



City of Somerville
ZONING BOARD OF APPEALS
 City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

DECISION

PROPERTY ADDRESS: 27 Cutter Street
CASE NUMBER: P&Z 21-133
OWNER: North America Development LLC
OWNER ADDRESS: 7 Hume Ave, Medford, MA 02155
DECISION: Approved with Conditions
DECISION DATE: November 17, 2021

2021 NOV 24 P 12:05
 CITY CLERK'S OFFICE
 SOMERVILLE, MA

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the development review application submitted for 27 Cutter Street.

LEGAL NOTICE

North American¹ Development LLC seeks a revision to a previously issued special permit (SP) and special permit with site plan review (SPSR) issued July 28, 2018 (ZBA 2018-64).

RECORD OF PROCEEDINGS

On November 17, 2021 the Zoning Board of Appeals held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Clerk Josh Safdie, Elaine Severino, Anne Brockelman, Ann Fullerton. Alternate Katherine Garavaglia recused herself from the discussion. Attorney Anne Vigorito gave an overview of the requested revision from the Board. After a presentation from the applicant, Chair Fontano opened up public testimony portion of the hearing. No public testimony was received. The Board discussed discrepancy in setbacks between the as-built versus permitted plans. Of note was discussion of when the surveyors pinned the foundation. In addition, the Board also discussed the unfinished state of the as-built landscaping with the applicant. The Board, applicant, and Staff discussed the previous landscaping requirements and how to address the current state of the landscaping. The Board stated that the landscaping and permeability of the site needed to be brought back into compliance with the originally approved plans (ZBA 2018-64). The applicant stated that they would bring the site back into compliance to meet the originally-approved landscaping and permeability percentages. The Board discussed the condition language with Staff. The Board also stated that the applicant needed to revise and resubmit updated as-installed landscaping plans to Staff depicting compliance with originally-approved landscaping and permeability percentages as soon as possible.

CONSIDERATIONS & FINDINGS

¹ Correct owner name is North America Development LLC.

To approve revisions to previously approved permits, the Zoning Board of Appeals is required to find that revisions are in accordance with the findings of the original permit.

The Zoning Board of Appeals finds that the revised plans are substantially conforming to the prior approval and that the findings of the original permits are confirmed.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Clerk Safdie moved to approve the requested revision with an added condition that the applicant resubmit an updated site and landscaping plan to Staff reflecting the originally-approved landscaping percentages conditions included in the staff memo. Ms. Severino seconded. The Board voted **5-0** to approve the permit, subject to the following conditions:

Perpetual

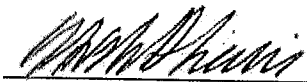
1. This Decision must be recorded with the Middlesex County Registry of Deeds.
2. A Copy of the Recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted for the public record.

Prior to Building Permit

1. A Copy of the Recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted for the public record.
2. Physical copies of all submitted materials as permitted by the Zoning Board of Appeals must be submitted for the public record in accordance with document format standards of the ISD/PB/ZBA Submittal Requirements.
3. An updated landscaping plan consistent with the original approved landscaping and permeable percentages as approved in the ZBA decision 2018-64 must be submitted to Staff.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Josh Safdie, *Clerk*
Elaine Severino
Anne Brockelman
Ann Fullerton
Katherine Garavaglia, *Alternate*



Sarah Lewis, Director of Planning, Preservation & Zoning
Office of Strategic Planning & Community Development

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 15.5.3.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

FOR SITE PLAN APPROVAL(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____