



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2016-19
Date: March 16, 2016

Recommendation: Denial

PLANNING STAFF REPORT

Site: 10 Beech Street, #1

Applicant(s) & Owner(s) Name(s): Elina & Jonas Heese
Applicant(s) Address: 10 Beech Street, #1, Somerville, MA 02143
Alderman: Robert J. McWatters

Legal Notice: Applicants and Owners, Elina & Jonas Heese, seek a Variance under SZO §5.6.5-e §5.5.3 to construct a 6 foot fence along the front and left property lines. RB Zone. Ward 6.

Dates of Public Hearing: Zoning Board of Appeals – March 16, 2016

I. PROJECT DESCRIPTION

1. Subject Property: The subject parcel is a 3-story 5,004 square foot structure built in 2015 containing 3 condo units. The unit in question, is Unit 1 to which is deeded the majority of the left side yard.
2. Proposal: The Applicant is requesting a variance to construct a 6-foot fence along the Beech and Pitman corners of the lot which is on two one-way streets.
3. Nature of Application: The Somerville Zoning Ordinance, under §10.7.1, limits maximum fence height to 6 feet above the existing grade. However, when a fence is being constructed within 20 feet of any corner street line intersection, a maximum of 3 ½ feet is allowed irrespective of whether the property is situated on the corner of two one-way streets (§8.6.3.c).
4. Surrounding Neighborhood: Located at the intersection of two one-way streets, Beech and Pitman, the surrounding area is a mixture of larger condo buildings, two- and three-family structures of varying sizes.



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5. Impacts of Proposal:

The 6-foot fence has already been constructed by the applicant.

Over the course of the last few months, the Applicant spoke several times with Hans Jensen, Somerville's Zoning Review Planner, who informed the applicant numerous times that a 6-foot fence was not allowed 1) in the front of a house or 2) within the first 20 feet of property along a street corner.

The applicant was advised that the maximum height allowed within the first 20 feet is 3.5 feet. The applicant elected to erect a 6-foot fence despite these warnings and was cited by the building inspector, Floyd Richardson, for the fence (letter included in packets).

Fire Prevention: Staff discussed this situation with Fire Prevention at a meeting on March 8, 2016, providing the documentation submitted by the applicant. Fire Prevention will not accept a 6-foot fence in this location. Only a 3 ½ - foot fence will be accepted.

Chief Building Inspector: At the same meeting on March 8, 2016, Paul Nonni, Chief Building Inspector has weighed in and will not approve a 6-foot fence on the corner of a lot, irrespective of the fact that the property is at the corner of two on-way streets. The Chief Inspector noted that, while currently the streets intersecting at this property are one-way, this may not always be the case and that the standards of a 3.5-foot fence in these circumstances must be applied uniformly across the city. The case of 88 Irving Street was cited. In this instance, the property owner had erected a 6-foot fence along the street corners of the property. They were cited by ISD and were ordered to remove the fence and install a 3.5 foot fence within the first 20 feet along the intersection. As per SZO, the remainder of the fence running along the front of the property that is outside of the 20-foot area, the fence must be reduced to a maximum of 4 feet. The Chief Inspector firmly rejected allowing a 6-foot fence at Beech Street, reiterating that only a 3 ½ foot fence is allowed.

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. A variance can ONLY be granted if ALL of the conditions below set forth under §5.5.3 are met:

(a) 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."

Staff Response: There are no such special conditions present on the property. The application does not meet the standards for a variance under these conditions.

(b) 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."

Staff Response: The applicant does not meet the standards for a variance under the conditions set by item (b). The applicant already has a by-right means of reasonable relief. The applicant can construct a 3.5-foot fence within the first twenty feet of any corner as per §8.6.5.c of the SZO which states: "On any lot where front yards are required, all structures, fences or plantings greater than three-and-on-half (3 ½) feet above

sidewalk level and within twenty (20) feet of any corner street line intersection shall be maintained so as not to interfere with traffic visibility across corners.”

(c) “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.”

Staff Response: Staff finds that the applicant does not meet the standards set forth for a variance under the conditions set by item (c). A 6-foot fence is not in harmony with the surrounding neighborhood, would be injurious to pedestrian and vehicular traffic and is in complete contradiction to what is permitted under the SZO. The applicant has other means of reasonable accommodation by virtue of a 3 ½-foot fence that will provide separation of the yard from the street and will function to contain pedestrians to the sidewalk and garden occupants to the yard.

III. RECOMMENDATION

Variance under SZO §5.5.3

Based on the materials submitted by the Applicant and the above findings, the Planning Staff’s recommendation is **to DENY** approval of the requested **VARIANCE**, and require the applicant to remove the existing 6-foot fence.