



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**ZONING BOARD OF APPEALS**  
**JOSEPH A. CURTATONE**  
**MAYOR**

**MEMBERS**

*Herbert F. Foster, Jr., Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T. F. Scott Darling, III, Esq.  
Danielle Fillis  
Elaine Severino (Alt.)  
Josh Safdie (Alt.)

**Case #: ZBA 2008-21-R1108**  
**Site: 50 Inner Belt Road**  
**Date of Decision: December 17, 2008**

**Decision: Revision Approved with Conditions**  
**Date Filed with City Clerk: December 23, 2008**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Internap Network Services
<b>Applicant Address:</b>	70 Inner Belt Road, Somerville, MA 02143
<b>Property Owner Name:</b>	Penna Realty Trust
<b>Property Owner Address:</b>	228 Andover Street, Wilmington, MA 01880
<b>Agent Name:</b>	John McDonald Consulting
<b>Agent Address:</b>	P.O. Box 478, Merrimack, NH 03054

Legal Notice: Applicant Internap Network Services & owner Penna Realty Trust seek a revision to Special Permit with Site Plan Review ZBA 2008-21 for a change to fence heights, parking configuration and landscaping details. IA zone. Ward 1.

<u>Zoning District/Ward:</u>	IA zone/Ward 1
<u>Zoning Approval Sought:</u>	Revision to Special Permit# 2008-21
<u>Date of Application:</u>	November 26, 2008
<u>Date(s) of Public Hearing:</u>	December 17, 2008
<u>Date of Decision:</u>	December 17, 2008
<u>Vote:</u>	5-0

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Appeal #2008-21-R1108 was opened before the Zoning Board of Appeals at Somerville City Hall on December 17, 2008. After one (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

**DESCRIPTION:**

The proposal is to revise the fence height from six to eight feet in five locations around the generator building. NStar would allow either a six foot fence with barbed wire or a non-climbable eight foot fence as a safety barrier around the substation located in the northeast corner of the site. Also non-climbable vegetation, such as arborvitae, for screening is allowed except at points of egress. The other changes to the plans involve parking layout and landscaping including the following: the parking configuration in the southern lot has changed, there are compact spaces in the northern lot, additional trees in the front yard in place of shrub clusters, and rain gardens in the front yard. The approved site plan included 77 parking spaces within the existing parking areas and the revised site plan includes 84 parking spaces. Both plans are well over the 11 required spaces (SZO §9.5 item 16).

## **FINDINGS FOR SPECIAL PERMIT REVISION:**

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

The revisions only affect the findings listed below.

**4. Site and Area Compatibility:** The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.

The proposed eight foot fence is an NStar requirement for safety around the substation. The fence would be located in the back of the parking lots and therefore would not be as imposing as it would be in other more predominant locations. The additional trees, rain gardens, and wildflowers would make for an attractive landscaped area along the streets.

**5. Functional Design:** The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”

The reconfiguration of parking spaces meets the dimensional standards. The change in the fence height is a safety measure that NStar requires.

**9. Preservation of Landform and Open Space:** The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”

The site is relatively flat and almost entirely covered with impervious materials. The landscaping on the site would increase the attractiveness of the neighborhood. Wild flowers and trees are proposed along the streets, where the majority of landscaping would be most visible.

**13. Enhancement of Appearance:** The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”

The site plan with the proposed landscaping plan would positively impact the neighborhood. The proposed trees along Inner Belt Road and Third Avenue would screen sections of this side of the building to break up its massing.

**20. Screening of Service Facilities:** The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”

The fuel tank would have evergreen trees on three sides. The trees would be visible through the eight foot fence. The black color of the fence would likely blend in with the trees. There are gates in the fence in other locations that prevent additional vegetative screening.

**DECISION:**

Present and sitting were members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a revision to the special permit with site plan review. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. For clarity, the original conditions of the SPSR are copied below with added or revised conditions shown in italics.

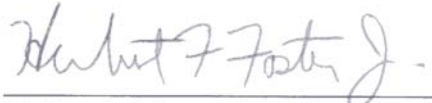
#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<i>Approval is to modify earlier permits for establishment of a data center, §7.11.15.c, of approximately 48,000 net square feet and for the construction of an approximately 3,300 square feet generator building. Revised plans show a change to sections of a fence from 6' to 8' and a revised parking and landscaping layout.</i> This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD / Plng.									
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>March 19, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>July 17, 2008</td><td>Modified plans submitted to OSPCD (A-0, A-02, A-03, A-04, A-05, A-06, A-07, A-08, A-09, A-10, )</td></tr><tr><td><i>December 11, 2008</i></td><td><i>Modified plans submitted to OSPCD to replace site exhibit previously approved (C1.01, C2.01, C2.02, C2.03, C2.04, C2.05, C3.01, C3.02, EX-1)</i></td></tr></table>				Date	Submission	March 19, 2008	Initial application submitted to the City Clerk's Office	July 17, 2008	Modified plans submitted to OSPCD (A-0, A-02, A-03, A-04, A-05, A-06, A-07, A-08, A-09, A-10, )	<i>December 11, 2008</i>	<i>Modified plans submitted to OSPCD to replace site exhibit previously approved (C1.01, C2.01, C2.02, C2.03, C2.04, C2.05, C3.01, C3.02, EX-1)</i>
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Any changes to the approved plans or use that are not <i>de minimis</i> must receive ZBA approval. These conditions shall supersede those of any older permits.												
2	The Applicant shall install one inverted U-shaped rack, as close as possible to the building's primary entrance.	CO	Plng.	To be completed spring '09								
3	The Applicant shall generate a "Drainage Report" and an "Inspection and Maintenance Plan" of the storm drainage system. The report must be prepared and stamped by a registered professional civil engineer. The drainage design must conform to the State DEP storm water regulations as well as City regulations.	Building Permit	Engineering	Sent to City Engineer Charlie O'Brien on 8/15/08 by Wayne Belec of Waterman Design								
4	Linkage payments will be required to be paid to the Somerville Housing Trust Fund according to SZO§15.	CO	Housing / ISD	Complete								

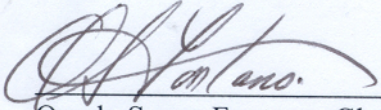
5	The Applicant shall submit light illumination and photometric plans. To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Lights & Lines / Plng.	Complete
6	The Applicant will gain approval from the Superintendent of Lights and Lines on the proposed relocation of electrical poles.	Building Permit	Lights & Lines	Applicant: no light poles or lines were relocated
7	The Applicant shall submit the sign design that is in compliance with Article 12 of the SZO and that is satisfactory to Planning Staff.	CO	Plng. LM	Complete
8	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	To be completed spring '09
9	A code compliant fire suppression sprinkler system and fire alarm system shall be installed.	CO	FP	To be completed before request C of O
10	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	
11	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must meet DPW standards.	CO	DPW	To be completed spring '09
12	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	
13	The applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Department. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	Applicant: submitted to Paul Nonni as part of Construction Documents that were issued for permit
14	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	CO	OSE/FP/BOH	

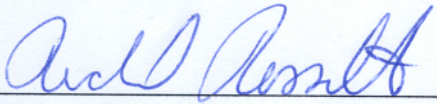
15	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng. LM	Complete for Temp C of O
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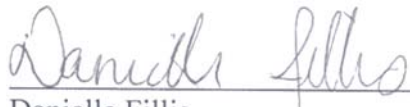
Attest, by the Zoning Board of Appeals:

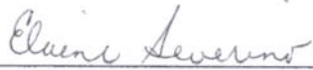
Herbert Foster, Chairman  
Orsola Susan Fontano, Clerk  
Richard Rossetti  
Danielle Fillis  
Elaine Severino, (Alt.)

  
Herbert F. Foster, Jr., Chairman

  
Orsola Susan Fontano, Clerk

  
Richard Rossetti

  
Danielle Fillis

  
Elaine Severino, (Alt.)

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  
ZBA 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. 3.2.10.

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 \_\_\_\_\_