



**CITY OF SOMERVILLE, MASSACHUSETTS**  
***MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY***  
***DEVELOPMENT***  
**JOSEPH A. CURTATONE**  
**MAYOR**

GEORGE J. PROAKIS  
EXECUTIVE DIRECTOR

PLANNING DIVISION  
**MEMORANDUM**

**TO:** John Long, City Clerk  
**FROM:** Planning Division  
**DATE:** June 30, 2020  
**SUBJECT:** Correction of Scrivener's Errors  
Case Address: 515 Somerville Avenue

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**Address:** 515 Somerville Avenue

**Date of Decision:** April 22, 2020

**Date Filed with City Clerk:** May 7, 2020

The decision for this property filed in the City Clerk's Office on May 7, 2020, contained a scrivener's errors:

- Page 2, the first bullet under Findings was corrected to make a clear, complete, and grammatically correct sentence.

This memo serves as the correction of these scrivener's errors.





City of Somerville

# ZONING BOARD OF APPEALS

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

Orsola Susan Fontano,  
Chair  
Danielle Evans,  
Clerk  
Elaine Severino  
Josh Safdie  
Anne Brockleman  
Drew Kane, Alt.

**CASE:** AA#2020-001, 515 Somerville Avenue  
**PETITIONER:** Claudia Murrow, 23 Park St #2, Somerville, MA 02143  
**OWNER:** DEVB LLC, 689 Somerville Ave, Somerville, MA 02143  
**DECISION:** ISD Director's decision upheld on April 22, 2020

This decision summarizes the findings made by the Zoning Board of Appeals regarding the administrative appeal submitted by Claudia Murrow for 515 Somerville Ave. The application was submitted on January 13, 2020 and deemed complete on February 3, 2020. The first public hearing was held on February 26, 2020. On April 22, 2020 the Zoning Board voted to uphold ISD's decision.

## SUMMARY OF PROPOSAL

The appeal challenges the ISD Director's decision of December 12, 2019 in which the ISD Director refused to take action on Murrow's enforcement request related to the issuance of a building permit.

## RECORD OF PROCEEDINGS

On February 26, 2020 the ZBA held a public hearing. Present and sitting at the public hearing were Members Orsola Susan Fontano, Danielle Evans, Elaine Severino, Josh Safdie, Anne Brockelman, and Drew Kane. Planner Charlotte Leis requested a continuance to March 11, 2020 on behalf of Ms. Murrow who had reached out earlier that day to inform Planning Staff that she was sick and would like to continue to the next meeting. The Board granted the continuance.

On March 11, 2020 the ZBA held a public hearing. Present and sitting at the public hearing were Members Orsola Susan Fontano, Danielle Evans, Elaine Severino, Josh Safdie, Anne Brockelman, and Drew Kane. OSPCD Executive Director George Proakis requested a continuance to March 25, 2020 on behalf of Ms. Murrow who was in City Hall but did not want to enter the Council Chambers where the ZBA was holding the hearing. The Board granted the continuance.

On March 25, 2020 the ZBA held a virtual public hearing. Present and sitting at the public hearing were Members Orsola Susan Fontano, Danielle Evans, Elaine Severino, Josh Safdie, Anne Brockelman, and Drew Kane. Mr. Proakis requested a continuance to April 15, 2020 on behalf of Ms. Murrow

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who had originally requested to participate remotely but then expressed concerns about doing so. The Board granted the continuance.

On April 15, 2020 the ZBA held a virtual public hearing. Present and sitting at the public hearing were Members Orsola Susan Fontano, Danielle Evans, Elaine Severino, Josh Safdie, Anne Brockelman, and Drew Kane. Ms. Murrow joined the meeting but left before this case was heard. Ms. Leis spoke with Ms. Murrow and said she believed Ms. Murrow wished to continue the case to April 22, 2020. In Ms. Murrow's absence, Mr. Proakis offered to provide the Board with a history of the case and of the reasons Ms. Murrow provided for requesting each of the continuances. Mr. Proakis then provided an overview of the substance of the appeal. Mr. Proakis promised that Planning Staff would offer Ms. Murrow assistance with the meeting technology before the next Board meeting. The Board granted the continuance.

On April 22, 2020 the ZBA held a virtual public hearing. Present and sitting at the public hearing were Members Orsola Susan Fontano, Danielle Evans, Elaine Severino, Josh Safdie, Anne Brockelman, and Drew Kane. The Board acknowledged that they had received a written request from Ms. Murrow to continue the case until hearings could safely be held in person that afternoon. Mr. Proakis informed the Board that Planning Staff had offered Ms. Murrow assistance with the meeting technology multiple times in the past week, but that Ms. Murrow had not accepted any offers and that he did not foresee Ms. Murrow accepting future offers either. The Board noted that no new substantive information on the case was provided during the previous 3 meetings, and that Ms. Murrow had requested continuances at every meeting this case was scheduled for. The Board discussed the material impacts of this appeal on the 515 Somerville Ave project and how to balance the rights of the appellant and the property owner. At the Board's request, Planning Staff contacted Ms. Murrow one more time to offer assistance and get Ms. Murrow to attend a meeting, but the attempt was unsuccessful.

Following public testimony, consideration of the facts of the case, and consideration of the statutory requirements to uphold or remand the ISD Director's decision, Danielle Evans first moved to approve the applicant's request to continue the case that was submitted prior that day. Elaine Severino seconded. The Board voted 1-4 with Josh Safdie voting in favor; the motion failed.

Danielle Evans then moved to uphold the ISD Director's decision. Elaine Severino seconded. The Board voted 4-0-1 with Josh Safdie abstaining; the motion passed.

#### Findings:

- The Board finds that an appropriate appeal of this permit would have been to the ZBA under MGL 40A §8 within 30 days which was not filed.
- The Board finds that Ms. Murrow did not file an appeal under MGL 40A §8 on November 22, 2019. In her enforcement request to the ISD Director, Ms. Murrow requested that the building permit be revoked pursuant to MGL 40A §7.
- The Board finds that the ISD Director was correct in determining that he had no authority under MGL 40A §7 to issue the enforcement action requested against the building permit.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*  
Danielle Evans, *Clerk*  
Elaine Severino  
Josh Safdie  
Anne Brockelman  
Drew Kane, *Alt.*



Attest, by the Planning Director: \_\_\_\_\_  
Sarah Lewis

Copies of this decision are filed in the Somerville City Clerk's office.  
Copies of all plans referred to in this decision and a detailed record of the  
SPGA proceedings are filed in the Somerville Planning Dept.

**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.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_