



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: 100 Chestnut St (28 Fitchburg St) ZP25-000011
POSTED: May 28th, 2025

RECOMMENDATION: Deny

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 28 Fitchburg St, 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 May 12, 2025, and is scheduled for a public hearing on June 4, 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

ADA Forsyth Institute, Inc. seeks to install a noncompliant sign in the Commercial Industry (CI) Zoning District, which requires a Hardship Variance.

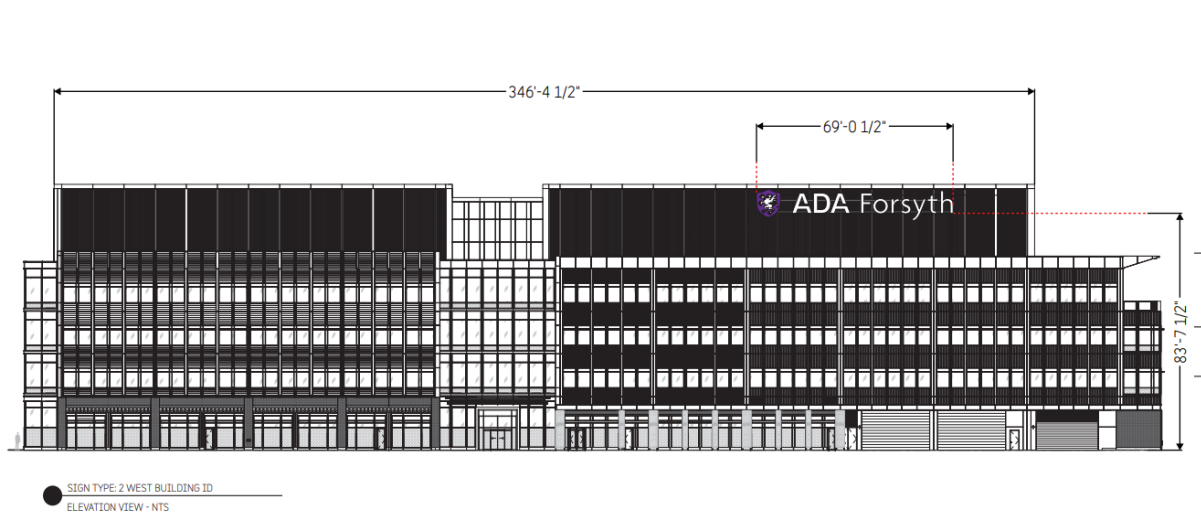
SUMMARY OF PROPOSAL

Brickbottom QOZB LP/North River LLC is proposing to construct a noncompliant skyline sign, which requires a Hardship Variance for the type of sign and the size of the sign. A skyline sign is not a permitted commercial sign type in the CI zoning district, and the proposed area (size) of the sign is larger than what is permitted for skyline signs where they are allowed.

BACKGROUND

100 Chestnut St is located in the 0.5mi Transit Area in the Commercial Industry (CI) zoning district in the Brickbottom neighborhood represented by Ward 2 Councilor Scott. Following the Board's decision regarding the Hardship Variance, if granted, the proposal will be by-right. The Zoning Board of Appeals is the decision-making authority for all discretionary or administrative permits required for the CI zoning district. Skyline signs are permitted on High-Rise buildings in the High Rise (HR) Zoning District only. The maximum size for a skyline sign on a compliant building is 250 square feet.

The proposed sign for 28 Fitchburg is 770.18 square feet. The applicant is seeking 520.18 square feet of relief for the size of the sign, in addition to relief to allow the skyline sign on a Commercial building type.



Above: 28 Fitchburg Sign Rendering

ANALYSIS

The applicant addresses criterion 1, stating that the special circumstance exists because the two buildings at 28 Fitchburg and 28 Chestnut appear as one contiguous building. The applicant also argues that a special circumstance exists because the roof mounted mechanical penthouse exceeds the height minimum for a high-rise building. Staff does not believe that either of these instances creates a special circumstance for sign relief. Though the two buildings may appear as contiguous, that does not create a special circumstance for more signage. The SZO §10.8.19 states that mechanical equipment height is not counted as part of the total building height, and this building was not permitted as, and does not count as, a high-rise building.

There are certain criteria for High-Rise buildings to be held to, and this building was not held to those criteria as it was permitted as a commercial building, and high-rise buildings are not permitted in the CI District. Per the SZO §6.2.14.c.iii., mechanical penthouses may exceed the maximum height permitted by Special Permit. This does not allow the building to be held to the same standards as a High-Rise building, and the building is still considered a Commercial building. The size of the proposed sign is not consistent with the scale of the building or the area, nor is it consistent with the Brickbottom Neighborhood Plan, which intends buildings to be pedestrian oriented. High-Rise buildings are not a permitted building type in the CI district. Commercial buildings are the only building type permitted in the CI district.

The applicant addresses criterion 2 arguing that without the requested relief, the tenant (American Dental Association) would be unable to alert the public of its presence in the Brickbottom Neighborhood, which would make the location less desirable to the tenant.

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 by stating that the requested relief would not cause substantial detriment to the district as it would further the CI district's key purpose of "supporting commercial activities" and providing quality commercial space. The applicant also states that the relief would advance the purposes of the Sign Ordinance, which includes providing a reasonable and effective means for identifying business names without impeding any of its purposes. Not allowing a noncompliant sign does not impede the use of the building and allow the tenant to carry out their commercial business activities. Staff emphasize that the Somerville Sign requirements should apply to all businesses uniformly, and complying with the sign requirements does not constitute a hardship; it would simply be holding each business to the same standards. Skyline signs are not permitted in the CI zoning district, and where they are allowed (HR district) the limit of the skyline sign is 250 square feet. The applicant is requesting signs twice the size of the largest permitted skyline sign.

Upon analysis of the material submitted by the Applicant, PPZ Staff do not believe that the granting of the requested hardship variance would cause a substantial detriment to the public good or nullify and would substantially derogate from the intent and purpose of the Commercial Industry district, copied here:

Intent

- a) To maintain industrial and commercial activities that provide employment opportunities and business-to-business commerce.
- b) To maintain already existing areas appropriate for moderate- and large-scale, low-rise and mid-rise buildings and community- and region-serving commercial uses that do not readily assimilate into other zoning districts.

Purpose

- a) To permit the development of moderate-scale low- and mid-rise buildings.
- b) To provide quality commercial spaces and permit light & moderate industrial and large commercial uses.

While PPZ staff do not believe that it would not substantially derogate from the intent of the CI district, it would undermine the broader purpose of the City of Somerville Sign Ordinance.

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

- a) To implement the Comprehensive Plan of the City of Somerville and enforce officially adopted plans and policies.
- b) To permit development and redevelopment according to plans that are collaboratively developed with the Somerville community.

Staff believe that allowing this hardship variance would set a precedent for future hardship variance for signage, which would be inappropriate in the context of the Somerville Zoning Ordinance (SZO) and its sign regulations. If the City would like to entertain such signs, it should do so by amending the sign regulations in the SZO, not by granting such hardship variance.

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. Unlike other hardship variance applications, this variance would set a precedent for future signs on similarly scaled buildings.

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 Commercial Industry 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, Brickbottom QOZB LP/North River 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 Commercial Industry district in this Ordinance or the Ordinance in general.

PERMIT CONDITIONS

Should the Board approve the required Hardship Variance for a noncompliant sign type and size PPZ Staff recommends the following conditions:

Permit 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.