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CITY OF CAMBRIDGE, MASSACHUSETTS
PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

NOTICE OF DECISION (Summary)

In reference to the petition of Vincent DeFrabitiis for a Planning Board special permit to construct a multi-family dwelling at 37, 39 and 43 Homer Avenue, the petition has been GRANTED with the following conditions:

1. The building shall contain no more than twelve (12) dwelling units and shall not exceed a height of 35'.
2. The perimeter of the site shall be screened with landscaping or fencing.
3. Any proposal to construct additional dwelling units restricted to elderly occupancy or otherwise shall require another application for special permit .
4. Under the authority of subsection 10.45, the Planning Board granted variances for the following dimensional requirements: floor area ratio, gross floor area, minimum lot area per dwelling unit, minimum side yards, usable open space, and number of dwelling units (see complete decision for specific details).
5. Any refuse area provided outside the building shall be screened with fencing.
6. The three existing large willow trees to the rear of the property shall be retained.

A copy of this summary and the complete decision have been filed with the City Clerk's Office on 9/16/81. Appeals, if any, shall be made pursuant to Section 17, Chapter 40A, Massachusetts General Laws and shall be filed with the Superior Court Department, Middlesex County within twenty days after the date of the filing of this document and the complete decision in the City Clerk's Office.

Elizabeth McCarthy
Elizabeth McCarthy
Secretary of the Planning Board



CITY OF CAMBRIDGE, MASSACHUSETTS
PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

CASE NO.: PB-12
PREMISES: 37, 39 and 43 Homer Avenue
ZONING DISTRICT: Business A-1 (BA-1)
PETITIONER: Vincent DeFrabitiis
APPLICATION DATE: April 30, 1981
PUBLIC HEARING DATE: June 9, 1981
PETITION: Multi-Family Special Permit in Accordance with the
Requirements of 4.25
DATE OF PLANNING BOARD DECISION: August 4, 1981

PETITION

This petition, as originally submitted on 4/30/81, proposed a multi-family dwelling containing 24 dwelling units to be constructed in a seven-story building at a height of 60'. Parking for the proposed development would be enclosed at grade level under the residential floors and along the perimeter of the site. There are currently on the site two rent controlled dwellings owned by the petitioner. The Rent Control Board would have to give permission for removal of these units.

DOCUMENTS

In support of the petition the following documents were submitted:

1. Application form and required materials, site plan and elevations drawn by D. F. Valente, Architect and Planner dated 4/7/81 and certified as complete on 4/30/81 (original submission).
2. Revised site plan depicting redesigned parking layout dated 6/5/81 and submitted before 6/9/81 hearing.
3. Revised application form/data proposing 16 units, dated 6/15/81.
4. Revised site plan showing layout for 16 parking spaces, dated 6/15/81, submitted 8/4/81.

5. Elevations for a 16 unit dwelling (5 stories) and elevations for a 12 unit dwelling (4 stories) both dated 7/31/81 and submitted 8/4/81.

PUBLIC HEARING

Ralph Devito, Attorney for Mr. DeFabritiis, summarized the proposed development which includes 24 2-bedroom rental units with a 60' high brick building. The 4-family and 2-family structures presently on the lot would be removed. Mr. Devito indicated that he is aware that a removal permit from the Rent Control Board is required and he must go to the Historical Commission since one of the structures is over 50 years old.

Mr. Devito cited economic reasons for proposing an increase in density from 10 permitted units to 24 units. He also discussed the sewer easement across his client's property which prevents residential construction at grade level.

Dominic Valente, the Architect, presented the plans for the proposed development and answered questions.

Board member Genvea Malenfant stated that she could not approve any proposal which exceeds the permitted zoning to the extent proposed. The proposal shows more than twice the density allowed and is not appropriate in a C-1 district.

Member David Kennedy also voiced his concern over the excessive density and he indicated he could not support the plan as proposed.

Questions were then asked by members of the audience.

One person asked if treatment of additional run-off had been accounted for since property at 35 Homer Avenue had problems with flooding. Mr. DeFabritiis stated that the problem was from Star Market and they had solved that problem.

A question was posed as to the possibility of resubmission if this plan was not approved. The response was affirmative; a new plan could be submitted.

Testimony

The following people testified in opposition to the proposal: Bob Bonanno, 35 Homer Avenue; Natalie Scalcione, 11 Home Avenue; Bruce McNeil, 25 Homer Avenue; Franklin Tseng, 35 Homer Avenue. Their major concerns included the existing traffic and parking problem on Homer Avenue, the existing water run-off problem and potential increase by this project, noise and disruption by construction, and the overall density and bulk of the proposed building.

No one testified in favor of the petition.

Other Comments

The Board received two letters in opposition to the project. One of the letters was signed by nine residents from Aberdeen Avenue. Robert Lupo, attorney for Jean Reynolds, 35 Homer Avenue, telephoned the staff to voice his opposition to the proposal. A letter was received from Lauren Preston, Cambridge Traffic Department, summarizing their review of the proposed development, which indicated that the parking plan will not work if changes are not made.

PLANNING BOARD DISCUSSION

At subsequent meetings in June and July, the Board reviewed this proposal with the applicant. Revised proposals calling for 12 or 16 units were discussed.

FINDINGS

After due consideration of the information presented at the hearing and subsequent meetings, the Board makes the following findings:

1. It appears that the requirements of the Ordinance cannot be met but this is due to legitimate hardship as will be discussed.
2. Homer Avenue is a heavily traveled street due to the numerous multi-family dwellings (some are five and six stories) and the ingress/egress point for one of the Star Market parking lots. Nevertheless, the Board finds that a twelve (12) unit building will not unreasonably add to existing traffic patterns in this area.
3. The continued operation of or the development of adjacent uses will not be adversely affected by a twelve unit development.
4. There should be no nuisance or hazard created by this development.
5. The development will not impair the integrity of this zoning district or adjoining districts and will not derogate from the intent and purpose of the ordinance.
6. Some tree removal will be necessary for construction but other vegetation shall be preserved wherever possible.
7. The proposed building (35' in height) will not overwhelm abutting structures. The brick construction and overall appearance will resemble other buildings in the area.
8. Landscaping will be adequate but the perimeter of the site should be screened with densely planted shrubs or trees and/or fencing.
9. The original submission calling for 24 parking spaces would not have worked as cited by Lauren Preston, Traffic Engineer for the City's Department of Traffic and Parking. A modified version proposing 16 spaces should be safe and convenient and conform to zoning regulations except as noted under the "DECISION" of this document, #9.

The Board further finds that:

- 10. This area has been downzoned twice in the past seven years. In 1974 it was rezoned from Bus. B (Res. C-3, 3.0 FAR, and unlimited height) to Bus. A (Res. C-2, 1.75 FAR and 85', height limit). It was further downzoned in 1975 from Bus. A to Bus. A-1 (Res. C-1, .75 FAR and 35' height limit). It seems clear that the City's land use policy for this area is one of low scale and low density particularly for residential development.
- 11. There was substantial neighborhood opposition to the originally proposed submission calling for a 24 dwelling unit building with a height of 60'.
- 12. The Board finds that due to the sewer easement preventing residential development at grade level, literal enforcement of the provisions of this Ordinance would involve a substantial hardship. Such hardship is owing to circumstances that affect the parcel in question and generally do not affect other parcels in the zoning district. Desirable relief can be granted without substantial detriment to the public good or substantially derogating from the intent or purpose of the Cambridge Zoning Ordinance.
- 13. The Board finds that the original submission contained the following violations which would customarily require a variance.

<u>Table 5-1</u>	<u>Required, Res. C-1</u>	<u>Proposed Res. C-2A</u>
F.A.R.	.75 (max. allowed)	2.2
gross floor area	9,434 s.f. (max. allowed)	27,712 s.f.
minimum lot area/ dwelling unit	1,200 s.f.	524 s.f.
# of dwelling units	10 (max. allowed)	24
minimum yards in feet: side (both)	H+L/5, 60+84/5 = 28.8'	22'
open space	15% of lot area or 1,887s.f.	4.3% or 542 s.f.

<u>(old) Subsection 6.56</u>	<u>Required</u>	<u>Proposed</u>
Parking space setbacks from property lines	5'	3 spaces have less than a 5' setback
<u>(old) Subsection 6.55</u>		
Parking space width	8½'	12 spaces have a width of less than 8½'
Parking space length	20'	1 space has a length of less than 20'

DECISION

In light of the above findings the Planning Board GRANTS a Special Permit to construct a multi-family dwelling (5-0) subject to the following conditions.

1. The location, size, and design of the building, parking facilities and landscaping shall remain generally as indicated in revised maps as submitted to the Planning Board on August 4, 1981, revision date 6/15/81, except as may be modified below.
2. The building shall contain no more than twelve (12) dwelling units and shall not exceed a height of 35'.
3. The applicant shall screen the perimeter of the site (to screen all open air parking spaces, view of enclosed parking areas, and driveways). The screening shall consist of strips at least five (5) feet in width of densely planted shrubs or trees which are at least two (2) feet high at the time of planting and are of a type that may be expected to form within three years after time of planting a continuous, unbroken year-round visual screen. As an alternative, the applicant may install a continuous fence around the perimeter of the site to serve as screening. The fence shall be of uniform appearance (preferably board type) and shall be at least four (4) feet and not more than six (6) feet in height. Chain-link fence shall not satisfy screening requirements. Planted screening and/or fencing shall be no higher than two (2) feet within ten (10) feet of driveways.
4. Any proposal to construct additional dwelling units restricted to elderly occupancy or otherwise shall require another application for special permit.
5. Under the authority of subsection 10.45, the Planning Board grants the following variances:

<u>Table 5-1</u>	<u>Required</u>	<u>Granted</u>
FAR	.75 (max. allowed)	1.14
Gross floor area	9,434 s.f. (max. allowed)	14,356 s.f.
Min. lot area per dwelling unit	1,200 s.f.	1,048 s.f.
Min. yards in feet side (both)	$35 + 84/5 = 23.8'$	22'
Open Space	1,887	1,841±
# of dwelling units	10 (max. allowed)	12

6. Any refuse area provided outside the building shall not be located in any landscaped area as shown on maps submitted to the Board on August 4, 1981, and shall be properly screened on all sides with a minimum five (5) foot high board fence.
7. The three existing large willow trees to the rear of the property shall be permanently retained and adequately protected during construction.
8. A plan indicating the size and type of plant materials (tree or shrub) to be used in the landscaped area shall be provided. All landscaped areas shall be adequately protected with curbing.

9. Only twelve parking spaces shall be required. The parking space on the north side of the building, parallel to the drive, shall be eliminated and its area landscaped.
10. The applicant shall submit to the Community Development Department three copies of the final site plan and elevations reflecting all conditions of approval. This must be done before this decision can be filed in the Clerk's Office.

Respectfully submitted,

For the Planning Board

Arthur C. Parris
Arthur C. Parris
Chairman

ATTEST: A true and correct copy of the decision filed with the Office of the City Clerk on Sept. 16, 1981 by Marc A. Levesque, authorized representative of the Cambridge Planning Board. All final development plans reflecting all revisions referred to in the decision have likewise been filed with the City Clerk on such date.

Twenty days have elapsed since the filing of this decision. No appeal has been filed _____ . Appeal has been filed but has been dismissed or denied _____ .

Date: _____

City Clerk, City of Cambridge