

28 Fitchburg/100 Chestnut, Somerville

NARRATIVE

The property at issue, which is sometimes referred to as 100 Chestnut Street, consists of 28 Fitchburg Street and 28 Chestnut Street, each of which contains a newly constructed building ("Property"). The buildings function on the interior as a single building unit under common ownership, but are differentiated as to form from the exterior, and were permitted for development as two separate buildings. The American Dental Association ("ADA"), the primary tenant of the buildings and one of the first major new tenants to move into the Brickbottom neighborhood since the development of the Property, seeks hardship variances to authorize the placement of a rooftop/ skyline sign on the west facing mechanical screening on top of the building. The sign "ADA Forsyth" signifies ADA's flagship, world renowned research institute focused on exploring the connections between oral health and overall well-being. Separate, but related, hardship variances are simultaneously being sought for the 28 Chestnut building pursuant to a separate application.

The Property is located in the Commercial Industry District. As evidenced by the City's comprehensive master planning documents, Somerville identified Brickbottom as an area in need of transformation, and, as such, supported the development of the buildings, which, after less than a year after opening their doors, are nearly at 100% occupancy. Promoting ADA's presence in the buildings, through intentionally placed and designed signage, will help send the message to other businesses and the public that Brickbottom is now open for business; appropriate signage is important to achieving this goal.

ADA seeks variances to authorize the following deviations from the following provisions of the Somerville Zoning Ordinance:

- (1) § 10.8.20.b.i), which provides that rooftop/skyline signs may be placed only on high-rise buildings. The Zoning Ordinance provides that a high rise building exceeds 70' in height (Zoning Ordinance § 2.1.1), and the zoning height of the buildings at issue here is 65'. ADA seeks to install the sign on the screening for the rooftop mechanicals, at approximately 73'3" high.
- (2) § 10.8.20 (table), which limits the area of rooftop/skyline signs to 250 square feet. The requested area for the sign is 496.54 square feet for 28 Fitchburg.

These deviations are minor, especially considering the following (1) although the height of each building technically is approximately 65' – a mere 5' lower than a high-rise building – that height increases to approximately 90' if the mechanical penthouses, on which the signs are proposed to be located, are considered (meaning that the proposed signs will appear at the same height that they are allowed to appear by right on high rise buildings); and (2) the fact that two buildings are effectively combined at the site to form a single, contiguous structure in terms of their public appearance, coupled with the fact that only one sign is proposed on each of the long sides of the combined buildings at 100 Chestnut Street (one on the west side, the other on the east side), mean that the signs will appear, from the public's perspective, to take up a significantly smaller portion of the buildings than they would under normal circumstances (i.e., if each building were separated instead of connected).

As also discussed in other portions of this submission, all of the elements of a hardship variance are met, because

- “there are special circumstances relating to the . . . unusual character of an existing structure but not affecting generally the zoning district in which the land or structure is located”( Zoning Ordinance § 15.2.3.e.i.a) – namely, (i) the building adjoins another building at 28 Fitchburg Street in such a way that the two buildings appear, but for surface design and articulation, as one uniform building envelope, (ii) the buildings would meet the definition of “high rise” if the mechanical penthouses, which are required for bio labs/R&D, are considered, (iii) the signs will appear at a height that is authorized for signs on high rise buildings; and (iv) the buildings at issue were designed and permitted to accommodate and attract a bio/tech lab/R&D use that will, in turn, attract similar desirable uses to Somerville, and appropriate signage is important for buildings serving such uses.
- “[l]iteral 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” ( Zoning Ordinance § 15.2.3.e.i.b), because denial of the hardship variances would preclude ADA, one of the most significant new businesses to move into Brickbottom since the City identified the neighborhood as a target for commercial development, from sufficiently alerting the public to the presence of its flagship, a world renowned research institute focused on exploring the connections between oral health and overall well-being; this, in turn, would make the buildings and the location less desirable to the tenant, thereby harming both the tenant and the owner;
- “[d]esirable 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,” because granting the variances will cause no detriment (let alone “substantial detriment”), to the public good and will:
  - further the Commercial Industry District’s key purposes of “supporting commercial activities” and “provid[ing] quality commercial spaces” (Zoning Ordinance § 6.1.2 .c and 6.1.3.b), without contravening any of the district’s purposes;
  - advance the purposes of the Sign Ordinance, which include providing a “reasonable and effective means for identifying . . . business name” (Zoning Ordinance § 10.8.1), without impeding any of its purposes; and
  - be fully consistent with the goals set forth in the recently-published “Brickbottom Neighborhood Plan” (“Brickbottom Plan”), which include “respect[ing] Brickbottom’s artistic identity and ‘funky vibe’ while allowing for a diversity of styles within the industrial character” (p. 11), and will help achieve the Brickbottom Plan’s goals by (i) helping to connect Brickbottom to the surrounding area (p. 78 (noting that “Brickbottom has felt isolated from the rest of Somerville for a very long time”)) and (ii) encouraging further “economic development” (pp. 10 & 51)).