

To: Nicholas Antanavica and Somerville ISD

From: Dmitry Vasilyev and Patrycja Missiuro,

July 30, 2024

VIA ELECTRONIC DELIVERY

Re: 16-20 Medford Street building permit B24-000161, Request for Enforcement

Dear Mr. Antanavica, Somerville Inspectional Services -

Under provisions of MGL c. 40A s. 7. herewith we are requesting ISD to withdraw the construction building permit B24-000161 for the 16-20 Medford Street (the Development/Property), issued on July 17, 2024, due to significant zoning violations described herein.

Please do not hesitate to contact us in case you have any questions and respond within 14 days according to MGL c 40A s. 7.

Respectfully,

Dmitry M Vasilyev *Patrycja V Missiuro*

Dmitry Vasilyev and Patrycja Missiuro.

CC: ISD staff, JT Scott, planning

Background

16-20 Medford St Development is located in MR4 zone district of Somerville, and is claimed to be the “General Building” type, per SZO 4.2.8.

The setbacks for this building type are specified in the following table (SZO 4.2.8 b):

| Building Setbacks | | |
|-------------------|--|------------|
| | Curb Setback (min) | 12 ft |
| A | Primary Front Setback (min/max) | 2 ft 15 ft |
| B | Secondary Front Setback (min/max) | 2 ft 15 ft |
| C | Side Setback (min) | – |
| | Abutting an Alley or R-ROW | 0 ft |
| | Abutting any non-NR or -LHD | 0 ft |
| | 1 st – 3 rd Story Abutting NR or LHD | 10 ft |
| | 4 th Story Abutting NR or LHD | 30 ft |
| D | Rear Setback (min) | – |
| | Abutting an Alley or R-ROW | 0 ft |
| | Abutting any non-NR or -LHD | 10 ft |
| | 1 st – 3 rd Story Abutting NR or LHD | 20 ft |
| | 4 th Story Abutting NR or LHD | 30 ft |

Issue #1. The Development violates Curb Setbacks on all four street frontages.

The “Curb Setback” of 12 ft, per SZO, extends vertically just as any other setback:

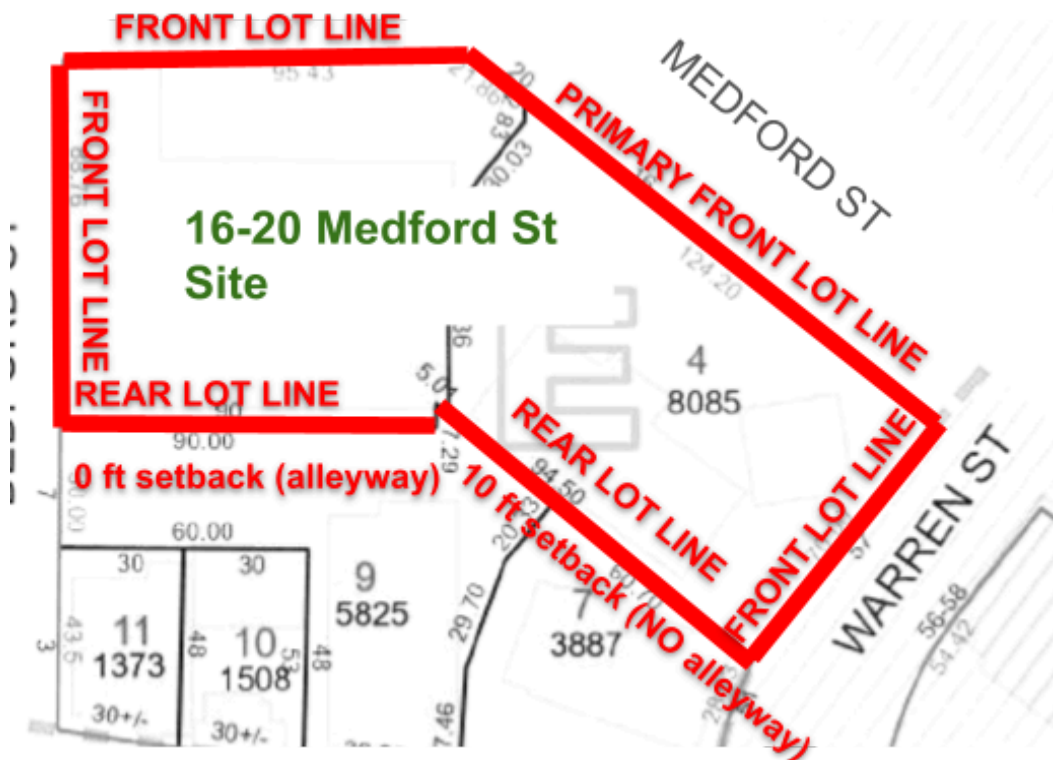
2.4.3 Building Placement

- *a. Building Setbacks*
 - *i. All principal and accessory buildings must be located at or behind any required minimum curb, front, side, or rear setback except as indicated in §2.4.3.d. Setback Encroachments.*

Please note that no building components (including Bay Windows) can encroach on the Curb Setback, per SZO. The corresponding setbacks for 16-20 Medford Street are depicted below:

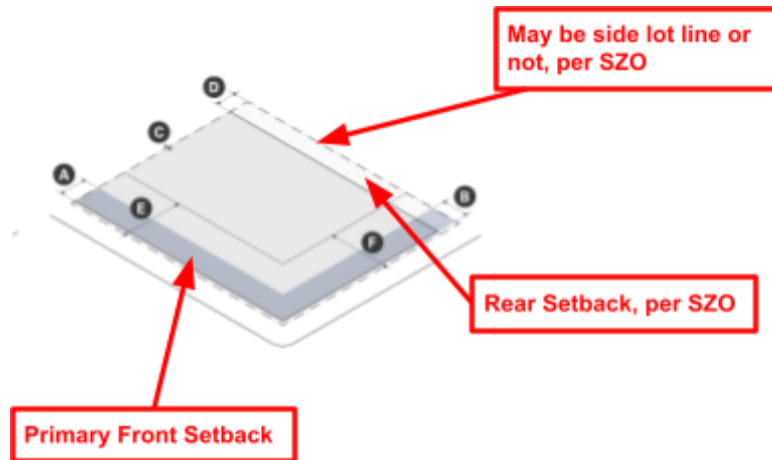
Issue #2. The Development violates Rear Setback requirement

The proper lot line designation of the lot lines of the Property is presented on the following drawing:

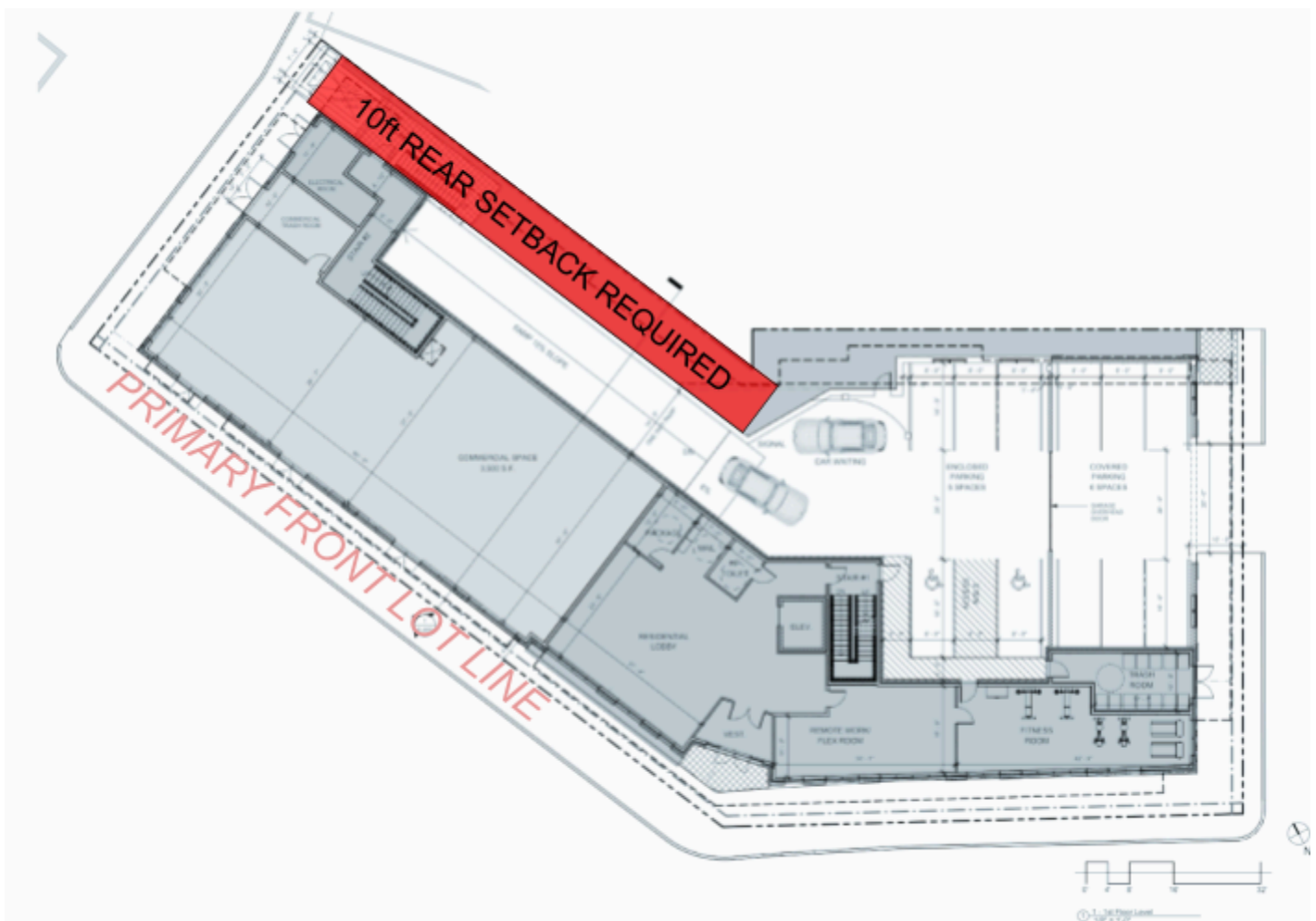


The lot line that should have a 10ft setback is the right REAR LOT LINE (without the alley) on the figure above.

Regardless of the lot line designation, because it is located opposite of the Primary Front Lot Line (Medford St) of 16-20 Bedford Street, a REAR SETBACK is applicable to this lot line, by contextual drawing per SZO 4.2.8. b):



Here, the “Rear setback” (D) is depicted as the opposite of the “Primary front setback” (A). It is reasonable to assume that prescriptive drawing would mandate rear setback to be located along the opposite side of the Primary Front Lot Line. Please note that the line with Rear Setback may or may not be a Rear Lot Line, which, per SZO, depends on the adjacent lot’s arrangement. The



lot on the drawing may or may not have a rear lot line at all. Regardless, 16-20 Medford site does have a Rear Lot Line (see Appendix), which further reinforces this claim.

The required setback is depicted in RED on the figure above. As one can see, there are a lot of building components that encroach onto this setback. The Developers should reconfigure the building in order to not encroach onto this setback.

Issue #3 The Developers should re-calculate Gross Floor Area

In light of the violations #1 and #2 above, the Developers should re-calculate Gross Floor Area and adjust the number of Dwelling Units accordingly to satisfy GFA/DU requirement.

In addition to that, Developers' GFA calculation should be adjusted for the following:

1. Developers' GFA calculation double-counts all staircases. The staircase area is located between levels, and it should be accounted only for one floor, not both.
2. Developers' GFA calculation includes bicycling parking area. However, GFA should exclude any Net Floor Area of any structured parking, per 2.4.5.c,vii a)

Issue #4 Transformer is not permitted in the frontage area

“Mechanical equipment associated with residential uses, such as an HVAC unit, is not permitted in the frontage area of a lot” (SZO 2.4.3 d v)) - please move the transformer elsewhere. It should also be screened when appropriate.

Additional notes

Developers obtained two special permits for the Property:

1. Approval of the Residential Use category (which requires Special Permit in MR4 zone),
2. Parking relief

The zoning issues described above (such as setbacks) cannot be addressed via Special Permits.

The Developers started foundation/framing work before obtaining the Building Permit, at their peril. There is no hardship that Developers can claim due to that. We could not perform zoning review prior to approval of the Permit B24-000161, because the final plans were unavailable.

Appendix. Proper lot line designations.

As we indicated above, the REAR SETBACK is required for one of the rear lot lines in question simply because it opposes the Primary front lot line. However, just as a side note, here is an explanation why the line is, in fact, a rear lot line.

SZO 2.1.1. a) defines a Rear Lot Line as the following:

Lot Line, Rear

Any lot line which is parallel to or within forty-five (45) degrees of being parallel to a front lot line, unless that lot line is a side lot line of an abutting lot.

The line in question is a valid Rear Lot line per SZO, because:

1. It is within 45-degree parallel to a Front Lot Line (Medford Street)
2. It abuts the Rear Lot Line of the lot “7” (3887 sq ft).

In order to confirm that (2) is true, below is a drawing of the abutting lot in question:

The abutting lot is a corner lot, 51 Warren Street, Somerville. It has two front lot lines, one along Warren Street, another one along Porter Street in Cambridge. The Line in question is within 45-degree parallel with respect to the Porter Street Front Lot Line of that lot.

The same applies to the lot “9” (5825sq. ft) on the picture (aka 7 Porter Street): the Lot Line in question is a Rear Lot Line, because it is within 45-degree parallel to the Porter Street where the Front Lot Line of this property is located.

The arrangement is depicted below (note that only Somerville portion of the lot is shown, the lot abuts the Porter Street in Cambridge):



The Line in question (blue) is within 45-degrees parallel to Porter Street (Front Lot Line), therefore is a Rear Lot Line of both lots.