



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-93
Date: September 18, 2019
Recommendation: Unable to recommend

PLANNING STAFF REPORT

Site: 50 Inner Belt Road

Applicant Name: Commodore Builders
Applicant Address: 404 Wyman Street, Waltham, MA 02451
Owner Name: Penna Realty Associates, LLC
Owner Address: 228 Andover Street, Wilmington, MA 01887
City Councilor: Matt McLaughlin

Legal Notice: Applicant, Commodore Builders, and Owner, Penna Realty Associates, LLC, seeks a Variance under SZO §5.5 and §10.7 to construct an eight foot tall fence. IA Zone. Ward 1.

Dates of Public Hearing: Zoning Board of Appeals – September 18, 2019

I. PROJECT DESCRIPTION

1. Subject Property: There have been two previous zoning approvals for this site. As described in the Planning Board report dated May 15, 2008, the property is a 100,000 square foot lot on which sat a 45,600 square foot building. The prior use was for religious assembly. In July 2008 the ZBA issued a Special Permit with Site Plan Review (ZBA 2008-21) for the use as a data center, §7.11.15.c, of 45,637 gsf and for the construction of a 7,072 sf generator building. In March 2013, the ZBA approved the removal of an existing double door at grade to accommodate the addition of a loading dock.



2. Proposal: The proposal is to construct an eight foot tall fence around the front and two sides of the subject property and a ten foot tall privacy fence within the site.

3. Green Building Practices: None listed on the application form.

4. Comments:

City Councilor: Councilor McLaughlin has no objections to the proposal.

II. FINDINGS FOR VARIANCE (§5.5 and §10.7)

A Variance (§5.5) is sought to install an eight foot tall fence and a ten foot tall fence. The SZO §10.7 states that fences may not be more than six (6) feet high above the existing grade.

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.”*

Applicant’s response: The property is bordered by a few different fences. In terms of the surrounding land, the MBTA train tracks are right next to the property. They sit about 12 feet above the building and have a direct view into the building area. The building parking lot is a large open area that can be accessed by anyone. There is currently no fence or physical barrier between the elevated train tracks and the property. A strong steel fence would not only provide security for the secure data center, but also provide security for those who park and sit in the parking lot bordered by the unfenced train tracks.

Staff’s response: The adjacency of elevated railroad tracks is a special circumstance.

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.”*

Applicant’s response: The uniqueness of the tenants of 50 Inner Belt Road is the main reason why they feel a fence is necessary. As a data center and enterprise internet provider, INAP, and therefore 50 Innerbelt Road houses sensitive data and routes sensitive internet traffic through it. Their customers are comprised of health care companies and banking / financial institutions, and companies conducting ecommerce. These companies require PCI and HIPPA compliancy. To that point, physical security is evaluated against their business requirements. Controlling access into the parking lot and the ability to reach the building entrances / exits is a critical criterion to which they are evaluated against when it comes to winning a new customer deal or retaining an existing customer. They have had multiple incidents in their parking lot where they have had to deal with trespassers on the property and their customers have taken note of this. This fence is critical to prevent trespassers, but also to meet their customers’ physical security needs.

Additionally, the fences of the properties adjacent to 50 Inner Belt Road have fences of the following heights: an overall 9’0 wire fence (7’8” not including the barbed wire at the top) and a 7’6” fence wire fence. Installing a fence that is not similar in height to those surrounding will not only look odd, but will undermine the purpose of building the fence, which is an atmosphere of sound security that INAP requires. As this is necessary for INAP to continue to work in this area, this should fall under reasonable use of the land.

Staff's response: The proposed fence is the minimum relief necessary and reasonable to keep the data center secure.

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.”

Applicant's response: Building this fence will not only create a feeling of security to the company, but it will not negatively impact the area. The fence is the only aspect of the construction proposed. No parking spots will be eliminated, and there will be no encroachment onto the sidewalk or road. It will cause no change to those who are allowed to enter the property, but will only privatize the property as required by the tenant. This is also not a barbed wire fence which could pose physical risk to anyone who attempts to climb it. The fence will make the area look organized as it will be similar in height to any fences around it, and secure yet not overtly threatening.

Staff's response: The proposed fence in this industrial neighborhood will be in harmony with the general purpose and intent of this Ordinance. Also, it will not be injurious to the neighborhood or detrimental to the public welfare.

III. RECOMMENDATION

Variance under §5.5 and §10.7

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff is **UNABLE TO RECOMMEND** the requested **VARIANCE**.

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	
1	Approval is for the construction of fences. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.		
	Date (Stamp Date)				Submission
	August 7, 2019				Initial application submitted to the City Clerk's Office
	June 26, 2019				Proposed site plan
	April 17, 2015				Fence detail
Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.					
Construction Impacts					

2	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
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	
Public Safety				
4	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
5	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.	

