



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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Case #: ZBA 2014-100
Site: 26 Warwick Street
Date of Decision: November 5, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 13, 2014

ZBA DECISION

Applicant Name:	Silva Linings, LLC
Applicant Address:	661 Main Street, Malden, MA 02148
Property Owner Name:	Silva Linings, LLC
Property Owner Address:	661 Main Street, Malden, MA 02148
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant and Owner, 20 Warwick Street, LLC, seek a Special Permit with Site Plan Review under SZO §5.2 & 7.2 to build 3 single-family structures on the lot and a parking variance under §5.5 & 9.5 for 2 spaces.
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<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Zoning Approval Sought:</u>	§5.2, §7.2, §5.5 & §9.5
<u>Date of Application:</u>	September 18, 2014
<u>Date(s) of Public Hearing:</u>	November 5, 2014
<u>Date of Decision:</u>	November 5, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-100 was opened before the Zoning Board of Appeals at Somerville City Hall on November 5, 2014. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The proposal is to demolish the structure and construct three single family dwellings on the lot with three parking spaces. Each house will contain two bedrooms. The applicant recently received a building permit for a three-unit structure; however, at the request of the neighborhood, the applicant redesigned the proposal. The redesign requires a special permit with site plan review and a variance for parking.

FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §5.2 & 7.2):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

2. Compliance with Standards: *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit with site plan review."*

The construction of more than one principle structure on a Residence B lot requires a Special Permit with Site Plan Review under SZO section 7.2. Three dwelling units are allowed in this district.

The dimensions of the buildings comply with the dimensional requirements of the RB district. The dimensions are called out in a table on the plans. The required access for an emergency vehicle will be satisfied because, if approved, there will be an abutting proposal with a driveway next to the site that will allow for a shared easement to give access to emergency vehicles.

A variance is required for the number of parking spaces. The requirement is 1.5 parking spaces for each unit because they have two bedrooms. The total is 4.5 parking spaces and 3 are proposed. The variance findings can be found below.

3. Purpose of District: *The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".*

The proposal complies with the purpose of the RB district in establishing three dwelling units on the lot.

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area".*

The proposal was designed to be compatible with the surrounding area.

The design complies with the Design Guidelines in SZO §5.2.4. for residence districts.

1. The building is generally the same size and massing as those existing in the neighborhood. The houses will be 2 ½ stories with sloping roofs and dormers which is a form that is familiar in Somerville. The house along the street will have a front door and porch and projecting bay which are typical elements on the City's housing stock.

2. Traditional building materials will be used such as wood or cementitious clapboards, asphalt singles, and four over one and two over one window patterns.



3/4. Since there are no proposed additions these guidelines do not apply.

5. The front building is oriented toward the street and has similar setbacks to the surrounding properties. Having a house located behind another house is not typical. However, the way that this site was designed to work with the property next door, the sites together will create a driveway that will serve as an alley and in a way create street frontage for the individual single family houses.

6. The driveway is kept to a minimal width. The width is proposed to be 8 feet wide and will be shared with a driveway at 26 Warwick Street in order to provide sufficient space for fire truck access. There will be a narrow strip of grass separating the driveways so that there is definition of the driveway for vehicles as well as a visual separation of the 16 foot combined driveway.

7. There will not be transformers or antennas onsite. The air conditioner condensers will be small for these single family homes and will be conditioned to be behind the building or screened from public view.

8. There are no additional guidelines for the RB district and the site is not in an overlay district.

5. Functional Design: *The project must meet "accepted standards and criteria for the functional design of facilities, structures, and site construction."*

The site will meet the accepted standards and criteria for a functional design in terms of movement of people, cars and bikes. Site construction will have to be coordinated with Traffic and Parking.

6. Impact on Public Systems: *The project will "not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic."*

The proposal will increase the use by one unit which will not have a negative impact on public services. The storm water management will have to comply with the City's policy and will be reviewed by the City Engineer.

7. Environmental Impacts: *"The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception."*

The proposal will not have any adverse impact beyond a typical residential development.

8. Consistency with Purposes: *"Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections."*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to maintaining the uniquely integrated structure of uses in the City.

9. Preservation of Landform and Open Space: *The Applicant has to ensure that "the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness*



of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood."

There are no existing land forms to preserve.

10. Relation of Buildings to Environment: *The Applicant must ensure that "buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings."*

The site is generally flat and the structures' design is harmonious with the context of the residential structures in the City. The site plan is situated so that there is one single-family structure visible along the street.

11. Stormwater Drainage: *The Applicant must demonstrate that "special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and paved area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required."*

Civil plans have been submitted and there are conditions of approval that will require that the City's stormwater management policies are followed.

12. Historic or Architectural Significance: *The project must be designed "with respect to Somerville's heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties."*

The building on the site was determined to be significant and preferably preserved. The nine month demolition delay has passed and the building can be demolished. The proposed houses incorporate typical forms in Somerville and elements such sloping roofs, dormers, front porches and fenestration.

13. Enhancement of Appearance: *The Applicant must demonstrate that "the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting."*

The architectural site plan includes notations of where trees and shrubs will be located. There are two large trees proposed for the front yard.

14. Lighting: *With respect to lighting, the Applicant must ensure that "all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby."*



The lighting will be residential in nature and will be conditioned to not spill onto neighboring properties.

15. Emergency Access: *The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”*

Emergency access is possible via the 8 foot driveway on the subject property in combination with the 8 foot driveway on the abutting property. There will be an easement to ensure that this access remains.

16. Location of Access: *The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”*

The driveway will be in the same location as it currently exists and therefore there will not be a change in access to the site.

17. Utility Service: *The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”*

The utility service plans needs to be submitted to Lights and Lines prior to construction and utilities will be conditions to be placed underground.

18. Prevention of Adverse Impacts: *The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development.”*

The proposal will not have adverse impacts beyond typical residential units.

19. Signage: *The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”*

No residential signage will be posted beyond the address.

20. Screening of Service Facilities: *The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”*

There will not be exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, or utility buildings on the site. The air conditioner condensers will be conditioned to be behind the building or screened.

21. Screening of Parking:

Two of the parking spaces will be screened by the building and the third is that the back of the site where it is least visible.

22. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

The proposal will replace two market rate housing units with three market rate housing units. The minor increase in the number of residential units will increase supply and at a greater scale help to meet the demand and reduce prices of units.



23. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

This area is marked as an area to conserve. The proposal for three single family houses meets the intent of conserving this one-, two- and three-family district.

FINDINGS FOR VARIANCE FOR PARKING (SZO §5.5 & §9.5):

A Variance (§5.5) is sought to reduce the parking required by 2 spaces (§9.5).

The parking requirement calculation can be found in Section II, number 2, above. In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."*

The preferred scheme from the neighborhood includes separating the units into three single-family houses. With this arrangement and the shape of the lot there is a limited ability to site the buildings, landscaping and parking that complies with the dimensional regulations of the Somerville Zoning Ordinance. There is a hardship because practically two additional cars can fit in tandem but they do not meet the requirement to have direct access to the street. The special permit allowance for altering parking lot dimensions does not apply because the site does not meet the parking lot definition, which is when there are 6 or more spaces and this site only includes 3 spaces or 5 if including 2 tandem spaces.

2. *"The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."*

The zoning ordinance allows for three residential units on the lot and therefore this is a reasonable use of the property. The form of the proposal is considered to be reasonable by the neighbors and meets all of the dimensional requirements of the Ordinance.

3. *"The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare."*

The proposal is in harmony with the intent of the Ordinance in keeping the RB district for one-, two-, and three-family houses that match the scale of typical houses in the City. The site can accommodate additional parking spaces if the owners have two cars or visitors. The site will not oversupply parking spaces, which can attract people with more cars and bring traffic to the neighborhood which would be detrimental.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit with Site Plan Review. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. Upon making the above findings, Susan Fontano made a motion to approve the request for a Variance. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the establishment of three single-family houses with three parking spaces. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>Sept 18, 2014</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>Sept 10, 2014</td><td>Plans submitted to OSPCD (Z1-Z2 Zoning Compliance, A-0 Architectural Site Plan, A1-A3 Floor Plans, A4-A6 Elevations)</td></tr><tr><td>Jan 30, 2014</td><td>Plans submitted to OSPCD (Plot Plan)</td></tr></table>				Date (Stamp Date)	Submission	Sept 18, 2014	Initial application submitted to the City Clerk’s Office	Sept 10, 2014	Plans submitted to OSPCD (Z1-Z2 Zoning Compliance, A-0 Architectural Site Plan, A1-A3 Floor Plans, A4-A6 Elevations)	Jan 30, 2014	Plans submitted to OSPCD (Plot Plan)
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Jan 30, 2014	Plans submitted to OSPCD (Plot Plan)											
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
Pre-Construction												
2	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.									
3	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City’s stormwater policy.	BP	Eng.									
4	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City’s stormwater policy.	BP	Eng.									
5	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD									



Construction Impacts				
6	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
7	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
Design				
8	An exterior light and electrical receptacle is required for the porch.	Final sign off	Wiring Inspector	
Site				
9	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
10	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.			
11	The recorded easement to allow passage over the driveway for access to 26 Warwick Street shall be submitted to Planning Staff.			
12	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
Miscellaneous				
13	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
Public Safety				
14	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
15	Any air condition condensers shall be located behind a building or screened from the public right of way.	Electrical permits & CO		
16	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
17	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	



18	Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division: a) a copy of the Response Action Outcome (RAO) Statement, signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or b) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.	Foundation Permit	Plng/ISD	
Signage				
19	Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
Final Sign-Off				
20	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Elaine Severino

Attest, by the Administrative Assistant:

Dawn M. PereiraCopies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.**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. 3.2.10.

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.

Signed _____ City Clerk Date _____

