and to improve and beautify the city." Replacing the existing single-family residence with the proposed modern multi-unit development will not only promote the general welfare and safety of Medford's inhabitants by helping to alleviate Medford's burdened housing market with new residences meeting the most modern and up-to-date safety requirements but will also serve to beautify the City with modern architecture and varied landscaping. Since the proposed development is less than a mile from the Davis Square MBTA Station and provides enough secure storage for at least one bicycle per unit, the project is expected to attract residents looking to eschew daily automobile use and instead elect to walk or bike around the community, thereby promoting the convenience and safety in the City by decreasing congestion. Not only is the use in compliance with both the Medford and Somerville zoning ordinances, but the Property's location immediately adjacent to the GR district and within close proximity to the Apartment-2 (APT-2) Zoning District a few blocks to the east further evidences that the proposed development is very much in character with the surrounding area and seeks to complement and mirror Somerville's medium density UR and Mid Rise 4 (MR4) Zoning Districts along Broadway.

The Board also finds that the proposed building will be much more attractive than the existing, aged residential structure currently existing at the Property. The proposed development also seeks to increase some of the existing setbacks that will benefit the neighbors. For example, the existing structure is built less than two (2) feet from the western lot line and 6.4 feet from the front lot line, whereas the proposed development will increase that side yard to six (6) feet and the front yard to 11 feet. Similarly, the proposed building provides below-grade parking, thereby improving the view for neighbors by reducing the amount of visible pavement, removing parked vehicles from view, and providing more space for landscaping, which will be a marked improvement over the



existing conditions. The proposed development will not only add much needed residential inventory to the strained housing market in Medford and Somerville but will also contribute to the streetscape of Broadway with a modern façade and bountiful landscaping. The amount of parking to be provided is supplemented by bike storage facilities to encourage alternative clean forms of transportation. The modern façade will be more in line with those of other newly constructed buildings, including the previously approved development farther down Broadway at 87 Medford Street & 519 Broadway.

#### **IX. DECISION OF THE BOARD**

Application for the following Variances Approved:

- Lot Area, Lot Width, Landscape Area, Usable Area, Front & Side Yard Setbacks
- Off-Street Parking
- Parking Space Size
- Width of Access Aisles
- Width of Entrance & Access Drives
- Maximum Allowed Height and Number of Stories

#### **VII. VOTE OF THE BOARD**

All requested variances: Unanimous (5:0)

By unanimous vote of the Board (5:0), the application for variances for Lot Area, Lot Width, Landscape Area, Usable Area, Front & Side Yard Setbacks, Off-Street Parking, Parking Space Size, Width of Access Aisles, Width of Entrance & Access Drives, Maximum Allowed Height and Number of Stories is approved.





Signed:

*Jacqueline B. Doherty*

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Jacqueline Doherty, Chairperson

*Michael Caldara*

ID dZlUMZxCW6kzaWfFgsz5Sq6N

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Michael Caldara, Voting Member

*Yvette C Velez*

ID PymcTN6dQh4rAob1B7JTPEGZ

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Yvette Velez, Voting Member

*Andre Leroux*

ID 8FWecoPeggwnQpM41NrwZUMG

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André Laroux, Voting Member

*Jamie Thompson*

ID ynzF2pGNSdAh1FpZ7F81NUcD

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Jamie Thompson, Associate Member, Designated  
Voting Member

*Denis MacDougall*

ID GawQhXxFXTJzbMIGJFb472jX

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Denis MacDougall, Clerk

## eSignature Details

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**Signer ID:** Pwsstt2189iReS3DMmEanWTa  
**Signed by:** Jacqueline B. Doherty, Esq.  
**Sent to email:** jacqueline.medfordzba@gmail.com  
**IP Address:** 74.104.152.229  
**Signed at:** Feb 5 2023, 1:21 pm EST

**Signer ID:** dZfUMZxCW6kzaWfFgsz5Sq6N  
**Signed by:** Michael Caldara  
**Sent to email:** michael.caldara.mzba@gmail.com  
**IP Address:** 100.0.240.86  
**Signed at:** Feb 5 2023, 1:55 pm EST

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**Signed by:** Yvette Velez  
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**Signer ID:** 8FWecoPeggwnQpM41NrwZUMG  
**Signed by:** André Laroux  
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**IP Address:** 100.0.195.3  
**Signed at:** Feb 6 2023, 1:00 pm EST

**Signer ID:** ynzF2pGNSdAh1FpZ7F81NUcD  
**Signed by:** Jamie Thompson  
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