



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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EXECUTIVE DIRECTOR

*PLANNING DIVISION*

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JOSH SAFDIE (ALT.)

**Case #: ZBA 2013-05**  
**Site: 45 Matignon Rd a/k/a 0 Alewife Brook Pkwy**  
**Date of Decision: May 1, 2013**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: May 7, 2013**

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**ZBA DECISION**

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**Site: 45 Matignon Road a/k/a 0 Alewife Brook Parkway**

**Applicant Name:** Lycee International de Boston/International School of Boston, Inc.  
**Applicant Address:** 45 Matignon Road, Cambridge, MA 02140  
**Property Owner Name:** Lycee International de Boston/International School of Boston, Inc.  
**Property Owner Address:** 45 Matignon Road, Cambridge, MA 02140  
**Alderman:** Robert Trane / Ward 7

Legal Notice: Applicant and Owner, Lycee International de Boston/International School of Boston, Inc., seeks a Variance under SZO §5.5 and §10.7.1 to construct a 14 foot fence around the Lower and Middle School play yard. RB Zone. Ward 7.

Zoning District/Ward: RB Zone / Ward 7

Zoning Approval Sought: Variance under SZO §5.5 and §10.7.1

Date of Application: February 15, 2013

Date(s) of Public Hearing: March 20, 2013; April 3, 2013; April 17, 2013; and May 1, 2013

Date of Decision: 05/01/2013

Vote: 4-0

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Appeal #ZBA 2013-05 was opened before the Zoning Board of Appeals at Somerville City Hall on May 1, 2013. 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 (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.



**DESCRIPTION:**

The Applicant proposes to construct a fourteen (14) foot fence around the Lower and Middle School play yard which would consist of steel posts and thick netting. Students from the School use this play area on a regular basis; therefore, when the previously existing twelve (12) foot tall fence deteriorated to a point that the fencing was no longer effective, the posts and netting were re-erected to keep recreation and athletic equipment from going into the backyards of neighboring properties. The 12 foot fence and netting that previously existed had become rotten and deteriorated away. Acting in the best interest for the neighboring abutters, the School replaced the fence with steel posts and a thicker outdoor netting between the fence posts before learning that a Variance would be needed to heighten the fence. The height of the fence was increased to 14 feet in an attempt to further reduce or eliminate recreation and athletic equipment from entering onto adjacent properties. The dark color of the steel fence posts and netting were intentional, to make the height of the fence and netting difficult to see from neighboring properties as well as to maintain the existing viewshed of the School.

**FINDINGS FOR VARIANCE (SZO §5.5.3 and §10.7.1):**

In order to grant a Variance, the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

Please find the Applicants' responses to these questions on their application form attached to this decision.

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."

Building S is situated on the parcel in a manner that encourages use of the north area of the lot to be used as recreational space for the Lower and Middle School play yard, while the area south of Building S is used as recreational space for the Upper School. Backyards of adjacent homes along Hooker Avenue are within such a close proximity to the School that use of the Lower and Middle School play yard presents a hardship. This hardship requires extra efforts on behalf of the School to eliminate the potential damage to nearby properties that could be caused by loose recreation or athletic equipment. The play area has been in this location for 17 years and, to reduce interference with residential properties, a similar fence was in existence until recently, when the fence was no longer effective due to deterioration.

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."

Due to the close proximity of neighboring residences, recreation and athletic equipment routinely crossed over the fence onto neighboring properties. The installation of 12 foot tall fence posts and netting was effective until recently, when the fencing deteriorated away due to rot. In an effort to protect the nearby residential properties, and without knowledge that a Variance is necessary, the School erected a 14 foot tall fence to replace the original fence. The School believes the increased height of the fence will further reduce or eliminate equipment interfering with adjacent residential properties.

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."

Granting a Variance will enable the 14 foot tall replacement fence to continue to reduce, and potentially eliminate, interference between recreation and athletic equipment and nearby residential properties. By not replacing this fence, equipment will routinely cross over onto nearby properties, potentially causing property damage. The fence protects nearby residential dwellings from loose equipment, which enables these two adjacent uses to exist harmoniously in a dense urban environment.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Josh Safdie with Herbert Foster absent and Elaine Severino recused. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Variance. Josh Safdie seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is for a Variance to construct a 14 foot fence around the Lower and Middle School play yard. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(February 15, 2013)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 26, 2013 (March 13, 2013)</td> <td>Fence location plan submitted to OSPCD</td> </tr> <tr> <td>January 11, 2013</td> <td>Photographs of existing fence submitted to OSPCD (Sheets 1-22)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(February 15, 2013)	Initial application submitted to the City Clerk's Office	February 26, 2013 (March 13, 2013)	Fence location plan submitted to OSPCD	January 11, 2013	Photographs of existing fence submitted to OSPCD (Sheets 1-22)	BP/CO	ISD/Plng.	
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January 11, 2013	Photographs of existing fence submitted to OSPCD (Sheets 1-22)											
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
3	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:

Orsola Susan Fontano, *Acting Chairman*  
Richard Rossetti, *Acting Clerk*  
Danielle Fillis  
Josh Safdie (Alt.)

Attest, by the Zoning Board of Appeals Administrative Assistant:

\_\_\_\_\_  
Dawn M. Pereira

Copies 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 \_\_\_\_\_

