



City of Somerville

ZONING BOARD OF APPEALS

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

DECISION

PROPERTY ADDRESS: 14 Sycamore Street
CASE NUMBER: P&Z 21-176
OWNER: David Smith & Jeane Riley
OWNER ADDRESS: 14 Sycamore Street, Somerville, MA 02143
DECISION: Approved with Conditions (HV)
DECISION DATE: August 3, 2022

2022 AUG -8 P 2:04

CITY CLERK'S OFFICE
SOMERVILLE, MA

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the development review application submitted for 14 Sycamore Street.

LEGAL NOTICE

David Smith and Jeanne Riley seek relief from the required side setbacks with the addition of a front driveway access in the Neighborhood Residence (NR) district, which requires a Hardship Variance.

RECORD OF PROCEEDINGS

On August 3, 2022, 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, Ann Fullerton, and Anne Brockelman. The Applicants, their attorney, and their engineer provided a summary of the proposed driveway, how it would be constructed, the easement and maintenance agreement with 8 Sycamore Street, and the Applicants' need for a driveway and off-street parking. The Chair then allowed for public comments and noted that a petition from abutters in support of the application had been submitted into the record.

Following the public comment portion of the hearing, the Board discussed the application with the Applicants, requesting additional information on the material of the driveway and further reasoning on why they need the driveway and why they believe the Hardship Variance should be granted. The Board then reviewed the size and shape of the property and the prevalence of driveways in other properties in the neighborhood. Staff provided additional clarification that the Hardship Variance would provide relief from the sum of side setbacks requirement in the Somerville Zoning Ordinance. The Board continued to discuss the application and stated they would prefer permeable pavers as the material for the proposed driveway to mitigate potential stormwater impacts. Staff provided draft condition language for the Board.

Following discussion of the requested Hardship Variance, the Board moved to approve the requested Hardship Variance for zoning relief from the sum of side setbacks requirement for a detached home in the Neighborhood Residence zoning district.

PLANS & DOCUMENTS

Application plans, documents, and supporting materials submitted and reviewed are identified below.

| Document | Pages | Prepared By | Date |
|---|-------|--|-----------------|
| 14 Sycamore Street Hardship Variance Argument | 12 | Law Office of Richard D. Di Girolamo, 424 Broadway, Somerville, MA 02145 | Not provided. |
| 14 Sycamore Street Project Narrative | 2 | Law Office of Richard D. Di Girolamo, 424 Broadway, Somerville, MA 02145 | April 28, 2022 |
| 14 Sycamore Street Existing Conditions Plan of land | 1 | David Farrar, PLS, 14 Melody Rd, Peabody, MA | April 25, 2022 |
| 14 Sycamore Street Plot Plan of Land | 1 | David Farrar, PLS, 14 Melody Rd, Peabody, MA | April 25, 2022 |
| Easement and Maintenance Agreement between 8 Sycamore Street and 14 Sycamore Street | 7 | 8 Sycamore Street LLC, and David Smith and Jeanne Riley | October 9, 2020 |
| Abutters Petition for 14 Sycamore Street | 22 | Not provided | Not provided |

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:

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 Neighborhood Residence zoning district in which the land or structure is located;*

The Board finds that special circumstances exist relating to the shape and size of the parcel.

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, David Smith and Jeanne Riley.*

The Board finds that literal enforcement of the ordinance regarding the sum of side setbacks requirement for the district, subject to this parcel, creates a substantial hardship to the petitioners.

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 Neighborhood Residence district in this Ordinance or the Ordinance in general.*

The Board finds that desirable relief can be granted without substantial detriment to the public good and without nulling or substantially derogating from the intent and purpose of the Neighborhood Residence zoning district and the 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 for the sum of side setbacks requirement. Ms. Fullerton seconded. The Board voted **4-0** to approve the Hardship Variance subject to the following conditions:

Perpetual

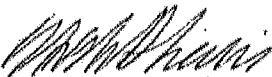
- This Decision must be recorded with the Middlesex South Registry of Deeds.
- The Applicant must use permeable pavers as the material for the proposed driveway.

Prior to Building Permit

- A 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.
- One (1) physical copy of the original application materials and one (1) digital and (1) physical copy of all required application materials reflecting any physical changes required by the Board, if applicable, must be submitted to the Planning, Preservation & Zoning Division for the public record.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Katherine Garavaglia, *Acting Clerk, Alternate*
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 _____