



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

BRIAN MURPHY
Assistant City Manager for
Community Development

SUSAN GLAZER
Deputy Director for
Community Development

To: Planning Board
From: CDD Staff
Date: **September 25, 2012**
Re: **Waiver of Parking on Private Way Petition**

The petition in essence proposes that the requirement to provide an off-street parking space for a "single dwelling unit ... located on a private way" shall be waived in the Residence A-1, A-2, B and Open Space districts if the Fire Department provides "written notice ... that emergency access would not be impaired."

CDD has consulted with the Traffic, Parking and Transportation Department (TPT) to identify some issues that are raised by this proposal.

Types of Private Ways

There are two general categories of private way. The first, which is most likely the type anticipated in the zoning petition, is a right-of way where abutting property owners own fee rights to the land, usually to the centerline of the right-of-way. For these private ways, property owners generally have the ability to park on the section of the way in front of their property if adequate passage can be maintained. However, for public safety purposes, TPT has the ability to designate and enforce a "fire lane" along any section of the private way where parking would be prohibited.

The other type of private way is a right-of-way that is owned by the City of Cambridge or other public entity but has not been officially accepted as a public street. There are various reasons why the City might choose to retain a private way designation instead of a public way, such as utility easements, lack of sidewalks or other traffic considerations. However, the City controls and maintains those private ways. While parking may be allowed on these City-owned private ways, it may not be appropriate to use them as a substitute for required off-street parking.

Emergency Safety

The City (through TPT, typically with consultation from the Fire Department) has the ability to designate fire lanes on private ways at any time. The stipulation in the proposed zoning that requires "written notice from the Fire Department that emergency access would not be impaired" could imply that the City, by issuing such notice, would be waiving its right to create a parking restriction if there is a compelling reason to do so at some point in the future. To err on the side of caution, the Fire Department may not wish to provide such notice. Conversely, if the City does impose a parking restriction after having provided such a notice, it could create uncertainty as to whether the dwelling unit still conforms to the zoning requirements.

Physical Standards

Fee rights to a private way do not always guarantee that there is the effective capability to park a car there. The private way might simply not be wide enough to accommodate parking on one or both sides of the street while maintaining adequate passageway, and as previously mentioned, the City can restrict parking access for safety purposes. There could also be other impediments that are not specifically related to public safety, such as easements, curb cuts, or physical barriers that would legally or physically complicate the effective parking of a vehicle. Current zoning contains dimensional and layout standards for off-street parking; the proposed zoning change would have no such requirements to guarantee that parking on the private way would be comparable to an off-street space.

Availability of Parking for All Abutters

The language of the petition refers to scenarios where “a single dwelling unit is located on a private way.” However, a private way typically has multiple abutters, even if some of the abutting lots do not have automobile access to the private way. Even where there is adequate space on a private way abutting a particular property, allowing a car to park in that space may prevent a car from parking across the street or elsewhere on the private way while maintaining passage to all abutting lots. This could result in confusion and conflict among neighbors if it turns out that the private way is inadequate to accommodate the parking needs of all the abutting property owners who own rights to the private way.

Administration and Compliance

In order to administer the proposed requirement, the Fire Department (along with TPT) would need to assess the condition of the private way and make a determination as to whether the required parking for abutters could be accommodated on the private way while providing adequate passage. However, the proposed zoning does not require that a parking space be specifically designated with striping or signage, only that the dwelling unit be “located on a private way.” Without designating actual spaces, it would be difficult for the Fire Department (for safety purposes) and Inspectional Services Department (for zoning compliance purposes) to certify that the requirements are met.

However, designating individual spaces on a private way would create another set of issues with regard to ongoing enforcement. While the City would need to enforce safety-related issues on the private way, individual property owners (individually or collectively) would need to enforce parking restrictions, but would also need to demonstrate to the Inspectional Services Department that the zoning requirements are being met.

Conclusion

The standard of one off-street parking space per dwelling unit is applicable across the city. Where exceptions have been granted, they have been based on site-specific review by City agencies and permit-granting authorities. An alternative to the proposed as-of-right waiver might be to retain the ability for owners to waive their parking requirement by special permit from the BZA. That way, the specific conditions of the site could be analyzed, neighbors would have a chance to comment, and appropriate conditions could be included with the approval.