



City of Somerville

# ZONING BOARD OF APPEALS

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

**DECISION** NOV 21 P 5:25

**PROPERTY ADDRESS:** 25 Atherton Street  
**CASE NUMBER:** ZP24-000039  
**OWNER:** Carr Schoolhouse Condo Trust  
**OWNER ADDRESS:** 25 Atherton Street, Somerville, MA 02143  
**DECISION:** Approved with Conditions (HV)  
**DECISION DATE:** November 20, 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 25 Atherton Street.

## LEGAL NOTICE

Carr Schoolhouse Condo Trust seeks zoning relief from the maximum front setback for an accessory structure to an Apartment Building in the Urban Residence (UR) zoning district, which requires a Hardship Variance.

## RECORD OF PROCEEDINGS

On November 20, 2024, 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, Ann Fullerton, Zac Zaremba, Alternate Sisia Daglian, and Alternate Brian Cook.

The Applicant provided an overview the project, the installation of electrical vehicle charging stations in an existing parking lot. The Applicant described how the project meets the criteria for a Hardship Variance.

The Chair opened the public testimony portion of the hearing. One member of the public spoke in favor of the project.

Following the public comment portion of the hearing, the Board discussed the application. The Board expressed their concern over the potential loss of existing trees that may result from the installation of the chargers. The Board also expressed support for projects that further the city's decarbonization goals.

Following discussion, the Board moved to approve the requested Hardship Variance for zoning relief from the maximum front setback for an accessory structure to an Apartment Building in the Urban Residence (UR) zoning district.

## PLANS & DOCUMENTS

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

Document	Pages	Prepared By	Date
25 Atherton Street - Hardship Variance Narrative	5	Christine Strout – IRB Real Estate 2 Brattle Square Cambridge, MA 02138	October 29, 2024
Certified Plot Plan – Carr Schoolhouse Condominium	1	Waterman Associates 2 Wisteria Way Canton, MA 02021	October 25, 2024
Specifications – Lite On EV Chargers	2	Lite-On Technology Corp 4F, No.90, Chien 1 Road, Chung Ho, New Taipei City 23585, Taiwan, R.O.C	undated

## 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 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 Neighborhood Residence zoning district in which the land or structure is located;*

The Board finds that special circumstances relating to the shape and size of the parcel, specifically the parking lot being located at the corner.

- 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.*

The Board finds that literal enforcement of the ordinance would create a substantial hardship as the parking lot cannot be re-located.

- 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 Neighborhood Residence district in this Ordinance or the Ordinance in general.*

The Board finds that desirable relief can be granted without substantial detriment to the public good, noting that the the proposed structures are akin to light poles or urban furniture and are similar to the existing fencing. They also find that it can be

granted without nulling or substantially derogating from the intent and purpose of the Neighborhood Residence zoning district and the Ordinance in general.

## DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Vice-Chair Brockelman moved to approve the Hardship Variance for relief from the maximum front setback for an accessory structure to an Apartment Building in the Urban Residence (UR) zoning district. Alternate Brian Cook seconded the motion. The Board voted **4-1** (Fullerton voting against) 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  
Zac Zaremba  
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 \_\_\_\_\_