

**NARRATIVE
HARDSHIP VARIANCE**

Property: 307-309 Highland Avenue
Applicant: Silva Realty 9, LLC
Owners: Silva Realty 9, LLC
Agent: Adam Dash, Esq.
Zoning Designation: Neighborhood Residence (“NR”)
½ Mile Transit Area
Not in a Pedestrian Street District

The Applicant and Owner of the Property at 307-309 Highland Avenue, being Silva Realty 9, LLC, hereby seeks a Hardship Variance for principal entrance orientation of the existing, remaining Detached House on Lot 1.

Summary.

The Property is currently an approximately 11,290 sf lot with three structures on it:

- a two-and-one-half story, three-unit Detached House structure, which will remain;
- a three story, three-unit Detached Triple Decker structure, which will remain with minor alterations; and
- a concrete block garage, which will be demolished.

The Property is located in the NR zoning district at the corner of Highland Avenue and Cherry Street. It is located in the ½ Mile Transit Area and is not in a Pedestrian Street District.

Per a separate application, Applicant is seeking Site Plan Approval of a Lot Split of the Property into four (4) lots, per Somerville Zoning Ordinance (“SZO”) Section 10.1.1, which would create:

- Lot 1 containing the existing two-and-one-half story, three-unit Detached House structure and a new one-and-one-half story, one-unit Backyard Cottage. Lot 1 will be approximately 4,756 square feet;
- Lot 2 containing a new two-and-one-half story, three-unit Semi-Detached House structure. Lot 2 will be approximately 1,505 square feet;
- Lot 3 containing a new two-and-one-half story, three-unit Semi-Detached House structure. Lot 3 will be approximately 1,795 square feet; and
- Lot 4 containing the existing three-story, three-unit Detached Triple Decker structure. Lot 4 will be approximately 3,233 square feet.

The purpose of the Lot Split is so that Applicant can construct two Semi-Detached House structures, containing three dwelling units each, on Lots 2 and 3.

After said lot split, the new lots will be dimensionally compliant, and will have frontage on a Thoroughfare; however, the lot split will cause the principal entrance to the remaining, existing Detached House structure on Lot 1 to technically no longer be oriented toward a front lot line as required by SZO Section 2.4.5.b.i.a and the definition of “Facade” in SZO Section 2.1. This requires a Hardship Variance.

The Hardship Variance would allow the existing primary entrance to the existing structure on Lot 1 to remain as it currently is. Said structure is not being altered. The only change is that Lots 2 and 3 will now separate Lot 1 from Highland Avenue, which is where the existing structure on Lot 1 currently faces.

Per SZO Section 2.4.5.b.i.a:

Buildings must have at least one (1) principal entrance. Principal entrances must be located on the facade, provide both ingress and egress, and be operable at all times.

Per SZO Section 2.1, the term “Facade” is defined as:

Any exterior wall of a building's main massing that is oriented in whole or in part toward a front lot line or civic space.

Therefore, even though the existing, remaining structure on Lot 1 is not changing, the lot split causes the principal entrance to said structure to no longer be oriented toward a front lot line. Applicant hereby seeks a Hardship Variance to allow said structure to remain as it is.

Argument.

Per SZO Section 15.2.3.e.i:

The Zoning Board of Appeals may only grant a Hardship Variance upon finding all of the following:

- 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.

a. Special Circumstances Exist.

The existing Property is unusual in that it contains two principal structures and a garage all on one lot, with a large yard facing the corner of Highland Avenue and Cherry Street. The rest of the streets around the Property do not have undeveloped space fronting a Thoroughfare like exists at the Property, nor do they have three structures on them.

As such, the existing structures and layout of the Property are unusual and are not shared by their surrounding neighbors.

b. Substantial Hardship Exists.

Literal enforcement of the SZO would require Applicant to evict the current tenants in the existing and remaining three-unit structure on Lot 1 and then demolish said structure. Applicant does not want to do these things, and is seeking the Hardship Variance to avoid evicting tenants and demolishing the structure.

All of the structures being proposed for the final project on the four new lots will otherwise comply with the SZO or will retain pre-existing nonconformities, however, it is a substantial hardship to require Applicant to evict the current tenants and demolish a structure against Applicant's will due to what is essentially a technicality in the SZO. The project can proceed without the additional expense and hardship of eviction and demolition if the relief being sought is granted.

c. Substantial Detriment Does Not Exist.

The whole purpose of the lot split, which is causing the need for this Hardship Variance, is to create more badly-needed housing in the City, not to evict current tenants at the Property which would run counter to that goal. Granting the requested Hardship Variance for the orientation of the existing principal entrance of the Lot 1 existing structure causes no substantial detriment to the neighborhood or to the public good. In fact, it is a public good and prevents additional impact on the neighborhood by allowing the existing structure to remain.

The only way that Applicant can keep the existing tenants and building on Lot 1 is to be granted this Hardship Variance, which simply allows the existing structure on Lot 1 to remain as it is.

Per SZO 3.1.3, the purpose of the NR zoning district is, in part:

- a. *To permit the development of one-, two-, and three-unit detached and semi-detached residential buildings on individual lots.*
- b. *To permit contextual modifications to existing detached and semi-detached residential buildings.*

Applicant cannot meet these goals to construct new residential buildings without a lot split, and by receiving the small Hardship Variance which said lot split causes.

This is nothing more than technical relief to allow a current structure to remain in place, which furthers the purposes of the SZO and the SomerVision 2040 Plan by keeping tenants in their homes, adding more housing, altering the neighborhood as little as possible by keeping the two principal, existing structures, and avoiding the need for demolition and the disruption that would cause.

Conclusion.

Applicant respectfully requests a Hardship Variance for the principal entrance orientation for the existing, remaining Detached House on Lot 1 so Applicant can retain said structure and the tenants therein.