



City of Somerville

ZONING BOARD OF APPEALS

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

TO: Zoning Board of Appeals
FROM: Planning, Preservation, & Zoning Staff
SUBJECT: 1 McGrath Hwy, PZ24-000011
POSTED: March 28, 2024

RECOMMENDATION: Approve (Extension for Hardship Variance)

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

This memo summarizes the request for an extension of the duration of the validity of a Hardship Variance previously granted for 1 McGrath Hwy (P&Z 23-032). The application was deemed complete on March 7, 2024, and is scheduled for a public hearing on April 3, 2024. 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 seeks to extend the validity of the Hardship Variance (P&Z 23-032) for six (6) months.

SUMMARY OF PROPOSAL

Somerbridge Hotel, LLC is requesting a six (6) month extension to the validity of previously granted Hardship Variance (P&Z 23-032). The Applicant seeks an extension to extend the time to act pursuant to the Hardship Variance and move forward with the previously approved development of the property.

BACKGROUND

Somerbridge Hotel LLC is requesting an extension to a Hardship Variance project approval granted on April 19, 2023. The Applicant sought relief from the façade build out requirements for its hotel project at 1 McGrath Highway. The project involves developing a six (6) story General Building and establishing a Hotel use in the High Rise (HR) district, which required Site Plan Approval and Special Permits for the Hotel use and relief from parking standards.

A copy of the original Hardship Variance Decision is included as an addendum to this staff memo.

ANALYSIS

The applicant requests the extension for a couple reasons. First, the subject property is located both in the Cities of Somerville and Cambridge and had to obtain zoning approval from both cities. Zoning approval from Cambridge was granted July 27, 2023, and the appeal period for the decision ended on October 25, 2023. In addition, the subject property has contamination and is subject to an Activity and Use Limitation (“AUL”), which adds additional time to permit drawings.

Staff support the Applicant’s request for a permit extension. This is a unique case where the permitting requires additional time due to the lot being split between Somerville and Cambridge (and zoning relief was subsequently needed from both cities) and the contamination issues the lot has faced.

CONSIDERATIONS & FINDINGS

In order to extend the duration of validity, the Zoning Board of Appeals is required by the Somerville Zoning Ordinance to make a finding that a demonstrated hardship has prevented utilization of the rights authorized by the Hardship Variance.

PERMIT CONDITIONS

Should the Board approve the requested extension of the duration of the validity of the Hardship Variance, Planning, Preservation & Zoning Staff recommends the following conditions:

Permit Extension 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.

Middlesex South Registry of Deeds

Electronically Recorded Document

This is the first page of the document - Do not remove

Recording Information

Document Number	: 123944
Document Type	: DECIS
Recorded Date	: October 31, 2023
Recorded Time	: 09:53:00 AM
Recorded Book and Page	: 82156 / 489
Number of Pages(including cover sheet)	: 5
Receipt Number	: 2953160
Recording Fee	: \$105.00

Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.middlesexsouthregistry.com



City of Somerville

ZONING BOARD OF APPEALSCity Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143**DECISION**

2023 MAY - 1 P 11: 21

PROPERTY ADDRESS: 1 McGrath Highway
CASE NUMBER: P&Z 23-032
OWNER/APPLICANT: Somerbridge Hotel, LLC
ADDRESS: 10 Cabot Road, Suite 209, Medford, MA 02155
DECISION: Approved with Conditions (Hardship Variance)
DATE OF VOTE: April 19, 2023
DECISION ISSUED: May 1, 2023

CITY CLERK'S OFFICE
SOMERVILLE, MA

Deed Reference: Book 73874, Page 495

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the Hardship Variance application submitted for 1 McGrath Highway.

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.

RECORD OF PROCEEDINGS

On April 19, 2023, the Zoning Board of Appeals held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Vice-Chair Anne Brockelman, Clerk Katherine Garavaglia, Ann Fullerton, Zachary Zaremba, and Alternate Brian Cook.

The Applicant presented the project and with no questions from the Board, Chair Fontano opened public testimony. Three (3) people spoke in support, praising the team for on-going collaboration with both cities, Friends of the Community Path, adjacent property owners, and MassDOT. There was no testimony provided against the project, and public testimony was closed. Board discussion included clarification of the shared parking spaces in the adjacent 15 McGrath and discussion of the findings as listed below.

PLANS & DOCUMENTS

Applicant on plans, documents, and supporting materials submitted and incorporated are identified below.

Document	Pages	Prepared By	Date	Revision Date
1 McGrath Highway Site Development Plans	19	Allen & Major Assoc. Inc., 400 Harvey Road, Manchester, NH 03103	November 5, 2021	January 6, 2023
1 McGrath Highway Somerbridge Hotel Addendum Plans	17	JAL Hospitality Design Inc., 10 Cabot Road, Suite 209, Medford, MA 02155	November 5, 2021	September 1, 2022

A TRUE COPY ATTEST:

CITY CLERK

Adam Dash
48 Grove Street, Suite 304
Somerville, MA 02144

HARDSHIP VARIANCE FINDINGS

In accordance with M.G.L. 40A and the Somerville Zoning Ordinance, the Board may grant a hardship variance only upon finding all of the following for each hardship variance:

Hardship Variance Criteria:

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.*

The Board finds that special circumstances exist related to the shape of the parcel due to the impacts that the Somerville/Cambridge municipal boundary, which runs through the parcel.

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.*

The Board finds that literal enforcement of the façade build out requirement, subject to this parcel, creates a substantial hardship to the petitioners.

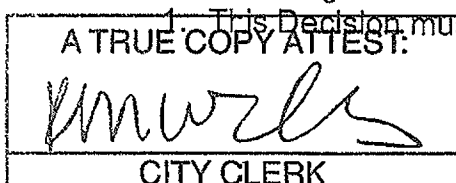
3. *Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the High Rise (HR) district in this Ordinance or the Ordinance in general.*

The Board finds that desirable relief can 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.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Clerk Katherine Garavaglia moved to approve the Hardship Variance to grant relief from the façade build out requirements with the conditions included in the staff memo dated April 13, 2023. Vice-Chair Anne Brockelman seconded. The Board voted **5-0** to approve the permit, subject to the following conditions:

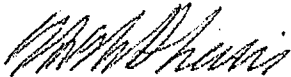
Prior to Building Permit



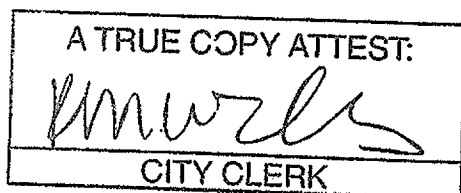
2. A digital copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation, & Zoning Division for the public record.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Anne Brockelman, *Vice-Chair*
Katherine Garavaglia, *Clerk*
Ann Fullerton
Zachary Zaremba
Brian Cook, *Alternate*



Sarah Lewis, Director of Planning, Preservation, & Zoning
Office of Strategic Planning & Community Development



CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 15.5.3.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on May 1, 2023 in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

☒ there have been no appeals filed in the Office of the City Clerk, or
☐ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

☐ there have been no appeals filed in the Office of the City Clerk, or
☐ there has been an appeal filed.

FOR SITE PLAN APPROVAL(S) WITHIN

☐ there have been no appeals filed in the Office of the City Clerk, or
☐ there has been an appeal filed.

Signed



City Clerk

Date May 22, 2023