CAMBRIDGE HISTORICAL COMMISSION

831 Massachusetts Avenue, 2nd Fl., Cambridge, Massachusetts 02139
Telephone: 617 349 4683 E-mail: histcomm@cambridgema.gov
URL: https://www.cambridgema.gov/historic

Chandra Harrington, *Chair*; Elizabeth Lyster, *Vice Chair*; Charles Sullivan, *Executive Director*
Joseph V. Ferrara, Gavin W. Kleespies, Paula A. Paris, Kyle Sheffield, Yuting Zhang, *Members*
Florrie Darwin, Scott Kyle, Michael Rogove, *Alternates*

Date: 10/1/26

To: Tanya L. Ford, Executive Director
Election Commission

From: Charles M. Sullivan, Executive Director
Cambridge Historical Commission

Re: Request for Verification of Registered Voters

As required by Chapter 2.78.240 of the Code of the City of Cambridge, the Historical Commission requests that the names on the attached petition appealing a decision of a Neighborhood Conservation District Commission be verified as being registered voters of the City of Cambridge.

ONLY TEN NAMES NEED TO BE VERIFIED TO VALIDATE THIS APPEAL PETITION.

Please sign and return to the Historical Commission via interoffice mail.

Signatures checked by _____ Date 10/1/26

2026 OCT -1 PM 3:26
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

RECEIVED
2026 OCT -1 PM 1:52
CITY OF CAMBRIDGE
HISTORICAL COMMISSION

Justin Saif
72 Thorndike St
Cambridge, MA 02141

September 28, 2026

Cambridge Historical Commission
831 Massachusetts Avenue, 2nd Floor
Cambridge, MA 02139

Re: Appeal of Mid-Cambridge Neighborhood Conservation District Commission Determination — Case MC-7613, 106 Ellery Street

The undersigned 10 (ten) registered voters of Cambridge appeal the determination in Case MC-7613 [Ex. 1] filed with the City Clerk on September 11, 2026, under Cambridge, Mass., Mun. Code § 2.78.240 (2026). This appeal is filed within twenty days of that filing. We ask the Commission to overrule the determination and remand it to the Mid-Cambridge Neighborhood Conservation District (NCD) for reconsideration. The Commission applied a three-part standard in the appeal of Case MC-7293, under which it considers "a) whether due process requirements were met; b) whether the NCD Commission had sufficient evidence to support its decision (i.e., the decision was not arbitrary or capricious); and c) whether the NCD Commission acted within its authority."[1] Petitioners' objection arises on these three grounds.

In MC-7613 the Mid-Cambridge NCD voted to grant a certificate of appropriateness to renovate a home at 106 Ellery Street and construct a single-family home behind it. The hearing was held on September 8, 2026, and the certificate was approved on a roll call vote.

One of the members who voted did not hear the evidence in its entirety. At the outset of the meeting when the roll was called, the Chair received no response for Member Tice, and staff indicated she was absent. Upon the late arrival of Member Canto, the Chair updated the quorum, again without Tice. Forty-nine minutes into the meeting, after the staff presentation and the proponent's presentation, staff announced "Cathie is here now", at which point Member Tice questioned the proponent and subsequently voted. Member Tice's vote was cast as "Approve with more photographic substantiation." The motion was not amended or restated and carried 7–0. Staff incorporated Member Tice's comment as a condition on the Certificate of Appropriateness. [Ex. 1]

When a municipal board acts in a judicial or quasi-judicial capacity, "all [members of the board] who are to join in the decision must have attended the hearing." *McHugh v. Board of Zoning Adjustment of Boston*, 336 Mass. 682, 684–85 (1958), quoted in *Mullin v. Planning Bd. of Brewster*, 17 Mass. App. Ct. 139, 142 (1983). G.L. c. 39, § 23D creates a narrow exception: a member absent from no more than a single session of a hearing at which evidence

[1] Memorandum from Charles Sullivan, Exec. Dir., Cambridge Historical Commission, to Members and Alternates of the Cambridge Historical Commission, *Appeal of Case MC-7293: 60 Ellery Street* 8 (Apr. 2026), https://www.cambridgema.gov/-/media/files/historicalcommission/pdf/chcmeetingfiles/mc7293_appeal_memo.pdf.

is received is not disqualified from voting, but only if, before the vote, the member certifies in writing that they have examined all evidence received at the missed session, including a recording or transcript. The statute further provides that the written certification is part of the record of the hearing. No certification under § 23D appears in the record. As meeting recordings are not available until after a meeting concludes, Member Tice could not have examined the evidence she missed before she voted. This is not a harmless error as Member Tice introduced the only condition attached to the Certificate of Appropriateness.

Cambridge Historical Commission (CHC) Member Kyle Sheffield is the proponent of record for MC-7613 [Ex. 2], and presented the case to the Mid-Cambridge NCD. The Certificate of Appropriateness identifies Sheffield's firm, Blue Hour Design, as having prepared project plans. [Ex. 1] Sheffield has served as a member or alternate of the CHC since 2016 and is a special municipal employee. Under § 2.78.240 every NCD determination is reviewable by this Commission. Any application before an NCD is therefore within the official responsibility of every member of this Commission. This review authority is not merely hypothetical. On April 9, 2026, as a CHC Member, Sheffield heard and voted on an appeal of Mid-Cambridge NCD business in Case MC-7293. This appeal asks the same body to review Sheffield's own project.

Similar facts have already been addressed by the State Ethics Commission. *In re Devlin*, Pub. Enf't Letter 99-2, 1998 SEC 915 (Aug. 26, 1998).[2] William Devlin, an architect on the Springfield Historical Commission, prepared plans his clients submitted to that board but never appeared and did not vote. The Ethics Commission found reasonable cause to believe Devlin violated § 17(a) and (c), and issued a public letter to that effect. Footnote 13 clarifies that "a special municipal employee is prohibited from acting privately on those matters concerning his own municipal board or agency, even if the matter is before a different municipal board or agency." The Ethics Commission found reasonable cause even though Devlin never appeared before his own board and never voted. Sheffield appeared and presented. Sheffield was not identified as a Commissioner while the case was being heard or in the written materials.[3] This failure of due process denied the NCD that information and deprived the public of the opportunity to respond.

The Mid-Cambridge NCD based its decision in part on the existence of a restrictive covenant. The proponent represented that the sellers of 106 Ellery Street burdened the property with restrictive covenants, which he said were "deeded to this particular property as part of the sale." He presented a site analysis in which the buildable area for the rear structure was derived from those restrictions, and described the front building as limited to no change in footprint and no increase in ridge height on the same basis. Members credited the covenant on the record, one commenting immediately prior to the motion, "strong kudos to the person who set up the covenant that set up these limitations". No covenant was entered into the record. Petitioners searched the Middlesex South Registry of Deeds on September 13, 2026 and found no recorded restriction affecting 106 Ellery Street. Record title remains in 106

[2]Public Enforcement Letter 99-2: William J. Devlin
https://www.mass.gov/letter-ruling/public-enforcement-letter-99-2-william-j-devlin

[3]When later opposing a project at 9 Ellsworth Avenue, Sheffield identified himself as a member of the Cambridge Historical Commission.

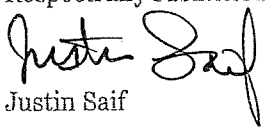
Ellery Street Realty Trust, by deed recorded April 10, 2026 at Book 85458, Page 365. Limitations on the buildable envelope were derived from a covenant which does not appear in the record, so the decision is unsupported by the evidence.

The NCD exceeded its authority and behaved in an arbitrary and capricious manner. Cambridge, Mass., Mun. Code § 2.78.220 (2026) directs that "a Neighborhood Conservation District Commission shall not consider the appropriateness of the size and shape of the structure". Contrary to this limitation, the Certificate of Appropriateness finds, "[t]he Commission acknowledges the size and shape as well as the dimensions and setbacks of the proposed rear structure".[Ex. 1] During the hearing, one member described the new construction as "well-proportioned" and later as "respecting scale." § 2.78.220 further requires the NCD to "consider community goals as may from time to time be expressed by the City Council, including the need to provide additional housing, affordable and otherwise". The NCD did not consider housing in its analysis, with no member asking any questions about the net loss in housing from this project. Twenty minutes later, the same members questioned the proponent of a project at 9 Ellsworth Avenue about housing, including the number of units, affordability, and sale price. The NCD exceeded its authority by considering size and shape, and was arbitrary and capricious in ignoring Council housing goals.

Petitioners request that the Commission overrule the determination in MC-7613 and remand it to the Mid-Cambridge NCD for a new hearing.

Because this appeal concerns Mr. Sheffield's project, petitioners request that he take no part in its consideration or decision.

Respectfully submitted,



Justin Saif

EXHIBIT 1

MC-7613: 106 Ellery Street Certificate of Appropriateness

Mid Cambridge Neighborhood Conservation District Commission

831 Massachusetts Avenue, Cambridge, Massachusetts 02139
Telephone: 617 349 4683 Fax: 617 349 3116 TTY: 617 349 6112
E-mail: histncds@cambridgema.gov
URL: http://www.cambridgema.gov/Historic/midcambridgehome.html

Jacquelyn Fahey Sandell, *Chair,*
Aaron Canto, Pauke Corstens, Ksenia Kaladiouk, Catherine Tice,
Alex Van Praagh, *Members*
Min Ho Kim, Felix Rosen, *Alternates*

2026 SEP 11 AM 11:10
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

City Clerk
Please file

CERTIFICATE OF APPROPRIATENESS

PROPERTY: **106 Ellery Street**

OWNER: **Matt Hayes**
17 Ellsworth Avenue
Cambridge, MA 02138

The Mid Cambridge Neighborhood Conservation District (NCD) Commission, pursuant to Title 2, Chapter 2.78, Article III, Section 2.78.140-270 of the Code of the City of Cambridge and the City Council order establishing the Commission, reviewed the proposal described below:

Renovate existing structure and enclose rear decks. Construct detached dwelling in rear of property.

Findings of Fact and Determination:

1. **The Commission acknowledges the size and shape as well as the dimensions and setbacks of the proposed rear structure, provided that these measures conform to current zoning requirements.**
2. **The proposed project preserves the original historic front structure.**

After consideration of the historic and architectural value and significance of the existing building and its setting, the general design, arrangement, texture, and material of the features involved with the proposed new building, and the relation of such features to similar features of structures in the surrounding area, the Mid Cambridge NCD Commission makes the following determination:

As reviewed under the Commission's current jurisdiction, the proposed addition/restoration and new construction at 106 Ellery Street is found to be not incongruous to the historic aspects, architectural significance, or the distinctive character of the neighborhood conservation district, and the application for a Certificate of Appropriateness is hereby granted and is binding on the applicant.

Approval was granted with the condition that staff review additional 3-dimensional renderings.

The Commission recommends that the applicant work with abutters on preserving the mature red oak tree adjacent to the property.

Work shall be carried out as indicated on the project plans titled "Ellery Residences," by Blue Hour Design, Boston, MA, and dated August 17, 2026.

This certificate is granted upon the condition that the work authorized is commenced within six months after the date of issuance. If the work authorized by this certificate is not commenced within six months after the date of issuance, or if such work is suspended in significant part for a period of one year after the time the work is commenced, this certificate shall expire and be of no further effect; provided that, for cause, one or more extensions not exceeding ninety days each may be allowed in writing by the Chairman.

Case Number: MC 7613 Date of Certificate: September 8, 2026

Attest: A true and correct copy of decision filed with the office of the City Clerk and the Mid Cambridge Neighborhood Conservation District Commission on September 11, 2026.

By Jacquelyn Fahey Sandell/aac, Acting Chair

Twenty days have elapsed since the filing of this decision. No appeal has been filed _____.
Appeal has been filed _____, Date
_____, City Clerk

Mid Cambridge Neighborhood Conservation District Commission

Cambridge Historical Commission, 831 Massachusetts Ave., 2nd Fl., Cambridge, MA 02139
Telephone: 617 349 4683 Fax: 617 349 3116 TTY: 617 349 6112
E-mail: histncds@cambridgema.gov URL: www.cambridgema.gov/historic/midcambridgehome.html

APPLICATION FOR CERTIFICATE

Section 1:

1. The undersigned hereby applies to the Mid Cambridge Neighborhood Conservation District Commission for a Certificate of (check type of certificate): ☑ Appropriateness, ☐ Nonapplicability, or ☐ Hardship, in accordance with Ch. 2.78 of the Municipal Code and the order establishing the district.

2. Address of property: 106 ELLERY STREET, Cambridge, Massachusetts

3. Describe the proposed alteration(s), construction, or demolition in the space provided below: (An additional page can be attached, if necessary).

   RENOVATION OF EXISTING HOUSE INCLUDING INTERIOR IMPROVEMENTS AND REPLACEMENT OF ALL SIDING, TRIM, ROOFING, WINDOWS, AND DOORS. EXISTING TWO-STORY DECK TO BE DEMOLISHED AND REBUILT AS INTERIOR SPACE.

   NEW CONSTRUCTION OF SINGLE-FAMILY HOME IN REAR.

Name of Property Owner of Record: Keith Flaherty

Mailing Address: 104 Ellery Street, Cambridge, MA 02138

Telephone/Fax: 617-901-5735 **E-mail:** kflaherty@mgb.org

Signature of Property Owner of Record*: _____
(Required field; application will not be considered complete without property owner's signature)
*I have read the application in full and certify that the information contained herein is true and accurate to the best of my knowledge and belief.

Name of proponent, if not record owner: Kyle Sheffield

Mailing Address: 450 Harrison Ave, Suite 412, Boston MA 02118

Telephone/Fax: 617-226-9336 **E-mail:** ksheffield@bluehourdesign.com

(for office use only):

Date Application Received: _____ **Case Number:** _____ **Hearing Date:** _____

Type of Certificate Issued: _____ **Date Issued:** _____

EXHIBIT 2

MC-7613: 106 Ellery Street Application for Certificate, Page 1

Signature Sheet

Appeal of Mid-Cambridge NCD Determination — Case MC-7613, 106 Ellery Street

Each of the undersigned, a registered voter of the City of Cambridge, joins in the appeal to the Cambridge Historical Commission of the determination of the Mid-Cambridge Neighborhood Conservation District in Case MC-7613, filed with the City Clerk on September 11, 2026, under Cambridge, Mass., Mun. Code § 2.78.240 (2026).

Please sign as your name appears on the voter rolls and give the address at which you are registered to vote.

1. Name	Paul Raccuglia	2. Name	DANIEL RASSABY
Signature	Paul Raccuglia	Signature	
Address	9-5 BELLIS CIR	Address	111 MAGAZINE ST. APT. 1
Date	9/24/26	Date	9/24/26
3. Name	Brendan Hickey	4. Name	Arjun Tarkunde
Signature		Signature	
Address	62 Granville Rd	Address	178 RICHDALE AVE #210
Date	24 SEP 2026	Date	9/24/26
5. Name	Dana Bullister	6. Name	Aaron Homer
Signature	Dana Bullister	Signature	
Address	21 Brookline St #105	Address	90 Grozier Rd
Date	9/24/2026	Date	9/25/26
7. Name	David Hattis	8. Name	Lena Sawin
Signature		Signature	
Address	393 Broadway	Address	90 Grozier R
Date	9/24/2026	Date	9/25/26
9. Name	Santhi Hariprasad	10. Name	Justin Saif
Signature		Signature	Justin Saif
Address	2 Notre Dame Ave.	Address	72 Thorndike St
Date	9/24/26	Date	9/28/26
11. Name	Neheet Trivedi	12. Name	Erin Mathugh Saif
Signature		Signature	
Address	41 Magoun St	Address	72 Thorndike St.
Date	9/24/26	Date	9/29/26

SIGNATURE SHEET

Appeal of Mid-Cambridge NCD Determination — Case MC-7613, 106 Ellery Street

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Please sign as your name appears on the voter rolls and give the address at which you are registered to vote.

1. Name	DEMIAN SZYB	2. Name	
Signature		Signature	
Address	70 Thorndike	Address	
Date	9/29/26	Date	
3. Name	Pia Chatterjee	4. Name	
Signature		Signature	
Address	70 Thorndike St	Address	
Date	9/29/2026	Date	
5. Name	Eugenia Acharan	6. Name	
Signature		Signature	
Address	90 Jackson St	Address	
Date	9.29.2026	Date	
7. Name		8. Name	
Signature		Signature	
Address		Address	
Date		Date	
9. Name		10. Name	
Signature		Signature	
Address		Address	
Date		Date	
11. Name		12. Name	
Signature		Signature	
Address		Address	
Date		Date	