



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2018-05  
**Date:** March 21, 2018  
**Recommendation:** Conditional approval

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**PLANNING STAFF REPORT**

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**Site:** 95-97 Cross Street

**Applicant / Owner Name:** Daiza Ferreira Souza Almeida  
**Applicant / Owner Address:** 97 Cross Street, Somerville, MA 02145  
**Alderman:** Matthew McLaughlin

Legal Notice: Applicant and Owner, Daiza Ferreira Souza Almeida, seeks a special permit under §4.4.1 to extend a preexisting nonconformity to legalize a fence. RB Zone. Ward 1.

Dates of Public Hearing: Zoning Board of Appeals – March 21, 2018

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is a corner lot at the intersection of Flint Street and Cross Street. The lot contains 3,590 square feet of lot area with a two-family dwelling. The site has a two-car wide left side yard off of Cross Street and a landscaped side yard on the right along Flint Street. A six-foot tall fence (constructed between 2013 and 2016) runs along the property line on the Flint Street frontage and wraps around along the Cross Street frontage. Behind the fence are evergreen shrubs that are greater than four feet tall that have been there since at least 2007.



On December 8, 2017, the Applicant/Owner received a violation notice from the Inspectional Services Department (ISD) for having a fence over four feet in height within the front yard and for having a fence over 3.5 feet in height on the corner going 20 feet back.

2. Proposal: The applicant is seeking approval to retroactively legalize the fence.
3. Green Building Practices: N/A
4. Comments:

*Ward Alderman:* Alderman McLaughlin has been informed of this proposal and expressed his support to Planning Staff.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

### **1. Information Supplied:**

The Staff finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

### **2. Compliance with Standards: *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."***

The evergreen shrubs that are greater than four feet tall are considered to be a preexisting nonconformity with respect to SZO §8.6.5.b, which requires that front yard fences and walls over four feet in height are subject to setback requirements, and SZO §8.6.5.c, which requires that *"all structures, fences or plantings greater than three-and-one-half (3-1/2) 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."* The nonconforming obstruction was extended by the installation of the fence that wraps around the corner. Extending that nonconformity is something that should have required a Special Permit.

Section 4.4.1 states that *"[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."*

In considering a special permit under §4.4.1 of the SZO, Staff finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

### **3. Consistency with Purposes: *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."***

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of

land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RB district, which is, “To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

*Surrounding Neighborhood:* The subject property is located on the corner of Cross Street and Flint Street. The surrounding neighborhood is mostly residential with the East Somerville Community School nearby and sporadic commercial storefronts along Cross Street.

*Impacts of Proposal (Design and Compatibility):* The fence that the Applicant is proposing to legalize has been installed for over at least two years and the neighborhood has been bearing the impacts of such without any complaints from the neighborhood.

5. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

6. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.

7. SomerVision Plan: N/A

### III. RECOMMENDATION

#### Special Permit under §4.4.1

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is to legalize an existing fence. This approval is based upon the following application materials and the plans submitted by the Applicant:		BP/CO	ISD/Plng.	
	Date (Stamp Date)	Submission			
	January 11, 2018	Initial application submitted to the City Clerk's Office			
Any changes to the approval that is not <i>de minimis</i> must receive SPGA approval.					
Site					
2	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;		Perpetual	Plng. / ISD	
Miscellaneous					
3	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.		Cont.	ISD	
Final Sign-Off					
4	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.	

