



CITY OF SOMERVILLE, MASSACHUSETTS
INSPECTIONAL SERVICES DEPARTMENT
KATJANA BALLANTYNE - MAYOR

DMITRY VASILYEV & PATRYCJA MISSIURO
17 VINAL AVE #1
SOMERVILLE, MA, 02143

VIA EMAIL & USPS

Re: Site Address: 16-20 Medford St
Permit(s): B24-000161
Subject: Request for Enforcement
Date: August 8, 2024

Please allow this to serve as a formal response to your request for enforcement of the Somerville Zoning Ordinance (SZO) pursuant to G. L. c. 40A § 7 dated 7/30/24 to ISD. A copy of your request has been attached.

According to SZO §15.3.2, the Site Plan Approval process provides an Applicant with the opportunity to submit architectural, site, landscape, and engineering plans so that compliance to the provisions of the SZO be determined prior to preparation of construction documents. All building types in the Mid-Rise 4 (MR4) district require Site Plan Approval per SZO §4.2.6.b. The Planning Board originally reviewed and granted Site Plan Approval (P&Z21-057) for the project located at 16-20 Medford St (the 'Project') on 8/8/2022, and subsequently granted approval for a Major Amendment to the Site Plan Approval (P&Z23-011) on 7/27/2023. Although relief was not specifically sought for the matters highlighted in your request, those dimensional and design aspects were part of these submissions and were evaluated as compliant at the time and were not appealed within 30 days. Similarly, foundation permit B23-001657 for this project was issued on 4/18/24. The zoning dimensional and design aspects raised in your request were part of the foundation permit approval and issuance and were not appealed within 30 days.

To the extent that your request for enforcement constitutes an appeal of the zoning approvals granted to the Project under P&Z21-057, P&Z23-011, and B23-001657, ISD lacks jurisdiction to review this matter as the respective appeal periods for these decisions have lapsed. Nothing in this response shall preclude an aggrieved party from submitting an appeal of a building permit to the Zoning Board of Appeals according to the procedures of SZO §15.5.2. Administrative



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Appeal.

Notwithstanding the above, below are responses to your concerns regarding potential zoning violations.

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

Response: The intent of the curb setback is to furnish a space for a sidewalk in the frontage of a building. Curb setbacks are necessarily treated as front setbacks for the purposes of reviewing building encroachment of building components. Per SZO §4.2.10.j.D, bay windows may encroach into a front setback by a maximum of 3 ft in an Mid-Rise 4 (MR4) district. Per SZO §4.2.10.k.B, balconies may encroach into a front setback by a maximum of 6 ft in an MR4 district.

2. The Development violates Rear Setback requirement.

Response: The lot lines of the Project abutting 7 Bedford St and 51 Warren St were determined to be side lot lines, not rear lot lines. Per SZO §2.1.1, a rear lot line is 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. Both lot lines abutting 7 Bedford St and 51 Warren St are side lot lines of abutting lots. Rear setbacks would not be applicable to these lots, as rear setbacks are measured from rear lot lines.

3. The Developers should re-calculate Gross Floor Area in light of the violations #1 and #2 above.
 - a. 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.
 - b. 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.

Response: In light of the response to items 1 and 2 above, a recalculation of the gross floor area (GFA) of the project is not necessary.

Regarding the counting of staircases twice towards GFA, your request provides insufficient information. Even if the staircases were double counted, the impact of recalculating is irrelevant towards compliance of the project. The project utilized the density factor of 850 sf of GFA per dwelling unit under SZO §4.2.8.d. The project would have needed at least 42,500 sf of GFA to achieve the 50 dwelling units sought. The calculated GFA was more than 51,000 sf. Removing double counted staircases would not account for 8,500 sf.

Regarding bicycling parking included in GFA, although SZO §2.4.5.2.vii.a does state gross floor area excludes structured parking, the definition of structured parking is motor vehicle parking per SZO §2.1.1. Bicycles are not considered motor vehicles.

4. Transformer is not permitted in the frontage area.

Response: Per SZO §2.1.1, the frontage area is the area of a lot between the facade of a principal building and any front lot line(s), extending fully to each side lot line(s). The front of the transformer pad is in line with the façade of the building and the transformer does not encroach into the area between the façade and the front lot line.

The transformer will still be required to be screened per §SZO 10.7.4.b as it is visible from the public thoroughfare.

In light of the preceding responses, ISD is denying your request to withdraw building permit B24-000161.

If you are aggrieved of the determination regarding your request for enforcement dated 7/30/2024, you have the right to appeal to the Zoning Board of Appeals within thirty (30) days of the date of this notice pursuant to SZO Sections 15.5.2 and G. L. c40A §8 and 15.

Respectfully,



Nicholas Antanavica, CBO, LEED AP
Director, Inspectional Services Department

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

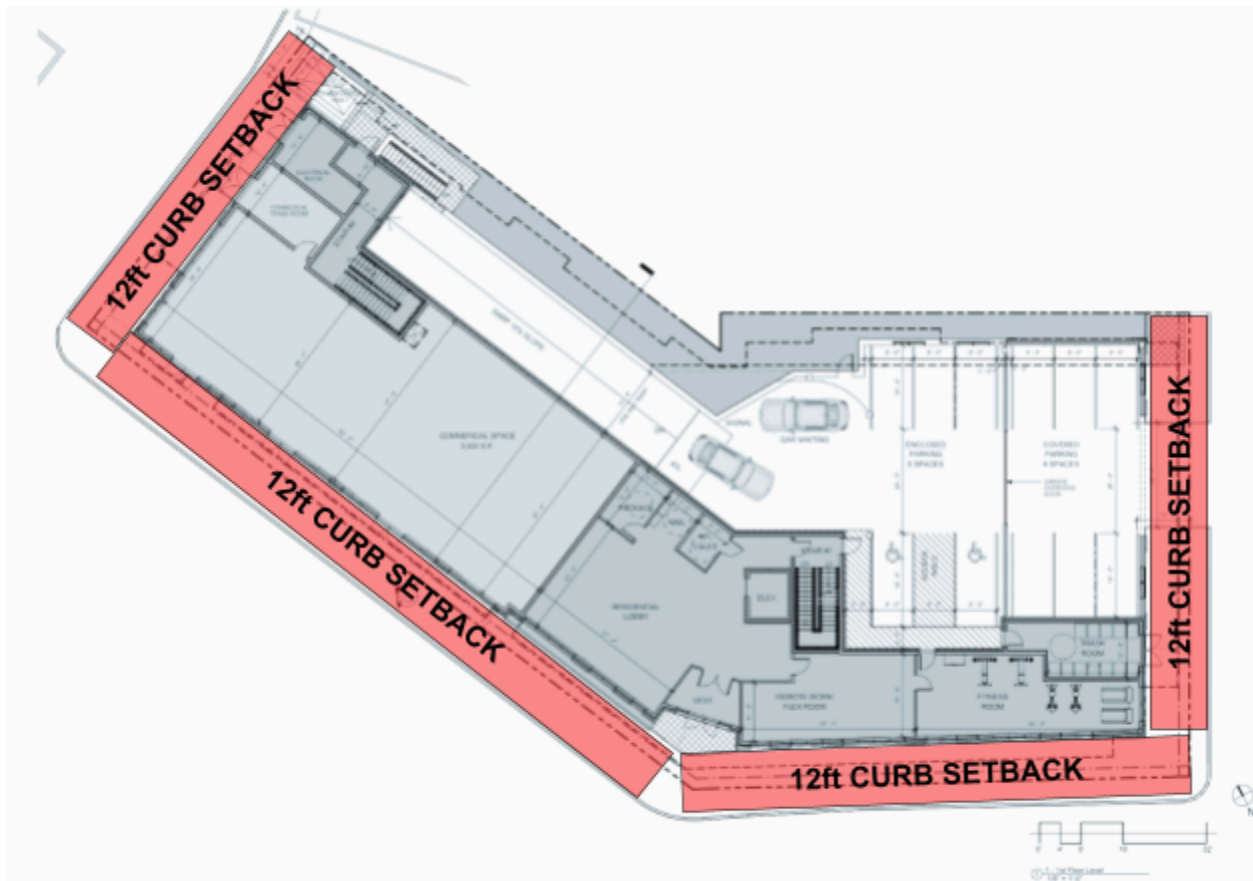
Issue #1. The Development violates Curb Setbacks on all four street frontages.

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:

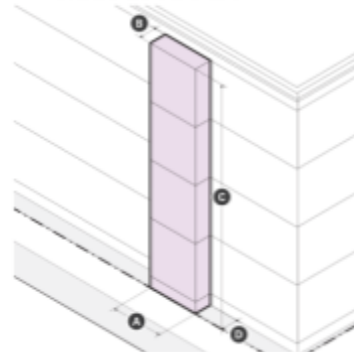


Please note that there are a lot of building components (decks, bay windows), especially on the Warren Street and Bedford Street sides, encroaching onto Curb Setback according to permit plans. All these building components should be re-designed to not encroach on the Curb Setback.

In particular, the Bay Windows are not allowed to encroach on the Curb Setback:

j. Bay Window

- i. A bay window is an assembly of windows projecting from a building to provide additional habitable space, increased light, multi-directional views, and articulation to an exterior wall.



Dimensions	
A Width (max)	16 ft
B Projection (max)	3 ft
C Height (max)	Height of Building in Stories
D Setback Encroachment (max)	-
Front	3 ft
Side	0 ft
Rear	0 ft

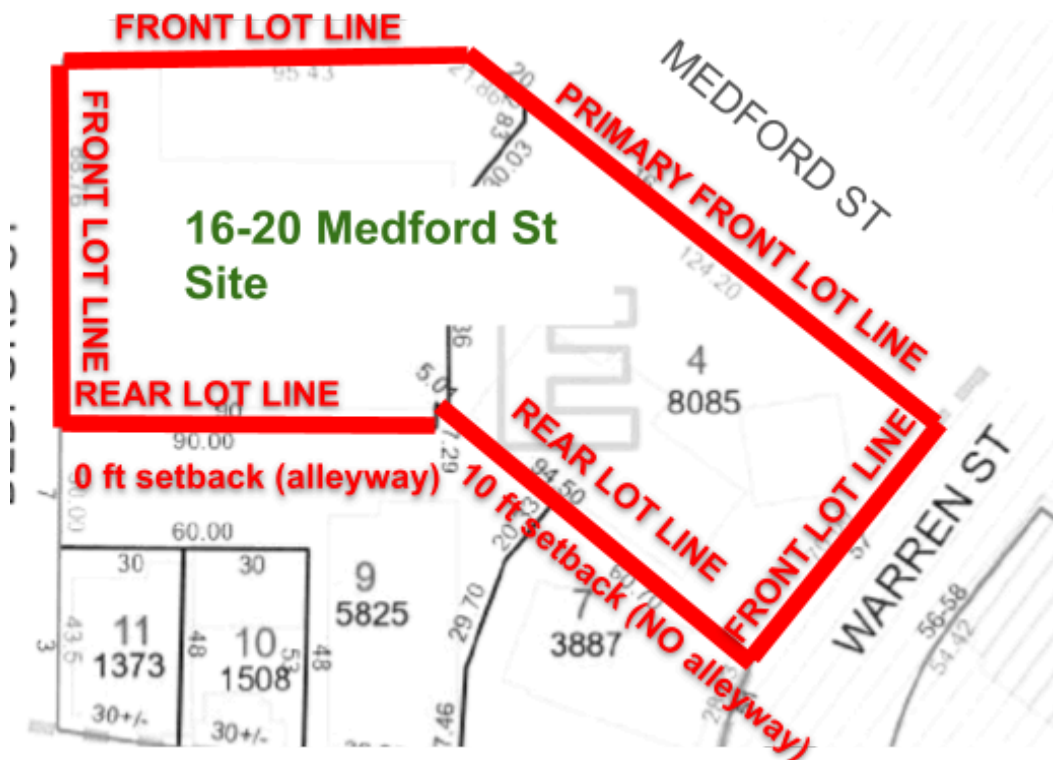
ii. Standards

- a). Bay windows, including box and bow windows, must include at least three (3) windows for each story of the bay window.
- b). The cumulative width of multiple bays may

No Curb setback encroachment allowed

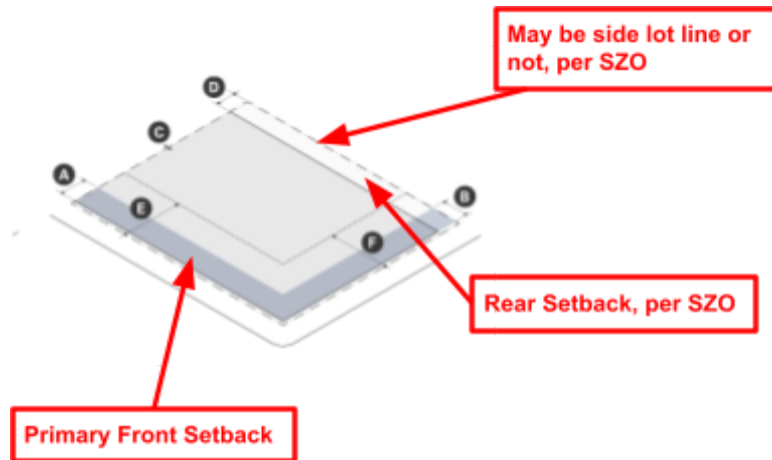
Issue #2. The Development violates Rear Setback requirement

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

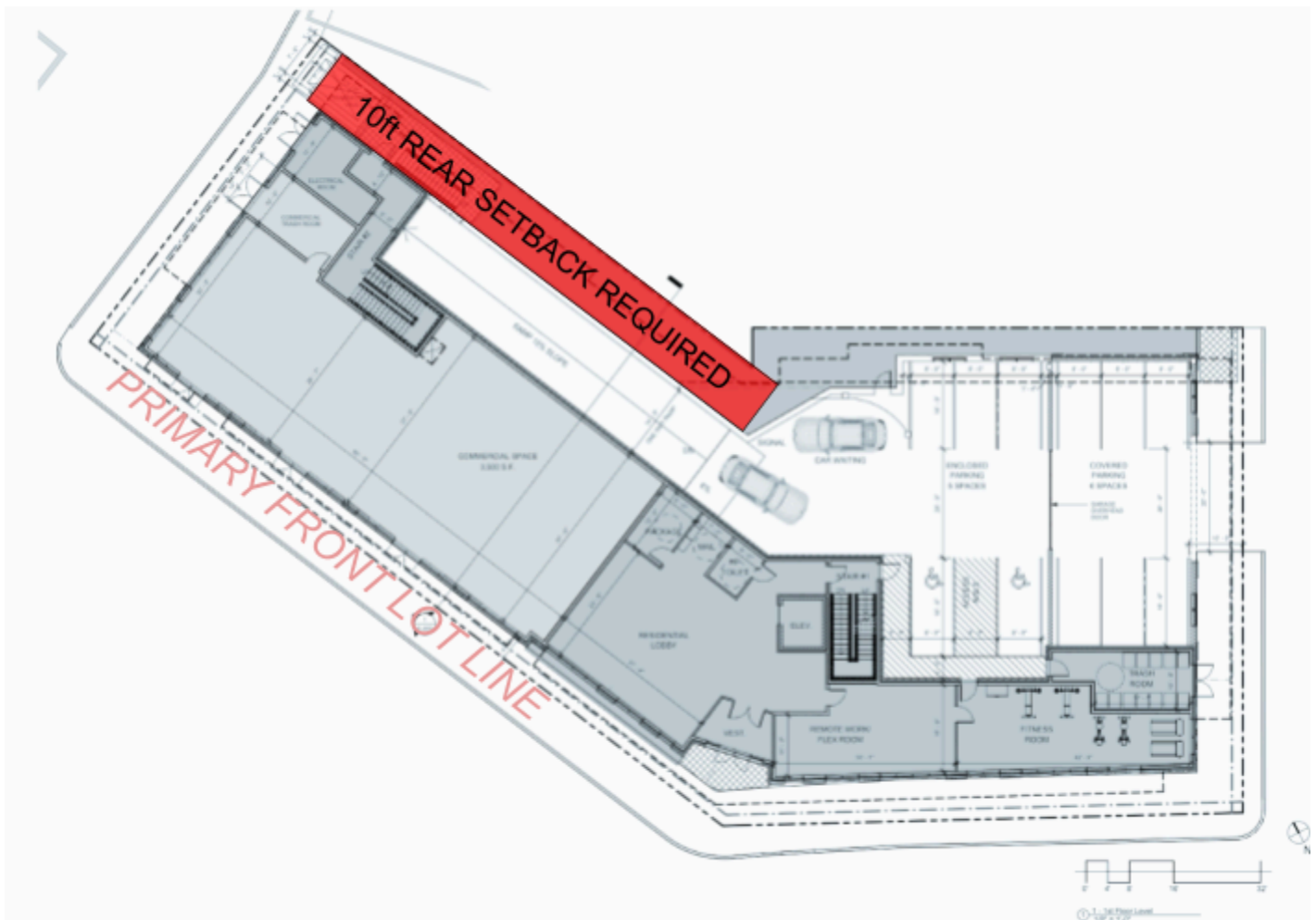


The lot line that should have a 10ft setback is the right REAR LOT LINE (without the alley) on the figure above.

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.