



City of Somerville

ZONING BOARD OF APPEALS

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

TO: Zoning Board of Appeals
FROM: Planning & Zoning Staff
HEARING DATE: November 17, 2021
RE: 483 Broadway, P&Z 2021-012

RECOMMENDATION: Conditional Approval

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from the Planning & Zoning staff to the Review Board members.

This memo summarizes the development review application submitted for 483 Broadway, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance (SZO), and provides related analysis or feedback as necessary. The application was deemed complete on October 19, 2021 and is scheduled for a public hearing on November 17, 2021. 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

Tavis Babbitt seeks a variance from the minimum number of stories in the Mid-Rise 4 (MR4) district.

SUMMARY OF PROPOSAL

The Applicant proposes constructing a two-story addition to an existing building in a zone where a minimum of three stories is required. In addition, the interior height of the first story will be 9'10" instead of the required 14'.

ADDITIONAL REVIEW NECESSARY

483 Broadway is located in the Mid-Rise 4 (MR4) zoning district in the heart of Magoun Square, an area represented by Ward 5 Councilor Mark Niedergang.

The proposal requires a Hardship Variance from the Zoning Board of Appeals (ZBA) for number of stories as well as for the story height of the first story.

The minimum number of stories required in the MR4 zoning district is three (3) for new construction, with a maximum of four (4) stories allowed. As the Applicant is proposing to construct only two stories, the Applicant must obtain a variance in order to be exempted from the minimum number of stories required. In addition, a variance is

needed for the interior first story height. The interior floor-to-ceiling height of the first story of the addition will be 9'10" which is shorter than the 14' required in the SZO (see "Summary of Proposal" above).

The ZBA is the review board for all Hardship Variance requests regardless of zoning district.

ANALYSIS

The Applicant has provided a full plan set with their application. However, the only item within the purview of the ZBA is the request for a hardship variance related to the number of stories that the Applicant proposes to build and the height of the first story.

As noted earlier, the MR4 zoning district allows for a maximum of four (4) stories to be built and requires that a minimum of three (3) stories be built. The Applicant proposes to construct only two stories on the Somerville portion of the lot.

The Ward Councilor is aware of the project and the Applicant's request.

In the MR4 zone, the Ordinance sets a minimum story height of three stories for new construction and a maximum of four stories. The Ordinance further requires that the first story height of new construction be 14' floor-to-ceiling.

The Ordinance anticipates the construction of new buildings in the MR4 district that create a strong, contiguous, and defined street wall.

The property at 483 Broadway presents constraints that have brought the Applicant before the ZBA requesting relief from certain standards (story number and story height).

The boundary line separating Somerville from the City of Medford runs through this property. Thus the property is subject to zoning ordinances in two different jurisdictions, and each jurisdiction has set forth very different requirements for what each wants to achieve in their respective zones.

The existing building on the property is located wholly in the City of Medford. Medford zoning, simply put, allows for a maximum of two stories in this area. The City of Medford is allowing for a second story to be added to the existing structure. The City of Somerville's MR4 zoning district is predicated on the construction of 3-4 story buildings. The Applicant is challenged to marry the two disparate zoning code requirements into one building.

In total, only about ~800 square feet of land on this property is located in the City of Somerville and affected by the SZO. The land in question is located along the building frontage on Broadway. It is on this ~800 square feet of land in Somerville that the Applicant proposes constructing a two-story addition to the existing building. This building, including the Somerville side addition, will be utilized for commercial purposes.

The Somerville-side two-story addition will match the renovated Medford building in number of stories, overall building height and story height. In order for the building to work internally and provide visual harmony externally, the requested relief for number of stories will also need to include relief for story height. The first story of the addition will be 9'10" instead of the required 14'.

The attached zoning map shows the location of 483 Broadway and its association with all of the other MR4 lots in Magoun Square.

The Applicant is required to provide an argument addressing the review criteria for each of the necessary hardship variances. The Applicant's argument is attached to this memo.

Generally, Planning & Zoning Staff does not provide analysis or recommendations concerning the existence of actual hardship, financial or otherwise, in relation to the Applicant for the second variance review criterion (see "Considerations and Findings" section below).

Upon analysis of the material submitted by the Applicant, Planning & Zoning Staff do not believe that the granting of the requested hardship variance would cause a substantial detriment to the public good nor would it nullify or substantially derogate from the intent and purpose of the MR4 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 smaller scale, multi-use and mixed-use buildings and neighborhood serving uses.

Purpose

- To permit the development of multi-unit and mixed-use buildings that do not exceed four (4) 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 are sustainable or that provide 100% affordable housing.
- To permit increased residential density for buildings that meet the definition of a Net Zero Ready Building or 100% affordable housing.

Additionally, Planning & Zoning Staff believe that granting the requested hardship variance would not substantially derogate from the broader intent of the Somerville Zoning Ordinance, including, but not limited to, the following:

- To preserve and enhance the existing character of Somerville’s traditional housing and respect existing built form and development patterns.
- To require a strong connection and gradual transition between the public realm (sidewalks, thoroughfares, and civic spaces) and private realm (yards and building interiors).

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 ZBA 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 MR4 district;
2. Literal enforcement of the provision of this Ordinance for the MR4 district would involve substantial hardship, financial or otherwise, to the petitioner, James Rissling, 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 MR4 district or the Ordinance in general.

PERMIT CONDITIONS

Should the Board approve the Hardship Variance, Planning & Zoning Staff recommends the following conditions:

Validity

- This Decision shall be recorded with the Middlesex County Registry of Deeds.

Public Record

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

A. Explain any special circumstances affecting the land or structure (related to soil conditions, shape or topography) that are unusual and do not affect other properties AND any hardship that results from these special circumstances.

The land is unique such that approximately 76% of the lot is located in the city on Medford leaving just 723 square feet in the city of Somerville with the existing fire damaged one story building located entirely in Medford. The land in Somerville is located in a MR4 zone which requires the first story of any building in that zone to be 14' in height. The petitioner seeks to expand the structure into Somerville to make use of the open land available however the existing structure has a first floor height 9'-10". The lot is located in a residential neighborhood with two story houses therefore the proposed two story addition with a height of 19'-10" that has been approved by the zoning board of appeals in Medford is more in keeping with the neighborhood. Requiring the first floor in the Somerville portion of the lot to increase to 14' would create a financial hardship resulting in an unusable second floor space in the Somerville portion of the building. Increasing the overall height of the building would also result in a hardship causing the increased demolition of the existing structure and creating a building that is not in keeping with the neighborhood causing the petitioner to return to the city of Medford and re-apply for a finding from the zoning board of appeals.

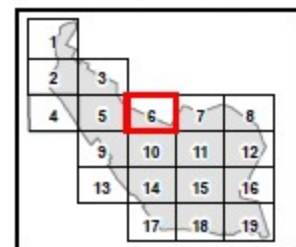
B. Explain if and how the variance is the minimum approval necessary to grant reasonable relief to the owner AND results in a reasonable use of the land or structure.

The proposed addition to the building meets all other zoning requirements for MR4 lots aside from the three story minimum requirement. Currently the land in Somerville is unused and in disrepair and therefore not beneficial as is to the owner. It also lacks the dimensions required to use the current open area for parking. By granting this variance it will allow the owner to expand the existing structure in a way that is more cost effective and beneficial to the neighboring properties.

C. Explain if and how the granting of the variance will be in harmony with the Somerville Zoning Ordinance AND will not be injurious to the neighborhood or otherwise detrimental to the public welfare.









The unique location and configuration of this lot and building make it such that granting this variance will not be detrimental to the neighborhood. The granting of this variance is also in line with the intent of the MR4 zoning in that it will create and enhance the area for the smaller scale of this location and to provide a quality commercial space. The new building facade will also be in keeping with the requirements of the Somerville zoning ordinance for an MR4 zone and therefore will be an improvement to the neighborhood.

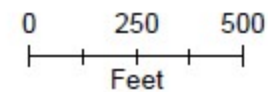
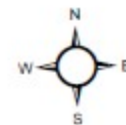
CITY OF
SOMERVILLE, MA
OFFICIAL PROPOSED
ZONING
(UNADOPTED)



MEDFORD

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-  SB Overlay
-  NR
-  UR
-  MR3
-  MR4
-  CIV
-  FAB
-  CC5



Date: December 12, 2019

