



City of Somerville

ZONING BOARD OF APPEALS

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

DECISION

2024 OCT -2 P 1:59

PROPERTY ADDRESS: 483 Broadway
CASE NUMBER: ZP24-000051
OWNER: 266 Broadway Realty Trust, John G. Wood, Trustee
OWNER ADDRESS: 1035 Saratoga St., East Boston, MA 02128
APPLICANT: Babbitt Design
APPLICANT ADDRESS: 85 McGuerty Rd., Eastham, MA 02642
DECISION: Approved with Conditions (HV)
DATE OF VOTE: September 18, 2024

CITY CLERK'S OFFICE
SOMERVILLE, MA

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the development review application submitted for 483 Broadway.

LEGAL NOTICE

Babbitt Design seeks zoning relief from the 12-foot curb setback requirement in the MR4 district, which requires a Hardship Variance.

RECORD OF PROCEEDINGS

On September 18, 2024, the Zoning Board of Appeals (the "Board") 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, Ann Fullerton, Alternate Sisa Daglian, and Alternate Brian Cook.

The Applicant provided an overview of the project and the requested zoning relief. The Chair opened the public testimony portion of the hearing. There were no comments from the public. The Chair closed the public testimony portion of the hearing. The Board then discussed the application with the Applicant.

Following discussion, the Board moved to approve the requested Hardship Variance for zoning relief from the 12-foot curb setback requirement in the MR4 district.

PLANS & DOCUMENTS

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

Document	Pages	Prepared By	Date
483 Broadway Hardship Variance Narrative	2	Rise Architecture 71B Clinton St., Malden, MA 02148	June 6, 2024

483 Broadway Architectural Plans	19	Rise Architecture 71B Clinton St., Malden, MA 02148	May 24, 2024
483 Broadway Landscape Plans	2	Rise Architecture 71B Clinton St., Malden, MA 02148	May 24, 2024
483 Broadway Site Plans	2	Ashkar Engineering & Surveying 70 Washington St., Suite 306 Haverhill, MA 01832	July 26, 2022

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:

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 zoning district [Mid-Rise 4 (MR4)] in which the land or structure is located;*

The Board finds that special circumstances exist relating to the topography of the parcel in that the Somerville-Medford city boundary runs through the parcel with only a small portion of the land on the site being located in Somerville.

2. *Literal enforcement of the provision of the Ordinance for the district where the subject land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant.*

The Board finds that literal enforcement of the ordinance would create a substantial hardship to the petitioner because it would require them to construct a less simple and more costly building.

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 a specific district [Mid-Rise 4 (MR4)] in this Ordinance or the Ordinance in general.*

The Board finds that desirable relief can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Mid-Rise 4 (MR4) zoning district or the Ordinance in general.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Acting Clerk Fullerton moved to approve the Hardship Variance for relief from the 12-foot curb setback requirement in the MR4 district. Anne Brockelman seconded. The Board voted **5-0** to approve the Hardship Variance, subject to the following conditions:

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.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Anne Brockelman, *Vice-Chair*
Ann Fullerton, *Acting Clerk*
Brian Cook, *Alternate*
Sisia Daglian, *Alternate*

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 _____ 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 _____