



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:** Planning, Preservation, & Zoning (PPZ) Staff  
**SUBJECT:** 25 Atherton Street  
**POSTED:** November 13, 2024

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 25 Atherton Street, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance (SZO), and provides related analysis or feedback as necessary. The application was deemed complete on October 28, 2024, and is scheduled for a public hearing on November 20, 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**

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.

## **SUMMARY OF PROPOSAL**

The Applicant is proposing to install electric vehicle charging stations in an existing 19-space parking area serving an Apartment Building at the corner of Atherton Street and Harvard Street. The charging stations, comprised of eight (8) chargers, constitute an accessory structure. Per Somerville Zoning Ordinance (SZO) §10.2.1.e., accessory structures cannot be located within the maximum front setback area, and per SZO §3.2.10.b, Apartment Buildings in the Urban Residence (UR) zoning district have a maximum front setback of 20 FT. Because the chargers are located 4 FT from the front lot lines, the Applicant seeks relief of 16 FT from the required accessory structure setback.

## **BACKGROUND**

25 Atherton Street is located in an Urban Residence (UR) district in the Spring Hill neighborhood represented by Ward 3 Councilor Ben Ewen-Campen. The Zoning Board of Appeals is the decision-making authority for all discretionary or administrative permits required for the Urban Residence (UR) district. Because the structure on the lot, the former Martin W. Carr School which has been converted into condominiums, is a Local Historic District (LHD) property, the proposal to install chargers will also need approval from the Somerville Historic Preservation Commission.

## ANALYSIS

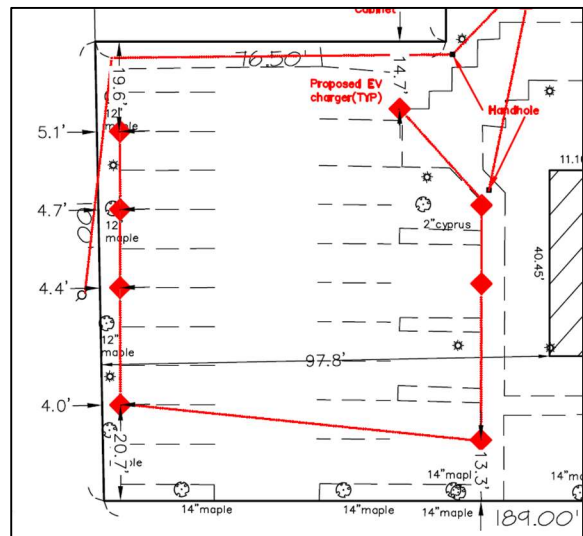
The property is located on the northeast corner of the intersection of Atherton Street and Harvard Street. The property is comprised of the 19-space parking lot and a three (3) story Apartment Building (with approximately 20 condominiums).



*View into the parking lot from Atherton Street*

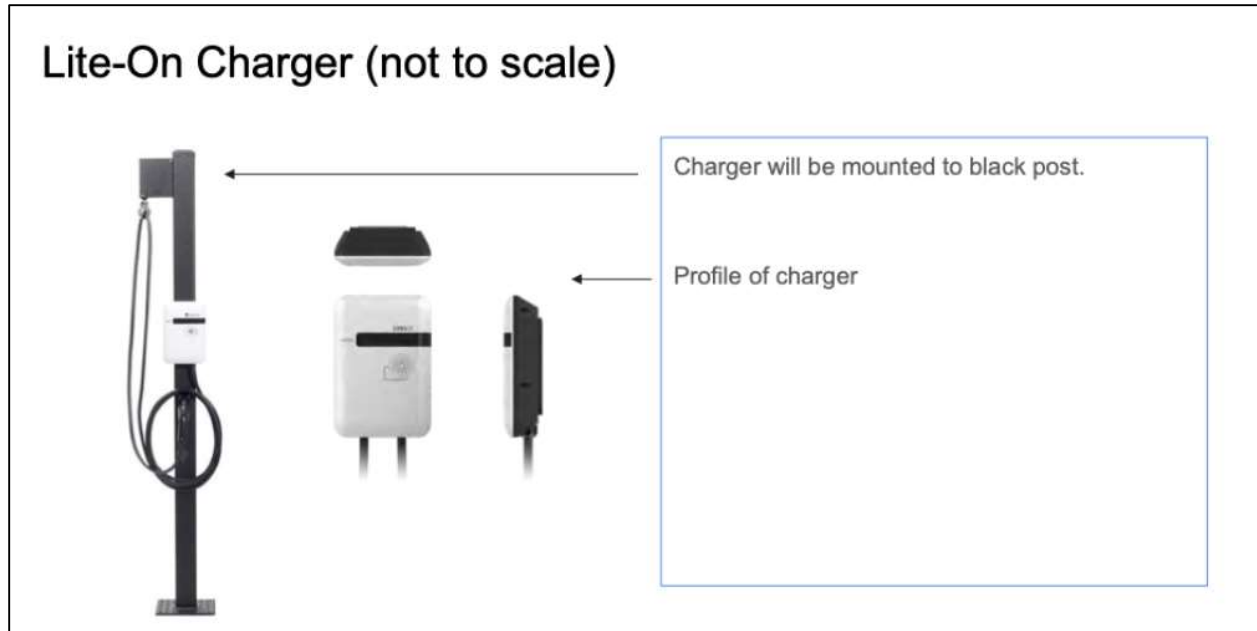
The parcel is zoned Urban Residence (UR) while the surrounding neighborhood is zoned Neighborhood Residence (UR); the neighborhood is primarily composed of Detached Houses and Detached Triple Deckers that partially fall within the Spring Hill Historic District. Directly across the street from the parking lot is the Enoch Robinson House, commonly known as the Round House.

Electric vehicle charging stations need to be located at the end of parking spaces in order to function. The Applicant proposes to locate the chargers along both sides of the lot; as shown on the plan to right, the western row of chargers parallel to Harvard Street will be located 4.0 FT from the front line. The southeastern charger will be located 13.3 FT from the other front lot line along Atherton Street.



*Snip from submitted plan*

The chargers will be small (12in x 8in x 3in) white boxes mounted on black metal posts approximately 7-8 FT in height – see graphic on the following page.



Pursuant to MGL Chapter 40A, Section 10, the Applicant must address the following 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 Urban Residence (UR) district in which the land or structure is located;
2. Literal enforcement of the provision of [the Somerville Zoning] Ordinance for the district where the subject land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant, 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 Urban Residence (UR) district in this Ordinance or the Ordinance in general.

The following is PPZ Staff's analysis related to the review criteria for the requested Hardship Variance:

The Applicant addresses criterion 1, stating that the shape and location of the parking lot is a special circumstance. It is true that a corner parking lot encompassing nearly the entirety of the front setback area is unusual. If this Apartment Building were being constructed today, the current zoning code would require that the parking be located behind or to the side of the structure. It is also true that the parking lot cannot be relocated. It is Staff's opinion that the shape and location of the parking lot does qualify as a special circumstance.

The Applicant addresses criterion 2, stating that many unit owners are buying electric cars and that a charging apparatus at their homes is necessary. See the submitted narrative for the Applicant's full argument. Generally, PPZ Staff does not provide analysis or recommendations concerning the existence of actual hardship, financial or otherwise, regarding the second Hardship Variance criterion.

The Applicant addresses criterion 3, stating that that the chargers would not have any impact on the neighborhood. They would be located inside the black iron fence within a mulched or paved area. In terms of being detrimental to the public good – it is possible that the installation of the chargers necessitates the removal of four (4) 12in caliper maple trees along Harvard Street (which would require a permit from the City's Tree Warden). Beyond that, however, it is Staff's opinion that allowing for the installation of EV chargers is in line with the City's decarbonization goals and is in the public's interest.

It is also Staff's opinion that the proposed accessory structures would not nullify or substantially derogate from the intent and purpose of the UR district. The purpose and intent of the UR district is copied here:

#### Intent

- To implement the objectives of the comprehensive plan of the City of Somerville.
- To create, maintain, and enhance areas appropriate for multi-unit residential buildings.

#### Purpose

- To permit the development of multi-unit detached and semi-detached residential buildings on individual lots.
- To permit contextual modifications to existing detached and semi-detached residential buildings.
- To permit the adaptive reuse of certain existing nonconforming buildings for arts & creative enterprise and retail uses compatible with residential areas.
- To create dwelling unit types, sizes, and bedroom counts ideal for both large and small households in permitted building types.
- To permit increased residential density for apartment buildings meeting the definition of a net zero ready building

The installation of EV chargers helps implement the objectives of SomerVision2040, including to decrease carbon emissions, and the construction of the accessory structure is a contextual modification, which should not prominently impact the streetscape.

Massachusetts courts have stated that variances will naturally deviate from the intents and purposes 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 impact 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 Urban Residence (UR) 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, 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 Urban Residence (UR) district in this Ordinance or the Ordinance in general.

## **PERMIT CONDITIONS**

Should the Board approve the required Hardship Variance for relief from the accessory structure setback, PPZ Staff recommends the following conditions:

### **Validity**

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

### **Public Record**

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.