



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2011-49

Date: June 16, 2011

Recommendation: Unable to Recommend

PLANNING STAFF REPORT

Site: 192 Powder House Boulevard

Applicant and Property Owner Name: Brenda Colborne

Applicant and Property Owner Address: 192 Powder House Blvd., Somerville, MA 02144

Alderman: Robert Trane

Legal Notice: Applicant and Owner Brenda Colborne, seeks a variance (SZO §5.5 and §10.7.1) to construct an eight (8) foot high fence along a twelve (12) foot section on the rear left side of the property. RA zone. Ward 7.

Zoning District/Ward: RA Zone / Ward 7

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

Date of Application: May 24, 2011

Date of Public Hearing: Zoning Board of Appeals – **June 22, 2011**

I. PROJECT DESCRIPTION

1. Subject Property: The property is a 3,685 square foot lot near the intersection of Powder House Boulevard and Dow Street, on which sits a two-family dwelling. The structure is 2.5 stories, not including the basement level, and contains 3,060 square feet of living space.

2. Proposal: There is currently a chain link fence that encloses the backyard of the property which consists of varying heights between 3 to 4 feet along the rear property line and five (5) feet at its tallest point near the gate on the left side of the property. In 2010 the Applicant landscaped her backyard as can be seen in the submitted photos. As part of the continued improvements to the rear of the property, the Applicant would like to remove the chain link fence and install a six (6) foot high, cream colored, vinyl fence with lattice work at the top, around the entire backyard. However, along a twelve (12) foot section on the left rear side of the property, the Applicant would like to install an eight (8) foot high fence. This section of eight (8) foot high fencing would run from the 39" high retaining wall for the



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raised landscape area along the left property line towards the front of the property and stop at a point even with the rear of the structure (where the existing chain link fence stops). There would then be a six (6) foot high fence gate on this side to fully enclose the backyard.

3. Nature of Application: Section 10.7.1 of the Somerville Zoning Ordinance limits total fence heights to six (6) feet above the existing grade. The Applicant is seeking a variance to erect a fence eight (8) feet in height along a twelve (12) foot section of the rear left side of the property.

4. Surrounding Neighborhood: The property is located in an RA district. The surrounding neighborhood consists of predominantly two- and three-family homes between two and three stories in height, similar to the subject property. The West Somerville Neighborhood School sits across the street.

5. Impacts of Proposal: The Applicant indicates that there would be no adverse impact. The additional two (2) feet of fence height would only be noticeable to the Applicant and the immediate abutter on the left side of the subject property. The eight (8) foot high section of fencing would actually still be lower than the fencing that will enclose the remainder of the backyard because this fencing will be sitting on top of the 39" high raised landscaped area at the rear of the subject lot. Additionally, as the eight (8) foot high section of fencing will be located in the left rear portion of the property, it would not impact views from the public way.

6. Green Building Practices: Applicant has indicated that the old chain link fence will be recycled by the fence company.

7. Comments:

Fire Prevention: Have been notified and are awaiting comments.

Ward Alderman: Alderman Trane has been notified but has not yet provided comments.

II. FINDINGS FOR VARIANCE (SZO §5.5 & §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.

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 front to back incline of the property at 188 Powder House Boulevard, which is directly to the left of the subject property, is slightly steeper than that of 192 Powder House Boulevard which creates a small elevation change between the two lots. There is a short retaining wall that separates the walkway of 192 Powder House and the driveway of 188 Powder House. This retaining wall changes in height from one (1) foot above grade to three (3) feet above grade as it moves towards the rear of the property until it reaches the 39" high retaining wall of the raised landscaped area. If the Applicant is to erect a new fence on her property that is six (6) feet in height, it would only appear to be between five (5) feet and three (3) feet in height from the vantage point of the neighbor at 188 Powder House Boulevard, instead of its actual height. The Applicant could construct a short support wall on her property and erect a six (6) foot high fence on top the wall to achieve the desired fence height. This would require the support wall to be 2.5 feet high, 16 feet long and 6" wide to support the fence posts and have the same effect as an eight

(8) foot high fence. The support wall would narrow the existing three (3) foot wide walkway between the side of the dwelling and the retaining wall to 2.5 feet or less. Additionally, this would give the six (6) foot high fence the appearance it was almost nine (9) feet tall because it would be sitting on top of the 2.5 foot high support wall. This elevation change would not allow for a six (6) foot high fence, as permitted in the SZO, to have the same screening effect as a six (6) foot high fence constructed on an area with level ground.

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.”

Staff is unable to determine if the proposal to install a fence two (2) feet taller than the Ordinance allows is the minimum variance necessary that will grant reasonable relief to provide the adequate screening for the Applicant's backyard. The retaining wall is three (3) feet high at its tallest point and one (1) foot high at its shortest point where the Applicant is requesting to install the eight (8) foot high fence. This means that the abutter at 188 Powder House would see between approximately five (5) feet and seven (7) feet of fence when looking towards the Applicant's property. A six (6) foot high fence, which is the maximum allowable in the SZO, installed in this same location would yield a view of fencing between approximately three (3) feet and (5) feet in height. In both cases, the six (6) foot high fence that will be installed in the rest of the backyard will be higher than the fencing on this twelve (12) foot long section of the property because it would be sitting on top of the raised landscape area. Staff is unable to determine if the requested two (2) feet of additional fencing height would be the minimum variance to grant reasonable relief to the Applicant or if it is the necessary amount for use of the land.

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 Applicant has indicated that the addition of the fence will make the backyard space more private, the property more attractive, and allow the Applicant to place her trash barrels behind the fence. The fence gate on the left side of the property will be six (6) feet high along with the rest of the fencing being installed to enclose the backyard, which is consistent with the SZO. The proposed section of eight (8) foot high fencing will not appear to be injurious to the neighborhood either, as the length of fencing requiring a variance is only twelve (12) feet long. With the elevation change between the two properties where the fence will be installed, the abutter at 188 Powder House would see at most between approximately five (5) feet and seven (7) feet of fence when looking towards the Applicant's property with the installation of an eight (8) foot high fence. Additionally, the neighbor at the rear of the property, without prompting, has offered to pay for half the cost of the 25 feet to be installed along the rear property line. The Applicant has indicated that both she and her neighbor to the rear feel that this fencing will benefit their properties by allowing them to entertain guests separately. Furthermore, as the eight (8) foot high section of fencing will be located in the left rear portion of the property, it would not impact views from the public way.

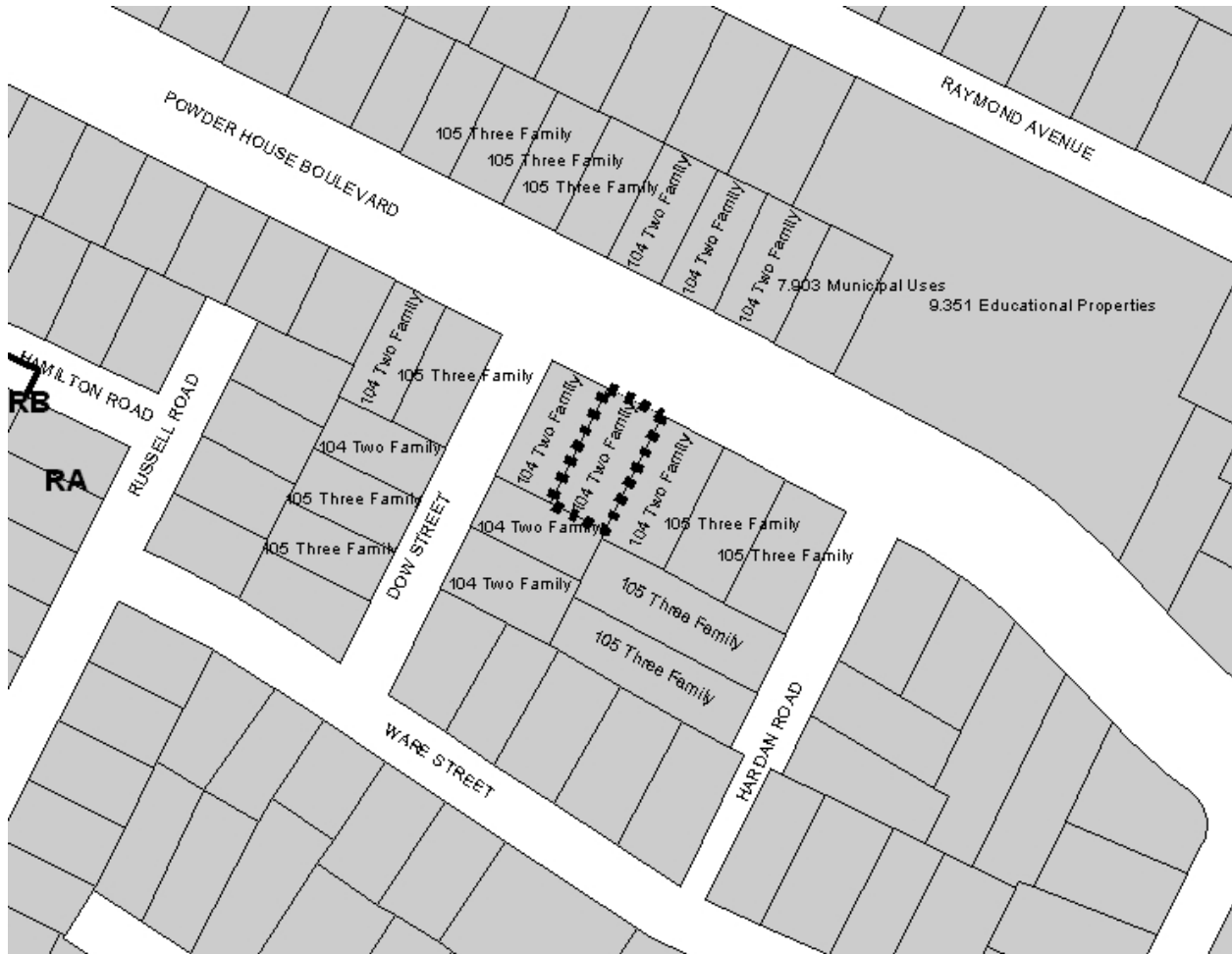
III. RECOMMENDATION

Variance under §5.5 & §10.7.1

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. If the Zoning Board of Appeals is able to make the above findings for the requested variance, the Staff recommends the following conditions be attached to the decision:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to construct an eight (8) foot high fence along a twelve (12) foot section on the rear left side of the property. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng./ISD									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(May 24, 2011)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>June 29, 1990 (June 6, 2011)</td><td>Plot Plan</td></tr><tr><td>April 21, 2011 (June 6, 2011)</td><td>Reliable Fence Boston Site Plan</td></tr></table>				Date (Stamp Date)	Submission	(May 24, 2011)	Initial application submitted to the City Clerk’s Office	June 29, 1990 (June 6, 2011)	Plot Plan	April 21, 2011 (June 6, 2011)	Reliable Fence Boston Site Plan
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April 21, 2011 (June 6, 2011)	Reliable Fence Boston Site Plan											
Any changes to the approved site plans that are not <i>de minimis</i> must receive SPGA approval.												
2	Applicant shall install a cream colored, vinyl fence with lattice in the top two feet as shown in the submitted photograph with OSPCD date stamp of June 6, 2011.	Final Sign Off	Plng.									
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.									



192 Powder House Boulevard