



City of Somerville

# **ZONING BOARD OF APPEALS**

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

**TO:** Zoning Board of Appeals  
**FROM:** PPZ Staff  
**SUBJECT:** 1 McGrath Hwy, P&Z 23-032  
**POSTED:** April 13, 2023

**RECOMMENDATION:** Approve

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements, and other information from PPZ staff to the Review Board members.

This memo summarizes the Hardship Variance request submitted for 1 McGrath Hwy, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on March 27, 2023, and is scheduled for a public hearing on April 19, 2023. Any Staff-recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

## **LEGAL NOTICE**

Somerbridge Hotel, LLC proposes to develop a six (6) story General Building and establish a Hotel use in the High Rise (HR) district, and requests relief from façade build out requirements, which requires a Hardship Variance.

## **SUMMARY OF PROPOSAL**

Somerbridge Hotel, LLC is proposing to construct a 6-story LEED Platinum General Building and to establish a Hotel use. The Applicant is requesting relief from the façade build out requirements (SZO §5.1.7.c), which requires a Hardship Variance. The current proposal does not meet the SZO's requirements for façade build out in the High Rise (HR) district, which requires a Minimum Primary Façade Build Out of 80%.

## **BACKGROUND**

1 McGrath Hwy is located in the 0.5mi Transit Area in High Rise (HR) zoning district in the Twin City neighborhood represented by Ward 2 Councilor JT Scott. Following the Board's decision regarding the requested Hardship Variance, the proposal will require Site Plan Approval and Special Permits for a Hotel Use and for relief from parking standards. The Planning Board is the decision-making authority for all (non-variance) discretionary or administrative permits required for the HR zoning district. The Applicant has applied for Site Plan Approval and Special Permits with the Planning Board; the public hearing to review the application is scheduled for April 20, 2023.

During review of the application for Site Plan Approval and Special Permits, the Inspectional Services Department determined that the General Building, as designed, requires a Hardship Variance for façade build out on the primary façade. The Applicant has subsequently submitted this application for a Hardship Variance in tandem with its applications to the Planning Board.

The Applicant previously applied for – and received – a Special Permit with Site Plan Review (SPSR) under the old zoning ordinance in March 2019. The ZBA approved the SPSR for a 6-story, 135-room extended stay hotel, and extended the permit's validity in March 2020. The Applicant allowed the permit to expire and applied for a significantly updated project with a new application under the current zoning. The site program has been modified from an extended stay hotel to a more upscale hotel with a greater number of rooms, as well as ACE space.

## **ANALYSIS**

As noted above, the current proposal does not meet the SZO's requirements for façade build out in the High Rise (HR) district, which requires a Minimum Primary Façade Build Out of 80%. As the site is bifurcated by the Somerville/Cambridge municipal boundary line, and as compliance must be evaluated only by what is within the boundaries of Somerville, the presence of the proposed entry and drive aisle on the Somerville side of the property keeps the proposal from complying with the façade build out requirement.

The Applicant is required to provide an argument addressing each of the review criteria for any necessary Hardship Variance. The Applicant's arguments are provided in the Development Narrative, which has been submitted to the ZBA as part of the application.

PPZ Staff believe that the shape of the lot creates a unique circumstance that limits the ability of this development to comply with the requirements of the Somerville Zoning Ordinance. The lot is bifurcated by the Somerville/Cambridge municipal line, which significantly limits options for a compliant design that addresses the other unique attributes of the site, including soil contamination and the presence of a retaining wall that may hold historic significance.

Generally, PPZ Staff do not provide analysis or recommendations concerning the existence of actual hardship, financial or otherwise, regarding the second Hardship Variance criterion.

Upon analysis of the material submitted by the Applicant, PPZ Staff do not believe that the granting of the requested hardship variances would cause a substantial detriment to the public good or nullify or substantially derogate from the intent and purpose of the High Rise (HR) district, copied here:

### **Intent**

- To implement the objectives of the comprehensive plan of the City of Somerville.

- To accommodate the development of areas appropriate for an intense mix of multi-story multi-unit, mixed-use, and commercial buildings; neighborhood-, community-, and region-serving uses; and a wide variety of employment opportunities.

#### Purpose

- **To permit the development of multi-unit, mixed-use, and commercial high-rise buildings.**
- **To provide quality commercial spaces and permit small and medium-scale, neighborhood-, community-, and region-serving commercial uses.**
- To create dwelling unit types, sizes, and bedroom counts ideal for larger households in apartment buildings.
- To create dwelling unit types, sizes, and bedroom counts ideal for smaller households in general buildings.
- To permit increased residential density for buildings that meet the definition of a Net Zero Ready Building.

PPZ Staff believe that granting the requested Hardship Variance would support the intent of the specific section of the Somerville Zoning Ordinance (SZO §5.1.7.c) for which relief is being sought; if the lot were entirely within the municipal boundaries of Somerville, the design would likely be compliant.

Additionally, PPZ Staff believe that granting the requested Hardship Variance would support the broader intent of the Somerville Zoning Ordinance, including, but not limited to, the following:

- To increase commercial tax base in support of the fiscal health of the City.
- To protect and promote a diverse mix of businesses.
- To capture a fiscal return on investments made in transportation infrastructure by locating higher intensity development, employment opportunities, and a broad mix of uses along major corridors and within walking distance of transit stops.
- To encourage contemporary architectural design for new construction that complements the established character of existing buildings.
- To encourage the use of public transportation, bicycling, and walking in lieu of motor vehicle use when a choice of travel mode exists.
- To resolve design conflicts between vehicular and pedestrian movement in favor of the pedestrian.

Massachusetts courts have stated that variances will naturally deviate from the intent and purpose of a zoning ordinance to some degree and that the discretionary approval of a variance is defensible if the deviation is not substantial or significant in comparison to the intent and purpose for the district in appraising the effect of the proposal on the entire neighborhood, including future impacts and other development approved or denied in the general vicinity of the development site.

## **CONSIDERATIONS & FINDINGS**

In accordance with the Somerville Zoning Ordinance, the Zoning Board of Appeals may grant a Hardship Variance only upon deliberating and finding all of the following at the public hearing for each requested variance:

### **Hardship Variance Considerations**

1. Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure but not affecting generally the High Rise (HR) zoning district in which the land or structure is located;
2. Literal enforcement of the provision of this Ordinance for the district where the subject land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant, Somerbridge Hotel, LLC, due to said special circumstances; and
3. Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the High Rise (HR) district in this Ordinance or the Ordinance in general.

## **PERMIT CONDITIONS**

Should the Board approve the required Hardship Variance for minimum façade build out, PPZ Staff recommends the following conditions:

### **Permit Validity**

- This Decision must be recorded with the Middlesex South Registry of Deeds.

### **Public Record**

- A digital copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation, & Zoning Division for the public record.