



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
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**PLANNING DIVISION**

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GEORGE PROAKIS, *PLANNING DIRECTOR*  
CHRISTOPHER DI IORIO, *SENIOR PLANNER*  
LORI MASSA, *PLANNER*  
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*  
FREDERICK J. LUND, *SENIOR DRAFTSMAN*

**Case #:** ZBA 2010-33  
**Date:** July 15, 2010  
**Recommendation:** Unable to Recommend  
Variance Approval

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**PLANNING STAFF REPORT**

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**Site:** 16 Browning Road

**Applicant Name:** William A. White, Jr.

**Applicant Address:** 16 Browning Road, Somerville MA 02145

**Property Owner Name:** William A. White Jr.

**Property Owner Address:** 16 Browning Road, Somerville MA 02145

**Agent Name:** none

**Alderman:** Walter Pero

Legal Notice: Applicant and Owner William A. White Jr seeks a variance (SZO §5.5 and §10.7.1) to replace an existing eight (8) foot fence on the rear lot line with a ten (10) foot fence.

Zoning District/Ward: Residence A / 4

Zoning Approval Sought: Variance (§5.5) relief from (§10.7.1)

Date of Application: June 22, 2010

Dates of Public Meeting • Hearing: Planning Board 7/15/10 • Zoning Board of Appeals 8/5/10

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property consists of a 2 ½ story structure on a 4,330.9 sf parcel. The use of the property is a single family house. The structure is an 1840's Greek Revival home that has been restored. The property has an existing eight foot fence running along the area lot line approximately 56 feet in length. Behind the fence are multi-unit structures (3 four-to-eight unit buildings) located on Sycamore Terrace.

2. Proposal: The proposal is to replace the existing 8 foot fence with a 10 foot fence. The applicant indicates that the 8 foot fence is not sufficient to address the hardship created by excess noise from



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building tenants on the other side of the fence. A variance was issued on June 5, 1996 to allow the applicant to replace a previously existing conforming 5 foot fence with a new 8 foot fence to address the same type of concerns.

3. Nature of Application: Section 10.7.1 of the SZO limits total fence heights to 6 feet above the existing grade. The applicant will need a variance to erect a taller fence. The applicant indicates in his application that the ZBA made findings for a variance in 1996, but in the intervening time the applicant has still been impacted by noise from the abutting property. The applicant's bedroom is at the back of the house and noise from the abutting property can be heard even with windows closed. The applicant intends to plant additional vegetation and affix a sound blanket or similar noise dampening material on the applicant's side of the fence. The applicant will use a flat picket fence with the pickets facing the abutting property.

4. Surrounding Neighborhood: The surrounding neighborhood is comprised of single-, two-, three-, and multi-family homes.

5. Impacts of Proposal: The applicant indicates that there would be no adverse impact. The additional two feet of fence height would only be noticeable to the applicant and immediate abutter. As this is a rear yard fence, it would not impact views from public ways.

6. Green Building Practices: The applicant indicates that the variance will reduce the need for the applicant to use an air conditioner to drown out sound on days it is not otherwise required and, therefore, will result in a net reduction in energy use.

7. Comments:

*Ward Alderman*: Has been contacted but has not provided comments.

## **II. FINDINGS FOR VARIANCE (SZO §5.5.3):**

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 Applicant's responses attached.

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."

In 1996, the ZBA found that "there were special circumstances related to the structure, given its close proximity to multi-unit dwellings, their density, and the narrowness of Sycamore Terrace, all of which abut the rear of the subject property, and the ZBA concluded that these circumstances created a hardship for the Applicant in his efforts to attain privacy and a noise-free environment." (*should all of this be in quotes?*)

Staff finds that these circumstances have not changed since 1996.

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.

In 1996, the ZBA found that the variance for an 8 foot fence was “the minimum necessary to grant the Applicant a reasonable use of his property, free from the nuisance of excessive noise, glare and unsightliness.”

Staff finds this initial decision was based upon carefully weighing the circumstances related to this particular situation and the impact that the abutting property had on the applicant.

While the applicant indicates that, during the intervening 14 years, the applicant has still suffered hardship from noise coming from the abutting property, staff cannot conclude that the applicant is now requesting a minimum variance when in 1996 the ZBA previously determined that the minimum variance necessary was an 8 foot fence.

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 ZBA indicated in 1996 that the variance “would be in harmony with the purposes and intent of the zoning ordinance since the Applicant has invested substantial funds and time restoring many of the original details of the 1940’s house. The proposed fence will not be injurious to the surrounding area since it will only be seen by the rear abutting property.”

The applicant indicates that the additional height will have no adverse impact and existing evergreen trees as well as proposed will screen the fence from view. Staff is unable to determine if this is the case, and recommends that the applicant provide a plan of proposed landscape improvements, information about the design of the fence to be installed as well as material samples for the new sound dampening material, so that staff and the Board can determine if there would be any impact on the neighborhood caused by a taller fence in this location.

#### **IV. RECOMMENDATION**

Based upon the application materials and the above findings, the Planning Staff is **UNABLE TO RECOMMEND** approval for the fence variance at this time. The Staff finds that the applicant has not adequately addressed that the application meets the second finding under §5.5.3 of the SZO, and has not provided sufficient information to determine if the application meets the third finding under §5.5.3 of the SZO.