

Crosbie, Allison

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Sent: Friday, June 25, 2021 9:20 AM
To: Burks, Sarah
Cc: Crosbie, Allison; Andrew Collins; Scott Zink; alison hammer; Andrew Roberts
Subject: Case MC-6112: 12 Fayette Street, 12 Fayette Street Ventures LLC,
Attachments: Appeal Response Memo (Case No. MC-6-112).pdf

Importance: High

Good morning Sarah,

Please see the attached Response Memo to the Appeal of the Certificate of Appropriateness Case No. MC-6112. If you have any questions please let me know.

Have a good weekend!

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Chairman Bruce Irving
Cambridge Historical Commission
Cambridge, MA 02139

June 25, 2021

Re: Appeal Response Memo Case No. MC-6112 (12 Fayette Street Ventures LLC)

Please be advised this office represents 12 Fayette Street Ventures LLC (hereinafter "12 Fayette Street"). 12 Fayette Street is submitting this memo to defend against an Appeal of a Certificate of Appropriateness granted by the Mid-Cambridge Neighborhood Conservation District Commission (the "Commission") and stamped by the City Clerk (See Exhibit A).

This memorandum and supporting documents will describe in detail how the proposed restoration and development project at 12 Fayette Street (the "Project"), as amended through the numerous Commission meetings and Architect's Committee meetings, satisfies the criteria for the granting of a Certificate of Appropriateness and was not an Arbitrary or Capricious approval by the Commission. As the Commission is aware, pursuant to Cambridge Municipal Code 2.78.240, this Appeal hearing is a review of the procedural due process considerations and the decision, should only be overturned if the Appellees provide substantial proof that the Commission's decision is arbitrary and capricious.

Facts:

On March 1st, 2021, the first of five (5) total meetings with the Mid-Cambridge Neighborhood Conservation District Architects Committee (hereinafter "MCNCDA") and the Commission, where 12 Fayette Street presented the development proposal for restoration and new construction of the Lot into two detached dwellings on a generous 8,768 square foot lot. Ms. Hammer presented to the Commission that the development was located in the multifamily zoning district C-1 that allows for multiple detached dwellings on a single Lot as of right. Further, it was presented to the Commission that based on the size and dimensions of the Lot as many as five (5) dwelling units could be added as of right without zoning relief.

Ms. Hammer then continued to present a detailed presentation including floor plans, elevations, renderings, materials, shadow studies, and a landscape plan highlighting how the front house would be restored and aesthetic detailing of the

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proposed rear detached dwelling. For the rear dwelling the initial proposed building program was a three-story dwelling, 35' tall and approximately 2,939 square feet. The entire third floor plate was completely covered by interior living space, generous decks, and large windows. At that meeting, and over the next several Commission and Architect meetings, 12 Fayette Street modified its proposal by substantially reducing the impact of the third floor in the following ways:

KEY ARCHITECTURAL CHANGES:

Goal: Reduce the third floor of the building so that it reads as a two story building with a pop-up third story, reduce square footage particularly on the third floor Strategies for achieving goal:

- Stair location was changed throughout the house to allow the third floor to be untethered from the walls of the floors below
- Third floor massing was brought in from all edges of the second story below
- The height of the parapet was increased to minimize visual impact of third story pop-up
- A cornice was added at the top of the parapet to emphasize two-story volume
- Added brick finish to the foundation to add materiality and delineate volumetric areas
Continued study of lightning exterior colors
- Program on the third floor was reduced to a moderately sized master bedroom and bathroom
- Third floor GFA was reduced from ~850 to ~460 sf
- Coverage of second floor roof was reduced from ~78% to ~47%
- Third floor decks and railing were removed from the street facing portion of the house to simplify street-facing façade

LANDSCAPE IMPROVEMENT SUMMARY:

- Upgrade perimeter fencing at abutters to wood board fencing – improved aesthetic from chain link fence
- Remove all lawn in favor of ground covers that are more supportive of tree roots
- Decrease impervious asphalt surface, replace with permeable unit paving to help with groundwater recharge
- Improve curb appeal of streetscape for general public with new planting design and fencing (stone post and metal fence) along frontage

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- Improve viability of existing (Norway) maple along the driveway by removing asphalt around its root zone.
- Add 10 new trees (shade and evergreen) and an additional 12 narrow arborvitae trees• Add 58 new shrubs
- Add 167 perennials plus 130 sedges/ground covers• No new invasive/exotic species, approximately 50% native species.

As evidenced by the above list of reductions and concessions the Project has been modified according to the suggestions of the Committee and residents to conform with the five (5) criteria as well as reasonable requests of the affected neighbors.

Furthermore, a recent example of a similar case approved by the Commission in 2019 was 17 Ellsworth Avenue. The Commission approved this similar sized, lone standing rear house for a Certificate of Appropriateness in the same zoning district as 12 Fayette Street.

The Commission applies five (5) notable criteria when evaluating an application for a Certificate of Appropriateness as follows: (1) avoid excessive infill, (2) encourage new construction which complements existing buildings, (3) encourage the preservation of neighborhood buildings, (4) protect national registered structures, and (5) enhance the economic vitality of the neighborhood.

Opinion:

- 1. The proposed Project at 12 Fayette Street was correctly determined by the Commission as not excessive infill therefore satisfies the first criteria of the certificate of appropriateness and is the Appellees main concern.**

The 12 Fayette Street development team paid special attention to the context of the surrounding neighborhood and during the permitting process made significant changes resulting in a reduced rear structure. Additionally, during the Architect Committee meetings the Commission recommended changes to the exterior design elements to soften the visual impact of the rear dwelling from Fayette and Antrim Streets despite the height and density being less than zoning permits in the district.

A similar case, 17 Ellsworth Ave, requesting a Certificate of Appropriateness dealt with neighborhood concerns over excessive infill. In the approval for 17 Ellsworth Ave, the applicants lowered the building structure to 2.5 stories to limit the height and infill of the property. The applicants were subsequently approved, and construction commenced (See Exhibit B). In the instant case, 12 Fayette Street has similarly lowered the third floor to appear more as a 2.5 story dwelling. Furthermore, the gross floor area of 17 Ellsworth Street was approved at 2,812 square feet and conversely the approved square footage of the rear house at 12 Fayette Street is 2,469 square feet. Compared to other recent projects that have been granted a Certificate of Appropriateness by the

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Commission, 12 Fayette Street's modified height and square footage is not excessive or inconsistent with the criteria or other approved projects.

- 2. The proposed structure will further meet criteria three (3), four (4) and five (5) of the required criteria for approving the certificates of appropriateness and hence show the certificate was in fact duly granted.**

The proposed structure will encourage the preservation of neighboring buildings because the primary three family house abutting 12 Fayette Street is proposed to be a historic restoration except for a small demolition on the rear of the three family. Additionally, the proposed rear building constitutes a passive structure, which utilizes energy in an extremely efficient way. The surrounding buildings will not be affected by any of the energy output, nor will the height and or infill affect the surrounding structures during or after development.

Furthermore, the proposed structure will be a modern addition to the existing neighborhood and the quality and energy efficient materials, and utilities of the proposed Project will enhance the economic vitality of the neighborhood. The development and restoration of a new rear house in the neighborhood will continue to add much needed family housing to Cambridge's limited housing stock appropriate for larger families. Additionally, multi-generation living is becoming the norm in Cambridge and other innovations Cities where larger living spaces are necessary. Lastly the structure is not nationally registered.

- 3. The Appellees have failed to follow the procedure for filing an appeal with the Historical Commission, and thus the Appellees' appeal should not be heard because they have no legal standing for this hearing.**

Pursuant to Cambridge Municipal Code 2.78.240, "Any applicant aggrieved by a determination of a neighborhood conservation district commission or ten registered voters of the City opposing a determination under this article may appeal to the Historical Commission within twenty days after the filing of the notice of such determination with the City Clerk" In this case the Appellees' letter of appeal fails to include any signatures neither electronic or regular needed within twenty days after the decision was filed with the City Clerk (See Exhibit C). On the twentieth day after the decision, Appellees sent a letter of their intent to appeal, however upon review they were required by the Historical Commission Staff to resubmit their appeal due to their procedural missteps. Since the appeal was not submitted and signed by ten registered voters within twenty days after the approval was filed with the City Clerk, the validity of the appeal should be called into question. Furthermore, no Appellee has provided evidence or assertions that they are an Aggrieved Party, as the Municipal Code states. Therefore, the Appellees failed to successfully appeal this determination because they neither submitted an appeal signed

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by ten registered voters, or identified themselves as aggrieved Parties to the determination.

Conclusion:

In conclusion, for the reasons stated above, the project satisfies the criteria required for the Certificate of Appropriateness and based on the evidence the Commission's determination was not arbitrary or capricious.

Thank you for your time and attention to this matter.

Very truly yours,

Sean D. Hope

