

John A. Hawkinson, freelance news reporter
Courier: 84 Massachusetts Avenue, Room 557
Postal: Box 397103
Cambridge, MA 02139-7103
617-797-0250, *jhawk@MIT.EDU*

October 26, 2015

Cambridge Board of Zoning Appeals
Constantine Alexander, Chairman
831 Massachusetts Avenue
Cambridge, MA 02139

BY ELECTRONIC MAIL AND HAND DELIVERY: c/o Maria Pacheco *mpacheco@cambridgema.gov*

**Re: Open Meeting Law Complaint regarding Minutes of May 28, 2015
executive session, &c.**

Dear Mr. Alexander¹ and members of the Board:

This is an Open Meeting Law Complaint pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A §§18–25. I regret that it has become necessary to file this complaint formally, as my attempt at informal resolution² has not resulted in timely compliance with the law, and my filing deadline is soon. I do recognize the Board has — slowly — taken a substantial step to address the chief concern about disclosure of the May 28, 2015 minutes.

I understand that the Board has approved the release of the May 28 executive session minutes, but they have not yet been released because of a delay involving the Cambridge Law Department. The Board's lack of compliance with the law's time standards is a serious issue (perhaps more so than its lack of production of those minutes), and production of the minutes will not moot this complaint regarding the Board's failure to timely comply — the Board should explain how it will prevent this problem in the future.

I request the promptly Board disclose the May 28 executive session minutes, take steps to correct its regular practice to conform to the Open Meeting Law going forward, and address the violations outlined below.

Time standards

The primary topic of this complaint is an Open Meeting Law violation that occurred on October 1, 2015 when executive session minutes were not furnished within ten calendar days

¹ For the purpose of clarity, I refer to you in the third person hereafter.

² On Oct. 5 2015, I wrote the Board requesting it (1) implement a general policy of approving executive session minutes in a timely fashion, and (2) review and release the May 28 minutes at its Oct. 8 meeting. I asked the Board to respond or act by Oct. 9, or request an extension of time, on pain of filing this complaint. However, as I later learned the Chairman of the Board was away on vacation, I chose to wait until after the Board's next meeting before filing.

of the request lodged on September 21, 2015, despite an intervening meeting. The complaint is timely as a complaint must be filed with the public body within 30 days of an alleged violation, here by October 31, 2015.³

The Board has 14 business days from today to respond to this complaint — response is due by Monday, Nov. 16. As the Board has only one scheduled meeting prior to that deadline (Nov. 5, 2015), I hereby consent to the Board’s requesting an extension of time to respond pursuant to G.L. c. 30A §23(b).

The complaint is ripe for filing with the Attorney General’s Division of Open Government (“The Division”) 30 calendar days after initial filing, i.e. Wednesday, Nov. 25. The complaint must be so filed within 90 calendar days of the date of violation (or reasonable discovery thereof), i.e. by Dec. 30, 2015.

Abbreviated chronology⁴

On May 28, 2015, the Board held an executive session to discuss BZA Case 10461, regarding which the City had recently been the subject of an adverse decision in the Land Court. The City subsequently initiated appellate proceedings, and then stipulated to their dismissal on Sept. 16, 2015; the Massachusetts Appeals Court dismissed the appeal on Sept. 18, 2015.

On June 11, 2015, I wrote Zoning Administrative Assistant Ms. Maria Pacheco, and Zoning Specialist Mr. Sean O’Grady, the published public contacts for the Board, requesting “the notes/minutes/records” from the May 28 executive session.

By letter of June 25, 2015, Assistant City Solicitor Anne L. Sterman replied advising that “*Because the litigation remains ongoing, the disclosure of the executive session minutes would defeat the purpose for having gone into executive session. M.G.L. c. 30A, § 22(f). Moreover, the minutes contain material protected by the attorney-client privilege. As such, the City will not disclose those minutes at this time.*”

On Sept. 21, 2015, I wrote Ms. Sterman and renewed my June 11 request in light of the dismissal of the case.

On Sept. 24, 2015, the Board met. It did not discuss any issues pertaining to executive

³ In the event that the request directed to the Board’s counsel does not qualify as a request to the public body within the meaning of G.L. c. 30A §22(g)(2), then in the alternative the violation occurred on Oct. 15 when minutes were not furnished within ten calendar days of the request by letter to the Board on Oct. 5. Either way this complaint is timely.

It might be argued that the failure of the Board to approve executive session minutes at its Sept. 24, 2015 meeting could be construed as the time that the Board’s violation became reasonably known, and thus the complaint must be filed with the public body “within” 30 days of Sept. 24, which falls on Saturday Oct. 24. This complaint is being filed on the first business day following. While I dispute any conclusion of untimeliness on that basis, if there is any inclination to credit it, then the Board’s failure to act on Oct. 8 in response to the Oct. 5 letter is a separate violation which became known on Oct. 8, from which 30 days run to Saturday, Nov. 7, so again this complaint is timely.

⁴ For additional details, see *Background* in the Oct. 5, 2015 letter, attached as pp. 20–21 of 40.

session or minutes of any kind.

On Oct. 1, 2015 Ms. Sterman replied, stating “*With respect to the executive session minutes, please be advised that those minutes have not yet been finalized or reviewed and adopted by the Board of Zoning Appeals.*”

On Oct. 2, 2015, I wrote to Ms. Sterman advising her of the Board’s obligation to disclose executive session minutes within ten days and to review not later than the Board’s next meeting.

On Oct. 5, 2015, I wrote the Board advising it of the history and communication with City staff to date, and requested their action to approve the May 28 minutes at their upcoming Oct. 8 meeting, as well as to address general issues regarding regular review of executive session minutes.

On Oct. 8, 2015 the Board met and did not address any issues pertaining to executive session or minutes of any kind.

On Oct. 22, 2015 the Board met, and its agenda listed an executive session whose topics included the minutes of the May 28, 2015 executive session. I understand the Board to have approved minutes of the executive session, but to not be releasing them pending further review from the City’s Law Department.

Principal violation: failure to timely release May 28, 2015 minutes.

G.L. c. 30A §22(g)(2), requires “... *the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body’s next meeting or 30 days, whichever first occurs.*”

As the minutes of the May 28, 2015 executive session were no longer the subject of pending litigation as of Sept. 18, 2015 and they were (re-)requested on Sept. 21, the Board should have acted at its Sept. 24 meeting to review and release the executive session minutes, if it had not already done so.

On Oct. 1, Ms. Sterman advised that “those minutes have not yet been finalized or reviewed and adopted by the Board of Zoning Appeals.” I take this to mean that the failure of the Board’s administrative staff to prepare and “finalize” the executive session minutes was offered as a reason for lack of compliance with §22(g)(2).

But the obligation to review and release minutes under §22(g)(2) carries with it the obligation to ensure the minutes are prepared such that they can be released. If the Board failed to order the preparation of the minutes, then the Board has violated the law.

I also want to note that I believe I bent over backwards to engage with the Board and City staff prior to reaching this point. Recognizing that I had no evidence that counsel for the City acting on behalf of the Board had kept the Board informed about my Sept. 21 request (and knowing the futility of inquiring of counsel, given counsel’s past habit of claiming attorney-client privilege on such questions and failing to comply with the ten-day obligation to respond under the Public Records Law), I advised Ms. Sterman on Oct. 2 that

I would like to avoid filing an Open Meeting Law Complaint, and requested her response by Oct. 5, and indicated I would look favorably upon a request for an extension of time.

Not having heard from Ms. Sterman, I wrote to the Board itself on Oct. 5, requesting action at the Oct. 8 meeting, on pain of filing an Open Meeting Law complaint if it did not do so or otherwise respond by Oct. 9. The Board did not respond nor request an extension, which I had indicated I would be happy to grant.

However, on Oct. 6, City staff informally advised me that Constantine (“Gus”) Alexander, Chairman of the Board was away and would not be present for the Oct. 8 meeting, so I delayed filing of this complaint.

On Oct. 8, the Board met, chaired by Vice-Chairman Timothy Hughes. I understand that Hughes was prepared to review and approve the May 28 executive session minutes, but they were not provided to him or the Board and the Board’s staff advised him that they were not ready. This constituted another violation of the law.

On Oct. 13, the Chairman advised me via email that he had been away on vacation and that the Board would consider my letter at its Oct. 22 meeting. I queried whether I could read his email as a request to defer filing my Open Meeting Law complaint until after that meeting, and he did not respond.

On Oct. 21, 30 days from the Sept. 21 request elapsed, so the Board not only failed the “next meeting” requirement of §22(g)(2), it also failed the 30 day requirement.

On Oct. 22, the Board met in executive session. I understand that it approved the minutes, but that they would not yet be released to me without further review by the City’s Law Department⁵. Furthermore the Board’s staff indicated they did not know when the minutes could be released to me, and did not know if they would be able to affirmatively provide the minutes to me or if I should continue to periodically inquire. Once again the Board failed in its obligation to timely disclose the minutes, in violation of the law.

Ancillary violations

In addition to the principal violation of the Open Meeting Law, there are several ancillary issues I want to highlight for the attention of the Board, its staff and counsel, and the Division.

1. Bifurcated meeting notices are confusing.

It is the Board’s practice to notice the meeting in two postings: a “Board of Zoning Appeals Agenda” that indicates a start time of 7pm, and typically lists the first item of business for a later time, such as 7:30pm; and also a “Board of Zoning Appeal Continued Cases Agenda” which lists cases continued from previous meetings, with items typically scheduled at 7:00pm and 7:15pm.

⁵ Perhaps this is related to the attorney-client privilege cited by Ms. Sterman on June 25. Nonetheless, the City should have presented appropriately-redacted minutes for the Board to release at the Oct. 28 and prior meetings.

I presume the intention here is that the non-continued agenda is a verbatim copy of the required newspaper advertisement. But confusion arises when the Board schedules an executive session for 6:30pm, as it did on Oct. 22. In that case, the non-continued agenda still lists a start time of 7pm, even though the Board opened the meeting in open session at 6:30pm prior to voting to enter executive session. As the items discussed in executive session had not previously been the subject of a motion to continue (and indeed may not properly be termed “cases” before the Board of Zoning Appeals), it is confusing to place them on the continued agenda.

I myself was confused by this: I repeatedly checked the main agenda online for an executive session for Oct. 22, and did not find it. It was only after I checked the physical posting in Cambridge City Hall that I went back and found the listing in the Continued Cases posting.

2. Records of open meeting preceding May 28 executive session

The published transcript of the May 28, 2015 open meeting is confusing and incomplete. The stenographer did not set up her recording and transcription equipment prior to the executive session (for sake of practicality, I presume), and thus did not record the de minimis section of the open meeting that preceded the executive session, nor the roll call vote.

While the Board’s administrative staff and City attorneys were present at the open session prior to the May 28 executive session, and I presume they took notes on the roll call vote, no such notes appear in the published transcript.

Furthermore, the table of contents of the published transcript states “EXECUTIVE SESSION ON 42 BAY STATE ROAD Case #10461 (Minutes Not Taken).” Presumably it means to say “stenographic recording not made.”

3. Entry into Oct. 22 executive session

The continued cases agenda for the Oct. 22 meeting described the executive session thus⁶:

6:30 P.M. EXECUTIVE SESSION 1. 42 BSR LLC & another v. Zoning Board of Cambridge, Appeals Court Docket No. 2015-P-1074; minutes of the May 28, 2015 Board of Zoning Appeal executive session. 2. Richard D. Fanning v. Constantine Alexander et al., Land Court Docket No. 4 MISC 484762-RBF. 3. BZA Case No. 007664-2015/T-Mobile Northeast, LLC special permit application.
--

§21(b)(3) requires that “before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called.”

Furthermore, the Division has found that “this level of detail must also be included in the meeting notice” (OML 2011-15).

⁶ The online agenda numbers all three items as 1. instead of 1., 2., and 3. Presumably this is error results from preparation of the agenda using Microsoft Word’s autonumbering feature, and in any event is insignificant.

It would appear the Board has not met the “all subjects that may be revealed” standard here. It’s not apparent why the Board’s discussion of appeals court case 2015-P-1074, now settled and dismissed, falls under the exception for pending litigation. It would appear further detail could be provided in other items as well.

Prior to taking a roll call vote, the Chairman stated, *“The Chair will call this meeting of the zoning board of appeals to order. And, at the outset, the Chair recommends to the Board that we go into executive session to discuss pending litigation. The need for executive session is that an open meeting may have a detrimental effect on the litigating position of the City.”*

(The Chairman did not read aloud the executive session agenda items.)

Furthermore, after the executive session completed but before the open meeting had resumed, I inquired of the Chairman and City Solicitor Nancy Glowa how it could be that a discussion of a closed case could qualify as “pending litigation.”

Ms. Glowa orally advised me that a purpose-three executive session covered “pending or *threatened* litigation” (emphasis hers), and gave me to understand that she referred to the threat of this Open Meeting Law complaint (which had been outlined in my Oct. 5 letter to the Board as well as in prior correspondence with Ms. Sterman).

I am skeptical that a request to comply with the Open Meeting Law on pain of filing a complaint truly qualifies as threatened litigation within the meaning of law. Where would such an analysis stop? Would a request to comply with the law without an explicit threat qualify? Would a request for minutes? A friendly smile on the street when minutes are known to be late?

4. Failure to periodically review executive session minutes

My Oct. 5 letter to the Board noted the Division’s recommendation to review executive session minutes at the next meeting following that executive session, and asked the Board to contact the Division and implement such a policy consistent with their recommendation.

§22(g)(1) also requires *“[t]he public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure.”*

The Board appears to have no such practice, and did not respond to the request.

5. Correction of Oct. 22 agenda

Prior to the opening of the Oct. 22 meeting, I orally notified the Chairman of the incorrect docket number on the second item of the executive session agenda — it should have been “14 MISC 484762-RBF” rather than “4 MISC 484762-RBF.” Staff and the City Solicitor confirmed the correction with the Chairman.

I requested the Chairman correct the error in open session for the benefit of those with access to the transcript of the open session, which is expected to be available quickly, unlike the minutes of the executive session, which may be withheld. The Chairman did not announce the correction in open session.

6. Timeliness of initial response (June)

My initial request for minutes from the May 28, 2015 executive session was sent to the Board’s staff on the morning of June 11⁷.

Counsel for the Board did not respond until June 25. The Board should have responded by June 22, pursuant to the ten-day requirement of §22(g)(2).

Closing

Thank you for your prompt attention. I would appreciate the Board addressing these issues such that it is not necessary for me to file this complaint for review with the Division, as “this 30-day period is intended to provide a reasonable opportunity for the complainant and the public body to resolve the initial complaint” (*Open Meeting Law Guide* at 18).

Very truly yours,

John A. Hawkinson

Enclosures:

- OML Complaint Form pp. 8–9
- June 11 email request p. 10
- June 22 followup to Commissioner..... p. 11
- June 25 reply from Anne Sterman..... pp. 12–13
- Sept. 21 re-request to Anne Sterman p. 14
- Oct. 1 reply from Anne Sterman pp. 15–17
- Oct. 2 reply to Anne Sterman pp. 18–19
- Oct. 5 letter to Board pp. 20–21
- Oct. 6 email from Maria Pacheco..... p. 22
- Oct. 6 reply to Maria Pacheco..... p. 23
- Oct. 6 reply from Maria Pacheco..... p. 24
- Oct. 13 email from Constantine Alexander... p. 25
- Oct. 13 query to Constantine Alexander.... p. 26
- ISD agenda calendar for May 28..... p. 27
- May 28 Continued Cases Agenda..... pp. 28–29
- May 28 regular Agenda pp. 30–32
- ISD agenda calendar for Oct. 22 p. 33
- Oct. 22 Continued Cases Agenda..... pp. 34–36
- Oct. 22 regular Agenda..... pp. 37–38
- May 28 transcript excerpt..... pp. 39–40

CC: BY HAND DELIVERY: Cambridge City Clerk; BY ELECTRONIC MAIL: Assistant City Solicitor Anne L. Sterman; Maria Pacheco, Zoning Administrative Assistant; Sean O’Grady, Zoning Specialist; Ranjit Singanayagam, Commissioner of Inspectional Services

⁷ The Board met on June 11 and also on June 25.

6. Timeliness of initial response (June)

My initial request for minutes from the May 28, 2015 executive session was sent to the Board's staff on the morning of June 11⁷.

Counsel for the Board did not respond until June 25. The Board should have responded by June 22, pursuant to the ten-day requirement of §22(g)(2).

Closing

Thank you for your prompt attention. I would appreciate the Board addressing these issues such that it is not necessary for me to file this complaint for review with the Division, as "this 30-day period is intended to provide a reasonable opportunity for the complainant and the public body to resolve the initial complaint" (*Open Meeting Law Guide* at 18).

Very truly yours,



John A. Hawkinson

Enclosures:

- OML Complaint Form pp. 8-9
- June 11 email request p. 10
- June 22 followup to Commissioner..... p. 11
- June 25 reply from Anne Sterman..... pp. 12-13
- Sept. 21 re-request to Anne Sterman p. 14
- Oct. 1 reply from Anne Sterman pp. 15-17
- Oct. 2 reply to Anne Sterman pp. 18-19
- Oct. 5 letter to Board pp. 20-21
- Oct. 6 email from Maria Pacheco..... p. 22
- Oct. 6 reply to Maria Pacheco..... p. 23
- Oct. 6 reply from Maria Pacheco p. 24
- Oct. 13 email from Constantine Alexander... p. 25
- Oct. 13 query to Constantine Alexander.... p. 26
- ISD agenda calendar for May 28..... p. 27
- May 28 Continued Cases Agenda..... pp. 28-29
- May 28 regular Agenda pp. 30-32
- ISD agenda calendar for Oct. 22 p. 33
- Oct. 22 Continued Cases Agenda..... pp. 34-36
- Oct. 22 regular Agenda..... pp. 37-38
- May 28 transcript excerpt..... pp. 39-40

CC: BY HAND DELIVERY: Cambridge City Clerk; BY ELECTRONIC MAIL: Assistant City Solicitor Anne L. Sterman; Maria Pacheco, Zoning Administrative Assistant; Sean O'Grady, Zoning Specialist; Ranjit Singanayagam, Commissioner of Inspectional Services

⁷ The Board met on June 11 and also on June 25.



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: John Last Name: Hawkinson

Address: Box 397103

City: Cambridge State: MA Zip Code: 02139

Phone Number: +1 (617) 797-0250 Ext. _____

Email: jhawk@mit.edu

Organization or Media Affiliation (if any): freelance news reporter

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): City of Cambridge Board of Zoning Appeals

Specific person(s), if any, you allege committed the violation: _____

Date of alleged violation: Oct. 1, 2015

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

G.L. c. 30A §22(g)(2), requires "... the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs."

As the minutes of the May 28, 2015 executive session were no longer the subject of pending litigation as of Sept. 18, 2015 and they were (re-)requested on Sept. 21, the Board should have acted at its Sept. 24 meeting to review and release the executive session minutes.

The Board should also have reviewed and released them at its Oct. 8 meeting.

The Board should have released them at its Oct. 22 meeting.

See attached letter.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

I request the promptly Board disclose the May 28 executive session minutes, take steps to correct its regular practice to conform to the Open Meeting Law going forward, and address the violations outlined in the attached letter.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, will be considered a public record and available to any member of the public upon request. In response to such a request, the AGO generally will not disclose your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: _____

Date: _____

For Use By Public Body *For Use By AGO*
Date Received by Public Body: *Date Received by AGO:*

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

G.L. c. 30A §22(g)(2), requires "... the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs."

As the minutes of the May 28, 2015 executive session were no longer the subject of pending litigation as of Sept. 18, 2015 and they were (re-)requested on Sept. 21, the Board should have acted at its Sept. 24 meeting to review and release the executive session minutes.

The Board should also have reviewed and released them at its Oct. 8 meeting.

The Board should have released them at its Oct. 22 meeting.

See attached letter.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

I request the promptly Board disclose the May 28 executive session minutes, take steps to correct its regular practice to conform to the Open Meeting Law going forward, and address the violations outlined in the attached letter.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, will be considered a public record and available to any member of the public upon request. In response to such a request, the AGO generally will not disclose your contact information.

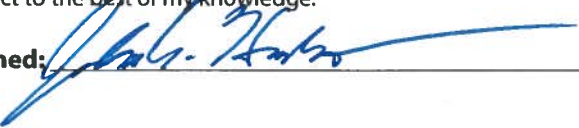
II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: 26 Oct 2015

For Use By Public Body For Use By AGO
Date Received by Public Body: Date Received by AGO:

Notes from BZA Exec Session May 28?

John A Hawkinson [jhawk@mit.edu]

Sent: Thursday, June 11, 2015 09:51

To: O'Grady, Sean [sogrady@cambridgema.gov]

Cc: Maria Pacheco [mpacheco@cambridgema.gov]

Good morning, Sean (and MAria):

On May 28 the BZA held an executive session for the purpose of discussing pending litigation related to Case #10461, 42 Bay State Road.

Can you forward the notes/minutes/records from that Executive Session to me, or make them available for inspection? I think you're obliged to respond within ten days (i.e. by Monday June 22)..

By way of background, yesterday, the City filed a notice of appeal in the Land Court on the related case, 13 MISC 479551 (Yi Liu v. Cambridge Zoning Board of Appeals).

It's my presumption that the executive session was for the purpose of determining whether to pursue the appeal. The law requires that minutes and related materials from an executive session be disclosed "once disclosure would no longer defeat the purposes of the executive session." The City having appealed, I speculate disclosure of the notes would no longer defeat the purpose of the executive session.

The Open Meeting Law Guide notes:

While in executive session, the public body must keep accurate records, all votes taken must be recorded by roll call, and the public body may only discuss matters for which the executive session was called.

and that the minutes must include, among other things:

- * the decisions made and actions taken, including a record of all votes;
- * a summary of the discussions on each subject;
- * a list of all documents and exhibits used at the meeting;

If the minutes remain in draft form, I'd be happy to review those prior to being finalized -- please consider draft minutes to be within the scope of this request.

Thanks!

--jhawk@mit.edu
John Hawkinson

Freelance Journalist
+1 617 797 0250
twitter: @johnhawkinson

[jhawk@mit.edu: Notes from BZA Exec Session May 28?]

John Hawkinson [jhawk@MIT.EDU]

Sent: Monday, June 22, 2015 17:13

To: Ranjit Singanyagam [ranjits@cambridgema.gov]

Hi, Commissioner: Here was the email request from June 1.
Can you let me know when I can expect to hear back? Thanks.

--jhawk@mit.edu
John Hawkinson

Freelance Journalist
+1 617 797 0250
twitter: @johnhawkinson

----- Forwarded message from John A Hawkinson <jhawk@mit.edu> -----

Date: Thu, 11 Jun 2015 09:51:55 -0400
From: John A Hawkinson <jhawk@mit.edu>
To: "O'Grady, Sean" <sograd@cambridgema.gov>
CC: Maria Pacheco <mpacheco@cambridgema.gov>
Subject: Notes from BZA Exec Session May 28?
Message-ID: <rodioauez72c.fsf@contents-vnder-pressvire.mit.edu>

Good morning, Sean (and MARIA):

On May 28 the BZA held an executive session for the purpose of discussing pending litigation related to Case #10461, 42 Bay State Road.

Can you forward the notes/minutes/records from that Executive Session to me, or make them available for inspection? I think you're obliged to respond within ten days (i.e. by Monday June 22)..

By way of background, yesterday, the City filed a notice of appeal in the Land Court on the related case, 13 MISC 479551 (Yi Liu v. Cambridge Zoning Board of Appeals).

It's my presumption that the executive session was for the purpose of determining whether to pursue the appeal. The law requires that minutes and related materials from an executive session be disclosed "once disclosure would no longer defeat the purposes of the executive session." The City having appealed, I speculate disclosure of the notes would no longer defeat the purpose of the executive session.

The Open Meeting Law Guide notes:

While in executive session, the public body must keep accurate records, all votes taken must be recorded by roll call, and the public body may only discuss matters for which the executive session was called.

and that the minutes must include, among other things:

- * the decisions made and actions taken, including a record of all votes;
- * a summary of the discussions on each subject;
- * a list of all documents and exhibits used at the meeting;

If the minutes remain in draft form, I'd be happy to review those prior to being finalized -- please consider draft minutes to be within the scope of this request.

Request for Minutes from May 28 BZA Executive Session

Sterman, Anne [asterman@cambridgema.gov]

Sent: Thursday, June 25, 2015 14:35

To: John A Hawkinson

Attachments: Hawkinson response re exec~1.pdf (372 KB)

Mr. Hawkinson,

Please see the attached response to your request for the minutes from the BZA's May 28, 2015 executive session.

Anne Sterman

Assistant City Solicitor

City of Cambridge

795 Massachusetts Avenue

Cambridge, MA 02139

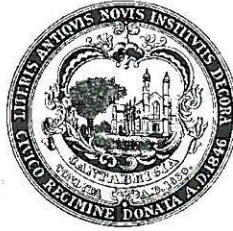
v 617-349-4133

f 617-349-4134

Nancy E. Glowa
City Solicitor

Arthur J. Goldberg
Deputy City Solicitor

Vali Buland
First Assistant City Solicitor



Assistant City Solicitors

Paul S. Kawai
Samuel A. Aylesworth
Keplin K. U. Allwaters
Anne Sterman
Sean M. McKendry

CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

June 25, 2015

John Hawkinson
jhawk@mit.edu

VIA ELECTRONIC MAIL

Re: Response to Request for May 28, 2015 Executive Session Minutes

Dear Mr. Hawkinson:

This letter is in response to your request for the minutes of the executive session held by the Board of Zoning Appeals (the "Board") on May 28, 2015. A copy of your request is attached. The Board held that executive session for the lawful purpose of discussing ongoing litigation, Liu v. Board of Zoning Appeal, with its attorneys. M.G.L. c. 30A, § 21(a)(3). Because the litigation remains ongoing, the disclosure of the executive session minutes would defeat the purpose for having gone into executive session. M.G.L. c. 30A, § 22(f). Moreover, the minutes contain material protected by the attorney-client privilege. As such, the City will not disclose those minutes at this time.

Very truly yours,

A handwritten signature in blue ink that reads "Anne Sterman".

Anne Sterman

Re: Request for Minutes from May 28 BZA Executive Session

John Hawkinson [jhawk@MIT.EDU]

Sent: Monday, September 21, 2015 17:01

To: Sterman, Anne [asterman@cambridgema.gov]

Dear Ms. Sterman:

The litigation in this matter having been dismissed, would the City please reconsider my June 11 request for the the notes/minutes/records of the May 28 executive session of the Board of Zoning Appeals? If the City intends to claim privilege for any portion of these materials, you are respectfully requested to furnish a privilege log. In any event, you are requested to forward the segregable portion.

Furthermore, given that the matter has settled, and settlement agreements by a municipality are a matter of public record not subject to exemption, would you please consider this a public records request for the settlement agreement, and any ancillary documentation or communication?

This request is returnable by Thu Oct. 1; I would be happy to extend the deadline for cause, please let me know.

Thank you.

--jhawk@mit.edu
John Hawkinson

Freelance Journalist
+1 617 797 0250
twitter: @johnhawkinson

Sterman, Anne <asterman@cambridgema.gov> wrote on Thu, 25 Jun 2015 at 18:35:31 +0000 in <BY2PR09MB07565BCBFC25B29BE6D70978C5AE0@BY2PR09MB0756.namprd09.prod.outlook.com>:

> Mr. Hawkinson,
>
> Please see the attached response to your request for the minutes
> from the BZA's May 28, 2015 executive session.

RE: Request for Minutes from May 28 BZA Executive Session

Sterman, Anne [asterman@cambridgema.gov]

Sent: Thursday, October 01, 2015 17:04

To: John A Hawkinson

Attachments: Hawkinson response to Sept~1.pdf (92 KB)

Mr. Hawkinson,

Please see attached.

Anne Sterman
Assistant City Solicitor
City of Cambridge
795 Massachusetts Avenue
Cambridge, MA 02139
v 617-349-4133
f 617-349-4134

-----Original Message-----

From: John Hawkinson [<mailto:jhawk@MIT.EDU>]

Sent: Monday, September 21, 2015 5:01 PM

To: Sterman, Anne <asterman@cambridgema.gov>

Subject: Re: Request for Minutes from May 28 BZA Executive Session

Dear Ms. Sterman:

The litigation in this matter having been dismissed, would the City please reconsider my June 11 request for the the notes/minutes/records of the May 28 executive session of the Board of Zoning Appeals? If the City intends to claim privilege for any portion of these materials, you are respectfully requested to furnish a privilege log. In any event, you are requested to forward the segregable portion.

Furthermore, given that the matter has settled, and settlement agreements by a municipality are a matter of public record not subject to exemption, would you please consider this a public records request for the settlement agreement, and any ancillary documentation or communication?

This request is returnable by Thu Oct. 1; I would be happy to extend the deadline for cause, please let me know.

Thank you.

--jhawk@mit.edu
John Hawkinson

Freelance Journalist
+1 617 797 0250
twitter: @johnhawkinson

Sterman, Anne <asterman@cambridgema.gov> wrote on Thu, 25 Jun 2015 at 18:35:31 +0000 in
<BY2PR09MB07565BCBFC25B29BE6D70978C5AE0@BY2PR09MB0756.namprd09.prod.outlook.com>:

> Mr. Hawkinson,

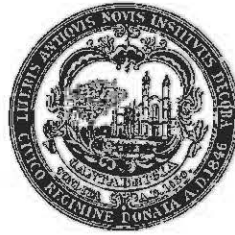
>

> Please see the attached response to your request for the minutes from
> the BZA's May 28, 2015 executive session.

Nancy E. Glowa
City Solicitor

Arthur J. Goldberg
Deputy City Solicitor

Vali Buland
First Assistant City Solicitor



Assistant City Solicitors

Paul S. Kawai
Samuel A. Ayiesworth
Keplin K. U. Allwaters
Anne Sterman
Sean M. McKendry

CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

October 1, 2015

John Hawkinson
jhawk@mit.edu

VIA ELECTRONIC MAIL

Re: Response to Your September 21, 2015 Public Records Request

Dear Mr. Hawkinson:

This letter is sent in response to your Public Records Request dated September 21, 2015 requesting a copy of the minutes of the May 28 executive session of the Board of Zoning Appeals, as well as the settlement agreement in 42 BSR LLC and Liu v. City of Cambridge Board of Zoning Appeals, and “any ancillary documentation or communication.” A copy of your request is attached. Pursuant to 950 CMR 32.06(2), this is the written good faith estimate of the applicable search and segregation that is payable before the City complies with your request.

With respect to the executive session minutes, please be advised that those minutes have not yet been finalized or reviewed and adopted by the Board of Zoning Appeals.

With respect to the settlement agreement, the City has estimated that there would be approximately 9 pages of non-exempt material responsive to your request, and that it would take approximately fifteen minutes for the lowest paid employee capable of performing the tasks of searching for and segregating the relevant documents to do so, at a rate of \$49.98 per hour. The fee for copies of the pages, at a cost of \$0.20 per page, is \$1.80. If you would like the documents mailed to you, there would be an additional estimated postage charge of \$.49. Therefore, the total estimated cost to mail you the requested documents is \$14.78 (that is, (.25 x \$49.98) + \$1.80 + \$.49)).

With respect to your request for “any ancillary documentation or communication,” the City is unsure as to which documents you are seeking. To the extent you are seeking documents beyond the minutes and settlement agreement referenced above, please so advise and the City will prepare a supplemental fee estimate for the estimated search and segregation time for any additional types of documents you are seeking.

This amount is payable in advance of the City actually complying with your request. You may pay by check payable to the City of Cambridge sent to my attention.

This is an estimate. If the amount you pay turns out to be more than was necessary to comply with your request, you will be refunded the difference. If the estimate turns out to be too little, the City will comply with the request to the extent paid for and will submit a new estimate to you to complete the response. We will wait to hear from you before beginning the work necessary to compile the response.

Very truly yours,



Anne Sterman

Re: Request for Minutes from May 28 BZA Executive Session

John Hawkinson [jhawk@MIT.EDU]

Sent: Friday, October 02, 2015 00:28

To: Sterman, Anne [asterman@cambridgema.gov]

> Please see attached.

Dear Ms. Sterman:

I write to request your response by Monday prior to filing an Open Meeting Law Complaint and to advise you to begin production of the settlement agreement, for which I will pay \$12.50 to inspect in your office.

With respect to the first portion of your response, executive session minutes, your statement that the minutes have not been finalized or reviewed and adopted is interesting but not pertinent.

G.L. c. 30A §22(g)(2) requires disclosure of executive session minutes within ten days of a request. If review is required, the minutes must be released no later than the Board's next meeting. The request was (re-)submitted on September 21, and the Board has met twice since then: on Sept. 24 and Oct. 1.

Furthermore, the Open Meeting Law's definition of minutes includes both finalized minutes and draft minutes (see §22(c), albeit in the context of open session minutes). That the minutes may not have been adopted is not a bar to their disclosure.

I would like to avoid filing an Open Meeting Law complaint directed to the BZA. Please respond prior to 5pm on Monday Oct. 5. If you require an extension for cause, please let me know.

With respect to the second portion, I am genuinely puzzled at the time and rate that the City has suggested is necessary to procure the settlement agreement. Can you please identify the category of worker for whom you claim is the lowest paid employee capable of searching and segregating the settlement agreement, and can you also explain why they are the lowest paid category capable? \$48.98 suggests an Assistant City Solicitor, but this is hard to imagine to obtain a document from a file.

Even if an Assistant City Solicitor is the only one with access to the settlement agreement, it is hard to imagine it would take fifteen minutes to identify this record. Given that on Sept. 8 an Assistant City Solicitor wrote that the parties "require additional time to finalize the settlement agreement" and then stipulated to dismissal of the litigation on Sept. 16, it strains credulity that appreciable time might be required to search for the agreement less than one week later, on Sept. 21.

Unless the City intends to claim exemptions and that time is for redaction review – but that too is hard to square, as the City is aware that settlement agreements are public documents and that there has been public interest in this litigation, so it should have been expected to have written the agreement to avoid redaction/exemption requirements. Certainly the City should have sufficient familiarity with the settlement agreement to articulate -- at this time as part of

its estimate -- with specificity the exemptions it might claim through redaction.

In any event, I will pay the City's estimated search and segregation fee of \$12.50 and if the City's response to the above questions is not satisfactory and the City does not refund fees, then I will appeal to the Supervisor of Records or the Superior Court.

I will not pay for photocopies or for postage. I think it would behoove the City to scan and email (or send via facsimile to me at 206-203-4655). And, of course, if you have the document electronically already, I expect you to furnish the electronic document. But if the City declines to do any of those things, I will inspect at your office. Please make the files available to me at the front desk and I will review them at my convenience, or that is not feasible, please advise me when I may make an appointment. Please notify me of your choice and when they are ready. I trust that will be within a day or so, as G.L. c. 66 §10(b) requires your compliance within ten days of the Sept. 21 request, a deadline which has already passed.

With respect to the third portion of your response, I am pleased to clarify. The request for "any ancillary documentation or communication" sought any communication related to the settlement agreement (within and without the City), as well as any ancillary documentation associated with the settlement agreement (that is, any documents connected with the settlement beyond the agreement itself); you may exclude all documents filed with the Land Court and the Appeals Court, as i have reviewed the docket files.

I am uncertain what time standard to propose for your supplemental fee estimate. Certainly you must comply prior to close of business on Tuesday Oct. 13. Arguably you should have complied by Thu Oct. 1, tolled only by the time to inquire of me and await my response; that the City chose to wait until after 5pm on the last day to seek clarification should be prejudicial against the City, not prejudicial to me. I propose a response deadline of Wednesday Oct. 7. Please let me know if the City requires more time.

Thank you.

--jhawk@mit.edu
John Hawkinson

Freelance Journalist
+1 617 797 0250
twitter: @johnhawkinson

John A. Hawkinson, freelance news reporter
Courier: 84 Massachusetts Avenue, Room 557
Postal: Box 397103
 Cambridge, MA 02139-7103
 617-797-0250, jhawk@MIT.EDU

October 5, 2015

Cambridge Board of Zoning Appeals
 c/o Constantine Alexander, Chairman
 831 Massachusetts Avenue
 Cambridge, MA 02139

By electronic mail: c/o Maria Pacheco mpacheco@cambridgema.gov

Re: Minutes of May 28, 2015 executive session

Dear Mr. Alexander and members of the Board:

This is *not* an Open Meeting Law Complaint, but such a complaint would not be improper. I write to request you approve minutes of the May 28, 2015 executive session at your next meeting, on October 8, pursuant to the Open Meeting Law, G.L. c. 30A §22(g)(2), which requires “. . . *the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body’s next meeting or 30 days, whichever first occurs.*”

Background

On May 21, 2015, Justice Howard P. Speicher of the Massachusetts Land Court ruled against the City on an appeal regarding 42 Bay State Road, BZA Case 10461.

On May 28, the Board held an executive session to discuss the matter.

On June 10, the City filed a Notice of Appeal in the Land Court in that case.

On June 11, I wrote Mr. Sean O’Grady and Ms. Maria Pacheco requesting “the notes/minutes/records from that Executive Session.” As the tenth day fell on a weekend, response was due on Monday June 22, pursuant to G.L. c. 30A §22(g)(2), “*Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt.*”

On June 22, I followed up with Commissioner Ranjit Singanayagam and forwarded him another copy of my written request.

On June 25, Assistant City Solicitor Anne L. Sterman responded by letter, stating that “Because the litigation remains ongoing, the disclosure of the executive session minutes would defeat the purpose for having gone into executive session. M.G.L. c. 30A, § 22(f). Moreover, the minutes contain material protected by the attorney-client privilege. As such, the City will not disclose those minutes at this time.”

On Sept. 16, Ms. Sterman filed a stipulation of dismissal in the Appeals Court in this matter, and the Court dismissed the appeal on Sept. 18.

On Sept. 21, I wrote Ms. Sterman and renewed my June 11 request in light of the dismissal of the

case¹.

On Oct. 1, Ms. Sterman replied, stating “*With respect to the executive session minutes, please be advised that those minutes have not yet been finalized or reviewed and adopted by the Board of Zoning Appeals.*”

On Oct. 2, I replied to Ms. Sterman noting §22(g)(2)’s requirement for disclosure within ten days, and also its requirement that review take place at the Board’s next meeting. I noted the Board had met twice following my request and not acted upon it. I advised Ms. Sterman that I would like to avoid filing an Open Meeting Law complaint, and I asked Ms. Sterman to address those concerns prior to 5pm on Monday Oct. 5, or to request an extension of time.

Ms. Sterman did not reply.

Requirement to regularly review and approve executive session minutes

On Friday Oct. 2, I consulted by phone the Attorney General’s Division of Open Government, which administers the Open Meeting Law. The Division advised me that public bodies are required to maintain minutes of executive sessions and to regularly review and approve them, and it is the Division’s recommendation that public bodies review executive session minutes at the meeting immediately following the executive session, even if those minutes would not then be available for disclosure until weeks or months later. That review would also likely take place in an executive session, though the minutes of that second executive session would not necessarily contain material exempt from disclosure.

Would the Board please consider implementing a general policy of approving executive session minutes in a timely fashion, consistent with the Division’s recommendation? The Division is available for telephone consultation, and I encourage you to speak to it in implementing their recommendations.

Review and release the May 28 minutes

While I understood my Sept. 21 request to Ms. Sterman to have been sent to her as counsel for the Board, I write to formally direct this request to the Board. Will the Board please review and release the minutes of May 28 executive session at its next meeting, consistent with §22(g)(2)’s requirement?

As the litigation in this matter is complete, I anticipate the Board having no difficulty in so doing.

Open Meeting Law complaint

In the event that the Board does not act on Oct. 8, or does not otherwise respond (perhaps through counsel) explaining the Board’s failure to substantively respond to the Sept. 21 request by Friday Oct. 9, I will file a formal Open Meeting Law complaint, which the Board would by law be required to address within 14 business days.

I am be happy to extend the Oct. 9 deadline for cause. Thank you.

Very truly yours,

s/**JOHN A. HAWKINSON**/
John A. Hawkinson

Cc: Anne Sterman, Maria Pacheco, Sean O’Grady, Ranjit Singanayagam

¹In the same email I also sought a copy of the settlement agreement, but that issue is not before you.

RE: Letter to BZA re May 28 executive session minutes

Pacheco, Maria [mpacheco@cambridgema.gov]

Sent: Tuesday, October 06, 2015 09:00

To: John A Hawkinson

Hi John,

I did receive your letter to the BZA however, Gus, Brendan are away and will not be present at this week's hearing.

Maria L. Pacheco
Zoning Administrative Assistant
T: 617-349-6100/ F: 617-349-6132

-----Original Message-----

From: John A Hawkinson [<mailto:jhawk@mit.edu>]
Sent: Monday, October 05, 2015 7:39 PM
To: Pacheco, Maria <mpacheco@cambridgema.gov>
Subject: Letter to BZA re May 28 executive session minutes

Maria:

Would you please forward the attached letter to Constantine Alexander and the Board of Zoning Appeals?
It is somewhat timely as it concerns the agenda for this Thursday's meeting.

You yourself are also cc'd on the letter.

Would you please confirm receipt and distribution? Thank you.

--jhawk@mit.edu
John Hawkinson

Freelance Journalist
+1 617 797 0250
twitter: @johnhawkinson

RE: Letter to BZA re May 28 executive session minutes

John A Hawkinson

Sent: Tuesday, October 06, 2015 10:11

To: mpacheco@cambridgema.gov

Thanks. That does add some complexity...are they in town for the Oct. 22 meeting?

--jhawk (mobile)

-----Original Message-----

From: Pacheco, Maria [mpacheco@cambridgema.gov]

Received: Tuesday, 06 Oct 2015, 9:00

To: John A Hawkinson [jhawk@mit.edu]

Subject: RE: Letter to BZA re May 28 executive session minutes

Hi John,

I did receive your letter to the BZA however, Gus, Brendan are away and will not be present at this week's hearing.

Maria L. Pacheco
Zoning Administrative Assistant
T: 617-349-6100/ F: 617-349-6132

-----Original Message-----

From: John A Hawkinson [<mailto:jhawk@mit.edu>]

Sent: Monday, October 05, 2015 7:39 PM

To: Pacheco, Maria <mpacheco@cambridgema.gov>

Subject: Letter to BZA re May 28 executive session minutes

Maria:

Would you please forward the attached letter to Constantine Alexander and the Board of Zoning Appeals?

It is somewhat timely as it concerns the agenda for this Thursday's meeting.

You yourself are also cc'd on the letter.

Would you please confirm receipt and distribution? Thank you.

--jhawk@mit.edu
John Hawkinson

Freelance Journalist
+1 617 797 0250
twitter: @johnhawkinson

RE: Letter to BZA re May 28 executive session minutes

Pacheco, Maria [mpacheco@cambridgema.gov]

Sent: Tuesday, October 06, 2015 10:25

To: John A Hawkinson

Yes, they should be both back for the 10/22/15 BZA meeting.

Maria L. Pacheco
Zoning Administrative Assistant
T: 617-349-6100/ F: 617-349-6132

-----Original Message-----

From: John A Hawkinson [<mailto:jhawk@mit.edu>]

Sent: Tuesday, October 06, 2015 10:11 AM

To: Pacheco, Maria <mpacheco@cambridgema.gov>

Subject: RE: Letter to BZA re May 28 executive session minutes

Thanks. That does add some complexity...are they in town for the Oct. 22 meeting?

--jhawk (mobile)

-----Original Message-----

From: Pacheco, Maria [mpacheco@cambridgema.gov]

Received: Tuesday, 06 Oct 2015, 9:00

To: John A Hawkinson [jhawk@mit.edu]

Subject: RE: Letter to BZA re May 28 executive session minutes

Hi John,

I did receive your letter to the BZA however, Gus, Brendan are away and will not be present at this week's hearing.

Maria L. Pacheco
Zoning Administrative Assistant
T: 617-349-6100/ F: 617-349-6132

-----Original Message-----

From: John A Hawkinson [<mailto:jhawk@mit.edu>]

Sent: Monday, October 05, 2015 7:39 PM

To: Pacheco, Maria <mpacheco@cambridgema.gov>

Subject: Letter to BZA re May 28 executive session minutes

Maria:

Would you please forward the attached letter to Constantine Alexander and the Board of Zoning Appeals?

It is somewhat timely as it concerns the agenda for this Thursday's meeting.

You yourself are also cc'd on the letter.

Would you please confirm receipt and distribution? Thank you.

--jhawk@mit.edu
John Hawkinson

Freelance Journalist
+1 617 797 0250
twitter: @johnhawkinson

your letter of Oct. 5

c_alexander@comcast.net

Sent: Tuesday, October 13, 2015 15:24

To: John A Hawkinson

Cc: Pacheco, Maria [mpacheco@cambridgema.gov]

Dear Mr. Hawkinson:

As I believe you are aware, your letter of October 5 to me regarding minutes of an executive session of the Cambridge Zoning Board of Appeals held on May 28 arrived while I was away on vacation. Because I was away I did not attend the October 8 meeting of the Board. Your letter will be considered by the Board at its next meeting.

Constantine Alexander

Re: your letter of Oct. 5

John Hawkinson [jhawk@MIT.EDU]

Sent: Tuesday, October 13, 2015 15:38

To: Constantine Alexander [c_alexander@comcast.net]

Cc: Pacheco, Maria [mpacheco@cambridgema.gov]

Thank you, Mr. Chair. I hope I may read your response as a request to defer filing an Open Meeting Complaint until after your Oct. 22 meeting?

--jhawk@mit.edu
John Hawkinson

Freelance Journalist
+1 617 797 0250
twitter: @johnhawkinson

c_alexander@comcast.net <c_alexander@comcast.net> wrote on Tue, 13 Oct 2015 at 19:24:33 +0000 in <1618594625.3604929.1444764273261.JavaMail.zimbra@comcast.net>:

> Dear Mr. Hawkinson:

>

> As I believe you are aware, your letter of October 5 to me regarding
> minutes of an executive session of the Cambridge Zoning Board of
> Appeals held on May 28 arrived while I was away on vacation. Because
> I was away I did not attend the October 8 meeting of the Board. Your
> letter will be considered by the Board at its next meeting.

>

> Constantine Alexander



CAMBRIDGE INSPECTIONAL SERVICES DEPARTMENT

All Permit Applications Restaurant Inspections Calendar News City Home

Text Size: A A A

Search

Building / Electric / Plumbing Permits

Food & Sanitary

Zoning

Housing

Codes & Maps

Online Permit Program Help

About Us

Calendar

Inspectional Services > Calendar

Download as iCalendar

« May »

Monthly Weekly Daily

S	M	T	W	T	F	S
26	27	28	29	30	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1	2	3	4	5	6

<< Thursday, May 28, 2015 >>

- Board of Zoning Appeal Continued Cases Agenda 5/28/2015
- Board of Zoning Appeal Agenda 5/28/2015

Filter by:

Search by keyword:

Search

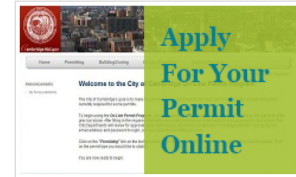
How Can We Help You?

Contractors

Select your industry

Residents, Tenants, & Students

Select a Task



Inspectional Services Department

831 Massachusetts Avenue
 Cambridge MA 02139
 Phone: 617-349-6100
 Fax: 617-349-6132
 TDD: 617-349-6112
[Contact Us](#)

Hours

Monday: 8:00am-8:00pm
 Tuesday-Thursday: 8:00am-5:00pm
 Friday: 8:00am-1:00pm

Counter Hours:

Monday: 8:00am - 9:30am
 4:30pm - 6:30pm

Board of Zoning Appeal Continued Cases Agenda

7:00 PM - 11:00 PM Thursday, May 28, 2015

Location:

Citywide Senior Center
806 Massachusetts Ave
Cambridge

Contact:

Ranjit Singanayagam, Sean O'Grady, Maria Pacheco , ranjits@cambridgema.gov,
sogrady@cambridgema.gov, mpacheco@cambridgema.gov, 617-349-6100

AMENDED

5/26/15

**TO: CITY CLERK
PLANNING BOARD**

**The Board of Zoning Appeal will hold their continued cases meeting
Thursday May 28, 2015, at the Senior Center, 806 Massachusetts Ave.,
First Floor, Cambridge, MA. The following cases will be heard:**

7:00 P.M. – EXECUTIVE SESSION ON 42 BAY STATE ROAD

- CASE #10461

**7:00 P.M. CASE:
BZA-006097-2015**

**562 FRANKLIN STREET
EDWARD A. GOTTLIEB,
ATTORNEY**

**Variance: To add a stairway from
ground floor to**

2nd floor.

Assistant

**Maria L. Pacheco
Zoning Administrative**

Board of Zoning Appeal Agenda

7:00 PM - 11:30 PM Thursday, May 28, 2015

Location:

Citywide Senior Center
806 Massachusetts Ave
Cambridge

Contact:

Ranjit Singanayagam, Sean O'Grady, Maria Pacheco , ranjits@cambridgema.gov, sogrady@cambridgema.gov, mpacheco@cambridgema.gov, 617-349-6100

The Board of Zoning Appeal will hold a Public Meeting, THURSDAY – MAY 28, 2015, At the Senior Center, 806 Massachusetts Ave., First Floor, Cambridge, Massachusetts. The following cases will be heard.

7:15 P.M. CASE NO: BZA-006684-2015

45 FRANCIS AVENUE

Residence A-2 Zone

PRESIDENT & FELLOWS OF HARVARD COLLEGE – C/O DIANE GRAY

Variance: To install 7 non-illuminated signs that require relief for area, number and height.

Art. 7.000, Sec. 7.16.21.B (Signs).

7:30 P.M. CASE NO: BZA-006009-2015 – Re-Hearing

30 BRATTLE STREET

Business B Zone - HSQ

CITIZENS BANK – C/O JAMES G. WAGNER, ESQ.

Variance: To allow up to 525 sq. ft. of signage on 30 Brattle Street for three retail tenants (Citizens Bank, Bob Slate Stationer, and Leather World) in 24 signs, panels, and banners. Art. 7.000, Sec. 7.16.22 & 7.16.3 (Signage).

7:45 P.M. CASE NO: BZA-006158-2015 – Re-Hearing

10 CANAL PARK

Business A Zone/PUD-4

SPRINT SPECTRUM, L.P. – C/O ANNE K. REYNOLDS, ESQ.

Special Permit: To add three (3) new panel antennas to the Petitioner's previously approved and currently operating wireless communications facility at the Property, to be façade mounted on the existing screen wall on the rooftop of the building, together with three (3) new remote radio head (RRH) antennas to be mounted on the screen wall directly below the three (3) new panel antennas. Additionally, the Petitioner proposes to add one (1) new equipment cabinet to be located on the existing rooftop equipment platform, together with supporting equipment.

Art. 4.000, Sec. 4.32.G.1 & Sec. 4.40 (Footnote 49) (Telecommunication Facility). Art. 10.000, Sec. 10.40 (Special Permit).

8:00 P.M. CASE NO: BZA-006744-2015

562 FRANKLIN STREET

Residence C-1 Zone

THE HOUSE @ FRANKLIN STREET LLC – C/O EDWARD A. GOTTLIEB, ESQ.

Variance: To install exterior stairways to second floor, to build 2-story rear addition.

Art. 5.000, Sec. 5.31 (Table of Dimensional Requirements). Art. 8.000, Sec. 8.10, 8.20, 8.21, 8.22 & 8.22.1 (Non-Conforming).

Special Permit: Relocation and an addition of windows and doors and add a bulkhead.

Art. 8.000, Sec. 8.22.2.C (Non-Conforming Structure).

8:15 P.M. CASE NO: BZA-006699-2015

29 GURNEY STREET

Residence B Zone

HERRICK HAWKINS

Variance: To expand and reconstruct existing front porch and deck closer to the left side property line.

Art. 5.000, Sec. 5.31 (Table of Dimensional Requirements).

8:30 P.M. CASE NO: BZA-006701-2015

32-34 VALENTINE STREET

Residence C-1 Zone

ANDREW McAFEE – C/O CAMPBELL ELLSWORTH, ARCHITECT

Variance: To raise eave (volume) within required setback; allow cantilevered window seat to touch ground within required setback; allow cantilevered fireplace to touch ground within required setback.

Art. 5.000, Sec. 5.31 (Table of Dimensional Requirements).

Special Permit: To modify window & door openings within required setback.

Art. 8.000, Sec. 8.22.2.C (Non-Conforming Structure).

8:45 P.M. CASE NO: BZA-006742-2015

174 LAKEVIEW AVENUE

Residence B Zone

SHIPPEN L. PAGE & ANNE ST. GOAR – C/O SHIPPEN L. PAGE, ESQ. & JULIA S. POWELL, ESQ.

Variance: To add a greenhouse on the south side of the existing family room.

Art. 5.000, Sec. 5.31 (Table of Dimensional Requirements).

9:00 P.M. CASE NO. BZA-006768-2015

111 GROZIER ROAD

Residence B Zone

LAURA HARDER

Special Permit: To add and alter windows and enclose a first floor covered porch on facades within the side and rear setback. **Art. 5.000, Sec. 5.31 (Table of Dimensional Requirements).**

Art. 8.000, Sec. 8.22.2.C (Setback, Non-conforming Structure). Art. 10.000, Sec. 10.40 (Special Permit).

COPIES OF THIS PETITION ARE ON FILE IN THE OFFICE OF THE CITY CLERK, CITY HALL CAMBRIDGE MA. CASES CAN BE REVIEWED AT INSPECTIONAL SERVICES DEPARTMENT, LOCATED AT 831 MASS AVENUE. CONTINUED CASES ARE NOT ADVERTISED BUT POSTED IN THE OFFICE BOARD AT CITY CLERK'S OFFICE CITY HALL.

INTERESTED PERSONS MAY PROVIDE COMMENTS TO THE BOARD OF ZONING APPEAL BY APPEARING IN PERSON AT THE HEARING OR MAY PROVIDE WRITTEN COMMENTS FOR THE BOARD'S CONSIDERATION BY SENDING OR FAXING THEM TO THE ATTENTION OF THE SECRETARY (BOARD OF ZONING APPEAL), 831 MASSACHUSETTS AVENUE, 02139/ FAX 349-6183. COMMENTS MUST BE SUBMITTED PRIOR TO THE HEARING AND INCLUDE THE CASE NUMBER.



CAMBRIDGE INSPECTIONAL SERVICES DEPARTMENT

All Permit Applications Restaurant Inspections Calendar News City Home
Text Size: A A A

Building / Electric / Plumbing Permits Food & Sanitary Zoning Housing Codes & Maps Online Permit Program Help About Us

Calendar

Inspectional Services > Calendar

Download as iCalendar

« October »

S	M	T	W	T	F	S
27	28	29	30	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Monthly Weekly Daily

« Thursday, October 22, 2015 »

- Board of Zoning Appeal Continued Cases Agenda
10/22/2015
- Board of Zoning Appeal Agenda
10/22/2015

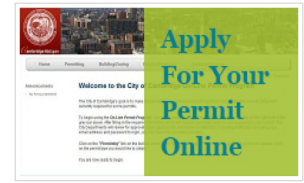
Filter by:
Search by keyword:

Search

How Can We Help You?

Contractors
Select your industry

Residents, Tenants, & Students
Select a Task



Inspectional Services Department
831 Massachusetts Avenue
Cambridge MA 02139
Phone: 617-349-6100
Fax: 617-349-6132
TDD: 617-349-6112
[Contact Us](#)

Hours
Monday: 8:00am-8:00pm
Tuesday-Thursday: 8:00am-5:00pm
Friday: 8:00am-1:00pm

Counter Hours:
Monday: 8:00am - 9:30am
4:30pm - 6:30pm

Board of Zoning Appeal Continued Cases Agenda

7:00 PM - 11:00 PM Thursday, October 22, 2015

Location:

Citywide Senior Center
806 Massachusetts Ave
Cambridge

Contact:

Ranjit Singanayagam, Sean O'Grady, Maria Pacheco , ranjits@cambridgema.gov,
sogrady@cambridgema.gov, mpacheco@cambridgema.gov, 617-349-6100

**TO: CITY CLERK
PLANNING BOARD**

**The Board of Zoning Appeal will hold their continued cases meeting
Thursday,**

**OCTOBER 22, 2015, at the Senior Center, 806 Massachusetts Ave.,
First Floor,**

Cambridge, MA. The following cases will be heard:

6:30 P.M. – EXECUTIVE SESSION

1. 42 BSR LLC & another v. Zoning Board of Cambridge, Appeals Court Docket No. 2015-P-1074; minutes of the May 28, 2015 Board of Zoning Appeal executive session.
1. Richard D. Fanning v. Constantine Alexander et al., Land Court Docket No. 4 MISC 484762-RBF.

1. BZA Case No. 007664-2015/T-Mobile Northeast, LLC special permit application.

**7:00 P.M. CASE:
BZA-007045-2015**

1 WOOD STREET

ROB & ASHLEY WOOD

Variance: To construct a two-story addition with basement to the rear of the existing non-conforming house.

Special Permit: To install windows in a setback.

**7:00 P.M. CASE:
BZA-007170-2015**

307 FRESH POND PARKWAY

EMJR PROPERTIES, INC.

**C/O JOSEPH M. NOONE,
ESQUIRE**

Variance: To increase the height of building.

Special Permit: To change use from restaurant to auto repair and waive parking setback requirements.

**7:00 P.M. CASE:
BZA-007258-2015**

69 RINDGE AVENUE

**BRETT HANSMEIER & NANDINI
MANI**

**Variance: To add dormer to meet
code in stairwell from floors 2 to 3 &
allow add '1 bathroom(s), modify
existing dormer to improve bedroom
living space and add exterior rear
stairwell & 2nd floor deck.**

**Maria L. Pacheco
Zoning**

Administrative Assistant

Board of Zoning Appeal Agenda

7:00 PM - 11:00 PM Thursday, October 22, 2015

Location:

Citywide Senior Center
806 Massachusetts Ave
Cambridge

Contact:

Ranjit Singanayagam, Sean O'Grady, Maria Pacheco , ranjits@cambridgema.gov, sogrady@cambridgema.gov, mpacheco@cambridgema.gov, 617-349-6100

The Board of Zoning Appeal will hold a Public Meeting, THURSDAY – OCTOBER 22, 2015, At the Senior Center, 806 Massachusetts Ave., First Floor, Cambridge, Massachusetts. The following cases will be heard.

7:30 P.M. CASE NO: BZA-008216-2015

45 COOLIDGE HILL RD.

Residence A-2 Zone

NORA MacDONALD & RANDY BERKOWITZ – C/O KYLE SHEFFIELD, ARCHITECT

Variance: Removal of 3 front & rear porches. Construct a front entry porch addition to an existing two-family detached dwelling and construct a dormer on 3rd floor. Art. 5.000, Sec. 5.30 (Table of Dimensional Requirements).

7:45 P.M. CASE NO: BZA-008218-2015

22 CHATHAM STREET #22/2

Residence C-1 Zone

TRISHA MONTALBO

Special Permit: To change the dimensions of a second-story window on the left side of the house.

Art. 5.000, Sec. 5.31 (Table of Dimensional Requirements).

Art. 8.000, Sec. 8.22.1.D & Sec. 8.22.2.C (Non-Conforming Structure).

8:00 P.M. CASE NO: BZA-008287-2015

269-273 PUTNAM AVENUE

Residence C-1 Zone

LOUIS MASTRANGELO – C/O JAMES J. RAFFERTY, ESQ

Variance: To allow for the ground floor of accessory structure approved in BZA Case No. 6937 to be used for limited retail food sales and restaurant. Art. 4.000, Sec. 4.35.A. 2 (Retail Establishment). Sec. 4.35.E (Restaurant). &

Art. 10.000, Sec. 10.30 (Variance).

8:15 P.M. CASE NO: BZA-008315-2015

346 NORFOLK STREET

Residence C-1 Zone

RITA LEAL

Special Permit: Petitioner owns both 346 and 348 Norfolk Street and requires a common driveway on their exclusive land for total of two parking spaces. Art. 6.000, Sec. 6.43.2 (Layout of Parking). Sec. 6.43.4 (Minimum Width of 10 ft.).

Sec. 6.22.1 (Off Street Parking). Sec. 6.42.0 (Dimensions in Compliance – 2 spaces). Sec. 6.43.5 (Contiguous Lots/Tandem).

Sec. 6.43.6 (Common Driveway). & Article 10.000, Sec. 10.40 (Special Permit).

8:15 P.M. CASE NO: BZA-008326-2015

348 NORFOLK STREET

Residence C-1 Zone

RITA LEAL

Special Permit: Petitioner owns both 346 and 348 Norfolk Street and requires a common driveway on their exclusive land for total of two parking spaces. Art. 6.000, Sec. 6.43.2 (Layout of Parking). Sec. 6.43.4 (Minimum Width of 10 ft.).

Sec. 6.22.1 (Off Street Parking). Sec. 6.42.0 (Dimensions in Compliance – 2 spaces). Sec. 6.43.5 (Contiguous Lots/Tandem).

Sec. 6.43.6 (Common Driveway). & Article 10.000, Sec. 10.40 (Special Permit).

COPIES OF THIS PETITION ARE ON FILE IN THE OFFICE OF THE CITY CLERK, CITY HALL CAMBRIDGE MA. CASES CAN BE REVIEWED AT INSPECTIONAL SERVICES DEPARTMENT, LOCATED AT 831 MASS AVENUE. CONTINUED CASES ARE NOT ADVERTISED BUT POSTED IN THE OFFICE BOARD AT CITY CLERK'S OFFICE CITY HALL.

INTERESTED PERSONS MAY PROVIDE COMMENTS TO THE BOARD OF ZONING APPEAL BY APPEARING IN PERSON AT THE HEARING OR MAY PROVIDE WRITTEN COMMENTS FOR THE BOARD'S CONSIDERATION BY SENDING OR FAXING THEM TO THE ATTENTION OF THE SECRETARY (BOARD OF ZONING APPEAL), 831 MASSACHUSETTS AVENUE, 02139/FAX 349-6183. COMMENTS MUST BE SUBMITTED PRIOR TO THE HEARING AND INCLUDE THE CASE NUMBER.

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MAY 28, 2015

7:20 p.m.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Member

Douglas Myers, Associate Member

George S. Best, Associate Member

Alison Hammer, Associate Member

Jim Monteverde, Associate Member

Sean O'Grady, Zoning Specialist

REPORTERS, INC.

CAPTURING THE OFFICIAL RECORD

617.786.7783/617.639.0396 (Fax)

www.reportersinc.com

I N D E X

<u>CASE</u>	<u>PAGE</u>
EXECUTIVE SESSION ON 42 BAY STATE ROAD Case #10461 (Minutes Not Taken)	
BZA-006097-2015 -- 562 Franklin Street	
BZA-006684-2015 -- 45 Francis Avenue	3
BZA-006009-2015 -- 30 Brattle Street	25
BZA-006158-2015 -- Re-Hearing 10 Canal Park	119
BZA-006744-2015 -- 562 Franklin Street	128
BZA-006699-2015 -- 29 Gurney Street	159
BZA-006701-2015 -- 32-34 Valentine Street	166
BZA-006742-2015 -- 174 Lakeview Avenue	183
BZA-006768-2015 -- 111 Grozier Road	194

Keyword Index