



City of Somerville

ZONING BOARD OF APPEALS

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

TO: Zoning Board of Appeals
FROM: Planning, Preservation, & Zoning (PPZ) Staff
SUBJECT: 181 Pearl St, ZP2X-000127
POSTED: March 13, 2025

RECOMMENDATION: None

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 a Hardship Variance request submitted for 181 Pearl Street, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on February 28, 2024, and is scheduled for a public hearing on March 19, 2025. 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

181 Pearl St. LLC seeks relief from SZO Section 4.1.16.a.i., regarding sidewalk width requirements, which requires a Hardship Variance.

SUMMARY OF PROPOSAL

181 Pearl Street LLC is proposing to construct a 3-story apartment building, which requires a Hardship Variance for sidewalk width requirements under SZO § 4.1.16.a.i. Under the requirements of the SZO, any lot abutting a sidewalk less than twelve (12) feet in width, must pave the frontage area to provide a sidewalk that is at least twelve (12) feet in total width. Here, proposal results in a sidewalk that is 7' 3¾" on the Pearl Street facing side of the building and a 6' 11½" sidewalk on the Dana Street facing side of the building.

BACKGROUND

181 Pearl St is located in the 0.5 mi Transit Area in the MR3 zoning district in the Winter Hill neighborhood represented by Ward 1 Councilor Matthew McLaughlin. Following the Board's decision regarding any Hardship Variances, the proposal will require Site Plan Approval and a Building Permit. The Zoning Board of Appeals is the decision-making authority for all Hardship Variances. The Planning Board is the decision-making authority for all discretionary or administrative (non-Hardship Variance) permits required in the MR3 district.

A hardship variance for this project – for relief from the façade buildout requirements under SZO § 4.1.7.c – was previously approved at the August 9, 2024, Zoning Board of Appeals meeting.

ANALYSIS

The applicant is proposing to construct a three-story apartment building with a non-conforming sidewalk width. The proposal requires one (1) Hardship Variance for the relief from SZO §4.1.16.a.i., which states, “For any lot abutting a sidewalk that is less than twelve (12) feet in width, the frontage area must be paved to provide a sidewalk that is at least twelve (12) feet in total width.” The applicant is proposing a sidewalk that is 7’ 3¾” on the Pearl Street facing side of the building and a 6’ 11½” sidewalk on the Dana Street facing side of the building, and no additional pavement to make up for the required sidewalk width on either side.

PPZ Staff believes that special circumstances technically exist regarding the first Hardship Variance criterion. Here, the difficulty is specifically the size of the lot. At 2,024 SF, the 181 Pearl St lot it is less than 1/3 the size of an average MR3 parcel. However, PPZ believes the proposed plantings and red clay surrounding the building are, at least in part, the reason the applicant is not able meet the relevant section of the SZO, and that the project could be re-designed without the plantings and red clay in the currently proposed location that would result in a compliant sidewalk width.

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 provides an argument for the second criterion in their Narrative.

The Public Space and Urban Forestry (PSUF) division has commented on the proposal. According to PSUF, the Green Score Guide states the ambition of the Green Score is to incentivize "urban landscapes to better manage storm water, filter pollutants, reduce the urban heat island effect, provide habitat, sequester carbon dioxide, and improve air quality by awarding points to landscape elements that provide these benefits." Each applicant can choose which elements they would like to claim, including planting large trees, installing permeable pavers, or building a green roof. This applicant could meet their Green Score in other ways, for example, by placing landscape elements on the roof or planting trees in the rear of the lot. However, the rear of the lot is the north side of the building and would receive the most shade. The proposed location of the plantings increases the chances of plant survival and good health. While this is not their only option for reaching the minimum Green Score, there is logic in placing plantings along the street.

Upon analysis of the material submitted by the Applicant, PPZ Staff do not believe that the granting of the requested hardship variances would cause a substantial detriment to

the public good or nullify or substantially derogate from the intent and purpose of the MR3 zoning district, copied here:

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 commercial uses.

Purpose

- To permit the development of multi-unit and mixed-use buildings that do not exceed three (3) stories in height.
- To provide quality commercial spaces and permit small- scale, neighborhood serving commercial uses.
- To create dwelling unit types, sizes, and bedroom counts ideal for larger households in apartment buildings.
- To create dwelling unit types, sizes, and bedroom counts ideal for smaller households in general buildings.
- To permit increased residential density for buildings that meet the definition of a net zero ready building.

Additionally, PPZ Staff does not believe that granting the requested hardship variances would support the broader intent of the Somerville Zoning Ordinance, including, but not limited to, the following:

- To provide distinct physical habitats at different scales, including the lot, block, and neighborhood, so that meaningful choices in living arrangement can be provided residents with differing physical, social, and emotional needs.
- To preserve and enhance the existing character of Somerville's traditional housing and respect existing built form and development patterns.

It should be noted that the property, while zoned as MR3, is abutted by two NR-zoned properties. Because of this, while the 181 Pearl Street site and the abutting sites may have similar sidewalk widths, NR properties and MR3 properties do not have the same setback and sidewalk width requirements. This is the reason why the abutter properties are compliant, while the subject site would not be as long as the zoning on the site remains the same.

Massachusetts courts have stated that variances will naturally deviate from the intent and purpose 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 comparison to the intent and purpose for the district 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 MR3 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, 181 Pearl St LLC, 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 MR3 district in this Ordinance or the Ordinance in general.

PERMIT CONDITIONS

Should the Board approve the required Hardship Variance for relief from SZO Section 4.1.16.a.i., regarding sidewalk width requirements, PPZ Staff recommends the following conditions:

Validity

1. This Decision must be recorded with the Middlesex South Registry of Deeds.
2. The relief granted in this decision is valid only for the proposed sidewalk widths of 7' 3 $\frac{3}{4}$ " on the Pearl Street facing side of the building and a 6' 11 $\frac{1}{2}$ " sidewalk on the Dana Street facing side of the building. Any additional decrease in sidewalk width is prohibited.

Public Record

3. 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.