



City of Somerville

ZONING BOARD OF APPEALS

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

DECISION

CITY CLERK'S OFFICE
SOMERVILLE, MA

PROPERTY ADDRESS: 3 Emerson Street
CASE NUMBER: ZP24-000088
OWNER: Linda Gritz and Michael Katz, Trustees of the Gritz-Katz Family Trust
OWNER ADDRESS: 3 Emerson Street
APPLICANT: Same as Owner
APPLICANT ADDRESS: Same as Owner
DECISION: Approved with Conditions
DATE OF VOTE: November 6, 2024
DECISION ISSUED: November 13, 2024

CITY CLERK'S OFFICE
SOMERVILLE, MA
2024 NOV 13 P 3:33

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the Hardship Variance application submitted for 3 Emerson Street.

LEGAL NOTICE

Linda Gritz and Michael Katz seek zoning relief from the sum of side setbacks for front driveway access in the Neighborhood Residence (NR) district, which requires a Hardship Variance.

RECORD OF PROCEEDINGS

On November 6, 2024, 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 Vice-Chair Bockelman, Ann Fullerton, Zachary Zaremba, Alternate Brian Cook and Alternate Sisia Daglian. The applicant's attorney provided an overview of the applicant's proposal to add a front driveway and the relief they need from zoning to add such a driveway. After providing the Board with their arguments why the relief should be granted, the Board asked the applicant clarifying questions related to the dimensions that need to be met to be in compliance with zoning and how Hardship Variance criteria 2 is being met.

After a brief discussion with the applicant, Vice-Chair Brockelman opened up the public testimony portion of the hearing and testimony given was in support of granting the Hardship Variance. After the public testimony portion of the hearing, the Board expressed support for the Hardship Variance and went into discussion on how the criteria is met for granting zoning relief. After a brief discussion, the Board moved to grant the Hardship Variance.

PLANS & DOCUMENTS

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

Document	Pages	Prepared By	Date	Revision Date
3 Emerson Street Development Narrative	5	Adam Dash, Esq, 48 Grove St, Ste 304, Somerville, MA 02144	August 26, 2024	n/a
3 Emerson Street Land Title Survey	1	Centrepont Architects, 561 Windsor Street, A404, Somerville, MA 02143	June 5, 2023	n/a
3 Emerson Street Proposed Site Plan	1	Centrepont Architects, 561 Windsor Street, A404, Somerville, MA 02143	June 5, 2023	n/a
3 Emerson Street Photos	7			
3 Emerson Street Zoning Review	1	Centrepont Architects, 561 Windsor Street, A404, Somerville, MA 02143	August 30, 2024	n/a

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 NR zoning district in which the land or structure is located.*

The Board finds that special circumstances exists relating to the unusual shape of the lot compared to other lots in the NR zoning district.

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, Linda Gritz and Michael Katz, due to said special circumstances.*

The Board finds that literal enforcement of the provision of the ordinance involves substantial hardship, financial or otherwise, to the petitioner due to compliance creating accessibility issues to access the lot and prevent the petitioners from aging in place.

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 NR district in this Ordinance or the Ordinance in general.*

The Board finds that desirable relief can be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the NR district.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Member Cook moved to approve the Hardship Variance for relief from the sum of side setbacks requirement to with the conditions.

Member Fullerton 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 South Registry of Deeds

Prior to Building Permit

1. A digital 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.

Attest, by the Zoning Board of Appeals:

Anne Brockelman, *Vice-Chair*
Ann Fullerton
Zachary Zaremba
Brian Cook, *Alternate*
Sisia Daglian, *Alternate*

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 _____