



City of Somerville

ZONING BOARD OF APPEALS

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

DECISION

2024 APR -3 A 9:11

PROPERTY ADDRESS: 120-132 Middlesex Avenue
CASE NUMBER: ZP24-000005
OWNER: Grande Spaulding, LLC
OWNER ADDRESS: 27 Pleasant St,
North Reading, MA 01864
DECISION: Approved with Conditions (Hardship Variance)
DECISION DATE: April 2, 2024

CITY CLERK'S OFFICE
SOMERVILLE, MA

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the Hardship Variance submitted for 120-132 Middlesex Avenue.

LEGAL NOTICE

DWCH Assembly Row, LLC seeks relief from the Master Plan Standards that requires at least twenty-five (25%) percentage of a development site to be provided as a Civic Space in the Assembly Square Mixed-Use (ASMD) district, which requires a Hardship Variance.

RECORD OF PROCEEDINGS

On March 20, 2024, 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, Vice Chair Anne Brockelman Clerk Katherine Garavaglia, Ann Fullerton, Sisia Daglian, and Brian Cook. The Applicant presented their argument to the Board and explained that the Hardship Variance for a Civic Space that was previously approved has expired. Director Sarah Lewis informed the Board of ongoing collaborative discussions with City staff regarding both the neighboring project on Cummings Street and the site located at 120 Middlesex Ave. These conversations aim to explore the potential for establishing a shared Civic Space that will help connect East Somerville to Assembly Square. Chair Fontano asked for further clarification, to which Director Sarah Lewis added that the City would be a partner in this larger plan as well. Clerk Katherine Garavaglia initiated the discussion on the required findings and requested the Applicant to clarify. The Applicant pointed out that the unique shape of the parcel deviates from the intended objectives of the Somerville Zoning Ordinance, which primarily promotes large-scale commercial development on the site. Additionally, they emphasized that the proposed project would not adversely affect the neighborhood. Moreover, the inclusion of a payment-in-lieu provision would enable funds to be allocated toward the creation of another civic space elsewhere in the City.

PLANS & DOCUMENTS

Application plans, documents, and supporting materials submitted and reviewed are identified below.

Document	Pages	Prepared By	Date	Revision Date
Narrative Letter	7	Goulston & Storrs	February 5, 2024	N/A

HARDSHIP VARIANCE FINDINGS

In accordance with M.G.L. 40A and the Somerville Zoning Ordinance, the Board may grant a hardship variance only upon finding all of the following for each hardship variance:

1. *Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure but not affecting generally the Assembly Square Mixed Use (ASMD) zoning district in which the land or structure is located.*

The Board finds that special circumstances exist relating to the shape and location of the subject lot in contrast to other land located in the ASMD zoning district.

2. *Literal enforcement of the provision of this Ordinance for the district where the subject land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant, DWCH Assembly Row, LLC , due to said special circumstances.*

The Board finds that literal enforcement of the twenty five percent (25%) Civic Space requirement would create a hardship to the petitioner in causing development consistent with the intent and purpose of the ASMD zoning district unfeasible.

3. *Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Assembly Square Mixed Use (ASMD) zoning district in this Ordinance or the Ordinance in general.*

The Board finds that the specific relief authorized by the Hardship Variance would not cause a substantial detriment to the public good. The Board also finds that the relief granted would not nullify or substantially derogate from the intent and purpose of the ASMD district including, but not limited to, permit the development of commercial high-rise buildings, and provide quality commercial spaces or the broader intent of the Somerville Zoning Ordinance including, but not limited to, increase commercial tax base in support of the fiscal health of the City increase accessibility to diverse employment opportunities within Somerville, and equitably balance the regulation of real property with the interests of the community as a whole.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Clerk Katherine Garavaglia moved to approve the Hardship Variance for relief from the Master Plan Standards that requires at least twenty-five (25%)

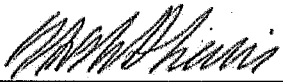
percentage of a development site to be provided as a Civic Space. Vice Chair Brockelman seconded. The Board voted **5-0** to approve the permit, subject to the following conditions:

Prior to Building Permit

1. This Decision must be recorded with the Middlesex South Registry of Deeds.
2. A digital copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation, & Zoning Division for the public record.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Anne Brockelman, *Vice-Chair*
Katherine Garavaglia, *Clerk*
Ann Fullerton
Zachary Zaremba
Brian Cook, *Alternate*
Sisia Daglian, *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 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.

FOR SITE PLAN APPROVAL(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 _____