



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

**MEMBERS**

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ORSOLA SUSAN FONTANO, *CLERK*  
RICHARD ROSSETTI  
T. F. SCOTT DARLING, III, ESQ.  
DANIELLE FILLIS  
ELAINE SEVERINO (ALT.)

**Case #: ZBA 2008-21**  
**Site: 50 Inner Belt Road**  
**Date of Decision: July 23, 2008**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: July 31, 2008**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Internap Network Services, Inc.
<b>Applicant Address:</b>	70 Inner Belt Road, Somerville, MA 02143
<b>Property Owner Name:</b>	Penna Trust Realty
<b>Property Owner Address:</b>	228 Andover Street, Wilmington, MA 01887
<b>Agent Name:</b>	John MacDonald Consulting
<b>Agent Address:</b>	P.O. Box 478, Merrimack, NH 03054

Legal Notice: Applicant: Internap Network Services, Inc. & Owner: Penna Realty Trust seek a Special Permit with Site Plan Review for the use as a data center over 25,000 square feet (SZO § 7.11.15.c).  
IA zone. Ward 1.

<u>Zoning District/Ward:</u>	IA zone/Ward 1
<u>Zoning Approval Sought:</u>	§7.11.15.c
<u>Date of Application:</u>	March 19, 2008
<u>Date(s) of Public Hearing:</u>	5/21, 6/4, 6/18, 7/9 & 7/23/08
<u>Date of Decision:</u>	July 23, 2008
<u>Vote:</u>	5-0

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Appeal #ZBA 2008-21 was opened before the Zoning Board of Appeals at Somerville City Hall on May 21, 2008. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

## **DESCRIPTION:**

The Applicant is proposing to change the use to a data center. The anticipated number of full time employees is less than eight. The hours of operations would be twenty-four hours per day, seven days per week, 365 days per year. Proposed changes include re-siding for energy code requirements and constructing an auxiliary building to house generators and a chilled water plant. The generator building would have one story and approximately 3,300 square feet.

The Applicant currently occupies space at 70 Inner Belt Road.

## **FINDINGS FOR SPECIAL PERMIT (SZO §7.11.15.c):**

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.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

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 with site plan review.” The proposal would comply with these standards.

3. Purpose of the District: The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”. The purpose of the Industrial A district is “to establish and preserve areas for industrial and related uses which are not incompatible with commercial uses; uses which are most appropriately located as neighbors of industrial uses including living and studio space for artists; and uses which are necessary to service the immediate needs of industrial establishments in those areas, and accessory uses to industrial uses such as day care centers, cafeterias, health facilities, and the like”. The data center use, § 7.11.15.c, is consistent with the purpose of the district. The use is appropriate amongst industrial uses.

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 redesigned building and site plan are designed to be compatible with the surrounding area and gateway to the future growth of the Inner Belt. The varying materials and colors break up the long horizontal expanse of the building. The base of the building provides a human scale to the ground floor. The building is still industrial in nature and meets the Applicant’s energy needs in an aesthetically pleasing manner.

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

Based upon the comments received from the various City Departments, the project would meet accepted standards and criteria for the functional design of facilities, structures, and site construction. Any

mitigation or minor design changes necessary have been incorporated into the recommended conditions attached of this report. The roof top installations meet the 45 degree setback requirement.

6. Impact on Public Systems: The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”

The Applicant stated that data center buildings have 75% lower occupancy than traditional office or industrial buildings. This would lower the use of water, sewer, and in general all city services. The proposal would not create adverse impacts on the streets and sidewalks with the proposed 8 employees and approximately 10 customer trips per day. See finding 11 below for more details regarding storm water drainage.

7. Environmental Impacts: “The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”

The Applicant stated that the data center would not add any significant noise, dust or light pollution to the area and it would not have a detrimental effect on the surrounding area from emissions, noxious, or hazardous materials. The Applicant also stated that there would be a decrease in the carbon dioxide gasses emissions in the area as a data center as opposed to an assembly building due to fewer automobile trips to the site. These claims appear to be substantiated. See finding 14 below for more details regarding the lighting plan.

8. Consistency with Purposes: “Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”

As the required findings of Article 5 have been made, and the proposal satisfies the purposes of Article 1, including “to provide for and maintain the uniquely integrated structure of uses in the City” and “to conserve the value of land and buildings” and of Article 6, as already described, the proposal is consistent with the purposes of the SZO.

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. Clusters of bushes and trees are proposed along the streets, where the majority of landscaping would be most visible and beneficial to passersby.

10. Relation of Buildings to Environment: The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”

The proposal is to reuse an existing structure and construct a generator building that would be lower in height than the main building. The new construction would be located away from buildings on other parcels and the street.

11. Storm water Drainage: The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and paved area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”

Additional review is still required for the proposed drainage systems. However, this can be completed subsequent to the zoning review, with a condition of approval requiring provision of a drainage plan satisfactory to the City Engineer prior to the issuance of any permits (see conditions). Connection to the storm drain system is not allowed per City policy. There is no capacity downstream for additional flows. The drainage will have to infiltrate on site.

12. Historic or Architectural Significance: The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”

As noted in the Planning Board report, the Historic Preservation Commission Staff finds it unlikely that the building has any historic significance.

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 enhance the appearance of the area. The new construction is proposed for an area largely screened by the existing structure. The proposed trees along Inner Belt Avenue and Third Avenue would screen sections of this side of the building to break up its massing.

14. Lighting: With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”

The Architect stated that the lighting plan would minimize or avoid light pollution while providing safe vehicular and pedestrian access on the property. “To accomplish this, we plan to utilize the fixtures currently at the site and the wall mounted light fixtures to be proposed by Ammondson Architects. At the site plan stage, the site will be reviewed for light illumination and a photometric plan prepared by the lighting manufacturer will be provided to the city as part of the site plan application. The plans will be designed such that the illumination fixtures will be analyzed for the foot-candle distribution, minimizing light spillage onto adjoining properties while ensuring that pedestrian walkways are properly illuminated. The plans will be designed in accordance with the local requirements and best engineering practices. That said, if additional fixtures are required to satisfy the zoning bylaw, they will be added to the site plans.”

The Architect is referring to the site plan application, which is the current phase of review. Additional assessment is still required for the lighting plan. However, this can be completed subsequent to the zoning review, with a condition of approval of the light illumination and photometric plan satisfactory to the Planning Staff and the Superintendent of Lights and Lines prior to the issuance of any permits. 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. (See conditions)

15. Emergency Access: The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”

The Fire Prevention Bureau has reviewed the site plan and commented that the fire suppression sprinkler system and fire alarm system would have to be in compliance with the new use.

16. Location of Access: The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”

The proposal meets all requirements of the zoning regarding parking and driveway dimensions. Traffic will enter and exit from 30' wide driveway and curb cuts on Inner Belt Road and Third Avenue. The proposal uses the existing curb cuts.

17. Utility Service: The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”

The Applicant is proposing to tie into the existing City services for electric and telephone. The proposal would require the relocation of a utility pole. The Superintendent of Lights and Lines will review and approve the plans before any permits are issued. (See conditions)

18. Prevention of Adverse Impacts: The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development;”

No negative impacts are anticipated as a result of the proposed use and new structure. The site is primarily a hard surface and the closest buildings would be sixty feet away.

19. Signage: The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.

The proposal is for one sign to be located to the right of the auto entrance on Inner Belt Road. The sign has not yet been designed but must comply with the Somerville Zoning Ordinance requirement regarding exterior signage. The signage review can be completed subsequent to zoning review, with a condition of approval requiring that the sign design is in compliance with Article 12 of the Somerville Zoning Ordinance and that it is satisfactory to Planning Staff prior to the issuance of any permits. (See conditions)

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 dumpster would be screened from the street by a section of the building where it may be slightly visible; however, this appears to be the most discrete location for it. The transformers in the rear would be screened from Third Avenue with vegetation. Vegetation would also screen the fuel storage tank from Inner Belt Road. The location of the screening is shown on the site plan.

### **DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for the use as 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. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent:	BP/CO	ISD / Plng.	

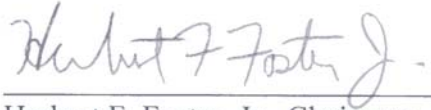
	Date	Submission			
	March 19, 2008	Initial application submitted to the City Clerk's Office			
	July 17, 2008	Modified plans submitted to OSPCD (A-0, site exhibit, A-02, A-03, A-04, A-05, A-06, A-07, A-08, A-09, A-10, )			
	Any changes to the approved plans or use that are not <i>de minimis</i> must 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.	
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	
4	Linkage payments will be required to be paid to the Somerville Housing Trust Fund according to SZO§15.		CO	Housing / ISD	
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.	
6	The Applicant will gain approval from the Superintendent of Lights and Lines on the proposed relocation of electrical poles.		Building Permit	Lights & Lines	
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.	
8	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards.		Perpetual	Plng. / ISD	
9	A code compliant fire suppression sprinkler system and fire alarm system shall be installed.		CO	FP	
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		CO	DPW	

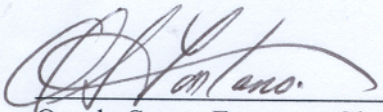


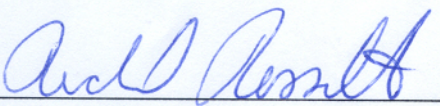
	equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must meet DPW standards.			
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	
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.	

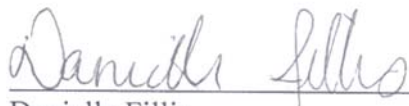


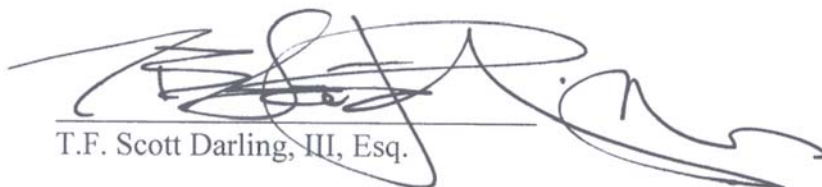
Attest, by the Zoning Board of Appeals:

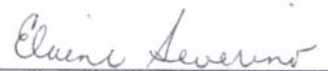
  
Herbert F. Foster, Jr., Chairman

  
Orsola Susan Fontano, Clerk

  
Richard Rossetti

  
Danielle Fillis

  
T.F. Scott Darling, III, Esq.

  
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  
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. 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 \_\_\_\_\_