



City of Somerville

# ZONING BOARD OF APPEALS

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

## DECISION

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**PROPERTY ADDRESS:** 483 Broadway  
**CASE NUMBER:** P&Z 21-012  
**APPLICANT:** Tavis Babbitt  
**APPLICANT ADDRESS:** 85 McGuerty Rd., Eastham, MA 02642  
**DECISION:** Approved with Conditions (Hardship Variances)  
**DECISION DATE:** December 15, 2021

This decision summarizes the findings made by the Zoning Board of Appeals (ZBA) regarding the development review application submitted for 483 Broadway.

### LEGAL NOTICE

Tavis Babbitt seeks variances for story height and from the minimum number of stories in the Mid-Rise 4 (MR4) district.

### RECORD OF PROCEEDINGS

On December 15, 2021 the ZBA held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance (SZO). Present and sitting at the public hearing were Board Members Susan Fontano, Elaine Severino, Katherine Garavaglia, Anne Fullerton, and Anne Brockelman. Josh Safdie was absent. The Applicant provided an overview of their proposal and their argument for why the Hardship Variances should be granted.

### HARDSHIP VARIANCE FINDINGS

In accordance with M.G.L. 40A and the SZO, the ZBA may grant a hardship variance only upon finding all of the following for each hardship variance:

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 MR4 district;*

The Board finds that special circumstances exist due to the fact that the boundary line separating Somerville from the City of Medford runs through the front of the lot.

2. *Literal enforcement of the provision of this Ordinance for the NR district would involve substantial hardship, financial or otherwise, to the petitioner due to said special circumstances; and*

The Board finds that literal enforcement of the Ordinance would involve substantial hardship to the petitioner due to the city boundary line running through the front of the

lot. In addition, the Board found that the fact that the City of Medford will only allow a maximum of two stories on the existing building to which the proposed Somerville-side addition will be attached, was a further hardship given that the SZO requires a minimum of three stories in the MR4 zone.

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 NR district or the Ordinance in general.*

The Board finds allowing for a lower ground story height (11'2" where 14' is required) and the construction of two stories (in a zone where a minimum of three stories is required) will not cause a substantial detriment to the public good or nullify or substantially derogate from the intent and purpose of the district or Ordinance in general.

## **DECISION**

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Ms. Garavaglia moved to approve both requested Hardship Variances with the conditions included in the staff memo. Ms. Severino seconded. The Board voted **5-0** to approve the permit, subject to the following conditions:

Perpetual

1. This Decision must be recorded with the Middlesex County Registry of Deeds.

Prior to Certificate of Zoning Compliance

2. A copy of the Recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted for the public record.
3. Physical copies of all submittal materials as permitted by the Review Boards must be submitted for the public record in accordance with the document format standards of the ISD/PB/ZBA Submittal Requirements.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*  
Josh Safdie  
Anne Brockelman  
Ann Fullerton  
Katherine Garavaglia, *Alternate*



Sarah Lewis  
Director of Planning & Zoning

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 15.5.3.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

**FOR VARIANCE(S) WITHIN**

\_\_\_\_\_ **there have been no appeals filed in the Office of the City Clerk, or**  
\_\_\_\_\_ **any appeals that were filed have been finally dismissed or denied.**

**FOR SPECIAL PERMIT(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

**FOR SITE PLAN APPROVAL(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_