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CITY OF SOMERVILLE

Office of Strategic Planning & Community Development

TO: Zoning Board of Appeals
FROM: Planning & Zoning Division
DATE: 30 October 2020
RE: MP#2020-0003, 120-132 Middlesex Avenue

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 26, 2020 and is scheduled for a public hearing before the Zoning Board of Appeals on November 4, 2020.

SUMMARY OF PROPOSAL

Brickyard at Assembly, LLC is proposing to demolish all existing structures on the site and construct a new 18 story commercial building. The proposed development will produce 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 has applied for a Master Plan Special Permit to be reviewed by the Planning Board. However, the applicant also proposes to provide a payment-in-lieu of providing on-site Civic Space, per Section 7.4.5.b.i, which requires a Hardship Variance within the Assembly Square Mixed-Use Special District (ASMD).

LEGAL NOTICE

Applicant Brickyard at Assembly, LLC proposes a master plan for a 1.03 acre development site in the Assembly Square Mixed-Use District of a 18-story laboratory building providing approximately 644,000 gsf and a payment in lieu of the required civic space, which requires a Hardship Variance.

ADDITIONAL REVIEW NECESSARY

120-132 Middlesex Avenue is located in the ASMD and represented by Ward 1 Councilor Matt McLaughlin.

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The proposed development, involving the subdivision of a development site, development of two (2) or more lots, or the development of any building over fifty thousand (50,000) gross floor area, requires a Master Plan Special Permit as a prerequisite to the development review for the subdivision or individual lot. General Office and Research and Development and Laboratory uses are permitted in the ASMD district by right, while buildings are permitted by site plan approval, which is

the required administrative review and approval type for development that conforms with the provisions of the Somerville Zoning Ordinance. Site plan approval allows for potential development impacts to be addressed by the Planning Board, which is the decision-making authority for all site plan approvals in the ASMD zoning district. For the 120-132 Middlesex Avenue development review application to be deemed conforming with the Somerville Zoning Ordinance, the required Hardship Variance listed above must be approved by the Zoning Board of Appeals prior to any other Master Plan Special Permit or Site Plan Approval required by the zoning district.

REQUIRED FINDINGS

In accordance with the Somerville Zoning Ordinance, the Zoning Board of Appeals may grant a hardship variance only upon finding all of the following for **each** requested 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 MR4 district where the land is located;
2. Literal enforcement of the provisions of the ASMD district would involve substantial hardship, financial or otherwise, to the petitioner, 120 Middlesex Ave, LLC, due to said circumstances; and
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 ASMD district or the Somerville Zoning Ordinance in general.

The Applicant is required to provide an argument addressing the review criteria for the necessary hardship variance, and the narrative provided by the Applicant in the application is attached to this memo as an **Appendix**. In terms of staff input for the relief requested by the Applicant, Planning & Zoning Division staff typically only provides feedback concerning the intent and purpose of the zoning district where the property is located and the zoning ordinance in general.

Upon analysis of the material submitted by the Applicant, the Planning & Zoning Staff does not believe that the granting of the requested hardship variance would cause a substantial detriment to the public good or nullify or substantially derogate from the intent and purpose of the ASMD district. Specifically, 7.4.1.d intends "To improve the Mystic River waterfront and create new civic space within the Assembly Square district." Literal enforcement of the requirement for civic space to be constructed on the site, or within the 100 feet required by the SZO, would call for the creation of civic space in a location where the City could not support its use. Somerville desperately needs increased civic space. However, this location would cause hardship for residents of Assembly Square, likely the primary users, as they will be faced with having a civic space where it cannot be used to its fullest potential due to the deleterious effect of fine particulate matter from the highway on health.

These conditions are ameliorated for most of the rest of the ASMD which is further in from the source of the particulate pollution, often most intense within 300' of the highway. The on-going public planning process for an update to the neighborhood plan includes a design charrette to determine the optimal locations for infrastructure and additional civic spaces.

Additionally, the Planning & Zoning Staff believes that granting the requested hardship variances would support the broader intent of the Somerville Zoning Ordinance, including, but not limited to, the following:

- 1.1.4.1. To implement the comprehensive plan of the City of Somerville and enforce officially adopted plans and policies.
- 1.1.4.2. To permit development and redevelopment according to plans that are collaboratively developed with the Somerville community.
- 1.1.4.3. To protect the social, environmental, and economic benefits provided by a walkable development pattern.
- 1.1.4.8. To equitably balance the regulation of real property with the interests of the community as a whole.

In terms of the SomerVision 2030 goals, policies, and actions, VII. Goal states “Facilitate thoughtfully designed, pedestrian-oriented mixed-use development and reuse opportunities in Commercial Corridors, Squares and around transit stations that are sensitive to neighborhood context and serve existing and future residents and businesses.” A thoughtful civic space in the ASMD would be located further into the heart of the district in response to the positive (the orange line station) and negative (the highway) pressures of the neighborhood context, and providing a space that current and future residents as well as visitors to the district can use to the fullest extent without air quality concerns.

In addition to the location concerns of a civic space on this parcel, the applicant has volunteered to provide a payment in lieu of the required civic space on site in accordance with the provisions of Section 12.3.3. By using the entire parcel for development, the project allows for the creation of a building barrier between the district and the highway to help block the fine particulate pollution. The proposal would create funds for a high-quality space to be constructed elsewhere in the district - creating a balance between social environmental, and economic benefits. This highly desirable outcome would support the intent and purpose of the ASMD to address the lack of usable, high quality civic space and the relief is fair, equitable, and serves the public interest by preventing the potential harm of locating civic space close to the highway.

Massachusetts courts have stated that variances will naturally deviate from the intent and purpose of a zoning ordinance to some degree and that the discretionary approval of a variance is defensible if the deviation is not substantial or significant in comparison to the intent and purpose for the district in appraising the effect of the proposal on the entire neighborhood, including future impacts and other development approved or denied in the general vicinity of the development site.

