



City of Somerville

ZONING BOARD OF APPEALS

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

TO: Zoning Board of Appeals
FROM: Planning, Preservation & Zoning Staff
SUBJECT: 120-132 Middlesex Avenue, P&Z 21-146
POSTED: October 27, 2021

RECOMMENDATION: None at this time

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from the Planning, Preservation & Zoning staff to the Review Board members.

This memo summarizes the development review application submitted for 120-132 Middlesex Avenue, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on October 18, 2021 and is scheduled for a public hearing on November 3, 2021. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

LEGAL NOTICE

DWCH Assembly Row, LLC seeks to extend the validity of a previously approved Hardship Variance.

SUMMARY OF PROPOSAL

DWCH Assembly Row, LLC, successor of Brickyard at Assembly, LLC, is requesting an extension of the Hardship Variance approved by the Zoning Board of Appeals on November 18, 2020, in order to allow the applicant to complete the Site Plan Approval process associated with the Master Plan Special Permit (MP#2020-0003).

BACKGROUND

Brickyard at Assembly, LLC proposed to demolish all existing structures on the site and construct a new 18-stories commercial building. The proposed development consisted of approximately 596,000 sf of General Office, and Research and Development and Laboratory uses, as well as approximately 3,500 sf of Retail and Food and Beverage uses in a LEED Platinum building, with below grade parking. The applicant applied for a Master Plan Special Permit to be reviewed by the Planning Board. However, the applicant also proposed to provide a payment-in-lieu of providing on-site Civic Space, per Article 7.4.5.b.i, which requires a Hardship Variance within the Assembly Square Mixed-Use Special District (ASMD).

At the meeting of the Zoning Board of Appeals, November 18, 2020, the Board approved the Hardship Variance with three (3) conditions, listed below. At the meeting, the Planning, Preservation & Zoning Director, Sarah Lewis, discussed a forthcoming zoning amendment to authorize a payment in-lieu of civic space for development sites located in close proximity to Interstates due to air quality concerns, but such program was not otherwise available, until approval by the Somerville City Council. The decision (MP#2020-0003) imposed the following conditions:

1. Applicant must apply for a Master Plan Special Permit.
2. Upper stories of any building must be reserved for uses from the Research & Development or Laboratory use category and ground story uses must be non-residential.
3. The Hardship Variance is valid for two (2) years from the date of decision.

At the meeting of the Planning Board, April 1, 2021, the Board approved the request for a Master Plan Special Permit.

With the succession from Brickyard at Assembly, LLC to DWCH Assembly Row, LLC, now before the Board is the request to extend the validity of the previously approved Hardship Variance, in order to allow the applicant to complete the Site Plan Approval process associated with the Master Plan Special Permit.

ANALYSIS

The applicant's request is based on the following sections from the Somerville Zoning Ordinance:

- Pursuant to Article 15.3.h.ii, *"upon written request by an applicant, the Zoning Board of Appeals may, in its discretion, extend the time period that a Hardship Variance remains valid for up to six (6) months"*.
- Pursuant to Article 15.2.3.h.i, *"hardship Variances are only valid for a period of one (1) year from the date on which the decision of the Zoning Board of Appeals is made on a Hardship Variance and not the date on which the decision with regard to the same is filed with the City Clerk"*.

Upon analysis of the information presented thus far, the Planning, Preservation & Zoning Staff does not believe that the applicant is required to seek an extension of the Hardship Variance from November 18, 2020. Based on the decision (MP#2020-0003), the third condition specifically states that the Hardship Variance is effective from November 18, 2020 (date of decision) to November 18, 2022.

Since the original approval of this project, a zoning amendment was adopted to permit a payment in-lieu of civic space for development sites located in close proximity to heavily trafficked thoroughfares throughout the city to mitigate the potential long term public health impacts associated with exposure to airborne ultrafine particulates.

PERMIT CONDITIONS

Should the Board approve the requested extension to a previously approved Hardship Variance (P&Z 21-146), Planning, Preservation & Zoning Staff recommends the original conditions remain but does not recommend any additional conditions at this time.