



City of Somerville

ZONING BOARD OF APPEALS

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

DECISION

PROPERTY ADDRESS: 483 Broadway
CASE NUMBER: ZP24-000106
OWNER: John Wood
OWNER ADDRESS: 1035 Saratoga Street, East Boston, MA 02128
APPLICANT: Tavis Babbitt
APPLICANT ADDRESS: 85 McGuerty Road, Eastham, MA 02642
DECISION: Approved with Conditions
DATE OF VOTE: December 4, 2024
DECISION ISSUED: December 5, 2024

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

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

RECORD OF PROCEEDINGS

On December 4, 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 Susan Fontano, Ann Fullerton, Sisa Daglian, Brian Cook, and Zachary Zaremba. Anne Brockelman was absent.

The Applicant briefly addressed the fact that the Hardship Variance being requested had been approved and extended twice before; the Applicant anticipates being able to proceed on to the Site Plan Approval (SPA) process with the Planning Board next. There were no comments from the public. The Board discussed their findings for each of the three Hardship Variance criterion and took a vote.

PLANS & DOCUMENTS

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

Document	Pages	Prepared By	Date	Revision Date
Building Expansion and Second Floor Addition. (architectural plans)	19	RISE Architecture 71B Clinton St., Malden, MA 02148	July 15, 2022	
Site Plan	2	Michel El-Ashkar, PLS Ashkar Engineering & Surveying 70 Washington Street, Suite 306 Haverhill, MA 01832	July 26, 2022	
Green Score Calculation. (landscape plans)	2	RISE Architecture 71B Clinton St., Malden, MA 02148	July 15, 2022	

Hardship Variance Narrative	2	Tavis Babbitt 85 McGuerty Road Eastham, MA 02642	October 28, 2024	
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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:

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.*

The Board finds that the lot is split between Somerville and Medford and that Medford only allows two stories. The existing building to which the Somerville development will be attached is located fully in Medford.

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.*

The Board finds that the Somerville portion of the property is not buildable without a variance and due to the Medford zoning requirements, which allow a maximum of two stories.

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.*

The Board finds that granting the requested relief is in keeping with the intent and purpose of the MR4 zoning district, especially as related to mixed- and neighborhood-serving uses.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Brian Cook moved to approve the Hardship Variance to grant zoning relief from the minimum number of stories requirement in the MR4 district, with the conditions included in the staff memo. Sisa Daglian seconded. The Board voted **5-0** to approve the permit, subject to 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.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Ann Fullerton
Zachary Zarembo
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 _____