



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: 103 Gilman Street, ZP25-000043
POSTED: June 30, 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 the Hardship Variance request submitted for 103 Gilman 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 June 30, 2025, and is scheduled for a public hearing on July 16, 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

Avik Deirmenjian seeks relief from SZO 14.1.5.c.11.b. to expand an existing nonconforming structure further into the rear setback, which requires a hardship variance.

SUMMARY OF PROPOSAL

Avik Deirmenjian is proposing to construct a rear porch and stairs to replace an existing porch and stairs, which requires a Hardship Variance for increasing an existing nonconformity and further extending the structure into the rear setback.

BACKGROUND

103 Gilman Street is located in the 0.25mi Transit Area in the Urban Residential (UR) zoning district in the Winter Hill neighborhood represented by Ward 4 Councilor Jesse Clingan. Following the Board's decision regarding the Hardship Variance, 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 UR zoning district.

ANALYSIS

The property is located on Gilman Street. The property is composed of a multiplex apartment building with 6 units.

The parcel and neighboring parcels are zoned UR. The neighborhood is composed of a mix of housing types.

Pursuant to MGL Chapter 40A, Section 10, the Applicant must meet the following criteria to qualify for a Hardship Variance:

- a) 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;
- b) 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
- c) 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.

To meet the Somerville Zoning Ordinance's (SZO) nonconforming structure standards and rear setback requirements, the setback must be at least 20 feet from the rear property line. As the property currently exists there is a three and two-tenths (3.2) foot rear setback. The proposed porches would reduce the setback from a varying 3.1 to 2.9-foot rear setback. This relief would increase an existing non-conformity by up to 0.3 feet.

The applicant provided responses to the hardship variance criteria in their application on Citizenserve, as well as in their narrative. This memo shares the responses provided in Citizenserve, not the narrative. The applicant addresses criterion 1 by stating that the existing multifamily building is nonconforming with the required minimum lot setbacks and that the existing rear decks serve as the second means of egress for all the residential units in the building. The applicant does not provide an argument for whether there is an existing special circumstance.

The applicant addresses criterion 2 by stating that to make the decks conform with the Building Code, and to make them a viable means of egress, would require them to project out further into the required setbacks by an additional five and a half feet (5.5'). Generally, PPZ staff do 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 currently the second means of egress on the building is unsafe and by granting the hardship variance, the building will have a code compliant and usable egress route in the event of an emergency. ISD has determined that this is the minimum amount of relief required to make the stairs and egress compliant with the Building Code.

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 or substantially derogate from the intent and purpose of the Urban Residence (UR) 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 multi-unit residential buildings.

Purpose

- To permit the development of multi-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 both large and small households in permitted building types.

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

- To permit development and redevelopment according to plans that are collaboratively developed with the Somerville community.
- To protect the health, safety, and general welfare.

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 Urban Residence 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, Avik Deirmenjian, 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 Urban Residence district in this Ordinance or the Ordinance in general.

PERMIT CONDITIONS

Should the Board approve the required Hardship Variance for rear setback encroachment, 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.