



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:** 483 Broadway (ZP24-000106 & ZP24-000107)  
**POSTED:** November 27, 2024

**RECOMMENDATION:** Hardship Variance #1 – Approve  
Hardship Variance #2 – 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 requests submitted for 483 Broadway, 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 applications were deemed complete on November 7, 2024, and are scheduled for public hearings on December 4, 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 NOTICES**

1. Tavis Babbitt seeks zoning relief from the minimum number of stories requirement in the MR4 district, which requires a Hardship Variance.
2. Tavis Babbitt seeks zoning relief from the story height requirement in the MR4 district, which requires a Hardship Variance.

**SUMMARY OF PROPOSAL**

The Applicant proposes a two-story Commercial development on the Somerville side of the property. This two-story construction will be an addition to an existing building that currently exists entirely on the Medford side of the property. The existing Medford building will have a second story added such that the Somerville and Medford portions of the future building will be visually harmonious (see plan set).

The Applicant has been granted Hardship Variances for the minimum number of stories and story height requirement in 2021 and 2023 by the Somerville ZBA, but those variances expired each time. Due to their expiration, the Applicant needs to apply for these variances again.

1. Minimum Number of Stories - The Somerville Zoning Ordinance (SZO) §4.2.9.C.e requires that a minimum of three (3) stories and a maximum of four (4) stories be constructed in the MR4 zone. The Applicant proposes constructing two (2) stories.
2. Story height - The Somerville Zoning Ordinance (SZO) §4.2.9.C.c requires a ground story height of 14 feet in the MR4 zone. The applicant proposes continuing the shorter, existing 11'2" floor-to-ceiling height present in the existing building on the Medford side of the property into the new construction proposed on the Somerville portion of the site.

## **BACKGROUND**

483 Broadway is located in the Mid-Rise 4 (MR4) zoning district in the Magoun Square neighborhood represented by Ward 5 City Councilor Naima Sait. The property is located along a Pedestrian Street (Broadway) and is in a Transit Area.

The Zoning Board of Appeals (ZBA) is the decision-making authority for all Hardship Variance requests regardless of zoning district.

The Applicant was previously granted four (4) other Hardship Variances from the Somerville ZBA providing relief from the 12-foot curb setback requirement, the 30-foot commercial space depth requirement, the 12-foot sidewalk requirement, and the minimum 2-foot front setback requirement.

The Applicant now seeks the two additional variances enumerated above in the Summary section.

The Applicant still must apply for Site Plan Approval (SPA) from the Planning Board.

## ANALYSIS

The property is located at the corner of Broadway and Strathmore Road in the MR4 zoning district. The property is located along a Pedestrian Street (Broadway) and is in a Transit Area.

The Somerville-Medford city boundary runs at an angle through the property. The existing Commercial Building on the site is located entirely on the Medford side of the lot.

The Applicant proposes to construct an addition to the existing building. A portion of this addition will be on the Somerville side of the property. The addition falls into the Commercial building type. This is a permitted building type in the MR4 zoning district.

Each of the requested variances is analyzed as to whether **each** meets **all three** of the necessary criteria in order to be granted. These criteria are listed below:



483 Broadway - Parcel View Above. Dark line indicates Somerville-Medford boundary. Portion outlined in blue is the Somerville portion of the lot. Dark grey indicates the existing building on the Medford portion of the lot.

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 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 a specific district in this Ordinance or the Ordinance in general.

### **Hardship Variance #1 – Minimum Number of Stories:**

*The Applicant proposes to construct two (2) stories in a zone where a minimum of three (3) stories is required.*

Regarding Criterion 1, special circumstances exist in that the Somerville-Medford city boundary slices through this lot. However, other properties on this side of Broadway are

also affected by this city boundary issue. The city boundary splits lots on this side of Broadway from where it intersects with Bartlett Road to the east to where Broadway intersects with Pearson Road to the west. Overall, however, the MR4 zone is not generally affected by this city boundary issue.

The existing building on the lot rests entirely in Medford. Medford zoning restricts buildings in this zone to two stories. Due to the property being bisected by the City boundary, roughly only ~800 square feet of building will be constructed on the Somerville portion of the lot. The Applicant seeks to provide visual harmony by keeping the height of the Somerville and Medford portions of the building equal by constructing only two (2) stories in Somerville.

Regarding Criterion 2, PPZ Staff does not provide analysis or recommendations concerning the existence of actual hardship, financial or otherwise. Please see the Applicant's narrative as included in the application materials.

Regarding Criterion 3, part of the purpose of the MR4 zoning district includes allowing for buildings to be adaptively reused for retail uses compatible with residential areas. Not granting this Hardship Variance would not prevent redevelopment of an existing building into a retail use. As the existing building resides solely in Medford, that building could be repurposed for retail use. Given that the ZBA has granted this variance in past years and, in September, 2024, granted four (4) additional variances, it would be consistent for the ZBA to approve this variance request again.

The Intent and Purpose of the MR4 district can be found below.

#### Intent

- To implement the objectives of the Comprehensive Plan of the City of Somerville.
- To create, maintain, and enhance areas appropriate for smaller scale, multi-use and mixed-use buildings, and neighborhood serving uses.

#### Purpose

- To permit the development of one-, two-, and three-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 larger households in houses, semi-attached houses, duplexes, and triple-deckers.
- To create dwelling unit types, sizes, and bedroom counts ideal for smaller households in cottages and backyard cottages.

### **Hardship Variance #2 – Story Height:**

*The Applicant proposes to construct a ground story with an 11'2" floor-to-ceiling height in a zone where a 14-foot ground story height is required.*

Regarding Criterion 1, as previously noted in the discussion of Hardship Variance #1, the lot is split by the Somerville-Medford city boundary. The trajectory of the boundary line

runs on an angle through the property. There is minimal square footage that the Applicant will construct on the Somerville portion of the property. The existing Medford building to which an addition will be added stretching into the Somerville side of the property, has an existing ground story floor-to-ceiling height of 11'2". The Applicant proposes retaining this dimension in the new construction in Somerville.

Regarding Criterion 2, PPZ Staff does not provide analysis or recommendations concerning the existence of actual hardship, financial or otherwise. Please see the Applicant's narrative as included in the application material.

Regarding Criterion 3, it is Staff's position that relief from this criterion would not have an impact on the intent or purpose of the MR4 district.

### **Note Applicable to All Requested Variances:**

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 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 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, 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 a specific district in this Ordinance or the Ordinance in general.

## PERMIT CONDITIONS

Should the Board approve the requested Hardship Variances, PPZ Staff recommends the following conditions **for each variance**:

### 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.