



City of Somerville

# **ZONING BOARD OF APPEALS**

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

## **DECISION**

2022 JUL 27 P 12:30

**PROPERTY ADDRESS:** 515 Somerville Avenue  
**CASE NUMBER:** P&Z 22-069  
**OWNER:** YEM Somerville Ave LLC  
**OWNER ADDRESS:** 185 Dartmouth Street, Boston, MA 02116  
**DECISION:** Approved (Plan Revision – Major Amendment)  
**DECISION DATE:** July 13, 2022

CITY CLERK'S OFFICE  
SOMERVILLE, MA

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the Plan Revision – Major Amendment submitted for 515 Somerville Avenue.

### **LEGAL NOTICE**

YEM Somerville Ave LLC seeks to edit Condition #37 to strike the language "cast light downward" from ZBA 2018-122 decision for a hotel in the MR4 district.

### **RECORD OF PROCEEDINGS**

On July 13, 2022, 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, Anne Brockelman, Ann Fullerton, and Alternate Katherine Garavaglia as Acting Clerk.

Attorney Adam Dash appeared along with Jordan Warshaw, the Applicant, to explain the necessity of seeking a revision to condition 37. He stated that they are complying with the spirit of the condition with the upward lighting that does not impact the neighboring properties, but the wording of the condition does not currently permit upward lighting. The Applicant has left the lights off until the Board rules on this request, other than to take the photo submitted to the Board.

Chair Fontano opened public comment, but no one spoke so public comment was closed. The Board was supportive of the lighting on the façade and clarified that the shown lights used for uplighting would not be located on the rear of the building visible to the abutters.

### **PLAN REVISION FINDINGS**

Per 15.1.4.e.ii. of the Somerville Zoning Ordinance, the Board may approve or deny a Plan Revision – Major Amendment upon making findings "considering a revision to a previously approved development review application, the Review Boards shall limit their review to only the changes to the previously approved application."

The original approval for ZBA2018-122 was a Special Permit with Site Plan Review per SZO §7.11.10.5.b and Variances per Article 8 (dimensional requirements) and Article 9 (parking) under the previous zoning ordinance with a Decision date of October 24, 2018. Within that approval, Condition #37 specifies "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".

As the building design was refined and permitted through construction, lights that shine upwards were included to accentuate the architecture. Those lights have been installed and the light does not intrude, interfere, or spill onto neighboring properties as required by the condition language.

## DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Acting Clerk Garavaglia moved to approve the Plan Revision – Major Amendment to edit Condition #37 to strike the language "cast light downward" from ZBA 2018-122 decision. Fullerton seconded. The Board voted **4-0** to approve the permit, subject to the following conditions: Perpetual

1. This Decision must be recorded with the Middlesex South Registry of Deeds.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*  
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 SPECIAL PERMIT(S) WITH SITE PLAN APPROVAL 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 \_\_\_\_\_