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Case #: ZBA 2016-137
Site: Northpoint Parcel JK – Loading Docks
Date of Decision: December 7, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: December 9, 2016

ZBA DECISION

Applicant Name:	DW NP Property, LLC
Applicant Address:	c/o DivcoWest One Kendall Square, Suite B3201, Cambridge, MA 02139
Property Owner Name:	DW NP Property, LLC
Property Owner Address:	c/o DivcoWest One Kendall Square, Suite B3201, Cambridge, MA 02139
Agent Name:	Anthony Galluccio, Esq.
Agent Address:	Galluccio & Watson, LLP 1498 Cambridge Street, Cambridge, MA 02139
<u>Legal Notice:</u>	Applicant/Owner DW NP Property LLC requests a Variance under §6.6.10.G for four loading docks on the secondary front lot line as part of a Commercial Office, R&D/Laboratory, or Other Use on Parcel JK within the overall NorthPoint development site.
<u>Zoning District/Ward:</u>	North Point Special District (NPSD). Ward 1.
<u>Zoning Approval Sought:</u>	§6.6.10.G
<u>Date of Application:</u>	November 3, 2016
<u>Date(s) of Public Hearing:</u>	December 7, 2016
<u>Date of Decision:</u>	December 7, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2016-137 was opened before the Zoning Board of Appeals at Somerville City Hall on December 7, 2016. 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 hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

DivcoWest proposes to transform an existing unproductive area of Somerville into an integral part of a new and vibrant work-live-play urban community consistent with the goals identified in SomerVision for Transformational Mixed-Use areas. The Somerville portion of the project, which has land parcels both partially and wholly within Somerville, will incorporate a diverse mix of commercial uses including high-end office space, a grocery store, fitness center, and commercial parking balanced with an appropriate amount of ground-level retail.

Parcel JK (the Site) is approximately 62,502 square feet, proposed to be located on the south side of Dawes Street, as part of the larger NorthPoint development site. The uses proposed on the site are Commercial Office, R&D and/or Laboratory, Retail and Consumer Services, or a combination of those uses. The anticipated approximate gross floor area is approximately 362,746 square feet. The proposed site is anticipated to have a ground coverage ratio of 79.9% building coverage and 20.1% open space.

The proposed use for the Site is Commercial Office, R&D and/or Laboratory, Retail and Consumer Services, or a combination of these uses. This application for Variance in accordance with Section 5.5 of the Somerville Zoning Ordinance (SZO) for relief from the requirement in Section 6.6.9.D.1.a that a minimum 60% of ground floor frontage be occupied by active uses. The application pertains to loading docks proposed along one of the secondary front lot lines - along Dawes Street. Three sides of the property front on thoroughfares, with the fourth side fronting on Baldwin Park. As such, the required loading docks need to be located along a lot line fronting on a thoroughfare.

The new Parcel JK building will have a total of four loading dock bays, all of which are accessed from Dawes Street. Both the Somerville and Cambridge Zoning Ordinances require a minimum of four loading dock bays based on the size and intended use of the building. All four loading bays are enclosed behind roll up doors, which when closed; screen the loading operations from view. The doors are constructed of sectional glass and metal panels, integrated into the architectural vocabulary of the Dawes Street façade.

The westernmost loading dock bay serves the ground level retail and restaurant tenants, and is accessed via one 14'-0" (tall) x 12'-0" (wide) roll-up door. This loading bay will remain clear for active loading for the retail and restaurant tenants.

The other three central loading dock bays serve the upper floor lab and office tenants, and are combined into a common loading area, which is accessed via one 14'-0" (tall) x 12'-0" (wide) roll up door and one larger 14'-0" (tall) x 24'-0" (wide) roll up door. Two of these three bays will remain clear for active loading for the tenants, and the third will be for a waste dumpster.

FINDINGS FOR VARIANCE:

A Variance (§5.5) is sought to allow less than sixty percent (60%) of the ground floor frontage of a Commercial Building be occupied by active uses on the Dawes Street elevation as required by Section 6.6.9.D.1.a of the SZO.

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."*

Applicant's response: The application of Section 6.6.9.D.1.a to Lot JK creates practical difficulty and substantial hardship for the Applicant. The unique shape of the land that comprises Lot JK is that three sides of the Site have frontage on thoroughfares, and the fourth abuts a park/civic space. By definition, building services (including those



required by the SZO, such as loading) must be provided for along one of those lot lines. From an urban design perspective, loading and other services are critical elements that need to be accommodated for the functioning of the building lot and the overall master planned development. They should be located and designed to support the walkability of the area and minimize dead zones, particularly away from pedestrian corridors wherever possible.

The side of the Site facing North Street has been designated as the primary front lot line of the Site because it faces Northpoint Common, a focal point of the entire NorthPoint development linking public access across the Site and, in particular, to civic and open space areas and pedestrian connections. Similarly, the new park/civic space to the east plays an important role in the civic and open space areas available to the public and providing connections across NorthPoint and the surrounding area. North First Street is the retail spine of NorthPoint; it needs to be activated by retail on both of sides of the street along its length in order to be successful. Therefore, building services are appropriately located along the lot line on Dawes Street. Locating such uses on any other side of the Site would adversely impact pedestrian connections to and through Northpoint Common and the new park/civic space, and disrupt the overall NorthPoint master plan.

Board's response: Creating a good urban design inevitably comes with challenges, and the Applicant has made every attempt to solve the necessity for service access on a street frontage as creatively as possible. Even though the required active use for the ground floor (60% minimum) cannot be met on the Dawes Street frontage, Staff finds that Dawes Street is the correct location for the loading docks.

2. *"The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."*

Applicant's response: The Variance requested is the minimum variance from the applicable requirements necessary for reasonable use of the building. As described above, Lot JK is one of twenty (20) building parcels in the NorthPoint master plan. The Applicant has a vested interest in ensuring that the development of each parcel is first class and does not detract from the future development and success of every other parcel in the master planned area. Therefore, although the loading and service areas are proposed to be along Dawes Street to serve Lot JK, they have been designed with architectural details intended to complement the overall façade composition (including materials, bay structure and fenestration) and to maintain a positive pedestrian experience at driveway crossings and via streetscapes and sidewalks, all of which conform to the requirements of the SZO.

We note that all lots in NorthPoint with frontage on Dawes Street are intended to have loading and other building services accessed from Dawes Street. The length of the streetscape and preliminary design guidance for each of those façades has been designed to accommodate those services while at the same time creating an active and attractive urban environment. In addition, we note that, with the exception of the Variance requested in this Application, the proposed development of Lot JK complies in all respects with the SZO, including the requirements for fenestration and breaks in the façade.

Board's response: The Applicant worked with Staff to find an equitable solution to the service challenge issues in the design of the ground floor. Some of the necessary building program that could be treated as "back of house", such as the bike room, will be designed in a way to add visual interest to the ground floor façade and the streetscape. Staff finds this variance is the minimum that can be granted to provide relief to the Applicant.

3. *"The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare."*

Applicant's response: The granting of the requested Variance will be in harmony with the general purpose and intent of the SZO, which is to "establish regulations supporting the development of a comprehensively planned neighborhood of mixed use, moderate to high-density development within easy walking distance to transit." As described above, we note that the NorthPoint master plan, as approved by the Somerville Planning Board, establishes such a comprehensively planned mixed-use neighborhood with easy access to public transportation. The proposed development of Lot JK is consistent with that approved mixed-use master plan. In addition, we note that,



with the exception of the Variance requested in this Application, the proposed development of Lot JK complies in all respects with the SZO, including the requirements for fenestration and breaks in the façade. Due to the master planned nature of NorthPoint and the design of Lot JK, particularly utilizing Dawes Street as the access for the required building services to preserve and encourage the walkability of the NorthPoint site, granting of the requested Variance will be in harmony with the general purpose of the Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. We also note that, although a portion of the Site is located in Somerville, all vehicular access to the Site and all of NorthPoint is and will continue to be from Cambridge.

Board's response: The North Point Special District is intended to be a mixed-use transit-oriented neighborhood and Parcel JK will be the first building constructed toward making the masterplan a reality. The Board finds the design and the architecture of the building are inkeeping with the purpose - "to establish regulations supporting the development of a comprehensively planned neighborhood of mixed-use, moderate- to high-density development within easy walking distance to transit" - and intent of the special district and the Neighborhood Development Plan.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Variance. Elaine Severino 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	<p>Approval is for the NorthPoint Parcel JK Variance application allowing four loading docks to be located on the Dawes Street building frontage line. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>November 3, 2016</td><td>Initial application submitted to the City Clerk's Office including all appendices</td></tr></table> <p>Any changes to the approved special permit that are not <i>de minimis</i> must receive approval from the Zoning Board of Appeals.</p>	Date (Stamp Date)	Submission	November 3, 2016	Initial application submitted to the City Clerk's Office including all appendices	DSP/BP/CO	Planning/ISD	
Date (Stamp Date)	Submission							
November 3, 2016	Initial application submitted to the City Clerk's Office including all appendices							
Design								
2	All four loading bays must be behind roll up doors, which remain closed most of the time, to screen the loading operations from street view. The material and color of the doors must be integrated into the architectural vocabulary of the Dawes Street façade.	In perpetuity	Planning/Engineering					

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

