



City of Somerville

# ZONING BOARD OF APPEALS

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

**TO:** Zoning Board of Appeals  
**FROM:** Planning & Zoning Staff  
**DATE:** April 14, 2021  
**RE:** 255 Powder House Boulevard, CZC21-000032

**RECOMMENDATION:** None

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from the Planning & Zoning staff to the Review Board members.

This memo summarizes the development review application submitted for 255 Powder House Boulevard, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on March 21, 2021 and is scheduled for a public hearing on April 28, 2021. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

## LEGAL NOTICE

Applicants Jonathan and Kathleen Evans propose to construct a fence within the frontage area with a nonconforming height and opacity, which requires two Hardship Variances.

## SUMMARY OF PROPOSAL

Jonathan and Kathleen Evans are proposing to construct a fence within the frontage area of their property that is taller than four (4) feet and more than 50% opaque. The proposal on the North Street side is for a five (5) foot tall fully opaque fence topped by one (1) foot of lattice for a total fence height of six (6) feet. The proposal on the Powder House Boulevard side is for a six (6) foot tall fully opaque fence.

## ADDITIONAL REVIEW NECESSARY

255 Powder House Boulevard is located in the Neighborhood Residence (NR) zoning district in the Hillside neighborhood represented by Ward 7 Councilor Katjana Ballantyne. The proposal requires two (2) Hardship Variances from the Zoning Board of Appeals for fence height and fence opacity. The Zoning Board of Appeals is the review board for all administrative or discretionary permits required in the NR district.

## ANALYSIS

The Applicant has included a Green Score calculation table with their application, but Staff have not reviewed it as the request before the Board does not trigger the Green Score requirement. The only item within the purview of the Board is the request for hardship variances related to the proposed fence.

The Ward Councilor is aware and supportive of the Applicant's request.

The Ordinance permits fences located within the frontage area of corner lots to be a maximum of four (4) feet in height and fifty percent (50%) opacity. The frontage area is defined as the area between the façade of a principal building and any front lot line(s), extending fully to each side lot line. This property is bound on three sides by thoroughfares which results in it having two front lot lines (along North St and Powder House Blvd) and one side lot line along the abutting property at 259 Powder House Blvd.

The Ordinance anticipates streets intersecting at approximately right angles, and most residential streets in the City follow this pattern; it is unusual to have a lot in the Neighborhood Residence district where the streets intersect at an acute angle and create a lot where approximately two-thirds of the perimeter is composed of front lot lines. Due to the shape of the lot and the placement of the principal structure, the frontage area includes the majority of the lot area not covered by the principal building.

The Applicant is required to provide an argument addressing the review criteria for each of the necessary hardship variances. Generally, Planning & Zoning Staff is unable provide analysis or recommendations concerning the existence of actual hardship, financial or otherwise, in relation to the Applicant for the second review criteria.

Upon analysis of the material submitted by the Applicant, Planning & Zoning Staff do not believe that the granting of the requested hardship variances would cause a substantial detriment to the public good or nullify or substantially derogate from the intent and purpose of the NR district, copied here:

#### Intent

- To implement the objectives of the comprehensive plan of the City of Somerville.
- To conserve already established areas of detached and semi-detached residential buildings.

#### Purpose

- To permit the development of one-, two-, and three-unit detached and semi-detached residential buildings on individual lots.
- To permit contextual modifications to existing detached and semi-detached residential buildings.
- To permit the adaptive reuse of certain existing nonconforming buildings for arts & creative enterprise and retail uses compatible with residential areas.
- To create dwelling unit types, sizes, and bedroom counts ideal for larger households in houses, semi-attached houses, duplexes, and triple deckers.

- To create dwelling unit types, sizes, and bedroom counts ideal for smaller households in cottages and backyard cottages.

Additionally, Planning & Zoning Staff believe that granting the requested hardship variances would support the broader intent of the Somerville Zoning Ordinance, including, but not limited to, the following:

- To preserve and enhance the existing character of Somerville's traditional housing and respect existing built form and development patterns.
- To require a strong connection and gradual transition between the public realm (sidewalks, thoroughfares, and civic spaces) and private realm (yards and building interiors).

Massachusetts courts have stated that variances will naturally deviate from the intent and purpose of a zoning ordinance to some degree and that the discretionary approval of a variance is defensible if the deviation is not substantial or significant in comparison to the intent and purpose for the district in appraising the effect of the proposal on the entire neighborhood, including future impacts and other development approved or denied in the general vicinity of the development site.

## **CONSIDERATIONS & FINDINGS**

In accordance with the Somerville Zoning Ordinance, the Zoning Board of Appeals may grant a Hardship Variance only upon deliberating and finding all of the following at the public hearing for each requested variance:

### Hardship Variance Considerations

1. Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure but not affecting generally the NR district;
2. Literal enforcement of the provision of this Ordinance for the NR district would involve substantial hardship, financial or otherwise, to the petitioners, Jonathan and Kathleen Evans, due to said special circumstances; and
3. Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the NR district or the Ordinance in general.

## **PERMIT CONDITIONS**

Should the Board approve either or both of the required Hardship Variances, Planning & Zoning Staff recommends the following conditions:

### Validity

- This Decision must be recorded with the Middlesex County Registry of Deeds.

### Public Record

- A copy of the Recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted for the public record.
- Physical copies of all submittal materials as permitted by the Review Boards must be submitted for the public record in accordance with the document format standards of the ISD/PB/ZBA Submittal Requirements.