



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: 872 Broadway, ZP25-000064 & ZP25-000065
POSTED: August 15, 2025

RECOMMENDATION: ZP25-000064: Deny
ZP25-000065: 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(s) submitted for 872 Broadway, 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 applications are scheduled for a public hearing on August 20, 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.

NOTE

As of Friday, August 15, the Applicant has not provided a land title survey with their applications, which is a required material per the Submittal Requirements Manual. Staff recommends a continuance to the September 3rd meeting to give the applicant time to submit this item.

Additionally, there are other issues with this development that are not remediable through the ZBA, which include:

- A portion of the 2nd and 3rd stories on the left side of the building appear to be encroaching over the property line, which is substantiated by the as-built civil site plan dated 5/18/25. This constitutes a violation of SZO § 4.1.8.b. and should be the subject of a plan revision application.
- Balconies are larger than the 3' balconies approved in P&Z 20-026 and are encroaching into the public right of way by overhanging the sidewalk. An awning license from the City Council is required for building elements that project over a public way.
- Basement configuration deviates significantly from the approved set and requires a de minimis determination for P&Z 20-026. Confirmation of installation of long term bike parking spaces is required prior to CO issuance.

LEGAL NOTICE

ZP25-000064

872 Broadway LLC seeks relief from SZO § 2.4.3.d.v to allow mechanical equipment in the frontage area of a lot, which requires a Hardship Variance.

ZP25-000065

872 Broadway LLC seeks relief from SZO § 4.1.8.d. ground story primary facade fenestration requirement for a General Building in the Mid-Rise 3 (MR-3) zoning district, which requires a Hardship Variance.

SUMMARY OF PROPOSAL

872 Broadway LLC (“Applicant”) is proposing to locate a transformer in the frontage area of a nearly completed three (3) story Net Zero Ready General Building. In the plans approved by the Planning Board, the transformer was proposed to be located at the rear of the building, but the Applicant has stated that Eversource requires that the transformer be located at the front of the building.

The Somerville Zoning Ordinance (SZO) § 2.4.3.d.v. prohibits mechanical equipment in the frontage area of the lot, and therefore the applicant is seeking relief from this provision. Furthermore, the proposed transformer location dictates a reduction in the ground story primary façade fenestration percentage – SZO § 4.1.8.d. requires a minimum of 70% and the Applicant now proposes 59.5%, and therefore is also seeking relief from this provision.

BACKGROUND

872 Broadway is located in the 0.5mi Transit Area in the Mid Rise 3 (MR-3) zoning district in the Davis Square neighborhood represented by Ward 6 Councilor Lance Davis.

Below is a permitting timeline for the project:

- On October 8, 2020, the project applied for a building permit (B20-0011557).
- On October 21, 2020, ISD noted on the building permit that a development review application needed to be submitted.
- On November 21, 2021, the Planning Board granted Site Plan Approval for a 3-story Net Zero Ready General Building in MR3 district (P&Z 20-026).
 - On the approved plans, the transformer was to be located above ground at the rear left of the building, and the decision included the following condition:

“Alterations to the design or location of the transformer vault is a major amendment to the approved plans, and is permitted only as a Plan

Revision in accordance with Article 15 of the Somerville Zoning Ordinance.”

- The approved plans have a front façade with three rows of balconies, all at the same depth from the front lot line.
- On April 26, 2022, the foundation permit was issued (B22-000527).
 - The foundation plans set, dated 03/29/2022, reflects the left side of the front façade being recessed and a transformer being located underground in the front -- this not in accordance with the approved plans.
- On August 29, 2022, ISD issued a Certificate of Zoning Compliance, however this was based on a plan set submitted by the Applicant that showed the transformer at the zoning-compliant location at the rear of the property.
- On August 30, 2022, ISD noted on the building permit that the proposed project needed to comply with P&Z 20-026 all conditions and plans contained therein.
- On January 31, 2023, the building permit for the project was issued.
 - The permit plan set (dated 5/11/2022) reflects a “transformer vault” in the front of the building and does not show the transformer on the renderings, indicating that it would be underground.
- On January 3, 2025, the Applicant applied for a Certificate of Occupancy (CP25-000001).
- On April 14, 2025, ISD noted on the CO permit that a conditions compliance narrative needed to be submitted.
- On April 24, 2025, the Applicant requested a pre-submittal meeting with Planning staff to discuss the location of the transformer, which had already been installed at this point.
 - The Applicant stated in their request form that the initial plan had been to install the transformer underground and that they were told by Eversource that it would be a 2-year wait.
 - On the originally approved plans, the transformer was located above-ground at the rear of the building.

Staff notes that it is the Applicant’s responsibility to submit plans that are consistent across all permits and approvals.

Following the Board’s decision regarding the Hardship Variances, the proposal will require the submission of a Plan Revision application.

ANALYSIS

The property is located on Broadway just west of the Powder House Square roundabout. The proposed structure (already constructed) is a three-story General Building with ground floor commercial space and 12 dwelling units on the second and

third floors. The transformer that is the subject of these variance requests is located at the left side of the front of the building.

The Applicant has provided narratives as part of these applications addressing the review criteria for the requested Hardship Variances. Pursuant to MGL Chapter 40A, Section 10, the Applicant must address the following criteria:

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 Mid-Rise 3 (MR-3) district in which the land or structure is located;
2. Literal enforcement of the provision of [the Somerville Zoning] 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
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 Mid-Rise 3 (MR-3) district in this Ordinance or the Ordinance in general.

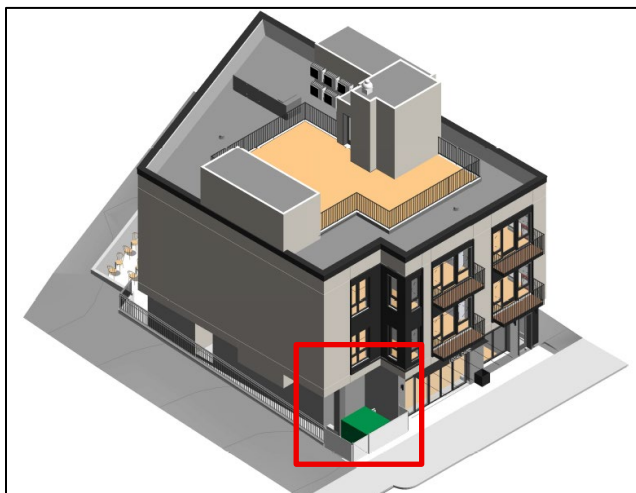
The following is PPZ Staff's analysis related to the review criteria for the requested Hardship Variances:

Hardship Variance #1 - Mechanical Equipment in Frontage Area

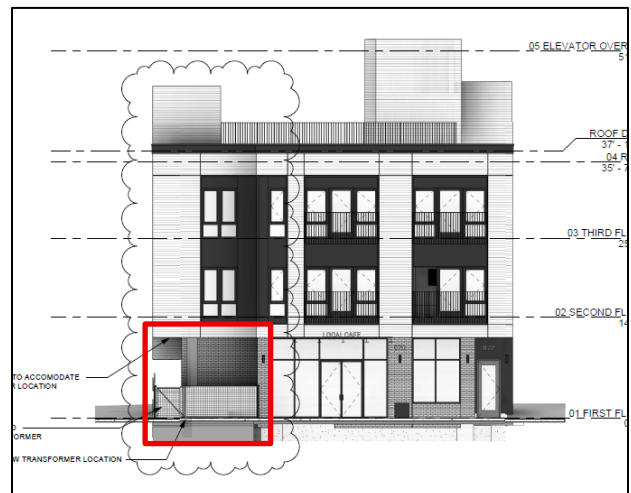
The Applicant is requesting relief from SZO § 2.4.3.d.v, in order to locate a pad-mounted transformer in the frontage area of the lot. The provision reads in part:

Mechanical equipment associated with residential uses, such as an HVAC unit, is not permitted in the frontage area of a lot.

The proposed location of the transformer is shown on the graphics below:



Rendering w/ transformer location



Front elevation w/ transformer location

The Applicant addresses criterion 1, arguing that the unfeasibility of any other location for the transformer qualifies as a unique circumstance. The originally approved, zoning-compliant location of the transformer, which was at the rear of the building, was to be accessed via an easement over the abutter's property. The easement could not be finalized, according to the Applicant.

The Applicant also notes that locating the transformer under the public right of way was prohibited by regulation and that a pole-mounted transformer was not allowed by the utility company due to the number of units in the building. They further say that locating the transformer underground on their property would require a 1-3 year wait time, according to Eversource.

Staff believes that the inability to finalize an easement agreement, the regulation preventing sidewalk and pole-mounted transformers, and the required wait time for undergrounding the transformer do not qualify as unique circumstances related to soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure.

The parcel is approximately 4325 SF with 50 FT of frontage and is rectilinear in shape – these are not unusual dimensions for the MR3 zoning district, and would not preclude an access easement to the rear of the building, a transformer room inside the building, or an underground vault for the transformer. Furthermore, the Applicant could have sought an underground vault for the transformer as soon as they determined the approved rear location to be unfeasible (which appears to be in 2022, based on the above timeline).

The Applicant addresses criterion 2, stating that a significant re-design would be required to house a 15 FT x 15 FT transformer room, reducing ground-floor retail space and the number of housing units. The Applicant states that the 1-3 year wait time for an underground vault would be an untenable delay. Generally, City Staff do not comment on the second Hardship Variance criterion.

The Applicant addresses criterion 3, arguing that locating the transformer in the frontage area would not cause substantial detriment to the public good nor would it nullify or substantially derogate from the purpose and intent of the Ordinance. They state that it has been designed to minimize visual impact, that it will include an artistic wrap that would complement the streetscape, that the retail space will remain functional, and that the same number of residential units are being provided.

Upon analysis of the material submitted by the Applicant, PPZ Staff believe that the granting of the requested Hardship Variance would cause a substantial detriment to the public good. First, Somerville maintains a walkable urban environment by paying particular attention to the pedestrian realm. A well-defined street wall is key to a comfortable walk, and this portion of Broadway sees a high volume of pedestrians who use the route as a connection between Teele Square and Ball Square. The transformer being located directly adjacent to the sidewalk interrupts the street wall, being located

between the pedestrian and the recessed building façade. Each new building is an opportunity to contribute to Somerville's walkability, and this would represent a small but significant erosion of the pedestrian realm.

Second, granting this Hardship Variance would set a precedent that is detrimental to the public good. The zoning ordinance should be applied to all buildings uniformly, and having already constructed a building does not mean that the project should not be held to the same standards. It moreover would undermine the Planning Board's Site Plan Approval (through which the original location of the transformer at the rear of the property was approved), which is a public process that solicits community input. If the Applicant believes that the SZO's prohibition of mechanical equipment in the frontage area is not representative of the public's will, they could seek a zoning amendment through the City Council (another public process).

Staff also believes granting the requested Hardship Variance would substantially derogate from the intent and purpose of the Mid-Rise 3 (MR3) district, which is 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 both net zero ready and LEED Platinum Certifiable buildings.

In the Comprehensive Plan of the City of Somerville (SomerVision 2040), walkability is frequently noted as a one of Somerville's strengths and promoting walkability listed as one of the goals. Staff believes that allowing a transformer to abut the sidewalk runs counter to this objective.

Granting this Hardship Variance furthermore would undermine the broader purpose of the SZO as found in §4.1.1, which describes the MR3 district and states that buildings in the district are meant "to create a defined street wall that supports pedestrian activity

and a sense of place.” The location of mechanical equipment directly abutting the pedestrian realm undermines this aim.

Hardship Variance #2 – Ground Story Fenestration Requirement

The Applicant is also requesting relief from SZO § 4.1.8.d., which requires that a minimum of 70% of the ground story primary façade be fenestration – meaning the openings in the façade including windows and doors. Because of the transformer’s location along the façade, the Applicant is only able to achieve a fenestration percentage of 59.5%. – a comparison showing 70% versus 59.5% fenestration is found on the next page.

The Applicant addresses criterion 1, again arguing that the unfeasibility (due to being unable to finalize an easement agreement for the approved rear location) of other locations for the transformer qualifies as a unique circumstance. They further state that the utility company requires clearance around all sides of the transformer and prohibits windows within that clearance.



Ground story fenestration approved (shown in red) at 70% (left) versus proposed at 59.5% (right)

Staff believes that the neither the inability to finalize an easement agreement nor the regulation on clearance around the transformer qualify as unique circumstances related to soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure.

The Applicant addresses criterion 2, stating that the building would have to be significantly altered to achieve the 70% fenestration requirement, reducing ground-floor retail area and eliminating residential units (including affordable units), which would compromise the project’s financial feasibility. Generally, City Staff do not comment on the second Hardship Variance criterion.

The Applicant addresses criterion 3, arguing that providing less than 70% ground-story fenestration would not cause substantial detriment to the public good nor would it nullify or substantially derogate from the purpose and intent of the Ordinance. They note that the building retains a high level of ground-floor transparency and that the proposed ground-story retail will remain functional.

Upon analysis of the material submitted by the Applicant, PPZ Staff believe that the granting of the requested Hardship Variances would not cause a substantial detriment to the public good or nullify or substantially derogate from the intent and purpose of the Mid-Rise 3 (MR3) district (as found above). Staff agrees with the Applicant that the building retains a high level of ground-floor transparency.

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.

ZBA could require the applicant to return to the Planning Board for additional site plan review prior to making a decision on any of the Hardship Variances.

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, 872 Broadway 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 Variances for:

- Relief from SZO § 2.4.3.d.v. which prohibits mechanical units in the frontage area (ZP25-000064)
- Relief from SZO § 4.1.8.d. which requires a ground story primary facade fenestration percentage of 70% for a General Building in the Mid-Rise 3 (MR-3) zoning district (ZP25-000065)

PPZ Staff recommend the following conditions for each Hardship Variance:

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.

Design Impacts

3. Prior to the issuance of a Certificate of Occupancy, the Applicant must return to the Planning Board to review changes and evaluate design options to mitigate impacts on the public realm.