



City of Somerville
ZONING BOARD OF APPEALS
City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

DECISION

PROPERTY ADDRESS: 620 Broadway
CASE NUMBER: P&Z#21-140
OWNER: 620 Broadway, LLC
OWNER ADDRESS: 741 Broadway, Somerville, MA 02144
DECISION: Approved with Conditions (Hardship Variances)
DECISION DATE: December 15, 2021

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the development review application submitted for 620 Broadway.

LEGAL NOTICE

620 Broadway, LLC seeks a variance from the minimum number of stories in the Commercial Core 5 district.

RECORD OF PROCEEDINGS

On December 15, 2021, the Zoning Board of Appeals held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Acting Clerk Katherine Garavaglia, Elaine Severino, Anne Brockelman, and Ann Fullerton. The Applicant provided an overview of their proposal and their argument for each of the require criteria for granting a Hardship Variance.

HARDSHIP VARIANCE FINDINGS

In accordance with M.G.L. 40A and the Somerville Zoning Ordinance, the Board 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 Commercial Core zoning district in which the land or structure is located.*

The Board finds that special circumstances exist relating to the shape of the parcel that does not generally affect parcels in the Commercial Core district. The parcel is a triangular lot that abuts the MBTA tracks on the long edge with a significant grade change and the contaminated soil is under the purview of the Department of Environmental Protection.

- 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, 620 Broadway, LLC, due to said special circumstances.

The Board finds that literal enforcement of the Ordinance would involve substantial hardship to the petitioners due to the deed restriction on future uses from the previous contaminated use. The soil types on this property, as outlined in the geo-technical report are not suitable for structural support of a three-story building, the minimum height required by zoning.

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 Commercial Core district in this Ordinance or the Ordinance in general.

The Board finds that approving a one-story building on this property 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, Acting-Clerk Garavaglia moved to approve the Hardship Variance from the number of stories with the conditions included in the staff memo. Elaine 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*
Katherine Garavaglia, *Acting Clerk*
Elaine Severino
Anne Brockelman
Ann Fullerton



Sarah Lewis, Director of Planning, Preservation & Zoning
Office of Strategic Planning & Community Development

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 _____