



CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

BZA Application Form

BZA Number: 206665

General Information

The undersigned hereby petitions the Board of Zoning Appeal for the following:

Special Permit: _____ Variance: X Appeal: _____

2023 FEB 15 PM 12:09
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

PETITIONER: Cambridge Cuisine LLC d/b/a Puritan & Company C/O Adam R. Barnosky, Esq.

PETITIONER'S ADDRESS: Ruberto, Israel & Weiner, P.C., Boston, MA 02109

LOCATION OF PROPERTY: 1164-1166 Cambridge Street, Cambridge, MA

TYPE OF OCCUPANCY: Restaurant

ZONING DISTRICT: Business A / Residence C-1 Zone

REASON FOR PETITION:

/Modification of ZBA Case No. 9779/

DESCRIPTION OF PETITIONER'S PROPOSAL:

To modify previously granted variance condition on Case BZA-9779 to permit the rear door to be used for general restaurant operations (staff only), that previously restricted the use of the rear door limiting it to nonrecurring emergency egress only, and to permit the installation of a new trash enclosure.

SECTIONS OF ZONING ORDINANCE CITED:

Article: 4.000 Section: 4.35.a,c,d,e,f,j,k,g,r (Retail Uses).
Article: 4.000 Section: 4.34. a,b,c,d,e,f (Office Uses).
Article: 10.000 Section: 10.30 (Variance).

**Cambridge Cuisine LLC d/b/a Puritan & Company
By its attorneys, Ruberto, Israel & Weiner, P.C.**

Original
Signature(s):

Adam Barnosky

(Petitioner (s) / Owner)

Adam Barnosky, Esq.

(Print Name)

Address: 255 State Street, 7th Floor, Boston, MA 02109
Tel. No. 617-570-3519
E-Mail Address: arb@riw.com

Date: February 14, 2023

PROPERTY OWNER'S CONSENT

The undersigned, as an authorized representative of 1164 CAMBRIDGE STREET LLC, being the owner of 1164-1166 Cambridge St., Cambridge, Massachusetts 02139, consents to CAMBRIDGE CUISINE LLC, filing an application with the City of Cambridge Board of Zoning Appeals for a modification of Condition #1 of the Board of Zoning Appeals Case No. 9779 (the "**Application**") relative to use of the rear door and right of way. This authorization shall apply to all filings and appearances required in connection with the Application, including any appeals thereof.

1164 CAMBRIDGE STREET LLC

By: Armia Azadian
Name: Armia Azadian
Title: Authorized Person
Date: November 30, 2022

COMMONWEALTH OF MASSCHUSETTS

MIDDLESEX, SS

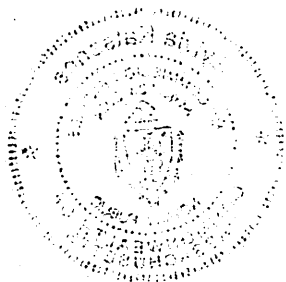
On this 30th day of November 2022, personally appeared before me, the undersigned notary public, Armia Azadian, personally known to me to be the person who signed the Property Owner's Consent and acknowledged to me that he signed it voluntarily for the purposes stated therein as the free act and deed of 1164 Cambridge Street LLC.

Sylvia Katsenes

Sylvia Katsenes

My commission expires August 23, 2024







Bk: 52379 Pg: 555 Doc: DEED
Page: 1 of 3 03/10/2009 03:25 PM

Property address: 1164 Cambridge Street, Cambridge, MA

QUITCLAIM DEED

I, **VAHID A. ALIREZAEI**, individually, of 40 Naples Road, Brookline, Massachusetts,

for consideration of Ten and 00/100 (\$10.00) Dollars,

grant to **1164 CAMBRIDGE STREET LLC**, a Massachusetts Limited Liability Company with a usual place of business at 40 Naples Road, Brookline, Massachusetts

with **QUITCLAIM COVENANTS**,

a certain parcel of land situated in Cambridge, County of Middlesex, with the buildings thereon numbered 1164-1166 Cambridge Street, bounded and described as follows:

Beginning at a point on the Southerly side of Cambridge Street Distant 46.4 feet Easterly from Tremont Street; thence the line runs Northeasterly bounded Northwesterly by Cambridge Street, 44.30 feet to land formerly of Stillings, now or late of Flynn; thence the line runs Southerly by land now or late of Flynn and land now or late of Ray Murphy and Pierce, 129 feet more or less to a fence; thence turning and running along the line of said fence Northwesterly 20 feet more or less to the end of the fence; thence the line runs a little more Westerly 69 feet more or less to Tremont Street; thence the line runs Northerly bounded Westerly by said Tremont Street, 7 feet more or less to land now or late of Andelman; thence the line turns and runs Easterly by said land now or late of Andelman, about 45 feet more or less; thence the line turns and runs Northerly by said Andelman land, 111.80 feet to the point of beginning. Said premises are conveyed together with and subject to usual and general passageway rights for all proper purposes in the 7 foot strip of land on the Southerly side of the premises leading to Tremont Street.

Subject to easements and all encumbrances of record.

Subject to a mortgage from Vahid Alirezaei, Mortgagor, to Joseph Carvalho, Trustee of the Santo Cristo Celebration Trust, Mortgagee, dated February 28, 2007 in the original principal amount of \$450,000.00 and recorded with the Middlesex South District Registry of Deeds at Book 49048, Page 40 which the Grantee assumes and agrees to pay.

For title reference see deed of Joseph Carvalho, Trustee of the Santo Cristo Celebration Trust, u/d/t dated April 9, 1969 and recorded with Middlesex South District Registry of Deeds at Book 11678, Page 524, to Vahid A. Alirezaei dated February 28, 2007 and recorded with the Middlesex South District Registry of Deeds at Book 49048, Page 38.

Return

Prepared by:
Dacey & Dacey, P.C.
707 Main Street
Waltham, MA 02451

23. FEB 2009

EXECUTED as a sealed instrument this

23 day of FEBRUARY 2009.

~~THIS AUTHENTICATION CONCERNS~~
ONLY THE SIGNATURE(S)
AND NOT THE CONTENTS
OF THE DOCUMENT

Vahid A. Alirezaei

000925

6FR40/c360000
6V-14/A

EMBASSY OF SWITZERLAND
U.S. Interests Section
Tehran

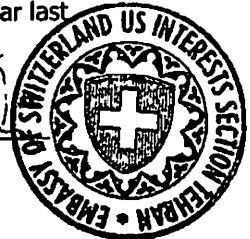
EMBASSY OF SWITZERLAND
CONSULATE ACKNOWLEDGMENT
U.S. Interests Section
Tehran

I, _____, Consulate of _____, duly commissioned
and qualified, do certify that on this 23 day of FEBRUARY, 2009, before me
personally appeared VAHID A. ALIREZAEI in said _____, proved to me
through satisfactory evidence of identification, which was IRANIAN PASSPORT, to be the
person whose name is subscribed to, and who executed the foregoing instrument, and being by
me informed of the contents of said instrument, VAHID A. ALIREZAEI duly acknowledged to me
that he executed the same freely, and voluntarily for the uses, and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and Official Seal the day and year last
above written.

Manuela Mader
Attachée

Consulate:



BZA APPLICATION FORM

SUPPORTING STATEMENT FOR A VARIANCE

Subject Property: 1164 Cambridge Street, Cambridge, MA 02139
Map-Lot: 85-66

Applicant Name: Cambridge Cuisine LLC d/b/a Puritan & Company
c/o A. Barnosky, Esq., 255 State Street, 7th Fl., Boston, MA 02109

Applicant's Representative: Adam R. Barnosky, Esq.; Michael J. Barone, Jr., Esq.
RIW, 255 State Street, 7th Fl., Boston, MA 02109

Owner of Record: 1164 Cambridge Street LLC
40 Naples Road, Brookline, MA 02446

Narrative

The Applicant seeks a modification of the variance granted to 1164 Cambridge Street, LLC (the “**Variance**”), relative to the property situated at and known as 1164 Cambridge Street, Cambridge, Massachusetts (the “**Property**”), pursuant to that certain decision rendered May 14, 2009, by the Cambridge Board of Zoning Appeal (the “**Board**”) for Case Number 9779, a copy of which has been recorded with the Middlesex South Registry of Deeds on July 16, 2009, in Book 53214, Page 42 (the “**Decision**”).

The Property and the building constructed thereon is a split lot with approximately 85% of the building located at the front of lot sited within the Business A zoning district and the balance of the building in the rear sited in the Residence C-1 zoning district. The Property is uniquely shaped, having an L shape with approximately 46 feet of frontage on Cambridge Street (the building) as well as seven (7) feet of frontage on Tremont Street by way of an alley running from the southeast corner of the Property along the northerly property line belonging to 88-90 Tremont Street for approximately 89 feet. According to City records, the Property has an area of approximately 5,683 square feet and is improved with a building having an area of approximately 4,945 square feet. The Decision permits use of the rear portion of the building, which was zoned for office and retail uses, for use as a restaurant, which is otherwise permitted in the Business A zoning district.

Prior to its current use as a restaurant, the Property was a local social club for several decades. It is the Applicant’s understanding that the social club was lively and would operate late into the evening, often with patrons using the alley behind the building (which exits onto Tremont Street) to congregate and smoke. As a result of neighbor concerns relative to the disruptions caused by the former social club’s historic use of the alley, when the prior owner applied for the variances granted by the Decision, the Board restricted the use of the Property by imposing the following three (3) conditions:

1. that the use of the rear door into the right of way between 82-84 and 88-90 Tremont Street be limited to nonrecurring emergency egress only,
2. that if the structure is used for dry cleaning, then this use be limited to drop off service, where no dry cleaning is done on the premises, and
3. that the [then-existing] shed that appears to the rear of the structure be promptly removed and that any damage to the main structure be rectified.

The Applicant has occupied the Property and operated the restaurant “Puritan & Company” at the site for over a decade, however, as a result of the first and third conditions in the Decision, the Applicant has been storing trash inside the Property. Recently, the Cambridge Health Department requested that the Applicant no longer store trash inside and has requested that trash be stored outside. Due to the existing configuration of the building (constructed in 1867, per City records), the Applicant respectfully requests: (i) modification of the first condition to permit use of the rear door for general restaurant operations (staff only); and (ii) modification of the third condition to permit Applicant to apply for such permits as may be necessary to install a trash enclosure off the rear of the Property in the right of way between 82-84 Tremont Street and 88-90 Tremont Street. In particular, the Applicant proposes installing the proposed trash enclosure in the area shown on the attached **Exhibit A**, as more specifically shown in the plans submitted with the instant application.

EACH OF THE FOLLOWING REQUIREMENTS FOR A VARIANCE MUST BE ESTABLISHED AND SET FORTH IN COMPLETE DETAIL BY THE APPLICANT IN ACCORDANCE WITH M.G.L. 40A, SECTION 10:

A. A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise to the petitioner or appellant for the following reasons:

Continued enforcement of the existing condition limiting use of the rear door at the Property to “nonrecurring emergency egress only” directly impacts and, to some extent, prohibits the Applicant’s continued use of the Premises. First, the Applicant is forced to choose between (i) disregarding the Health Department’s request to store trash outside or (ii) violating the conditions of the Variance. Given the Applicant’s business as a restaurant, it must abide by those requirements set by the Health Department, but it must also abide by all applications restrictions related to use of the Property in order to avoid City violations and lease default. Second, limiting use of the rear door for “nonrecurring emergency egress only” also requires that all entrance into the building must be by way of the front door, even though back of house and access to all mechanical systems, including those located on the roof, are most easily accessed via the rear door. This means that during regular business hours, all staff, deliveries, and trade mechanics must walk through the dining room instead of using the rear door. Moreover, the conditions imposed in the Decision effectively deny the Applicant and any future occupant of the Property the ability to use of approximately 675.8 square feet (or approximately 12%) of the Property for anything other than emergency egress, despite the entire Property is taxed at the City’s commercial rate.

B. The hardship is owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located for the following reasons:

The hardship in question is unique to the Property in that the subject lot is split between Business A and Residence C-1 zoning districts, which is unusual and atypical for the area. Although restaurant use is permitted by right in the front portion of the building located within the Business A zoning district, use of the rear portion of the building required appeal to the Board for the above referenced Variance as restaurant use prohibited in the Residence C-1 zoning district. The Property is a unique shape L-shaped lot having primary frontage on Cambridge Street, as well as frontage along Tremont Street resulting from an alley running along the rear of the Property.

C. Desirable relief may be granted without either:

1) Substantial detriment to the public good for the following reasons:

The alley in question is not a public way used by pedestrians or cyclists for transport, so the use of the rear door for restaurant operations (but not patron ingress and egress) and the presence of the proposed trash enclosure will not interfere with any public use nor will such use of the rear door and alley be substantially detrimental to the public good. Not only will the proposed trash enclosure block the restaurant's refuse from the sight of neighbors, but it would also provide a secure enclosure so as to prevent rodents and other vermin from accessing same. The restrictions imposed in the Decision were intended to dissuade certain behaviors that are not applicable to the Applicant. Although there may have been issues in the past, the Applicant has already proven itself to be a respectful neighbor operating on a schedule with modest hours and maintaining a good relationship with neighboring properties – commercial and residential alike – and the Applicant intends to continue to do so. In contrast to the former occupant, the Applicant does not (and will not) operate as a social club and the alley will not be used for congregation. The use of the back door for restaurant operations will not be a nuisance for neighbors.

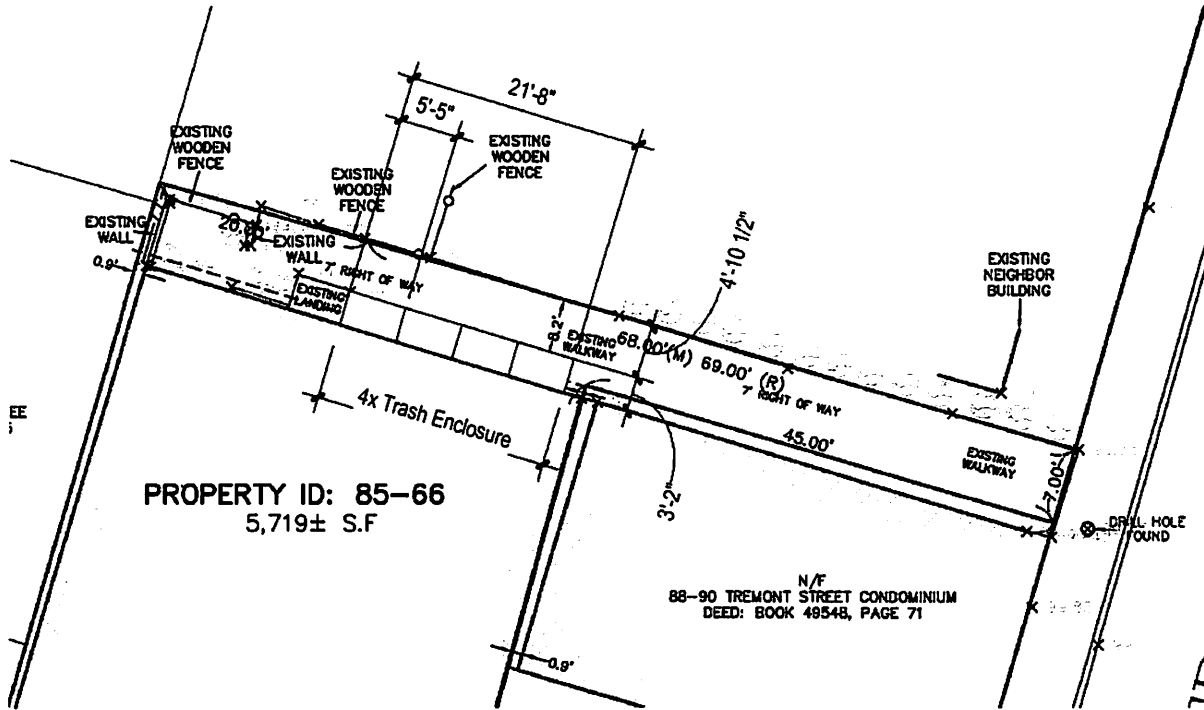
2) Relief may be granted without nullifying or substantially derogating from the intent or purpose of this Ordinance for the following reasons:

In granting the Decision, the prior Board determined that use of the rear portion of the Property located in the Residence C-1 zoning district did not nullify or derogate from the intent or purpose of the Ordinance. Modifying the existing Variance to permit use of the rear door for general restaurant operations (staff only) and the installation of a trash enclosure will not nullify or derogate from the intent of the Ordinance. The relief requested by the Applicant is tailored to permit the Applicant to continue its use of the Property in the same fashion it has operated for the past decade, subject to the new request of the Health Department to store trash outside the restaurant. In modifying the existing conditions, the Applicant will benefit from easier accessibility and less

disruption to the front of house for the restaurant operating therein. In granting the relief requested back in 2009 via the Decision, the former Board acknowledged that permitting the rear of the property to be used for commercial purposes would not nullify the Ordinance nor substantially derogate from the intent of same. The Applicant has proven itself to be a respectful restaurant operator and the requested relief would simply allow the Applicant to continue to operate its business in a manner typical of a use permitted in the Business A zoning district.

EXHIBIT A

Proposed Trash Enclosure Location



BZA Application Form

DIMENSIONAL INFORMATION

Applicant: Cambridge Cuisine LLC d/b/a Puritan & Company

Present Use/Occupancy: Restaurant

Location: 1164-1166 Cambridge Street, Cambridge, MA

Zone: Business A / Residence C-1 Zone

Phone: 617-570-3519

Requested Use/Occupancy: Restaurant

		<u>Existing Conditions</u>	<u>Requested Conditions</u>	<u>Ordinance Requirements</u>	
<u>TOTAL GROSS FLOOR AREA:</u>		4,945	4,945	None	(max.)
<u>LOT AREA:</u>		5,719	5,719	None	(min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA: ²</u>		0.86	0.86	1.0/1.75	
<u>LOT AREA OF EACH DWELLING UNIT</u>		N/A - No Dwelling Units	N/A - No Dwelling Units	N/A - No Dwelling Units	
<u>SIZE OF LOT:</u>	WIDTH	45.94 (front) / 85 (rear)	45.94 (front) / 85 (rear)	None Required	
	DEPTH	129	129	None Required	
<u>SETBACKS IN FEET:</u>	FRONT	0	0	None Required	
	REAR	8.2	8.2	28.4	
	LEFT SIDE	0.2	0.2	None Required	
	RIGHT SIDE	0.2	0.2	None Required	
<u>SIZE OF BUILDING:</u>	HEIGHT	21.81	21.81	35	
	WIDTH	120	120	None Provided	
	LENGTH	45.94	45.94	None Provided	
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u>		0	0	None Required	
<u>NO. OF DWELLING UNITS:</u>		0	0	None Provided	
<u>NO. OF PARKING SPACES:</u>		0	0	13	
<u>NO. OF LOADING AREAS:</u>		0	0	1	
<u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u>		N/A	N/A	None Provided	

Describe where applicable, other occupancies on the same lot, the size of adjacent buildings on same lot, and type of construction proposed, e.g; wood frame, concrete, brick, steel, etc.:

There are no other buildings on the same lot.

1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS).
2. TOTAL GROSS FLOOR AREA (INCLUDING BASEMENT 7'-0" IN HEIGHT AND ATTIC AREAS GREATER THAN 5') DIVIDED BY LOT AREA.
3. OPEN SPACE SHALL NOT INCLUDE PARKING AREAS, WALKWAYS OR DRIVEWAYS AND SHALL HAVE A MINIMUM DIMENSION OF 15'.

CLIENT
Puritan Oyster Bar

CONSULTANT

SEAL

PROJECT INFORMATION
470 Puritan Oyster Bar

1166 Cambridge St.
 Cambridge, MA. 02139

FOR INFORMATION

11/3/2022 12:52:31 PM

WARNING:
 Joe The Architect, Inc. all drawings and written material herein constitute the original and unpublished work of the architect, and the same may not be duplicated, used, or disclosed without the written consent of the architect. Contractors to use Architectural drawings for set out. Contractors to check and verify all Dimensions on Site prior to Construction/Fabrication. Figure Dimensions take precedence over Scaled Dimensions. Any discrepancies should be immediately referred to the Architect. The project manager shall be notified in writing of any discrepancies prior to proceeding with the work. The scale of drawings may change when copied or faxed. All work to comply with I.B.C. Regulations and relevant American Standards. © 2021- all rights reserved

ISSUE CHART

N	ISSUE	DATE
	PROJECT NUMBER	470
	CHECKED	Checker
	APPROVED	Approver
	SCALE	1/16" = 1'-0"
	SHEET NAME	

TRASH ENCLOSURE VISUALIZATION

SHEET NUMBER

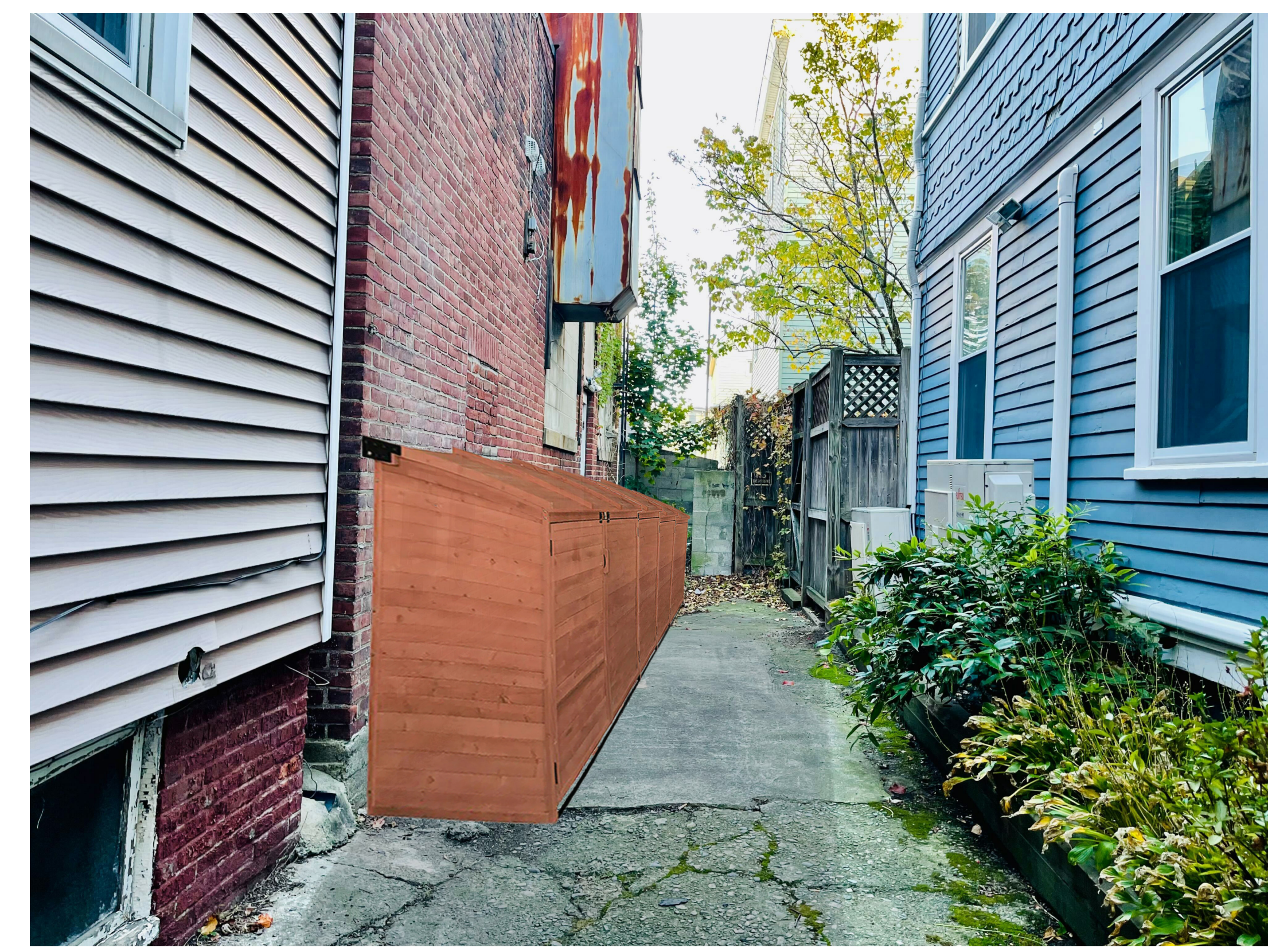
A001



PLAN



PROPOSED ENCLOSURE



ENCLOSURE VISUALIZATION

EXISTING LEGEND

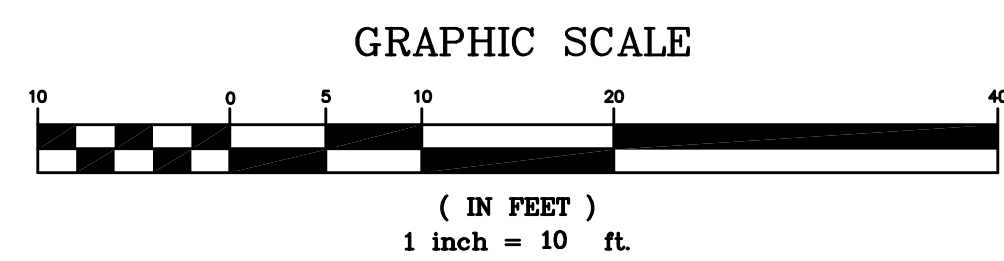
SS	SEWER LINE
⊙	SEWER MANHOLE
—V—	WATER LINE
—G—	GAS LINE
⊕	UTILITY POLE
⊗	GAS VALVE
—E—	OVERHEAD ELECTRIC SERVICE
⊗	WATER VALVE
□	CATCH BASIN
—	FENCE
205	CONTOUR LINE (MJR)
195	CONTOUR LINE (MNR)
X	SPOT GRADE
⊕	DRAIN MANHOLE
⊗	HYDRANT
⊗	TREE



Address: 1166 Cambridge St

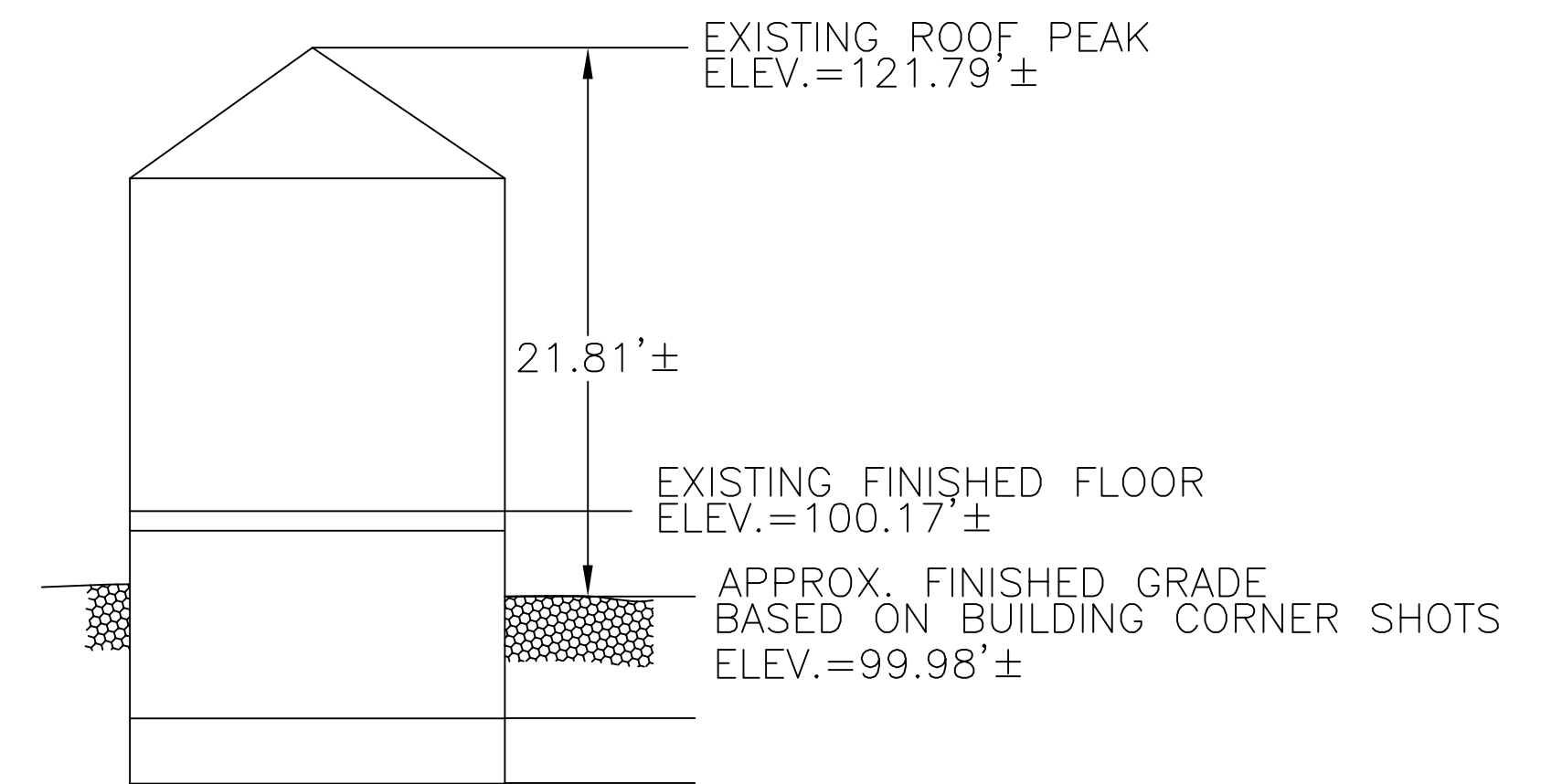
Ground Elevation Min:	23.1 ft-CCB
Ground Elevation Max:	25.4 ft-CCB
2070 - 1% - SLR/SS	N/A
2070 - 1% - Precip	23.5
2070 - 10% - SLR/SS	N/A
2070 - 10% - Precip	N/A
2030 - 1% - Precip	23.3
2030 - 10% - Precip	N/A
Present Day - 1% - Precip	N/A
Present Day - 10% - Precip	N/A
FEMA 500-Year	N/A
FEMA 100-Year	N/A
1% - LTFE	23.5
10% - LTFE	N/A

Selected Map-Lot: 85-66
Selected Address: 1166 Cambridge St



NOTES:

1. INFORMATION SHOWN ON THIS PLAN IS THE RESULT OF A FIELD SURVEY PERFORMED BY PETER NOLAN & ASSOCIATES LLC AS OF 09/17/2022.
2. DEED REFERENCE: BOOK 52379, PAGE 555
PLAN REFERENCE 1: REF PLAN 403 OF 2007
PLAN REFERENCE 2: REF PLAN 1189 OF 1988
PLAN REFERENCE 3: REF PLAN 216 OF 2002
PLAN REFERENCE 4: REF PLAN 506 OF 1988
PLAN REFERENCE 5: 22237-A
MIDDLESEX SOUTH DISTRICT REGISTRY OF DEEDS
3. THIS PLAN IS NOT INTENDED TO BE RECORDED.
4. I CERTIFY THAT THE DWELLING SHOWN IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD ZONE. IT IS LOCATED IN ZONE X, ON FLOOD HAZARD BOUNDARY MAP NUMBER 25017C0576E, IN COMMUNITY NUMBER: 250186, DATED 06/04/2010.
5. THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT USES OF THE LAND; HOWEVER THIS NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
6. FIRST FLOOR ELEVATIONS ARE TAKEN AT THRESHOLD.
7. NO RESPONSIBILITY IS TAKEN FOR ZONING TABLE AS PETER NOLAN & ASSOCIATES LLC ARE NOT ZONING EXPERTS. TABLE IS TAKEN FROM TABLE PROVIDED BY LOCAL ZONING ORDINANCE. CLIENT AND/OR ARCHITECT TO VERIFY THE ACCURACY OF ZONING ANALYSIS.
8. THE ELEVATIONS SHOWN ARE BASED ON AN ASSUMED DATUM.
9. ZONING DISTRICT: BA- BUSINESS A



EXISTING PROFILE
NOT TO SCALE

SCALE	1"=10'		
DATE	10/13/2022		
REV	DATE	REVISION	BY
SHEET	1164-1166 CAMBRIDGE STREET CAMBRIDGE MASSACHUSETTS		
PLAN NO.	1 OF 1		
CLIENT:	PLOT PLAN OF LAND		
DRAWN BY	GB		
CHKD BY	PUN		
APPD BY	PUN		
PETER NOLAN & ASSOCIATES LLC LAND SURVEYORS/CIVIL ENGINEERING CONSULTANTS 80 JEWETT STREET NEWTON, MA, SUITE 1 PHONE: 857 891 7478 EMAIL: pnolan@pnasurveyors.com			
SHEET NO.	1		

PETER NOLAN & ASSOCIATES LLC SHALL NOT BE RESPONSIBLE FOR CONSTRUCTION MEANS, METHODS, TECHNIQUES, OR PROCEDURES UTILIZED BY THE CONTRACTOR, NOR FOR THE SAFETY OF PUBLIC OR CONTRACTOR'S EMPLOYEES, OR FOR THE FAILURE OF THE CONTRACTOR TO CARRY OUT THE WORKING ACCORDING WITH THE CONTRACT DOCUMENTS. THE EXTENT OF PETER NOLAN & ASSOCIATES LIABILITY FOR THIS PLAN IS LIMITED TO THE EXTENT OF ITS FEE LESS THIRD PARTY COST.
COPYRIGHT (C) 2022 BY PETER NOLAN & ASSOCIATES LLC
NO PART OF THIS DOCUMENT MAY BE REPRODUCED, STORED IN A RETRIEVAL SYSTEM, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC, MECHANICAL, PHOTOCOPIING, RECORDING OR OTHERWISE, WITHOUT THE PRIOR WRITTEN PERMISSION OF PETER NOLAN & ASSOCIATES LLC ANY

**PURITAN OYSTER
BAR
INMAN SQ
CAMBRIDGE, MA**

TRASH ENCLOSURE
11/03/22

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11/03/22
www.joethearchitect.com

PD SD DD CD VE CA

JtA



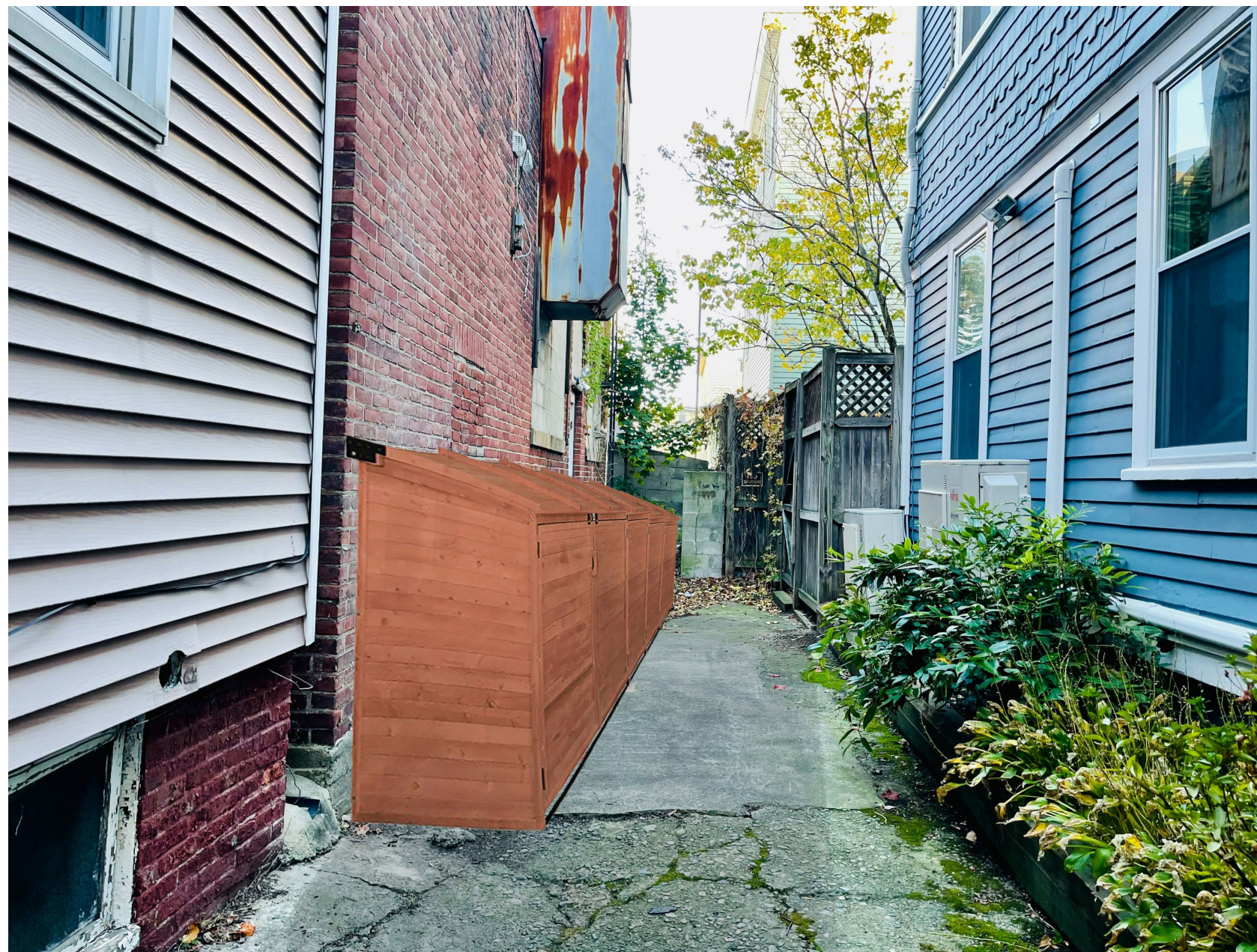
PLAN

PD SD DD CD VE CA





PROPOSED ENCLOSURE



ENCLOSURE VISUALIZATION

**NARRATIVE TO APPLICATION FOR MODIFICATION
OF EXISTING CONDITIONS TO VARIANCE**

Subject Property: 1164 Cambridge Street, Cambridge, MA 02139
Map-Lot: 85-66

Applicant Name: Cambridge Cuisine LLC d/b/a Puritan & Company
c/o A. Barnosky, Esq., 255 State Street, 7th Floor, Boston, MA 02109

Applicant's Representative: Adam R. Barnosky, Esq.
Ruberto, Israel & Weiner, 255 State Street, 7th Floor, Boston, MA
02109

Owner of Record: 1164 Cambridge Street LLC
40 Naples Road, Brookline, MA 02446

Narrative

The Applicant seeks a modification of the variance granted to 1164 Cambridge Street, LLC (the “**Variance**”), relative to the property situated at and known as 1164 Cambridge Street, Cambridge, Massachusetts (the “**Property**”), pursuant to that certain decision rendered May 14, 2009, by the Cambridge Board of Zoning Appeal (the “**Board**”) for Case Number 9779, a copy of which has been recorded with the Middlesex South Registry of Deeds on July 16, 2009, in Book 53214, Page 42 (the “**Decision**”).

The Property and the building constructed thereon is a split lot with approximately 85% of the building located at the front of lot sited within the Business A zone and the balance of the building in the rear sited in the Residence C-1 zone. The Decision permits use of the rear portion of the building, which was zoned for office and retail uses, for use as a restaurant, which is otherwise permitted in the Business A district.

The Applicant has occupied the Property and operated the restaurant “Puritan & Company” at the site for over a decade.

In granting the Variance, the Board imposed three (3) conditions restricting the use of the Property:

1. that the use of the rear door into the right of way between 82-84 and 88-90 Tremont Street be limited to nonrecurring emergency egress only,
2. that if the structure is used for dry cleaning, then this use be limited to drop off service, where no dry cleaning is done on the premises, and
3. that the [then-existing] shed that appears to the rear of the structure be promptly removed and that any damage to the main structure be rectified.

Due to the above conditions, the Applicant has been storing trash inside the Property. Recently, the Cambridge Health Department requested that the Applicant no longer store trash inside and has requested that trash be stored outside. Due to the existing configuration of the building (constructed

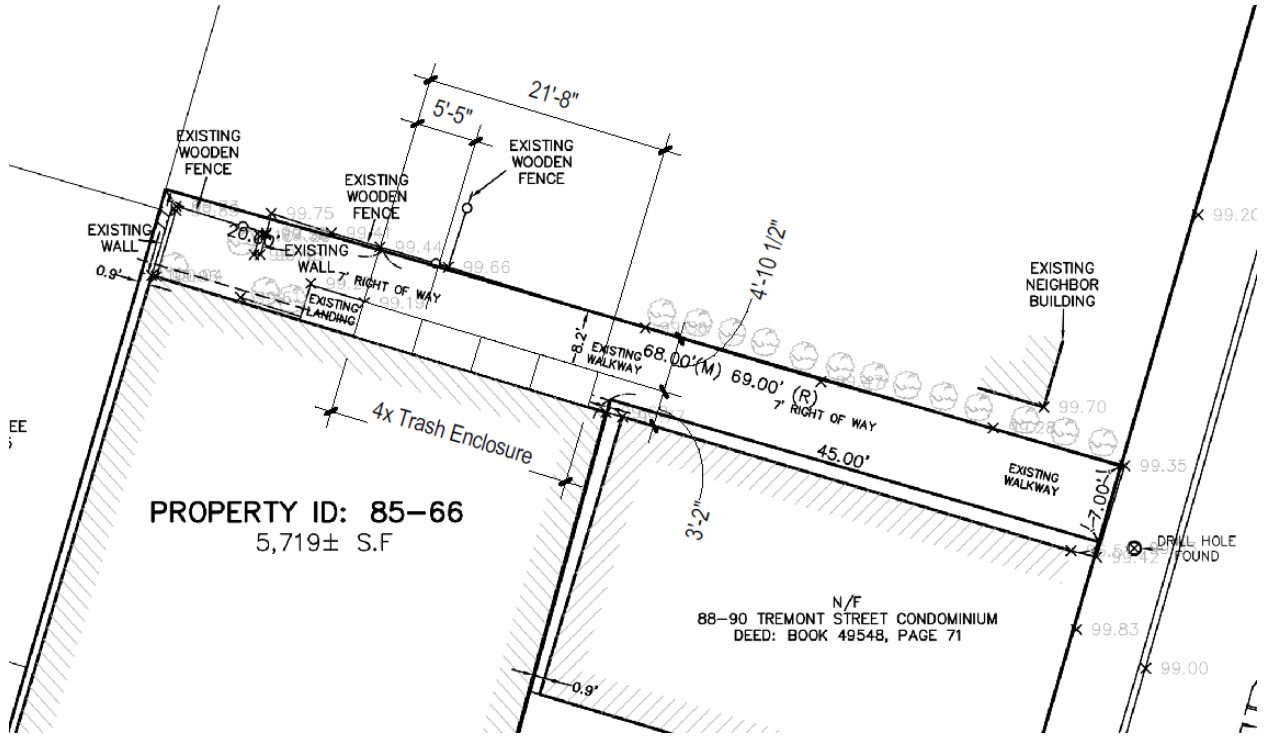
in 1867, per City records), the Applicant respectfully requests (i) modification of the first condition and (ii) modification of the third condition to permit Applicant to apply for such permits as may be necessary to install a trash shed off the rear of the Property in the right of way between 82-84 Tremont Street and 88-90 Tremont Street. In particular, the Applicant proposes installing the proposed trash shed in the area shown on the attached **Exhibit A**, as more specifically shown in the plans submitted with the instant application.

Requirements for Variances (Zoning Ordinance § 10.31)

- A. A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise to the petitioner or appellant.
- Continued enforcement of the existing condition limiting use of the rear door at the Property to “nonrecurring emergency egress only” prohibits the Applicant’s continued use of the Premises by forcing the Applicant to choose between (i) disregarding the Health Department’s request to store trash outside or (ii) violating the conditions of the Variance. Given the Applicant’s business as a restaurant, it must abide by those requirements set by the Health Department, but it must also abide by all applications restrictions related to use of the Property in order to avoid City violations and lease default.
- B. The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structure but not affecting generally the zoning district in which it is located.
- The hardship in question is unique to the Property in that the subject lot is split between Business A and Residence C-1 zones, which is unusual and atypical for the area. Although restaurant use is permitted by right in the front portion of the building located within the Business A zone, use of the rear portion of the building required appeal to the Board for the above referenced Variance as restaurant use prohibited in the Residence C-1 zone.
- C. Desirable relief may be granted without either: (i) substantial detriment to the public good; or (ii) nullifying or substantially derogating from the intent or purpose of this Ordinance.
- Modifying the existing Variance to permit the installation of a trash shed and use of the rear door for more than simply emergency egress will not be substantially detrimental to the public good, nor will it nullify or derogate from the intent of the Ordinance. The relief requested by the Applicant is tailored to permit the Applicant to continue its use of the Property in the same fashion it has operated for the past decade. The alley in question is not a public way used by pedestrians or cyclists for transport and the proposed trash storage would be covered so as to prevent rodents and other vermin from accessing same. The restaurant also maintains modest hours and use of the back door will not be a nuisance for neighbors.

EXHIBIT A

Proposed Trash Shed Location



ATTORNEY AUTHORIZATION FORM

**1164-1166 Cambridge Street
Cambridge, MA 02139**

The undersigned, as an authorized representative of CAMBRIDGE CUISINE LLC d/b/a Puritan & Company, a Massachusetts limited liability company with an address of 1166 Cambridge Street, Cambridge, Massachusetts 02139 (the "**Applicant**"), being an applicant before the City of Cambridge Board of Zoning Appeals for a a modification of the conditions provided in the decision for Board of Zoning Appeals Case No. 9779 relative to the premises located at 1164-1166 Cambridge Street, Cambridge, Massachusetts 02139 (Map-Lot: 85-66) (the "**Application**"), does hereby authorize Attorneys Adam R. Barnosky and Michael J. Barone, Jr., of Ruberto, Israel & Weiner, P.C. to file any and all filings, documents and appearances required in connection with the Application and any appeals so required relating thereto before the City of Cambridge and its affiliated boards.

In Witness Whereof, the party below has executed this Attorney Authorization Form by its duly authorized representative, as an instrument under seal, as of the 21st day of November, 2022.

APPLICANT:

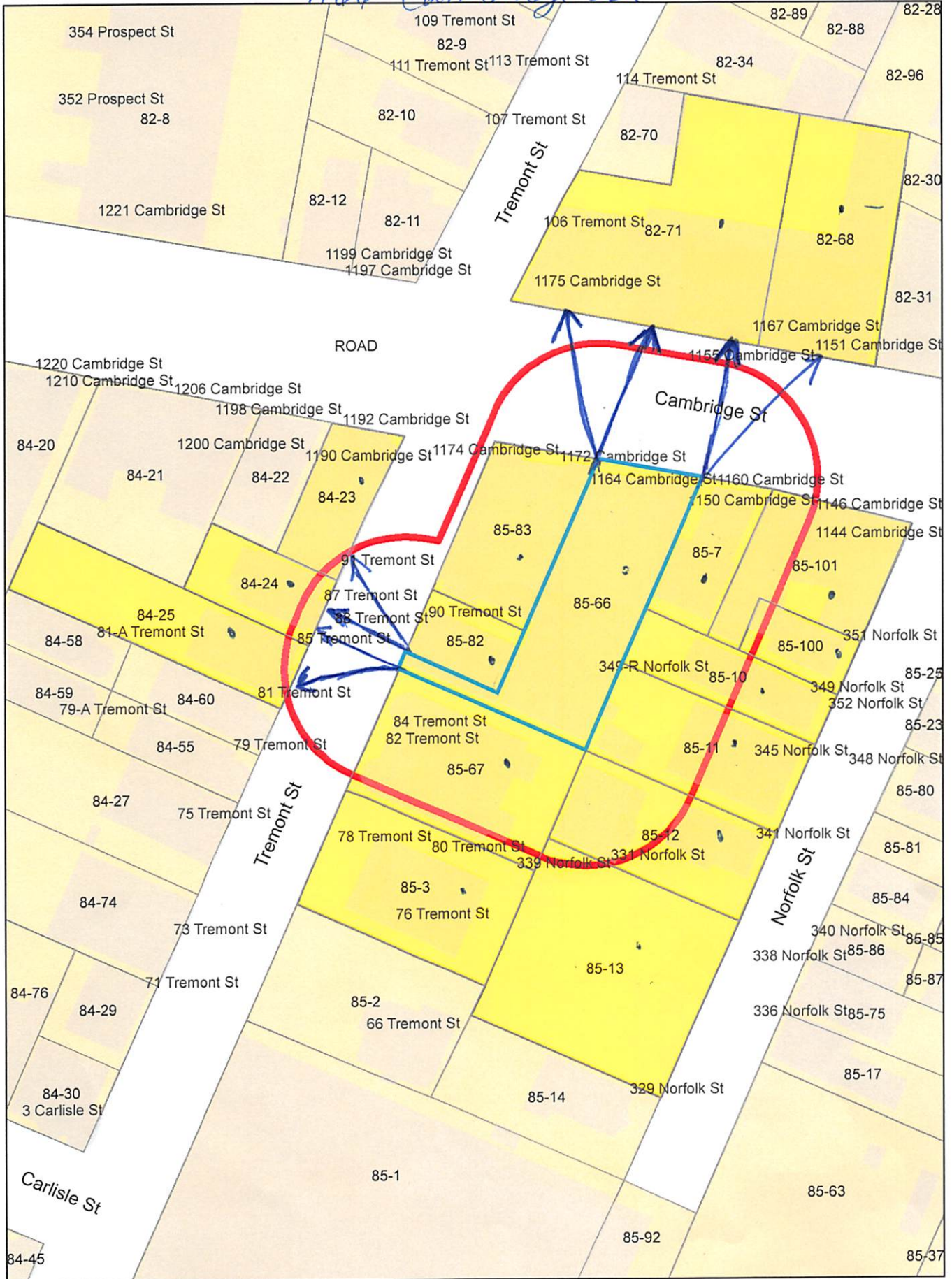
CAMBRIDGE CUISINE LLC

By: 

Name: Ming-Tai Huh

Title: Managing Member

1166 Cambridge St.



1164-1166 Camb. St.

Retirees

85-12
MEDEIROS, MARIE G. & LUCY M. FONTANILLS
341 NORFOLK ST
CAMBRIDGE, MA 02139

85-67
MICHAELS, STEPHEN L.,
TRUSTEE 82 TREMONT STREET REALTY TRUST.
82 TREMONT ST. UNIT#2
CAMBRIDGE, MA 02139

RUBERTO, ISRAEL & WEINER, P.C.
C/O ADAM R. BARNOSKY, ESQ.
255 STATE STREET - 7TH FLOOR
BOSTON, MA 02109

85-13
CAMBRIDGE CITY OF PUBLIC WORKS DEPT
147 HAMPSHIRE ST
CAMBRIDGE, MA 02139

85-66
1164 CAMBRIDGE LLC,
1164 CAMBRIDGE ST
CAMBRIDGE, MA 02139

RUBERTO, ISRAEL & WEINER, P.C.
C/O MICHAEL J. BARONE, JR. ESQ.
255 STATE STREET - 7TH FLOOR
BOSTON, MA 02109

85-67
DEUTSCH, FREEMAN S. & JANE SAACKE
82-84 TREMONT ST., #4
CAMBRIDGE, MA 02139

85-11
CAUSILLA, JUAN CARLOS,
TRUSTEE THE MARIA SPERA IRREV TRUST
312 PALLADIO DR
GREENVILLE, SC 29617

85-7
BATISTA, LIBERAL
1158 CAMBRIDGE ST.
CAMBRIDGE, MA 02139

85-101
PABLA, JASPAL S. & GURINDER K. PABLA,
TRS B.S. SODHI NOMINEE TRUST
16 MENOTOMY ROCKS DR.
ARLINGTON, MA 02476

85-83
1174-1178 CAMBRIDGE STREET, LLC
120 GALLOUPES POINT RD
SWAMPSCOTT, MA 01907

85-3
ULM, FRANZ-JOSEF & LAILA FARSAKH
76 TREMONT ST
CAMBRIDGE, MA 02139

85-67
MATEUS, JAIME A. ASHLEY M. MATEUS
82-84 TREMONT ST UNIT #1
CAMBRIDGE, MA 02139

85-100
NESSON, ROBERT E. & KATHE GREGORY
76 BERKELEY ST
SOMERVILLE, MA 02143

82-68
RENZELLA, JOSEPH A., JR
TRS, THE 1155 CAMB ST IRREV TRUST
1157 CAMBRIDGE ST
CAMBRIDGE, MA 02139

82-71
JAS CONSOLIDATED POPERTIES LLC
C/O JAS CORPORATION
1035 CAMBRIDGE ST., #12
CAMBRIDGE, MA 02141

82-71
JUST-A-START CORPORATION,
C/O JAS PROPERTIES
243 BROADWAY
CAMBRIDGE, MA 02139

84-23
1190 CAMBRIDGE STREET LLC
C/O BLOCK PROPERTIES LLC
1330 BOYLSTON ST., STE 600
CHESTNUT HILL, MA 02467

84-24
HART, CHAD W. & ERIN JANE HART
87 TREMONT ST
CAMBRIDGE, MA 02139

85-82
PETERS, OLIVIA N.
88-90 TREMONT ST. UNIT#3
CAMBRIDGE, MA 02139

85-82
ADADEVOH, SELORM
90 TREMONT ST #2
CAMBRIDGE, MA 02139

85-10
MURPHY, BRYAN & LAUREN MARCELL, &
ANDRE & LYNN MARCELL
349 NORFOLK ST UNIT #349
CAMBRIDGE, MA 02139

85-82
STINEMAN, DARREN G. & SAMANTHA R. BURNS
88 TREMONT ST UNIT #1
CAMBRIDGE, MA 02139

85-10
MURPHY, BRYAN
349 NORFOLK ST
CAMBRIDGE, MA 02139

84-25
85 TREMONT ST LLC
7 CRESCENT ST
CAMBRIDGE, MA 02138

85-3
WEBB CYNTHIAANN BLAIR TRS CYNTHIAANN
BLAIR WEBB REVOCABLE LIVING T
76-80 TREMONT ST
CAMBRIDGE, MA 02139

85-3
PHEUNGFUNK, PUNNEE
78 TREMONT STREET, UNIT #78
CAMBRIDGE, MA 02139

85-67
HOPKINS, JOHN
82-84 TREMONT ST., #3
CAMBRIDGE, MA 02139

85-13
CITY OF CAMBRIDGE
C/O YI-AN HUANG
CITY MANAGER

85-13
CITY OF CAMBRIDGE
C/O NANCY GLOWA
CITY SOLICITOR



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.
(617) 349-6100

2 bds

BZA

POSTING NOTICE – PICK UP SHEET

The undersigned picked up the notice board for the Board of Zoning Appeals Hearing.

Name: William Gilson Date: 3/6/23
(Print)

Address: 1164-1166 Cambridge St.

Case No. BZA-206665

Hearing Date: 3/23/23

Thank you,
Bza Members

Pacheco, Maria

From: Stephen Michaels <unibear@comcast.net>
Sent: Sunday, March 5, 2023 3:03 PM
To: Pacheco, Maria
Subject: Opposition to BZA-206665 Puritan & Co. Zoning Variance Petition

OPPS

Cambridge Board of Zoning Appeal
Attn.: Maria Pacheco
831 Massachusetts Ave.
Cambridge, MA 02139

RE: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

Dear Sirs:

I am one of four owners of the 82-84 Tremont St. Condominium. Our property abuts the back (south) side of the Puritan & Co. restaurant at our northeast corner. 1164-66 Cambridge St. owns the alley separating our building from theirs and 88-90 Tremont St., and our condominium possesses a legally-registered right of way allowing "usual and general passageway rights for all proper purposes" (via a wooden gate in our backyard fence) that permits us to enter and exit our back yard through the alley and to maintain our building and garden adjoining the alley. While 1164-66 Cambridge St. is zoned for commercial use, the rear part of the building, including the alley, is zoned for residential use only. Thus the siting of the Puritan & Co. restaurant there required review by the Zoning Board of Appeals as well as the License Commission.

When Puritan & Company first obtained its operating licenses, our condominium owners and other abutters testified before the BZA and License Commission that we did not want the restaurant owners and operators to use the alley for recurrent passage into or out of the restaurant, nor for storage or transport of deliveries to and/or removal of refuse from the restaurant. The BZA agreed to stipulate, as a condition to the zoning variance allowing the restaurant, that the alley would only be used "for nonrecurring emergency egress only" from the restaurant's kitchen. No deliveries would be permitted through the alley, and no garbage or trash would be stored there, as previously, a deteriorated garbage shed in the back of the alley had become a nesting area for rodents.

Puritan & Company largely abided by these conditions until mid-November 2022, when they started to violate the BZA's conditions as follows:

- by storing up to six large commercial refuse/recycling bins in the rear part of the alley. The bins partially obstruct Puritan's emergency exit and on occasion have completely blocked the gate exiting our back yard, which we use regularly. We have had to move Puritan's barrels out of the way of our backyard exit gate several times since then.
- Puritan moves the barrels out to the Tremont Street sidewalk (also a residential zone) for pick-up, five days a week at present. This has at times obstructed the Tremont St. sidewalk. (There is no curb cut for the alley, just a residential permit parking space).
- More recently, Puritan staff have also started using the back door for ingress/egress on occasion. We have found cigarette butts in our garden bed adjacent to the alley.

In addition, the back of the alley has on and off been strewn with trash including a rusted propane cylinder, and is overgrown with weeds, as the owners of 1166 Cambridge St do not maintain the alley. In December, 2022, the 82-84 Tremont Condominium requested a review of our property's rodent protection plan by Jimmy DeAngelo from the Inspectional Services Department who noted rat burrows in our alley-side garden and evidence of rat transit across the back end of the alley. Our condo's pest-control contractor has recently CO-fumigated and snap-trapped our property including our alley-side

garden. Allowing Puritan routine, to store refuse bins in the alley will counter our rodent-control activities by providing daily sources of food to attract rats from surrounding properties.

For many years, the 82-84 Tremont Condominium has also removed winter snow from the alley to maintain our backyard egress to Tremont St., with no assistance from Puritan & Co. or the 1164-66 Cambridge owners, and our landscape contractor also has removed weeds and debris from the alley during summer and fall. Puritan has not noticeably maintained the alley except when we have complained to their management about a specific issue (as with removal of the propane canisters).

THEREFORE, I STRONGLY URGE THE BZA TO REJECT PURITAN'S PETITION (case no. BZA-206665) to modify the previously granted variance restrictions (BZA-9779). The petition completely abrogates the original variance restrictions which were negotiated as a compromise between the restaurant and the abutters. There is no way in which the alley can be used for garbage storage and transport and recurrent egress without detriment to the abutting properties, most prominently 82-84 and 88-90 Tremont. With planned garbage pick-up 5 times a week and employees using the back door on a regular basis to move barrels inside and outside as well as to access the kitchen, eliminating the variance restrictions would disrupt the abutters' peace and quiet and will reduce our property values.

If you have any questions, please contact me at unibear@comcast.net or 617-866-3457 (mobile).

I will participate in the BZA virtual hearing on March 23 to state my concerns.

Sincerely yours,

Stephen L. Michaels

Stephen L. Michaels
82 Tremont St., Apt. 2
Cambridge, MA 02139-1332
USA

unibear@comcast.net
617-866-3457

Pacheco, Maria

From: Jessie Saacke <jsaacke@comcast.net>
Sent: Sunday, March 12, 2023 7:44 PM
To: Pacheco, Maria
Subject: RE: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

Dear Ms. Pacheco

My husband and I have resided at 82-84 Tremont St, Unit 4 for nearly 30 years. At this time, we would like to state our strong opposition to the requested zoning variance. I am including below the letter sent to the zoning board by our neighbor Steve Michaels—we agree 100% with everything in Steve's letter. The current zoning agreement was a compromise, and this should continue to be honored. I am unaware of any "reasonable " reason to consider this change.

I can be reached at jsaacke@comast.net or 617-851-7742 if you have any questions. We intend to attend the virtual hearing on March 23.

Thank you,
Jessie Saacke and Freeman Deutsch

Cambridge Board of Zoning Appeal
Attn.: Maria Pacheco
831 Massachusetts Ave.
Cambridge, MA 02139

RE: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

Dear Sirs:

I am one of four owners of the 82-84 Tremont St. Condominium. Our property abuts the back (south) side of the Puritan & Co. restaurant at our northeast corner. 1166 Cambridge St. owns the alley separating our building from theirs and 88-90 Tremont St., and our condominium possesses a legally-registered right of way allowing "usual and general passageway rights for all proper purposes" (via a wooden gate in our backyard fence) that permits us to enter and exit our back yard through the alley and to maintain our building and garden adjoining the alley. While 1166 Cambridge St. is zoned for commercial use, part of it, including the alley, is zoned for residential use. Thus the licensing of the Puritan & Co. restaurant there required review by the Zoning Board of Appeals as well as the License Commission.

When Puritan & Company first obtained its operating licenses, our condominium owners and other abutters testified before the BZA and License Commission that we did not want the restaurant owners and operators to use the alley, which is in a residential zone, as a routine passageway into or out of the restaurant, nor for storage or transport of deliveries to and/or removal of trash from the restaurant. The BZA agreed to stipulate, as a condition to the zoning variance allowing the restaurant, that the alley would only be used "for nonrecurring emergency egress only" from the restaurant's kitchen. No deliveries would be permitted through the alley, and no garbage or trash would be stored there, as previously, a deteriorated garbage shed in the back of the alley had become a nesting area for rodents.

Puritan & Company had largely abided by these conditions until mid-November 2022, when they started to violate the BZA's conditions as follows:

- by storing up to six large commercial recycling barrels in the back of the alley. The barrels partially obstruct Puritan's emergency exit and on occasion have completely blocked the gate exiting our backyard, which we use regularly. We have had to move Puritan's barrels out of the way of our backyard exit gate several times since then.
- They move the barrels out to the Tremont Street sidewalk (a residential zone) and obstruct it awaiting pick-up, five days a week at present.
- More recently, Puritan staff have also used the back door for staff ingress/egress on occasion and we have found cigarette butts in our garden bed adjacent to the alley.

In addition, the back of the alley adjacent to 1166 Cambridge Street has on and off been strewn with trash including a rusted propane cylinder, and is overgrown with weeds, as the owners of 1166 Cambridge St do not maintain the alley. In December, 2022, we requested a review of our property's rodent protection plan by Jimmy DeAngelo from the Inspectional Services Department who noted evidence of rat burrows in our alley-side garden (which we have recently had CO-fumigated and then snap-trapped by the City's residential pest control contractor), and told us that the back of the alley also had evidence of rodent traffic. Storing garbage and recycling in the alley exacerbates the rodent problem around our neighborhood and property.

Our condominium association has also undertaken winter snow removal from the alley to maintain our backyard egress to Tremont St., with no assistance from Puritan & Co. and our landscape contractor removes weeds and debris from the alley during spring-summer-autumn, indicating no intent from Puritan to maintain the alley.

I can't emphasize enough how completely opposed I am to modifying the previously granted variance condition on BZA-9779. The petition completely abrogates the current agreement which itself was a compromise, and there is no way in which the alleyway can be used for garbage storage and transport and recurrent egress without detriment to the abutting properties, most prominently 82-84 and 88-90 Tremont. With planned garbage pick-up 5 times a week and employees using the back door on a regular basis to move barrels inside and outside, this is a major concern. Besides the current impact on our peace and quiet, allowing these new uses of the alley will negatively impact our property values.

I therefore urge the BZA to deny the petition for case no. BZA-206665.

If you have any questions, please contact me at unibear@comcast.net or 617-866-3457 (mobile).

I will participate in the BZA virtual hearing on March 23 to state my concerns.

Sincerely yours,

March 9, 2023

Cambridge Board of Zoning Appeal

Attn.: Maria Pacheco

831 Massachusetts Ave.

Cambridge, MA 02139

RE: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

Dear Sirs:

I live at 73 Tremont Street, where I have owned a condominium for almost forty years. 73 Tremont Street is just a few houses down from the back alley of Puritan & Co. I'm writing in support of Stephen L. Michaels' letter opposing Puritan & Co.'s zoning variance petition (copied below) and to urge you to reject that petition. This is a residential neighborhood, which is already challenged by the use of Tremont Street by trucks and other commercial vehicles as an alternative to Prospect Street as a way to travel between Union and Central Squares. Opening Puritan's alley to commercial use, garbage pickup, etc., would only add to this problem and generally increase traffic and impinge on the residential nature of the neighborhood and further violate the zoning of this area as residential. In addition, it would only add to the rat infestation problem with which the neighborhood has been struggling. Puritan and Co. was able to obtain its original zoning variance only by agreeing to limit the use of the back alley to emergency uses. To now request a change to that agreement is the ultimate bad faith. Puritan and Co. should be required to keep its word.

Respectfully,



Steven Halpern

73 Tremont St.

Cambridge MA 02139

617-308-8167

steve.halpern@comcast.net

RE: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

Dear Sirs:

I am one of four owners of the 82-84 Tremont St. Condominium. Our property abuts the back (south) side of the Puritan & Co. restaurant at our northeast corner. 1164-66 Cambridge St. owns the alley separating our building from theirs and 88-90 Tremont St., and our condominium possesses a legally-registered right of way allowing "usual and general passageway rights for all proper purposes" (via a wooden gate in our backyard fence) that permits us to enter and exit our back yard through the alley and to maintain our building and garden adjoining the alley. While 1164-66 Cambridge St. is zoned for commercial use, the rear part of the building, including the alley, is zoned for residential use only. Thus the siting of the Puritan & Co. restaurant there required review by the Zoning Board of Appeals as well as the License Commission.

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trapped our property including our alley-side garden. Allowing Puritan routinely to store refuse bins in the alley will counter our rodent-control activities by providing daily sources of food to attract rats from surrounding properties.

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If you have any questions, please contact me at unibear@comcast.net or 617-866-3457 (mobile).
RE: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

Stephen L. Michaels

March 20, 2023
Dr. Jaime Mateus
84 Tremont St #1

City of Cambridge
Board of Zoning Appeal
831 Massachusetts Avenue, Cambridge, MA 02139

Re: Opposition to BZA Number: 206665

Dear Cambridge Board of Zoning Appeals,

My name is Jaime Mateus and together with my wife I am the owner of the property at 84 Tremont St Unit 1 which is a direct abutter to the alleyway in question in this zoning appeal filed by Cambridge Cuisine LLC d/b/a Puritan & Company ("Puritan").

Historical context alleyway use and original variance

The appropriate use of this alleyway has long been a contentious topic and it is important to understand some of the relevant history. The last time that the Zoning Board of Appeal discussed this topic was in 2009 when the initial variance was granted. I recognize the unusual nature of 15% of the property belonging to a residentially zoned area and 85% being in a commercial area. Furthermore, having also been a small business owner, I can fully understand the desire to be able to use that 15% interior area for commercial purposes. To be clear, I have no opposition to the initial zoning variance that allowed for use of that 15% of interior space. However, we must recognize that where we are today is not the starting point of negotiations; where we are now is already the compromise. It is a very reasonable compromise; in essence the result is that Puritan is allowed to use that interior space in as long as using that space does not cause a hardship to its abutters.

Puritan makes various references to being a good neighbor in their application. It is important to note some relevant facts that, I believe, speak for themselves. Condition #3 of the initial variance required that the shed at the rear of the structure be "promptly removed". However, this was never completed. While the shed was partially destroyed there has been a broken wall at the end of the alleyway for well over a decade. Over time that area has been overgrown with weeds, collected trash and building materials that has been discarded by contractors or maintenance workers, and has likely contributed to the rodent problems that the owners of the 82-84 Tremont St Condo have been continuously fighting against and paying to remediate.

The most blatant disregard that Puritan has shown the Board of Zoning Appeal is their repeated violation of Condition #1 of the zoning variance, which states that "the use of the rear door into the right of way between 82-84 and 88-90 Tremont St be limited to nonrecurring emergency egress only". Their violations of this condition are many, and represents willful ignorance of the variance rather than an occasional lapse. I am highlighting below some of the most egregious violations, as a comprehensive list would be too long to cover. In Appendix A you will also find photo documentation of these specific violations:

- December 10, 2015: storage of boxed appliance in alleyway. Additionally, large heavy boxes were stored such that they partially blocked the emergency egress from the backyard of the 82-84 Tremont St condominium, these were stored overnight.
- June 8, 2016: use of the rear door and alleyway to wash trash barrels with water and bleach
- May 6, 2017: use of the rear door and alleyway for a wedding photoshoot
- February 20, 2019: disposal of an old dishwasher in the alleyway in a way that fully blocks opening of the emergency egress from the backyard of the 82-84 Tremont St Condominium
- May 9, 2020: use of the rear alley to clean plastic floor mat with chemicals
- November 20, 2020: use of alleyway to store 9 or more propane gas tanks, including having the tanks block the opening of the emergency egress door from the 82-84 Tremont St Condo and creating a fire hazard

Permissible use of alleyway was a known factor for all parties

It is important to recognize that Puritan entered into a lease on this property with full knowledge of the existing zoning peculiarities and the 2009 variance. The unusual lot was a known factor that represented both an opportunity (large interior space) and a risk (requiring unusual trash disposal operations). As part of entering into a leasing agreement the lessee should consider the pros and cons of the property in question, and what the appropriate fair market value would be for such a lease.

Similarly, we were fully aware of the zoning boundaries and of the 2009 zoning variance when we purchased the property at 84 Tremont St. Knowledge that the alleyway was exclusively in a residential zone and did not directly abut a commercial zone was a key factor in my decision to purchase the property due to the high value I place on low noise environment and privacy.

Changing the use of the alleyway in a manner that creates noise and loss of privacy is a substantial hardship to the residential neighbors.

What happens if variance is granted?

We already know what will happen if the variance is granted. This is because Puritan as of recently has already been using the alleyway for trash disposal and storage, with at least 5 large bins located in the alley way. Those bins are being rolled up and down the alleyway multiple times per day and they are very loud. The ground is uneven, the bins are heavy and the noise disruption is substantial. The recycling bins are even louder with the sound of glass bottles rattling. This is being done as late at 11:45pm, which is presumably when staff are fully done with cleaning after the restaurant closes at night. This is much louder than any traffic noise that we ever hear and creates a substantial hardship to the residents who live and sleep there with the many bedroom windows facing the alleyway. This recent increased use of the alleyway is yet another example of the complete disregard that Puritan has for existing zoning regulations.

Hardship to residents

If this variance is granted, I expect it will have a substantial financial and non-financial impact to our property and any residents. Financially, just like the use of the alleyway was a key factor in

my decision to purchase the property, I expect it will be a relevant factor for when the property is sold in the future. For any residents, either owners or tenants, the fact remains that all of the bedroom windows face that alleyway, and I expect there to be a substantial impact to the market rental value if this zoning variance is granted.

Non-financial hardship would also come from the negative impact to sleep and loss of privacy. The operating hours of the restaurant are not compatible with the typical bedtime for adults or kids. As a parent I know I would not want to live in a property where daily loud noises prevent my children from having a restful sleep.

If this variance is granted, who will compensate the financial and non-financial losses of the residents?

There is no hardship to Puritan

The entire argument supporting Puritan's claims of hardship are non-sensical. If the original variance did not exist, commercial use of the residentially zoned portion of the building would not be possible and there would therefore not be any hardship associated with commercial use of the back door and alleyway. In essence Puritan is trying to re-frame the discussion in a manner that does not honestly represent the entire context. The existing variance addresses a hardship caused by the large lot size, and already benefits Puritan. They are essentially now arguing that there are now new hardships given their expanded use of the space under the new variance.

A simple solution to their existing hardships would be to nullify the original variance. That seems like a better solution than anything else that Puritan has proposed.

Summary

I fully oppose the application from Puritan to change the existing variance. Their arguments do not appropriately take into consideration the entire context of historical compromise that exists or the substantial hardship this would cause to the residents.

Furthermore, Puritan has repeatedly demonstrated a complete disregard for the existing variance requirements and limitations. Should a variance be granted that includes another list of restrictions, I have no faith that Puritan will abide by those, just like they have not abided by their existing restrictions.

I hope the Board of Zoning Appeal will consider all of the evidence and strongly consider the track record of behavior more than written promises in their decision making. I am available should the Board have any questions on my objection to the application.

Sincerely,



Dr. Jaime Mateus
84 Tremont St #1
Cambridge MA 02139

Appendix A

December 10, 2015: storage of boxed appliances in alleyway



June 8, 2016: use of the rear door and alleyway to wash trash barrels with water and bleach



May 6, 2017: *use of the rear door and alleyway for a wedding photoshoot*



February 20, 2019: disposal of an old dishwasher in the alleyway in a way that fully blocks opening of the emergency egress from the backyard of the 82-84 Tremont St Condominium



May 9, 2020: use of the rear alley to clean plastic floor mat with chemicals



November 20, 2020: use of alleyway to store 9 or more propane gas tanks, including having all of the tanks block the opening of the emergency egress door from the 82-84 Tremont St Condo and creating a fire hazard



March 20, 2023
Dr. Ashley Mateus
84 Tremont St #1

City of Cambridge
Board of Zoning Appeal
831 Massachusetts Avenue, Cambridge, MA 02139

Re: Opposition to BZA Number: 206665

Dear Cambridge Board of Zoning Appeals,

My name is Ashley Mateus and together with my husband I am the owner of the property at 84 Tremont St Unit 1 which is a direct abutter to the alleyway in question in this zoning appeal filed by Cambridge Cuisine LLC d/b/a Puritan & Company.

My husband has already written a detailed account of our argument against allowing Puritan to use the alleyway. A quick summary of that argument is that the agreement reached in 2009 is already the compromise position to allow a restaurant to use the unusual shaped space and additional commercial use of an alleyway in the residential area will cause unacceptable levels of noise late at night. Also, Puritan has not been respectful of the agreement already in place and regularly violated the agreement not to use the back door or alleyway for commercial purposes, so we are not confident they would follow through on any restrictions put on additional uses they want to be granted.

I want to add some personal details to my husband's note that would help you understand why the use of the alleyway would be disruptive. Our unit is on the ground floor directly abutting the alleyway in question and the master bedroom suit has a small, attached area that looks directly over the back door of Puritan with two windows. Right under that window is where both of our small children's crib was placed as infants until about 1 year old. The second and only other bedroom in our unit, where the children slept as they got older, also faces the alleyway with two large windows.

We loved this home for our family, and only moved away when work took us out of the state. Since we have left we have rented our unit one other family with young children. Please imagine the drastic change that would take place in our lives or our tenants lives if those kids were woken up nightly to the sound of staff talking as they close at midnight (or really anytime after an 8pm bedtime!), doors open and shutting, and rolling loud trash bins going up and down the alleyway. I would expect these disruptions if we decided to live in a busy commercial area, but we chose our home to be on a quiet residential street. Even just thinking about those already sleep-deprived early parenting nights interrupted with trash barrel removal upsets me. I would never wish that upon any parent.

We are one of 4 different units that directly abut this alleyway, and other neighbors further than direct abutters have already noted the increase in late night noise in the neighborhood because of the trash barrel removal. I appreciate your consideration of this impact to families' lives as you review Puritan's proposal.

Sincerely,

A handwritten signature in black ink that reads "Ashley Mateus". The signature is written in a cursive style with a large initial 'A'.

Ashley Mateus



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.
(617) 349-6100

Replacement

BZA

POSTING NOTICE – PICK UP SHEET

The undersigned picked up the notice board for the Board of Zoning Appeals Hearing.

Name: William Gilson Date: 5/10/23
(Print)

Address: 1164-1164 Cambridge St.

Case No. BZA-206665

Hearing Date: 5/25/23

Thank you,
Bza Members

UNITED STATES
DEPARTMENT OF JUSTICE

INVESTIGATION OF THE
ACTS OF VIOLENCE

AND THE ASSASSINATION OF
DR. MARTIN LUTHER KING, JR.

MEMORANDUM FOR THE DIRECTOR
FROM THE SAC, NEW YORK

RE: [Illegible]

[Illegible]

[Illegible]

Very truly yours,
[Illegible]

[Illegible]

106-100000-100000



1 * * * * *

2 (8:23 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea
4 A. Hickey, Slater W. Anderson, and Matina
5 Williams

6 BRENDAN SULLIVAN: The Board will now hear Case No.
7 206665 -- 1164-1166 Cambridge Street.

8 MICHAEL BARONE: Good evening, Mr. Chair, members
9 of the Board. My name is Michael Barone. I'm an attorney
10 with Ruberto, Israel & Weiner, 255 State Street, Boston,
11 Massachusetts. I'm here representing Cambridge Cuisine LLC
12 doing business as Puritan & Company, the current tenant at
13 1164-1166 Cambridge Street.

14 The application before you this evening is for a
15 modification of existing variance conditions that were
16 imposed in a 2009 variance decision. We would humbly
17 request a continuance of this evening's hearing.

18 Our client has commenced community outreach
19 processes, which we know this Board very much favors, and we
20 have a community meeting scheduled for April 8 at 10a, and
21 we've been working closely with the East Cambridge Business
22 Association and have been disseminating notices out to

1 neighbors, inviting them to the meeting on April 8.

2 BRENDAN SULLIVAN: Great. Okay. You're aware of
3 correspondence, Michael, or that has come in? Some of it
4 came in -- well, this afternoon at 4:17 so you may or may
5 not be, but it is available to you, and then Staff can e-
6 mail those to you so that you can address those concerns,
7 those issues, and you'll be aware of them probably at the
8 public forum.

9 So the next available date would be May 11. That
10 works for you?

11 MICHAEL BARONE: That does. I do know my client
12 has been in touch with a few different City Departments, and
13 I think is still waiting on some correspondence. If we
14 could push to May 25, that would be greatly appreciated.
15 But if the Board would prefer May 11, we can certainly do
16 so.

17 BRENDAN SULLIVAN: No. It's entirely up to you.
18 We're very flexible on that. So we can go May 25, that
19 works for you?

20 MICHAEL BARONE: That would be wonderful, thank
21 you.

22 BRENDAN SULLIVAN: All right. So let me make a

1 motion, then, to continue this matter to May 25, 2023 at
2 6:00 p.m. on the condition that the petitioner change the
3 posting sign to reflect the new date of May 25, 2023 and the
4 time at 6:00 p.m.

5 Any new documents, submittals be in the file by
6 5:00 p.m. on the Monday prior to the May 25, 2023 meeting.
7 I would ask that the petitioner's Counsel sign a waiver of
8 the statutory requirement for a hearing and a decision to be
9 rendered therefor.

10 That such document can be obtained by Staff. They
11 will e-mail it to you if you could sign it and send it back
12 to them. Said document must be returned by 5:00 p.m. a week
13 from tonight. Ask you to comply with that, and that's a
14 condition as part of continuing this matter.

15 And I think that's all, and to maintain the
16 posting sign for at least 14 days prior to the hearing, and
17 that the posting sign should face Cambridge Street, as
18 opposed to before it was sort of facing the side of the
19 entryway.

20 On the motion, then, to continue this matter to
21 May 25, Jim Monteverde?

22 JIM MONTEVERDE: In favor.

1 BRENDAN SULLIVAN: Andrea Hickey?

2 ANDREA HICKEY: Yes, in favor, but also would like
3 to confirm for the record that this is a case not heard,
4 correct?

5 BRENDAN SULLIVAN: It is a case not heard,
6 correct.

7 ANDREA HICKEY: Mm-hm. Thank you. I'm in favor.

8 BRENDAN SULLIVAN: Yep. Matina Williams?

9 MATINA WILLIAMS: In favor.

10 BRENDAN SULLIVAN: Slater Anderson?

11 SLATER ANDERSON: In favor.

12 BRENDAN SULLIVAN: Brendan Sullivan in favor.

13 [All vote YES]

14 BRENDAN SULLIVAN: This matter is, on the five
15 affirmative votes, this matter is continued to May 25, 2023.
16 See you then.

17 MICHAEL BARONE: Thank you very much.

18

19

20

21

22

Pacheco, Maria

From: Unibear <unibear@comcast.net>
Sent: Wednesday, March 22, 2023 12:24 AM
To: Pacheco, Maria
Cc: John and Marie Hopkins; Jessie Saacke; Jaime Mateus; Freeman Deutsch
Subject: Re: Automatic reply: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

Dear Ms. Pacheco,

I want to state my concurrence with the emails sent to you by my neighbors, today, regarding Puritan & Company's intention to request a continuance/postponement of the ZBA hearing of their petition scheduled for March 23. I have previously written to the Board stating my opposition to the petition and reasons therefor, and have set aside time to participate remotely in Thursday's hearing from California where I am temporarily caring for an injured parent.

I ask that the ZBA proceed with the hearing without further delay.

Sincerely,
Stephen L. Michaels
82 Tremont St., Apt. 2

Sent from my iPhone
Unibear@comcast.net

On Mar 21, 2023, at 6:56 PM, Jessie Saacke <jsaacke@comcast.net> wrote:

Dear Ms. Pacheco,

I previously sent an email noting my opposition to the requested zoning variance. I am concerned as we received a letter that was slipped under our front door at some point today, signed by Will Gilson stating that he plans to ask for a continuance at the "currently scheduled ZBA hearing on March 23." He has invited us to join him for an in person meeting at the restaurant on Saturday, April 8 at 10 am. While it's perhaps a kind offer, I know I'm not available on that date, but I am available for the scheduled meeting on March 23. I've had it on my calendar for weeks. I would ask that the meeting go ahead as planned, as there is no stated reason for the continuance, aside from his wish to "have a collaborative effort and to ease any perceived contention" which strikes me as something he might have considered before he requested the variance. I have cc'ed the other members of our condo association as I believe folks plan to attend on March 23 and I have no idea if they are available on a different date; I'm also unsure if they received the "notice" that was slid under the doors.

Thank you for your attention to this matter.

Sincerely,

Jessie Saacke

On Mar 12, 2023, at 7:44 PM, Pacheco, Maria <mpacheco@cambridgema.gov> wrote:

I am currently out of the office and will return on March 13, 2023. I will respond to you upon my return.

Thank you,

**Maria Pacheco
Zoning Administrative Assistant**

Pacheco, Maria

From: Jaime Mateus <jaime.mateus@gmail.com>
Sent: Tuesday, March 21, 2023 10:10 PM
To: Jessie Saacke
Cc: Pacheco, Maria; Steve Michaels; John and Marie Hopkins; Freeman Deutsch; Ashley Mateus
Subject: Re: Automatic reply: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

Dear Ms. Pacheco,

I fully agree with Jessie's comments. I was made aware of the letter by a neighbor, and it does not strike me as productive to have a hearing scheduled on the 23rd, and for Puritan to come to that meeting with a plan to ask for a continuance. That seems like it would not be a good use of people's time.

I too am unavailable for the in-person meeting at Puritan on this or any date, as I am currently in California. However, I remain available for the virtual meeting on the 23rd when the hearing is scheduled. I have cleared my calendar to make sure I can attend that meeting and hope that we can proceed with a productive hearing as is planned.

I think that the residents of our building on the 82-84 Tremont St Condo are likely some of the most directly impacted neighbors, and at least 2 of the 4 units in that building are not able to attend Puritan's in-person meeting. I am also concerned that they are trying to use this in-person approach as a tactic to sway public opinion on the matter in an environment they can control rather than face a fair discussion at the BZA meeting.

Sincerely,
Jaime Mateus

On Tue, Mar 21, 2023 at 6:56 PM Jessie Saacke <jsaacke@comcast.net> wrote:

Dear Ms. Pacheco,

I previously sent an email noting my opposition to the requested zoning variance. I am concerned as we received a letter that was slipped under our front door at some point today, signed by Will Gilson stating that he plans to ask for a continuance at the "currently scheduled ZBA hearing on March 23." He has invited us to join him for an in person meeting at the restaurant on Saturday, April 8 at 10 am. While it's perhaps a kind offer, I know I'm not available on that date, but I am available for the scheduled meeting on March 23. I've had it on my calendar for weeks. I would ask that the meeting go ahead as planned, as there is no stated reason for the continuance, aside from his wish to "have a collaborative effort and to ease any perceived contention" which strikes me as something he might have considered before he requested the variance. I have cc:ed the other members of our condo association as I believe folks plan to attend on March 23 and I have no idea if they are available on a different date; I'm also unsure if they received the "notice" that was slid under the doors.

Thank you for your attention to this matter.

Sincerely,

Jessie Saacke

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I am currently out of the office and will return on March 13, 2023. I will respond to you upon my return.

Thank you,

**Maria Pacheco
Zoning Administrative Assistant**

Pacheco, Maria

From: Jessie Saacke <jsaacke@comcast.net>
Sent: Tuesday, March 21, 2023 9:57 PM
To: Pacheco, Maria
Cc: Steve Michaels; John and Marie Hopkins; Jaime Mateus; Freeman Deutsch
Subject: Re: Automatic reply: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

Dear Ms. Pacheco,

I previously sent an email noting my opposition to the requested zoning variance. I am concerned as we received a letter that was slipped under our front door at some point today, signed by Will Gilson stating that he plans to ask for a continuance at the "currently scheduled ZBA hearing on March 23." He has invited us to join him for an in person meeting at the restaurant on Saturday, April 8 at 10 am. While it's perhaps a kind offer, I know I'm not available on that date, but I am available for the scheduled meeting on March 23. I've had it on my calendar for weeks. I would ask that the meeting go ahead as planned, as there is no stated reason for the continuance, aside from his wish to "have a collaborative effort and to ease any perceived contention" which strikes me as something he might have considered before he requested the variance. I have cc:ed the other members of our condo association as I believe folks plan to attend on March 23 and I have no idea if they are available on a different date; I'm also unsure if they received the "notice" that was slid under the doors.

Thank you for your attention to this matter.

Sincerely,

Jessie Saacke

On Mar 12, 2023, at 7:44 PM, Pacheco, Maria <mpacheco@cambridgema.gov> wrote:

I am currently out of the office and will return on March 13, 2023. I will respond to you upon my return.

Thank you,

**Maria Pacheco
Zoning Administrative Assistant**

Pacheco, Maria

From: marie barry <mariebarryhopkins@gmail.com>
Sent: Wednesday, March 22, 2023 11:11 PM
To: Pacheco, Maria
Cc: John Hopkins
Subject: CASE NO: BZA-206665 Cambridge Cuisine LLC - d/b/a Puritan & Company

Dear Ms. Pacheco,

Puritan & Company currently have 9 large (commercial?) wheelie bins (6 recycling and 3 trash) stored in the alleyway adjacent to 84, Tremont Street.

These wheelie bins are dragged along the alleyway to be emptied between 3 and 5 times a day depending on the day of the week and the restaurant's opening hours. This movement and noise can be as early as 9:30 am and as late as midnight.

The bins frequently block the exit from our rear garden.

The noise generated by the bins being hauled back and forth along the concrete alleyway is very loud and reverberates throughout our condo. My husband and I are often trying to sleep when the bins are emptied last thing at night when the restaurant is open late.

The noise is a nuisance to say the very least. I am studying remotely via Zoom from 9:00 am - 3:00 pm and the sound drowns out the instructor. It can also be heard when the tv is on. We are living on the second floor of the house. The sound of the bins being dragged must be extremely loud on the bottom floor.

Full heavy wheelie bins being rolled (dragged) along a bumpy uneven concrete surface several times a day in a residential area is totally unacceptable. The noise is generated by the wheels and glass bottles in the recycling bins primarily. Each round of recycling and trash disposal can take 5 minutes or more. And the din of the empty bins being hauled back down the alley to rear doorstep of Puritan & Company is equally audible.

Furthermore, the presence of 3 large wheelie bins of restaurant trash and waste in the alleyway is a major concern considering the severe and chronic rat problem in our neighborhood. In recent months, the Condo owners of 82 - 84, Tremont Street, have invested a lot of time and money dealing with pest control Companies and the City of Cambridge itself in an effort to solve the rat problem.

We hope that you will take our views into consideration in advance of the Public Hearing on Thursday, March 23, 2023 @ 7:45 P.M.

Thank you,

Mary Rose Barry & John Hopkins

84, Tremont Street,
Unit 3,
Cambridge, MA02139

















Pacheco, Maria

From: John Hopkins <johnjihopkins@hotmail.com>
Sent: Thursday, March 23, 2023 4:17 PM
To: Pacheco, Maria
Cc: ICE
Subject: Re: CASE NO: BZA-206665 Cambridge Cuisine LLC - d/b/a Puritan & Company

Dear Ms. Pacheco,

I concur with everything which my wife wrote in the email below. The activities of the Puritan & Company has negatively impacted the quality of life for us both inside and outside of our home.

I hope you take this into consideration when making any decision.

Thank you,
John Hopkins.

On Mar 22, 2023, at 23:11, marie barry <mariebarryhopkins@gmail.com> wrote:

Dear Ms. Pacheco,

Puritan & Company currently have 9 large (commercial?) wheelie bins (6 recycling and 3 trash) stored in the alleyway adjacent to 84, Tremont Street.

These wheelie bins are dragged along the alleyway to be emptied between 3 and 5 times a day depending on the day of the week and the restaurant's opening hours. This movement and noise can be as early as 9:30 am and as late as midnight.

The bins frequently block the exit from our rear garden.

The noise generated by the bins being hauled back and forth along the concrete alleyway is very loud and reverberates throughout our condo. My husband and I are often trying to sleep when the bins are emptied last thing at night when the restaurant is open late.

The noise is a nuisance to say the very least. I am studying remotely via Zoom from 9:00 am - 3:00 pm and the sound drowns out the instructor. It can also be heard when the tv is on. We are living on the second floor of the house. The sound of the bins being dragged must be extremely loud on the bottom floor.

Full heavy wheelie bins being rolled (dragged) along a bumpy uneven concrete surface several times a day in a residential area is totally unacceptable. The noise is generated by the wheels and glass bottles in the recycling bins primarily. Each round of recycling and trash disposal can take 5 minutes or more. And the din of the empty bins being hauled back down the alley to rear doorstep of Puritan & Company is equally audible.

Furthermore, the presence of 3 large wheelie bins of restaurant trash and waste in the alleyway is a major concern considering the severe and chronic rat problem in our neighborhood. In recent months, the Condo owners of 82 - 84, Tremont Street, have invested a lot of time and money dealing with pest control Companies and the City of Cambridge itself in an effort to solve the rat problem.

We hope that you will take our views into consideration in advance of the Public Hearing on Thursday, March 23, 2023 @ 7:45 P.M.

Thank you,

Mary Rose Barry & John Hopkins

84, Tremont Street,
Unit 3,
Cambridge, MA02139

















Pacheco, Maria

From: Stephen Michaels <unibear@comcast.net>
Sent: Tuesday, April 4, 2023 11:22 AM
To: Pacheco, Maria
Subject: BZA-206665 Puritan & Co. Zoning Variance Petition

Cambridge Board of Zoning Appeal
Attn.: Maria Pacheco
831 Massachusetts Ave.
Cambridge, MA 02139

RE: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

Dear Ms. Pacheco:

I am one of the owners of the 82-84 Tremont Street condominium, whose property abuts the alley in the above-referenced petition before the BZA.

When the BZA approved a continuance of the petitioner's hearing on March 23 to May 25, the Board instructed the petitioner to (1) update its public notice of hearing to state the new hearing date in May and (2) to move the notification posting to a sidewalk-adjacent location on Cambridge Street where it was visible to the public.

As of this morning (April 4), instruction (2) has been satisfied, but the notification is the OLD obsolete sign stating the hearing is on March 23. The Board may wish to remind Puritan & Company's owners of the Board's requirement.

Furthermore, the petitioner continues as of this morning to store six trash and recycling barrels in the alley, with regular removal and emptying of the barrels via the alley and the Tremont Street sidewalk. This action is forbidden by the existing alley restrictions in the zoning variance that were negotiated by the petitioner and abutters and approved by the BZA in 2009. Photos are attached showing these barrels this morning, along with continued lack of maintenance of the rear end of the alley. (Our condominium association has been routinely sweeping, weeding and removing snow from the alley, from our back gate to the Tremont Street sidewalk, as part of maintaining our garden and fence that abut the alley.)



This is not the first time we have notified the BZA of this violation. I hope that, if it is the petitioner's strategy to argue for removal of the alley-use restrictions on the grounds that they have been ignoring them since November, 2022 without troubling the abutters, the BZA will note this violation in favor of our objection to the current petition and consider the reliability of the promises in the petition.

If you have any questions, please contact me at unibear@comcast.net or 617-866-3457 (mobile).

I will participate in the BZA virtual hearing on May 25 to summarize my and my neighbors' concerns.

Sincerely yours,

Stephen L. Michaels

Stephen L. Michaels
82 Tremont St., Apt. 2
Cambridge, MA 02139-1332

USA

unibear@comcast.net

617-866-3457

Pacheco, Maria

From: John Hopkins <johnjjhopkins@hotmail.com>
Sent: Tuesday, April 4, 2023 2:58 PM
To: Stephen Michaels; Pacheco, Maria; ICE
Subject: Re: BZA-206665 Puritan & Co. Zoning Variance Petition

Hi Ms. Pacheco,

I wish to reiterate one more time on behalf of myself and my wife Marie that the activities of the Puritan in the alley way immediately adjacent to our condominium are negatively impacting the quality of life inside and outside the four walls of our home.

Over the last few months the Puritan has significantly ramped up their level of business activities in this alley way without there being any change in the zoning status of the alley.

The removal of trash and recycling barrels is occurring many times per day, especially throughout the evening all the way to 11.45pm on the weekends. It starts earlier on weekends.

Each time this happens the noise level in our apartment is significant, enough to be heard anywhere in the house and easily enough to wake up anyone who sleeping or bother anyone who is working. I have recorded this noise in our bedroom by iphone video with sound if this is admissible evidence.

We can also clearly all conversations between staff at the Puritan in the alley way. The alley way used to be quiet but now it is busy and noisy due to the staff and activities happening there. I have also smelled cigarette smoke coming in to our apartment due to staff smoking in the alley way. This was just once so far.

The Puritan have not been good neighbours over the years. They have left the alleyway dirty and have left several propane tanks in the back of the alley for a period of about a year. These propane tanks were cleared out relatively recently, prior to their latest zoning application. The alley way has always been a problem due to rats. This problem has been greatly reduced by the recent rat extermination efforts of the town and of us in 82-84 Tremont Street.

Much of the rat problem may have been due to the readily available food from trash cans and dumpsters near (or now in) the alley way.

I will also attend and participate in the BZA virtual hearing on May 25th.

Thanks,

John Hopkins
82 Tremont St., Apt. 2
Cambridge, MA 02139-1332

johnjjhopkins@hotmail.com

617-306-2817

From: Stephen Michaels <unibear@comcast.net>
Sent: 04 April 2023 11:21
To: Maria Pacheco <mpacheco@cambridgema.gov>
Subject: BZA-206665 Puritan & Co. Zoning Variance Petition

Cambridge Board of Zoning Appeal
Attn.: Maria Pacheco
831 Massachusetts Ave.
Cambridge, MA 02139

RE: Case BZA-206665, 1164-1166 Cambridge St., Puritan & Co., Zoning Variance Petition

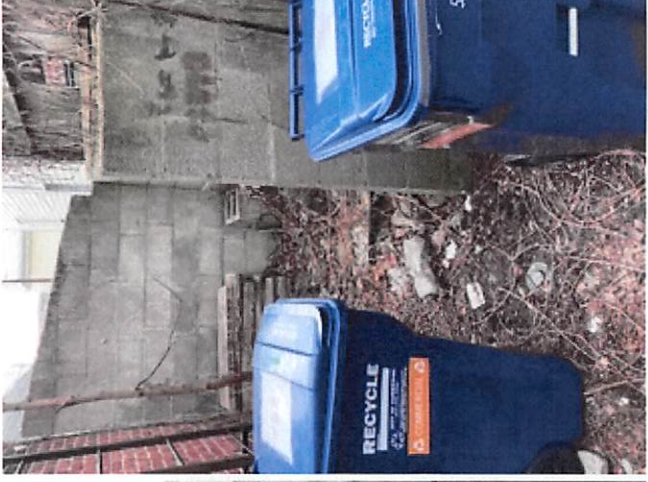
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If you have any questions, please contact me at unibear@comcast.net or 617-866-3457 (mobile).

I will participate in the BZA virtual hearing on May 25 to summarize my and my neighbors' concerns.

Sincerely yours,

Stephen L. Michaels

Stephen L. Michaels
82 Tremont St., Apt. 2
Cambridge, MA 02139-1332

USA

unibear@comcast.net

617-866-3457



Notice of Public Hearing

A Petition has been presented to the Board of Zoning Appeal (BZA) on the following matter. If you wish to express your views in favor of or in opposition to the petition, you are invited to attend the public hearing held virtually, or submit a written statement to the Board of Zoning Appeal, 831 Mass Avenue, Cambridge, Mass. or please contact the Zoning department at 349-6100 or visit our office at Inspectional Services Department. Please be aware that all documents may be submitted, including revisions to plans or documents previously submitted by the petitioner or any interested party for the BZA's consideration at the hearing if the documents are submitted prior to 5:00 p.m. on the Monday before the public hearing. It is within the BZA's sole discretion whether to accept further revisions to plans or documents at the public hearing.

Members of the public can participate or view the meeting remotely using the Zoom Webinar link: <https://cambridgema.zoom.us/j/85702635517>
Or join by phone: Dial +1 929 436 2866 or +1 301 715 8592 - Webinar ID: 857 026 55517

VIRTUAL HEARING - THURSDAY - MARCH 23, 2023 @ 7:45 P.M.

Dear Note: If at this hearing, the BZA Chairperson continues the case to a later date, you will not receive further notice. However, dates for continued BZA cases are posted on the notice board at the City Clerk's office, City Hall, and the City's Website.

CASE NO: BZA-206665

LOCATION: 1164-1166 CAMBRIDGE STREET
CAMBRIDGE, MA

PETITIONER: CAMBRIDGE CUISINE LLC - DBA PUFITAN & COMPANY
C/O ADAM R. BARNSKY, ESQ.

ZONING DISTRICT: BUSINESS RESIDENCE C-1 ZONE

PETITION: **Variance:** To modify previously granted variance condition on Case BZA-9779 to permit the rear door to be used for general restaurant operations (staff only) that previously restricted the use of the rear door limiting it to nonrecurring emergency egress only, and to permit the installation of a new trash enclosure.

VIOLATIONS: Art. 4.000, Sec. 4.35 a,c,d,e,f,j,k,g,r (Retail Uses) & Sec. 4.34 a,b,c,d,e,f (Office Uses).
Art. 10.000, Sec. 10.30 (Variance).

Copies of the application are on file at the City Clerk's Office, City Hall, 795 Massachusetts Avenue, and at the Inspectional Services Department, Lombard Building, 831 Massachusetts Avenue, Cambridge, Massachusetts.

Address written comments to the Board of Zoning Appeal.
831 Massachusetts Avenue, Cambridge, MA 02139

For more information please call 349-6100. TTY: 349-6112

BRUNCH · DINNER · OYSTERS · CHARCUTERIE





City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.
(617) 349-6100

2023 MAR 22 PM 2:09
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

Board of Zoning Appeal Waiver Form

The Board of Zoning Appeal
831 Mass Avenue
Cambridge, MA 02139

RE: Case # BZA-204665

Address: 1164-1166 Cambridge St.

Owner, Petitioner, or Representative: Michael J. Barone, Jr. Esq.
(Print Name)

hereby waives the required time limits for holding a public hearing as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A. The Owner, Petitioner, or Representative further hereby waives the Petitioner's and/or Owner's right to a Decision by the Board of Zoning Appeal on the above referenced case within the time period as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A, and/or Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, codified as 47 U.S.C. §1455(a), or any other relevant state or federal regulation or law.

Date: March 21, 2023

Michael J. Barone, Jr.
Signature

March 21, 2023

Via Online Portal and Email

Maria Pacheco
Secretary
Board of Zoning Appeal
831 Massachusetts Avenue
Cambridge MA 02139

Re: BZA No. 206665 – Request for Continuance of Hearing
Property Address: 1164-1166 Cambridge Street, Cambridge, MA 02139
Applicant: Cambridge Cuisine LLC d/b/a Puritan & Company

Dear Ms. Pacheco:

I write on behalf of Cambridge Cuisine LLC d/b/a Puritan & Company (the “**Applicant**”), relative to its above referenced application to modify conditions to an existing variance (the “**Application**”) at 1164-166 Cambridge Street (the “**Property**”). The Application is scheduled to be heard by the City of Cambridge Board of Zoning Appeal (the “**Board**”) on Thursday, September 23, 2023 (the “**Hearing**”).

The Applicant is in the process of conducting community outreach relative to the Application, with a neighborhood meeting scheduled at the Property on Saturday, April 8, 2023, at 10:00 AM (the “**Community Meeting**”).

Accordingly, I am writing to request a continuance of the Hearing until the Board’s first available meeting following the Community Meeting. I still intend to attend the Hearing to answer any questions the Board may have.

Thank you for your consideration with respect to this matter. Should you have any questions or concerns, please do not hesitate to contact me at your convenience.

Respectfully yours,



MICHAEL J. BARONE, JR.

cc: Cambridge Cuisine LLC (via email)

COMMUNITY MEETING NOTICE

PURITAN & CO.

SATURDAY, APRIL 8, 2023

10:00 AM

Dear Neighbors,

My name is Will Gilson and I am one of the owners of Puritan and Company. Some of you I have had the pleasure of meeting over the past 10 years we have been at 1166 Cambridge Street, and some of you I have yet to meet. I am writing this letter to let you know about Puritan's pending application before the Cambridge Zoning Board of Appeals and invite you to a meeting to discuss any questions or concerns.

Our application relates to limited, additional use of the rear of our building for the purposes of staff access and refuse storage in strict compliance with the standards of the City of Cambridge Health Department and limited to operational hours only. For the past ten years, we have stored refuse indoors at considerable expense and inconvenience. Since we have added our oyster bar concept to our space and at the request of the Health Department, we have had to move these barrels to the rear of the building.

We submitted our application in the hopes of activating a collaborative effort and to ease any perceived contention around this area. We believe by working together, we can create an area that meets our business needs while ensuring it is safe, sanitary, and maintained for all parties.

We hope you will join us for an in person meeting at the restaurant on **Saturday, April 8th at 10:00 a.m. in our private dining room at Puritan & Company**. In order to accommodate this meeting, we plan to request a continuance at our currently scheduled ZBA hearing on March 23.

We hope to see you there and we look forward to working with you on this.

Sincerely, Will Gilson

P R O C E E D I N G S

* * * * *

(6:00 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Matina Williams, Wendy Leiserson, Thomas Miller, and Zarya Miranda

JIM MONTEVERDE: Okay. We're good to go. The first case I'm going to call is Case No. 206665 -- 1164-1166 Cambridge Street. Is there anyone who'd like to speak -- proponent for this matter?

ADAM BARNOSKY: Hi. Good evening, Mr. Chairman, and members of the Board. My name is Adam Barnosky. I'm an attorney with the law firm of Ruberto Israel & Weiner, 255 State Street in Boston.

JIM MONTEVERDE: Thank you. Can you just walk us through the issue before us and what you're applying for?

ADAM BARNOSKY: Yes. Yes. Thank you very much. So I'm here on behalf of Cambridge Cuisine, d/b/a and Puritan & Company. With me is Ming-Tai Huh and Will Gilson, the owners and operators from Puritan.

We are here regarding a modification to the variance granted by this Board on Case BZA 9779,

1 specifically to remove a condition which limits the use of
2 the rears doors, nonrecurring emergency egress only.

3 Note the application also includes a request to
4 install an enclosure in the rear private alleyway, but that
5 portion of the application -- specifically the rear shed --
6 has been withdrawn from the request after discussions with
7 neighbors. I'll get into that in a moment.

8 As a way of background, the subject property is
9 located at 1164-1166 Cambridge Street. It is the location
10 of the restaurant Puritan & Company, which has operated in
11 the space for over 10 years.

12 The property is located on an L-shaped split lot
13 continuing across 5,700 square feet, with frontage and
14 primary means of egress on Cambridge Street. There is a
15 rear private alleyway with access to Tremont Street.

16 Approximately 85 percent of the lot is in the
17 Business A district, and approximately 15 percent is in the
18 Residential C district.

19 The 2009 decision the Board unanimously granted a
20 variance to authorize retail uses permitted in the A
21 district to be allowed on a portion of the property located
22 in the Residence district, which included a restaurant under

1 Section 4.35.f.1 of the Zoning Ordinance.

2 As part of the relief, the Board imposed three
3 conditions, including:

4 Number one, use of the rear door be limited to
5 nonrecurring emergency egress only, and that the shed in the
6 rear of the property be moved. The rear shed was
7 immediately moved, and since that time, the city's Health
8 Department requested that trash no longer be stored inside
9 the restaurant, which brings us to the request before you
10 today.

11 So this is not a request for a new variance, it's
12 not a request for additional relief as the current primary
13 use is allowed on the 2009 decision, but it is a request to
14 remove one of the three conditions, the 2009 decision.

15 It's worth noting that this alleyway is not a
16 public alleyway or a common alleyway. While certain
17 neighbors do have easements rights here, this is a private
18 property alley, which belongs to 1164 Cambridge Street.

19 And the purpose of the request is to allow
20 restaurant employees to use the rear door to access trash in
21 the alleyway.

22 Currently, there's an inability to use the rear

1 door, and it limits the use of the premises. The trash
2 needs to be stored in the restaurant and carried through the
3 dining area. This is a unique circumstance. It's brought
4 about some sympathy due to the property's placement within
5 the two zoning districts.

6 And the problem is really a direct result of the
7 condition imposed by the 2009 decision. That decision
8 doesn't functionally work with the uses that it authorized
9 by right.

10 At the time the decision was granted, it was
11 authorized in broad uses under 4.35, but if you read the
12 other conditions, for example, they reference potential
13 operations and limitations with the operation of a dry
14 cleaner.

15 And so, when the Board properly granted the Use
16 Variance, I don't believe that they contemplated all of the
17 impacts the condition might have on the potential uses, or
18 specifically here a restaurant.

19 You may recall this matter was originally
20 scheduled before the Board in March, and a continuance was
21 granted for the purposes of community outreach. The Puritan
22 team noticed a meeting and met on site to discuss the

1 application from abutters and neighbors. And it was a good
2 discussion.

3 And they were essentially able to agree to the
4 following in the event that the Board grants the request.

5 Mr. Chairman, may I go through a few of those
6 items that the restaurant is going to concede to?

7 JIM MONTEVERDE: Do we have those?

8 ADAM BARNOSKY: Great. So one is pest control.
9 There were concerns raised about potential pest activity
10 outside of the building. The restaurant agreed to attain an
11 additional contract with the pest control company to have
12 the exterior -- an exterior pest control plan that
13 corresponds to the level of the service they already have in
14 the interior of the building in the restaurant.

15 Two was the issue that I talked about at the
16 outset of this hearing not to include a storage shed. It
17 seemed like the main issue wasn't really was trash, the main
18 issue was about creating an enclosure that animals can live
19 in. So we conditioned that the -- if this is granted, the
20 restaurant is willing to forgo having a shed.

21 Number three was continued right of way in an
22 alley. Requests were made to ensure that the access is

1 never restricted, should contractors or other third parties
2 require to access others' property utilized. That was
3 agreed to.

4 Also snow removal. Neighbors requested the
5 restaurant manage snow removal on the private alleyway,
6 which he will do at cost if the condition is removed. Same
7 for cleaning the alleyway. They can have a thorough
8 cleaning and keep that clean.

9 And lastly was noise mitigation. There were
10 concerns raised with use of the alleyway for trash storage
11 and increase noise that could be loud and disruptive at
12 night. The restaurant is fine with limiting that use, and
13 staff will be instructed to pull barrels into the alley
14 prior to 10 p.m.

15 There also would need to be MAC wheels. These are
16 wheels with a metal hub and a rubber tire mounted on them,
17 that they are significantly quieter than traditional wheels
18 on trash barrels.

19 In addition, the restaurant is going to agree to
20 not use the alleyway for deliveries. They will not allow
21 staff to use the alleyway for smoking, gathering or other
22 social activities, and they are going to limit it to the

1 hours before 10 p.m.

2 So in summary, we're seeking to remove this
3 condition. It's a relatively benign request, considering
4 the lawful use under the code. We're hopeful that
5 considering the mitigation efforts that the restaurant is
6 going to give in return for the removal of this condition
7 will be seen as reasonable, we certainly find it to be so.
8 And we're happy to answer any questions the Board may have.

9 JIM MONTEVERDE: Thank you. One moment please.

10 I think all those conditions are approved? I was
11 just asking Staff: all the conditions that you just
12 mentioned I don't see in the file yet, were they submitted?

13 ADAM BARNOSKY: You mean the mitigation?

14 JIM MONTEVERDE: Yes. Yeah.

15 ADAM BARNOSKY: The mitigation efforts? No. They
16 were not submitted as part of the application. This came
17 about after we submitted the application. It's an ongoing
18 conversation with the neighbors.

19 JIM MONTEVERDE: Okay. All right. Are there any
20 questions from any other members of the Board? No? Hearing
21 none, I'll open the matter up -- sorry?

22 Did someone want to speak?

1 MATINA WILLIAMS: No, no questions.

2 JIM MONTEVERDE: Okay. Thank you. Since there
3 are no questions, I'll open the matter for public comment.
4 Any members of the public who wish to speak should now click
5 the icon at the bottom of your Zoom screen that says, "Raise
6 hand."

7 If you're calling in by phone, you can raise your
8 hand by pressing *9 and unmute or mute by pressing *6. I'll
9 now ask Staff to unmute speakers one at a time. You should
10 begin by saying your name and address and Staff will confirm
11 that we can hear you. After that, you'll have up to three
12 minutes to speak before I ask you to wrap up.

13 Is there anyone who wants to be heard?

14 JOHN HOPKINS: John Hopkins. Can you hear me?
15 This is John Hopkins.

16 JIM MONTEVERDE: Yep. Thank you. Go ahead.

17 JOHN HOPKINS: I live with my wife. We live
18 immediately next to that alley in Apartment #2 on 84 Tremont
19 Street. The -- from the Puritan doesn't align with our
20 experience so far over the last six or seven months. I
21 think it might have been late last year or early this year
22 where they started really wrapping up use of this alleyway.

1 A couple of days ago, there were nine of these
2 trash cans in the alleyway. And we hear them multiple times
3 per day -- four, five, six times per day and on weekends all
4 the way through to -- we've heard them after midnight.

5 We've heard all the way through to we've heard
6 them after midnight. We've heard staff talking down there
7 and smoking and smelling the smoke through our window. We
8 don't have soundproof windows, and you can't get work done
9 when this is happening, or if you're asleep, it would wake
10 you up.

11 And I actually took videos of this with my cell
12 phone, so you can hear the noise that comes into our house.
13 And even when I was lying in bed one night asleep and then
14 suddenly boom, you hear these carts and these trolleys or
15 bins coming out. And it's exceptionally loud.

16 So that's the biggest distress to me, aside from
17 over the last few years that this alleyway has been rat
18 infested. And it's been better since we took measures --
19 the town and our apartment, but there is even, right now
20 there is more rats in the alleyway.

21 So it's been a very distressing situation for
22 myself in Apartment #2 and also Apartment #1. That aside,

1 I'm sure there are some people on the the meeting here, but
2 they would be a small bit removed from that, but I'm sure
3 they could hear all the noise on the other side of our
4 building as well.

5 JIM MONTEVERDE: Thank you for your comment.

6 JOHN HOPKINS: I don't think they've --

7 JIM MONTEVERDE: -- Yep.

8 JOHN HOPKINS: -- been good neighbors to us.

9 JIM MONTEVERDE: All right. Thank you for your
10 comments. Is there anyone else who'd like to speak? Nope?

11 STEPHEN NATOLA: Ashley Mateus?

12 ASHLEY MATEUS: Yeah, hi. My name is Ashley
13 Mateus. Sorry, I wasn't sure if you were going to call
14 names or not. I am the owner of 84 Tremont Street #1, the
15 unit right below John. So we unfortunately were not able to
16 make the meeting with Puritan because we are owners of the
17 property and are not living in the state at the moment.

18 But our assessment is very similar to John's in
19 that that noise, you know, despite the efforts that Puritan
20 is willing to go to, we don't think would be enough to
21 mitigate the disruption.

22 And I did make a letter or present a letter to the

1 group. The things I want to point out about it is that
2 those windows that you were looking at in the drawings
3 previously when they were showing the alleyway and where
4 those garbage cans would be located: That was my bedroom
5 window when I lived there and my -- you know, 9-month-old-
6 baby's bedroom window.

7 And so, those two things that you're looking at:
8 Like yes, ten o'clock would not be disruptive for an adult,
9 but even 10 p.m. for a family to live in that apartment,
10 which we continue to rent to families and other great
11 members of the community, I think it would be extremely
12 disruptive to have the garbage barrels and Staff continually
13 present there.

14 So we continue to be against this measure as the
15 owners of the abutting unit.

16 JIM MONTEVERDE: Thank you. next speaker, please?

17 STEPHEN NATOLA: Jaime Mateus?

18 JAIME MATEUS: Hi. This is Jaime Mateus from 84
19 Tremont Street Unit #1. Can you hear me okay?

20 JIM MONTEVERDE: Yes. Thank you.

21 JAIME MATEUS: Great. So you just heard from my
22 wife wives and from our upstairs neighbors, John. I just

1 want to start by dispelling something that was portrayed by
2 the Council a few minutes ago, the -- you know, it seems
3 like he's going through this long list of conditions that
4 have been agreed to with the member, and all of these
5 concessions that Puritan was making.

6 That is really just a story that they're selling
7 you. A lot of people were not able to make that meeting.
8 As my wife mentioned, we're not living in the state at the
9 moment. There were no option to remotely join that meeting.

10 And all the things that they have conceded to:
11 Those are not really the real problem. The real problem is
12 the inordinate amount of noise and loss of privacy that is
13 caused by their request.

14 I have previously submitted a letter to this
15 committee detailing the many instances together with photo
16 documentation and time stamps where Puritan and Company have
17 not respected, have not abided by the generous concessions
18 that the Board has granted them.

19 It is very clear that that door was to be used for
20 nonrecurring emergency egress. The documentation I have
21 provided shows a repeated pattern of not following that over
22 a course of many years.

1 And I think it's worth taking a step back and
2 asking yourselves, "Why are we in this situation?" Puritan
3 has operated as a restaurant for many years without a
4 problem.

5 The part of this story you're not hearing here is
6 that they had a part of the restaurant inside where trash
7 was managed. That worked just fine for many years. In
8 fact, the business has been rather successful, it appears.
9 Now, they have created a second restaurant concept in there,
10 and there's no longer space for that.

11 So in -- you know, in the previous meeting we
12 heard about the cost that has been incurred in creating that
13 new restaurant. At some point in time, someone must have
14 thought, "Where are we going to keep the trash now?"

15 You know, the use of the unique nature of this lot
16 being split between the commercial and noncommercial areas,
17 that is not new. Everybody has known about this. Puritan
18 has known about this since before they signed any lease.
19 This is part of what they signed up to.

20 I think the Board has been generous in granting
21 the exception as it exists. I think it is appropriate. I
22 think it has worked well.

1 But granting the current request, the effect this
2 is going to have is effectively turning what is currently
3 zoned as residential into something that functions like if
4 it's zoned in a commercial zone.

5 I bought this property knowing that all around
6 this property, it was zoned as residential. That has an
7 impact on property value. It has an impact on the quality
8 of life you can have there and the amount of noise you can
9 expect.

10 Had I bought a property that was directly abutting
11 a commercial zone district for commercial use as the space
12 permitted, I would have expected a greater amount of noise.
13 I didn't want that. I wanted to start a family; I wanted to
14 have some more quiet.

15 So this has a very direct impact. We are not
16 living there now; we are renting the place. When our
17 renters now tell us that there's too much noise and this
18 rent is too high for that property, who's going to
19 compensate us? Or if we return back to live there with our
20 kids that are still young that go to bed a lot earlier than
21 10:00 p.m., that's not going to work out for us.

22 So I think there's been a big part of this story

1 that is not being told, and that is that Puritan knew
2 exactly what was going to happen when they built -- when
3 they expanded their interior restaurant concept.

4 And they have a history and a proven track record
5 of ignoring the requirements set by this Board. And I have
6 zero reason to believe that they will abide and be good
7 neighbors in the future, because I have every reason to
8 believe they will do the opposite.

9 Thank you.

10 JIM MONTEVERDE: Thank you for your comments.

11 STEPHEN NATOLA: Freeman?

12 FREEMAN DEUTSCH: Hi. I'm here with my neighbor,
13 Steve Michaels at 82 Tremont Street in Cambridge. Can you
14 hear us now?

15 JIM MONTEVERDE: Yes. We can hear you.

16 STEPHEN MICHAELS: Okay. We've been trying to
17 watch this on my desktop, and it's -- for some reason,
18 you're not seeing my hand up. So with me are -- Freeman has
19 introduced himself; I'm Stephen Michaels. We live -- and
20 Freeman's wife, Jess Saacke is here. We live at 82 Tremont
21 Street, the ground floor and second-floor apartments. We're
22 the other side of the building from the Hopkins and

1 Matuccias (phonetic).

2 I want to point out Freeman and I were two of the
3 three people in the meeting with the Puritan ownership, at
4 which the conditions that Attorney Barnosky presented were
5 discussed. But we did not agree to those conditions.

6 FREEMAN DUETCH: Exactly.

7 STEVEN MICHAELS: We were presented with a letter
8 summarizing the from the Puritan Management. We have not
9 responded in any way to it, because we do not feel
10 collectively after discussing this among ourselves that the
11 combined changes will mitigate the issues that we are
12 already dealing with because of the fact that Puritan
13 started using the alley in violation of the restrictions
14 back in November.

15 And so, we -- they have succeeded in demonstrating
16 to us that the disruptions that we were concerned about will
17 in fact happen if the restrictions are taken off the use of
18 the alley.

19 And so, we are very strongly in agreement with the
20 Matuccias and the Hopkins that the restrictions on the alley
21 should not be removed.

22 I want to point out also that the alley has always

1 been in the Residential C-1 zoning district. It was the
2 original variance that was applied was to allow the back
3 part of the building at 1166 Cambridge Street to be used as
4 part of the restaurant because in fact the building straddled
5 the line.

6 And we were concerned at that time that the
7 allowance of a restaurant in there would naturally result in
8 their wanting to use the alley for moving trash in and out
9 of there, and for their staff to go in and out of there, and
10 for their repairmen to go in and out of there, all of which
11 would be problematic for us.

12 So we have summarized our concerns and our
13 communications to the Board. You have them all in the
14 package. And we have not changed our position on those at
15 this point. Let me let Mr. Deutch and Ms. Sackie have their
16 comments.

17 JESSIE SAACKE: Sure. My name is Jessie Saacke.
18 I live at 82 Tremont Street. We're up on the second floor.
19 And I'll just say this in support of what's already been
20 said, which is we live -- so we're basically the furthest
21 unit from -- on the second floor, and we're on the other
22 side. And it's really noisy. I mean, we notice it.

1 And it's just -- I can't imagine if I were on the
2 other side of the building how loud it must be, given how
3 loud it is when we're at the furthest point.

4 That being said, we also -- I don't remember how
5 many years it was, but we -- you know, there was another
6 point in time that the alleyway was a point of contention
7 and, you know, we renege -- you know, we worked in the city
8 at the time, and it's worked fine for us since then.

9 You know, and I understand that Puritan's a nice
10 restaurant, but they opened up that Oyster Bar, which first
11 of all creates a ton of trash that they have to put
12 somewhere, and they also don't have anywhere to actually put
13 the trash.

14 But it really has -- you know, this is already
15 having a somewhat negative effect on just living here, which
16 is, you know, unfortunate. Because, again, you know, it's a
17 nice restaurant and all that, and we live here because
18 there's so many great restaurants. But we don't want to
19 have to hear their trash late at night.

20 Freeman?

21 FREEMAN DEUTSCH: Hi. I'm Freeman Deutsch. I
22 live at 82 Tremont Street in Cambridge with Jessie Saacke.

1 And the noise is just really bothersome. It's just -- you
2 can really hear it, it's almost like a jet engine that it,
3 like, coming around the corner. And we're on the far side
4 of the alley, right?

5 And again, they knew all along that there would be
6 all this trash, but when they asked for our permission to
7 allow more seating at the restaurant, we said fine, not
8 knowing that they would ask us to be able to store trash in
9 the back alleyway.

10 Thank you very much for your time and have a good
11 day.

12 JIM MONTEVERDE: Thank you.

13 UNIDENTIFIED SPEAKER: Put it on mute.

14 JIM MONTEVERDE: One second, please.

15 FREEMAN DEUTSCH: 82-84 Tremont Street
16 Condominium.

17 JIM MONTEVERDE: Is there someone who wishes to speak? If
18 you do, please identify yourself. Give us your name and
19 address.

20 UNIDENTIFIED SPEAKER: Oh, that's us.

21 FREEMAN DEUTSCH: Oh, sorry. We just spoke.

22 JIM MONTEVERDE: Okay. Thank you. That's all we

1 have for public commentary. Let me also mention that I
2 think we have letters from just about everyone who just
3 spoke. But let me just run through, just so we all
4 understand how many we have.

5 And I've counted as of yesterday no letters in
6 support, and 11 letters objecting. And I have from Marie
7 Hopkins objecting, John Hopkins, Stephen Michaels, Mary Rose
8 Barry (phonetic) and John Hopkins, and then repeats of the
9 same.

10 I'm going to close public testimony.

11 ADAM BARNOSKY: Mr. Chairman, prior to doing so,
12 as the attorney for the applicant, can I respond to some of
13 the public comment?

14 JIM MONTEVERDE: Yeah, certainly.

15 ADAM BARNOSKY: Thank you. So I appreciate it. I
16 will keep it brief. But I did want to bring some
17 clarification to the Board's attention: That number one,
18 the mitigating factors that I presented to the Board I
19 didn't want to give the impression that that was some agreed
20 upon stipulation between the neighbors and the restaurant.
21 That was simply items that the restaurant is willing to give
22 in return for this condition being removed, and then I think

1 everyone can agree would be helpful to the situation.

2 But more importantly, I want to be very clear
3 about what this request is and what this request is not. So
4 this is not a request to store trash in the rear of the
5 property.

6 This is a request to remove the first condition
7 from the zoning decision from 2009. And that is the
8 condition that the use of the rear door be limited to
9 nonrecurring emergency egress.

10 So the 2009 decision is actually very broad. It's
11 that the Board grants a variance for relief and ordered
12 authorized retail uses that are permitted as a matter of
13 right in the Business A district for the entirety of the
14 property.

15 And that it specifically says that the relief may
16 be granted without substantial detriment to the public good
17 or nullifying or substantially derogating from the intent or
18 purposes of the ordinance.

19 So this is not about storage of trash. Storage of
20 trash can be allowed whether or not the proviso is removed.
21 There is no prohibition from the restaurant using the rear
22 alleyway. There's no prohibition from the storage of trash

1 subject to Health Department regulations.

2 Alternately, I think that this might help both the
3 folks on the call that were in opposition to this, as well
4 as the Board.

5 Part of the issue is that the trash is in the rear
6 alleyway. And the only way that it can be accessed is by
7 going out with one of the buildings on the street, going
8 around the corner, going down through the alleyway, using
9 the cans and going back and forth. And that traffic is
10 bound to create more noise.

11 So the thought is if the condition is removed, and
12 the rear door can be used, that's going to limit the amount
13 of trips, which won't occur. They'll simply be the opening
14 door, bringing trash in, coming back inside, and will likely
15 have the net result decreasing the amount of traffic and
16 noise in the rear.

17 But I just want to be clear again that what
18 Puritan is doing on site currently is 100 percent lawful
19 based on the 2009 decision. And that if this Board doesn't
20 grant the relief, that the activity that's going on there
21 will continue.

22 So the thought is that this is going to help the

1 situation there, and that the mitigating list that I
2 provided is a good neighborly thing for the restaurant to
3 do, and one that they're willing to do just to try to help
4 the situation out.

5 Now, I don't know that that will be in place
6 necessarily if they're going to be required to continue to
7 walk around the building and do those sorts of things,
8 although I think that, you know, they can work with the
9 neighborhood regardless.

10 But again, this is a simple request that we're
11 making, but it is very, very narrow in scope. So I want to
12 make sure that the Board doesn't think that they're
13 authorizing something broader than what is being requested.

14 JAIME MATEUS: Thank you. I'd like a minute to
15 respond to that, if I can, please?

16 JIM MONTEVERDE: No, I'm sorry, we've -- well yes,
17 we've opened public comment. Yes, one last one please.

18 JAIME MATEUS: I would contest that what we heard
19 right now is really inaccurate. And if you read what the
20 Board of Zoning Appeal has permitted, it says that it is the
21 -- let me find the right text here -- that it is the area of
22 the building that is in a Residential zone that may be used.

1 It specifically says, "building" and not the entire
2 property.

3 So I believe that this interpretation that right
4 now you are permitted to store trash in the alleyway is both
5 inaccurate and does not reflect the text of the granted
6 appeal.

7 And even if it did, it is completely counter to
8 the entire spirit of the intent of these restrictions. And
9 you can read the full record of all the discussions that
10 happened in that Board of Zoning Appeals back in 2009.

11 Because the reason you said you want to remove one
12 of the three conditions? Well, guess what? It is the key
13 condition. And it's all about that. And removing that
14 condition then enables everything that 2009 meeting was
15 about.

16 So I would encourage the exact text to be read,
17 which is the building, the residential part of the building
18 is allowed for use as a commercial and not the entire
19 property. So the alleyway would not be included in that.
20 Thank you.

21 JIM MONTEVERDE: Thank you. I'm going to close
22 public testimony.

1 JAIME MATEUS: And Mr. Chairman, if I may just
2 respond to that? Thank you.

3 JIM MONTEVERDE: No. Public testimony is closed.
4 Discussion from Board members, please? Steven, do you have
5 any questions, comments?

6 STEVEN NG: Yes. I do have a question for Mr.
7 Barnosky. Prior to the situation, is there trash storage in
8 the restaurant right now and it was going out the front
9 door?

10 ADAM BARNOSKY: Yes. That is my understanding.
11 That is currently the way that storage, that trash is being
12 managed on site.

13 STEVEN NG: Oh, is that right?

14 ADAM BARNOSKY: We do have the operators on the
15 line if you'd like to talk about specifics.

16 STEVEN NG: Well, I'm just wondering that is that
17 space fill in the restaurant, or did it get removed from
18 whatever subsequent modifications or different changes to
19 the restaurant design?

20 ADAM BARNOSKY: Oh, I see what you're saying.
21 Yes.

22 STEVEN NG: Yeah.

1 ADAM BARNOSKY: So the area that was being used
2 internally for the storage of trash was -- is being utilized
3 for the operation part of the restaurant.

4 JIM MONTEVERDE: Any other questions, Steven?

5 STEVEN NG: No --

6 JIM MONTEVERDE: Comments?

7 STEVEN NG: -- I'm good. Thank you.

8 JIM MONTEVERDE: Matina?

9 MATINA WILLIAMS: I don't have any questions. The
10 question that Steven asked was my question. I'm just
11 wondering when you removed the storage that was in the
12 building, what was your plan?

13 ADAM BARNOSKY: Well, I might --

14 MATINA WILLIAMS: Because there is a big -- I mean
15 Cambridge seems to have a major rat problem. Like, you
16 removed the storage that you had; what was the plan?

17 ADAM BARNOSKY: Well, I can -- I might ask that
18 the -- my clients speak directly to it, but from what my
19 understanding would be, the Zoning decision allows the
20 building to be used as a restaurant, which is what they're
21 trying to do.

22 And as all of you likely know, the restaurant

1 industry has been hit very hard over the past three years,
2 so most operators are looking to find ways to maximize the
3 use of their space.

4 And here they were using the -- part of the
5 interior for storage of trash because it was easier than the
6 alternative, which is taking trash all the way around the
7 back alleyway there.

8 But as you all know, a restaurant's storage of
9 trash inside of a restaurant is incredibly atypical. And
10 it's atypical here and it would never have been done. It
11 was only done because of the proviso on this decision.

12 And so, they lawfully have trash in the rear. You
13 know, the decision talks thoroughly about the exterior of
14 the building in the conditions. So to say that for some
15 reason the use is only limited to the building I don't think
16 it's an accurate one if you actually read the full decision.

17 So the plan was to put the storage outside, just
18 to answer your question. That was the idea, because they
19 can lawfully do so. And they might just simply have to
20 continue to do it inconveniently by walking around the
21 block. But that seems to be pretty impractical.

22 WILL GILSON: Adam, I'm happy to speak as well, if

1 that would help clarify some items here for the Board? Mr.
2 Chair?

3 JIM MONTEVERDE: Excuse me one second. Matina,
4 did you get your question answered?

5 MATINA WILLIAMS: Yeah. I -- yeah, I did. Thank
6 you. Thanks.

7 JIM MONTEVERDE: Okay. Thank you. Wendy, any
8 questions or comments?

9 WENDY LEISERSON: I have a request for
10 clarification. I thought I did read in the narrative that
11 the City had requested that you move the trash outside? Is
12 that incorrect in my recollection?

13 WILL GILSON: Um--

14 WENDY LEISERSON: It said something where the
15 Cambridge Health Department requested that you no longer
16 store trash inside?

17 ADAM BARNOSKY: Mr. Chairman, I have Will Gilson
18 on the line as well. He might be able to provide some more
19 on that, if that's all right with you.

20 MATINA WILLIAMS: Wendy, I think you're correct in
21 saying that, but I'm wondering if this is after they
22 expanded.

1 WENDY LEISERSON: So maybe let's have the operator
2 respond to this point, if we could?

3 MATINA WILLIAMS: Yep.

4 WILL GILSON: Of course. And thank you. So my
5 name is Will Gilson. I'm the day-to-day operator here at
6 Puritan & Company.

7 So when we moved into the space back in 2012 and
8 we understood that the genesis of the issue here was the use
9 of that store, we had an extra 1000 square feet of space
10 that was in the building, and we knew that from just a sheer
11 operation standpoint, it would be very difficult for us to
12 use that -- you know, we would not be able to use that rear
13 door, so therefore we would have to, you know, bring
14 everything around as we are currently doing. We opted to
15 just use that space inside, you know?

16 In the first few years of being a new restaurant
17 in a new neighborhood, we want to do everything we can to
18 make sure that we do whatever we can to keep our neighbors
19 happy and understand our operations.

20 Now, obviously after, you know, three years of the
21 restaurants being decimated during the pandemic, our rent
22 also hit its first renewal, which brought it up 40 percent

1 from what we were paying previously.

2 So as you know, Cambridge has become a very
3 expensive place to do business, and with -- you know, 10
4 more years left on our lease, we looked at what would be the
5 best options for us to continue our operations moving
6 forward and be the most successful.

7 And the mathematics there was to continue to
8 expand into the last thousand square feet of unfinished
9 space that we had, which would then obviously sort of
10 require us to do a plan that we had thought about, you know,
11 10 years ago.

12 So the Health Department in that process basically
13 said, "Well, we don't feel great about the trash being
14 stored inside." I don't have a written decision from the
15 City of Cambridge, I don't have written instructions; this
16 is conversations with three different members of ISD who
17 work in the space telling us what they believe we should be
18 doing. They said the best way you do is get this outside.

19 So we pay for trash removal and recycling removal
20 six days a week, from when we had it inside to it being
21 outside. So the trash is never around for long enough to
22 create rodent issues, and we pay a significant amount of

1 money to have weekly pest control happening inside the
2 building but have not done it outside because we had not
3 been using that area previously.

4 And when we met with the abutters, we were happy
5 to say, "This is something that we will take on no problem."
6 But our main request here is just being able to use the
7 door, and use the door if parameters are set with time;
8 that's understandable. We would be happy to work within
9 that.

10 Our goal is not to be bad neighbors. Our goal is
11 not to be able to make the folks who live there feel as
12 though like it's unbearable. And I think the representation
13 of it sounding like there's a party or rocket ships back
14 there is a little excessive, considering we spent the least
15 amount of time that we possibly can going back there to do
16 this.

17 We don't -- after some initial pushback of folks
18 saying that our staff was back there, whether it be smoking
19 or whether it be making too much noise, we instructed our
20 staff to do things differently.

21 And then the interior of our building -- since
22 February there has been a piece of "Caution" tape across

1 that rear door to ensure that no staff member goes out that
2 door, knowing that that is one of the big issues that they
3 have.

4 And, you know, additionally what we are trying to
5 do here is just make sure that what we can do it limits
6 impact and allows us to do our business operations. This
7 has always been our goal here.

8 There have been many times when we tried to broach
9 this subject previously with members of the abutters. And
10 there was a fair amount of vitriol that came from even
11 bringing it up.

12 So oftentimes, if you're asking why we didn't do
13 this previously, it was because we just didn't -- we had
14 another option, and we didn't want to have to deal with it.

15 We didn't want to have to deal with people who we
16 hope value a restaurant of our caliber being in the
17 neighborhood and doing what it does and being good
18 operators.

19 In fact, anytime that we had to use that door, if
20 it wasn't for somebody accessing our rooftop mechanicals,
21 Mr. Jaime -- or Jaime who was on this call -- I would e-mail
22 him and ask if it would be okay if we used it to go outside

1 and wash trash barrels.

2 JIM MONTEVERDE: I'm going to ask you to wrap up
3 your comment, please, or your response?

4 WILL GILSON: Sure. I mean, that's all I'm saying
5 is that we have done all we can throughout time to make sure
6 that we are in communication with them and that this ask is
7 essentially just for the door and some sort of time
8 restraint.

9 JIM MONTEVERDE: Thank you. Wendy, was that your
10 question, comment?

11 WENDY LEISERSON: I believe so. Yes. Thank you.

12 JIM MONTEVERDE: Yes. Zarya? Any comments or
13 questions?

14 ZARAYA MIRANDA: No questions, thank you.

15 JIM MONTEVERDE: Okay. I do. So I'm searching
16 for the path forward. And it seems that there are several.
17 And if I understand correctly, the mitigation measures were
18 -- was there a meeting with all of the neighbors -- that
19 they were presented with those mitigation that they could
20 discuss those with you?

21 WILL GILSON: We had --

22 JIM MONTEVERDE: I thought I did hear it was not.

1 WILL GILSON: -- we had a meeting where there was
2 three members of the abutters that attended. I listened to
3 their concerns. I told them our opinion, and there was some
4 -- the way it was left was we will bring this back to our
5 members of the community and our -- and other members of the
6 building.

7 We typed up a summary, which we sent to them and
8 said, "This is what we talked about, and this --

9 JIM MONTEVERDE: Right.

10 WILL GILSON: -- is what we'll be discussing.

11 JIM MONTEVERDE: Okay. Given the comments we've
12 heard from the neighbors, even including the mitigation
13 proposals that you offer, it doesn't seem to close the gap
14 yet.

15 So one option is to try to give you more time to
16 come to a conclusion with the neighbors, or at least get the
17 neighbors on your side, which would mean a continuance to go
18 back to the neighbors, get more of the neighbors together,
19 all who have written us here, anyone nearby, and continue.
20 That's one.

21 The second one is to continue with a vote, which
22 you could do. If we go to a vote, I just reread the file

1 for the outcome of the previous hearing. And it does say,
2 as you said, it really said for that rear door is restricted
3 for nonrecurring emergency egress only. Doesn't speak about
4 anything else.

5 And at the moment from the neighbors' description,
6 if in fact it seems like most of the issues they are having
7 regarding trash rooms, noise really -- would not seem to be
8 solved by allowing this door to be open. And therefore, at
9 the moment, I wouldn't be ready to support this.

10 So you need four out of the five Board members to
11 be in favor to pass this. And I don't know if any of the
12 other Board members have -- feel similarly; just trying to
13 give you a sense of the lay of the land if you decide you
14 want to go forward with the vote.

15 So what would the proponent like to do? I've
16 outlined there are two options: Continue, allow you to have
17 another session with the neighbors and try and reconcile
18 your -- also that the mitigations could be entered on file,
19 or go forward with a vote? Or anything else you can think
20 of? What's your preference?

21 ADAM BARNOSKY: Mr. Chairman, was that -- is that
22 a question to the applicant?

1 JIM MONTEVERDE: I'm sorry, yes. The proponent.

2 ADAM BARNOSKY: Yes. I mean, at this point in
3 time, I would move forward to request a continuance to see
4 if we can come to some sort of consensus. I'm curious to
5 see if that's possible. It seems like the issue doesn't
6 relate as much to the door as it does to the trash, which I
7 don't think can be solved here.

8 But nonetheless, I think that you know as Will
9 mentioned, he -- the restaurant wants to be good neighbors,
10 we'd be happy to continue the conversation. So I would
11 request a continuance.

12 JIM MONTEVERDE: Okay.

13 UNIDENTIFIED SPEAKER: I just had one more
14 question, is that okay?

15 JIM MONTEVERDE: Who is that, please? Identify
16 yourself?

17 STEVEN NG: Steve. Steve Ng.

18 JIM MONTEVERDE: Yes. Certainly.

19 STEVEN NG: So what I've been hearing from the
20 applicant and Counsel is that they're actually allowed to
21 place trash containers in that alleyway, they just can't
22 bring it through that rear door. Is that true?

1 JIM MONTEVERDE: At the moment with the paperwork
2 in front of me, I have no way to confirm it. What I don't
3 know is --

4 STEVEN NG: Yeah.

5 JIM MONTEVERDE: -- what the conditions are in the
6 alley.

7 STEVEN NG: Exactly, yeah.

8 JIM MONTEVERDE: If any.

9 STEVEN NG: Yeah. I'm trying to just understand
10 the dynamic here of what's allowed and what's not allowed,
11 and what's been happening that shouldn't be happening.

12 JIM MONTEVERDE: Well --

13 STEVEN NG: And, you know, I think --

14 JIM MONTEVERDE: Steve, can you see the same
15 graphic I can see on the screen? It's the plot plan?

16 STEVEN NG: Yes.

17 JIM MONTEVERDE: What the alley reads is I squint
18 -- see a 7' right of way.

19 STEVEN NG: Yes.

20 JIM MONTEVERDE: Now, I need some legal advice to
21 define right of way, whether that's simply rite of passage,
22 or there's some other uses allowed there. I don't know.

1 That would be a good thing for the -- for the petitioner
2 perhaps to explore and be able to bring to us when they come
3 back. That would make a difference.

4 But I think still trying to be good neighbors is
5 just addressing the neighborhood's concern and --

6 STEVEN NG: Mm-hm. Agreed.

7 JIM MONTEVERDE: -- it doesn't sound like they're
8 concerned whether that's a right of way or who owns it, or
9 it's really how it's used. Thank you, Steven.

10 WENDY LEISERSON: Thank you, Mr. Chair. This is
11 Wendy Leiserson.

12 JIM MONTEVERDE: Yes.

13 WENDY LEISERSON: I also would be curious to hear
14 or see something in writing from the Health Department or --

15 STEPHEN NG: Yes.

16 WENDY LEISERSON: -- the applicant has more
17 conversations with Inspectional Services as well about what
18 their options are, perhaps that would inform the Board.

19 JIM MONTEVERDE: Okay. Are we ready for a vote to
20 continue? Do we have a time you'd like to suggest, date and
21 time? I'm talking to Staff here. June 29, 6:00? Does that
22 work for the proponent, does that work for the Board

1 members?

2 UNIDENTIFIED SPEAKER: Yes.

3 UNIDENTIFIED SPEAKER: That works on my end.

4 Thank you, Mr. Chairman. Thank you, members of the Board.

5 JIM MONTEVERDE: Okay. Let me make a motion,
6 then, to continue this matter to June 29, 2023. Oh, sorry,
7 let me just go to do this one at a time. So Steven, can you
8 do the June 29?

9 STEVEN NG: Yes, I can.

10 JIM MONTEVERDE: Matina, June 29?

11 MATINA WILLIAMS: As of now, yes, I can do it.

12 JIM MONTEVERDE: Okay. Wendy, June 29?

13 WENDY LEISERSON: Yes.

14 JIM MONTEVERDE: And Zarya?

15 ZARAYA MIRANDA: Yes.

16 JIM MONTEVERDE: Okay. Back to the motion. I
17 make a motion to continue this matter to June 29, 2023, on
18 the condition that the petitioner change the posting sign to
19 reflect the new date of June 29, 2023 and the time of 6:00
20 p.m.

21 Also, in furtherance that the petitioner sign a
22 waiver to the statutory requirement for a hearing. Said

1 waiver can be obtained by -- from Maria Pacheco or Olivia
2 Ratay with the Inspectional Services Department. Ask that
3 you sign it and return it to us by a week from this coming
4 Monday -- no, the Monday before the twenty-ninth.

5 Failure to do so will de facto cause this Board to
6 give an adverse ruling on this particular case. We would
7 ask that you sign it and get it back to us. This will allow
8 us to hear the case on June 29.

9 Also, if there are any new submittals, change the
10 drawings, which -- I don't think we'll have that -- that
11 those be submitted prior to the Monday before the June 29
12 hearing.

13 And also, if there's any changes, that the
14 dimensional form and potentially any supporting statements
15 also be changed and submitted along with the new documents.

16 Also, that the proponent submit with them in the
17 next round some statement from the Health Department
18 confirming that they in fact have not spoken against or not
19 allowed trash storage in the right of way, and if they can
20 also provide some definition of at least legally what uses
21 they believe are allowed in that right of way and which are
22 not.

1 On the motion, then, to continue this matter until
2 June 29, 2018, Zarya?

3 ZARAYA MIRANDA: In favor.

4 JIM MONTEVERDE: Wendy?

5 WENDY LEISERSON: In favor.

6 JIM MONTEVERDE: Matina?

7 MATINA WILLIAMS: In favor.

8 JIM MONTEVERDE: And Steven?

9 STEVEN NG: In favor.

10 JIM MONTEVERDE: And Jim Monteverde in favor.

11 [All vote YES] Thank you.

12 ADAM BARNOSKY: Thank you.

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Pacheco, Maria

From: Frantz Brizard <brizard71@gmail.com>
Sent: Thursday, May 25, 2023 6:20 PM
To: Pacheco, Maria
Subject: BZA-206665

Hi, my Frantz Brizard, reside at 53 tremont st, owner of FRANCO'S HAIR STUDIO 157 Hampshire st.
I think it would be very unfair not to give the restaurant the right the back door, it's simply going to use the same purpose like any other restaurants or businesses, they deserve to have the right to use the back space for trash and recycling materials like everyone else. Thank you for your attention to this matter.

Pacheco, Maria

From: Marie Hopkins <mariebarryhopkins@gmail.com>
Sent: Thursday, May 25, 2023 4:17 PM
To: Pacheco, Maria
Subject: Summary of "Community Meeting" yesterday with Will from Puritan 04/08/23 - 84 Tremont Street condo owners

Good afternoon Ms. Pacheco!

My husband, John Hopkins, and I live in 84, Tremont Street, Unit 3, adjacent to the alleyway behind the Puritan restaurant.

We were unable to attend the Community meeting on April 8th, 2023, with the representatives of the Puritan.

Our fellow condo members forwarded us a summary of the topics discussed during the meeting.

We are still very unhappy about the proposed planning changes and compromises discussed during the Community meeting.

What body/organization is going to ensure that the agreed compromises are enforced?

Reducing the number of bins to 6 is good but I recently saw 9 bins in the alleyway.

The bins are still being emptied 2-3 times per day as early as 9:30 am and as late as midnight - last weekend. The noise is deafening. I've been studying at home and the noise is intrusive.

The condo members that met with the Puritan's representatives live at 82, Tremont Street, away from the alleyway.

As it is we have to put up with the strong smell of food being cooked when we have our windows open. The vents from the Puritan are next to us as well.

We would not have purchased the condo in 2016 if we were cognizant of the possibility that Tremont Street might be zoned as commercial.

I am abroad at the moment so I cannot participate in this evening's Zoom hearing. My husband hopes to participate if his schedule allows.

I would be grateful if you could make our views known to the Planning Board at this late stage.

Thank you,

Marie Barry Hopkins

Begin forwarded message:

From: Marie Hopkins <mariebarryhopkins@gmail.com>
Date: April 11, 2023 at 2:15:25 AM GMT+1

To: Stephen Michaels <unibear@comcast.net>
Cc: erinjanehart@gmail.com, Freeman Deutsch <fdeutsch@comcast.net>, Jaime Mateus <jaime.mateus@gmail.com>, Ashley Mateus <mateus.ashley@gmail.com>, John and Marie Hopkins <johnjjhopkins@hotmail.com>, Jessie Saacke <jsaacke@comcast.net>, Steven Halpern <steve.halpern@comcast.net>
Subject: Re: Summary of "Community Meeting" yesterday with Will from Puritan

Hi Steve!

Thank you once again for the clarification.

We will make our views known to the BZA and participate in the virtual hearing on May 25th as we did previously on March 23rd.

Have a good evening!

Marie

On Apr 10, 2023, at 9:41 AM, Stephen Michaels <unibear@comcast.net> wrote:

Hi Marie,

The proposed trash bin shed (which may be abandoned) is only big enough for six bins, so that was the assumed number of bins. We can negotiate a limit if we want but there is no fixed promise at present.

We can question Will's assertion about daily removal six times a week on May 25.

The "community meeting" did not attract even a majority of the abutters, only three of us. So we're in no position to assert any community "position."

While Will said he hopes we can reach a negotiated agreement among us all before May 25, I have no idea how to get to one and I do not plan to lead any further discussion. I just thought it would be useful to summarize the discussion for our records.

I continue to recommend that each of us represent our interest(s) to the BZA and participate in the May 25 hearing.

Thanks for your comments.

Steve

On Apr 9, 2023, at 11:29 PM, Marie Hopkins <mariebarryhopkins@gmail.com> wrote:

Hi Steve,

I would like to clarify some points on your meeting summary.

He wants to store 6-7 trash/recycling barrels in the back end of the alley, where they are currently.

Prior to the 03/03/23 hearing there were 9 trash/recycle bins in the alleyway. There are fewer bins there at the moment but that could just be a temporary thing.

Pick-up cannot and will not occur on Tremont Street but Puritan's staff will have to move the barrels down the alley, up Tremont and around the corner to Puritan for emptying, then return them. This is already scheduled to happen 1 time per day, 6 days per week. He is willing to put a schedule limitation on what time of day this will happen, to minimize disruption of the abutters by the noise.

The bins are CURRENTLY being dragged up and down the alleyway 2-3 times daily not once a day.

It would have preferable if the case was actually heard by the Planning Board before the adjournment and community meeting.

We concluded the meeting cordially and Will agreed to summarize his notes and offers and share them with the abutters for further negotiation. Freeman and I stated that we could not assure any particular response from abutters not present in this meeting. The meeting lasted 45 minutes.

We did not attend the meeting in person because the Planning Board has our concerns and objections on file and it was Easter Saturday morning. Does he require an individual response or consensus before the hearing on May 25th?

Thank you and Freeman for attending the meeting and sending us the notes,

Regards,



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.
(617) 349-6100

2023 MAY 26 AM 10:22
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

Board of Zoning Appeal Waiver Form

The Board of Zoning Appeal
831 Mass Avenue
Cambridge, MA 02139

RE: Case # B7A-204665

Address: 1164-1166 Cambridge St.

Owner, Petitioner, or Representative: Michael J. Barone, Jr. Esq.
(Print Name)

hereby waives the required time limits for holding a public hearing as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A. The Owner, Petitioner, or Representative further hereby waives the Petitioner's and/or Owner's right to a Decision by the Board of Zoning Appeal on the above referenced case within the time period as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A, and/or Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, codified as 47 U.S.C. §1455(a), or any other relevant state or federal regulation or law.

Date: 5/25/2023

Michael J. Barone, Jr.
Signature



255 State Street, 7th Floor
Boston, MA 02109
Telephone 617.742.4200
Facsimile 617.742.2355
www.riw.com

Memorandum

To: Board of Zoning Appeals for the City of Cambridge
From: Adam R. Barnosky, Esq.; Michael J. Barone, Jr., Esq.
Date: June 20, 2023
Re: BZA-206665 (1164-1166 Cambridge Street, Cambridge)
Memorandum in Support of Application to Modify Variance Condition

This memorandum is submitted relative to the pending application of Cambridge Cuisine, LLC d/b/a Puritan & Co. (the "Applicant"), which is presently scheduled to be heard at a continued public hearing before the Board on Wednesday, June 28, 2023. As the Board may recall, the Applicant seeks a modification of one (1) condition imposed by the Board in BZA Case No. 9779, issued June 25, 2009 (the "2009 Decision")¹, relative to the property located at 1164-1166 Cambridge Street in Cambridge, Massachusetts (the "Premises")². Specifically, the Applicant seeks a modification of the condition which limits use of the rear door of the building for nonrecurring emergency egress (the "Rear Door Condition").

As explained during the Board's hearing on May 25, 2023, the 2009 Decision included the Rear Door Condition to ensure that any business which operated at the Premises, which abuts residences to the rear, did not use the rear door for regular access of employees, deliveries, customers, shift breaks, etc. The Applicant now requests the removal of the Rear Door Condition to allow the Applicant's full-service restaurant access to the rear of the building *limited only for the proper disposal of the Applicant's trash*, which is lawfully stored in a private alleyway to the rear of the building. Currently, due to the Rear Door Condition, the restaurant owner is required to haul trash from the rear of the building, through the front entrance, around the block to Tremont Street, along hundreds of feet of public sidewalk, and down the entire length of the rear alleyway.

¹ The 2009 Decision permitted the use of the rear portion of Premises located in the Residence C-1 zoning district to be utilized for office and retail uses otherwise permitted in the Business A zoning district, subject to the following conditions only: (i) that the use of the rear door into the right of way between 82-84 and 88-90 Tremont Street be limited to nonrecurring emergency egress only; (ii) that if the structure is used for dry cleaning, then this use be limited to drop off service, where no dry cleaning is done on the premises, and (iii) that the [then-existing] shed that appears to the rear of the structure be promptly removed and that any damage to the main structure be rectified.

² The Premises is an irregularly shaped lot, located primarily in the Business A Zoning District, with frontage on Cambridge Street and approximately seven (7) feet of frontage on Tremont Street which connects to a private alleyway running behind the Premises. The rear alleyway is private, not public. Legal title and interest to the alleyway remains a part of the Premises and the owner/occupant of the Premises retains all rights to utilize such alleyway.

In addition, regarding questions raised by the Board relative to trash storage, it is important to note that: (i) the Zoning Ordinance does not prohibit outdoor storage of trash; (ii) the City's Health and Safety Code permits trash storage in a private alleyway; (iii) the Applicant's trash storage currently compliant with the city's laws and ordinances; and (iv) neither the 2009 Decision nor the Rear Door Condition prohibits the use of alleyway for trash storage; and, as a result: (v) whether the Rear Door Condition remains intact or removed will have no bearing on the lawful storage of trash in the rear alleyway. Conversely, if the Board denies the Applicant's request and the Rear Door Condition remains intact, the business will be required to continue to haul trash around the block, along hundreds of feet of public sidewalk, and in full sight and earshot of several businesses, residences, and pedestrians, which is wholly unnecessary and impracticable where there is an operable door in the rear of the building with immediate access to a portion of the same property upon which trash may be legally stored.

As the Applicant will not use the rear access for any other use, including general employee entrance/exits, deliveries, employee breaks, etc., instead of the removal of the Rear Door Condition altogether, an alternative would be a modification as follows:

From:

(i) that the use of the rear door into the right of way between 82-84 and 88-90 Tremont Street be limited to nonrecurring emergency egress only;

To:

(i) that the use of the rear door into the right of way between 82-84 and 88-90 Tremont Street be limited to nonrecurring emergency egress only, except for access to the private rear alleyway for trash storage consistent with the City of Cambridge Health & Safety Code;

The 2009 Decision Imposes No Restrictions Regarding Trash

The 2009 Decision in no way restricts the Applicant from storing trash in the alleyway, nor does it even reference trash, refuse, or the storage thereof. Furthermore, the 2009 Decisions makes no reference whatsoever to any restriction on use of the alleyway – only use of the door leading from the building into the alleyway.

Pursuant to Section 10.34 of the City of Cambridge Zoning Ordinance, the Board is generally authorized to “attach such conditions, safeguards, and limitations of time, use and other development features” as the Board determines are “*necessary to protect the surrounding neighborhood* including the continued existence of any particular structure...” (emphasis added). In an effort to ameliorate the concerns by neighbors in 2009, the Board that issued the 2009 Decision granting the variance subject to the condition, *inter alia*, that use of the rear door be limited solely to nonrecurring emergency egress.

None of the three (3) conditions listed in the 2009 Decision restrict the use of the alleyway. To the extent that the 2009 Board desired to prohibit the use of the alleyway for trash storage (or any other use), it could have included language to that effect, much like it limited dry cleaning use at the Premises to drop-off services only. The lack of any specific prohibitions, restrictions, or limitations on the use of the alleyway in the 2009 Decision means that the alleyway may be utilized in accordance with the Zoning Ordinance.

The Applicant is Currently Permitted to Store Trash in the Alleyway

The Applicant is wholly and legally within its rights to use the alleyway for the storage of trash incidental to its operation of a restaurant at the Premises.

The Zoning Ordinance Does Not Prohibit Outdoor Storage of Trash

Nothing in the Zoning Ordinance prohibits the outdoor storage of trash and refuse on private property located within the Residence C-1 Zoning District. Whereas certain zoning districts specifically require that “[e]xcept during construction activity on the lot all refuse and other waste materials shall be stored within buildings prior to collection and disposal” (see Sections 14.23.4 (Mixed Use Development District: Kendall Center), 15.23.4 (Cambridgeport Revitalization Development District), and 16.34 (North Point Residence, Office and Business District)), the Zoning ordinance lacks similar language applicable to the Business A or Residence C-1 districts.

Such an express restriction in the above referenced sections and its absence in those sections applicable to the Premises make it clear and incontrovertible that such restrictions are not applicable to the Premises and that the Applicant may lawfully store trash outside the building.

The Health and Safety Code Permits Trash Storage in the Alleyway

Title 8 (Health and Safety) of the Cambridge Code of Ordinance (the “Code”), makes it clear that the Applicant’s use of the alleyway for the storage of trash is expressly permitted.

Specifically, Section 8.24.100 provides that “[e]very owner or occupant of private property *may maintain authorized rubbish receptacles outdoors on such private property* provided the receptacles are screened from the view of public streets and sidewalks” (emphasis added). Section 8.24.120(B) of the Code further provides:

“All refuse awaiting private collection shall be in refuse receptacles which shall contain only refuse generated by owners or occupants of the private property where they are located and shall be flytight, rodent resistant, nonflammable and waterproof, and shall be so constructed as to prevent the escape of litter onto public or private property, provided, however, that dumpsters shall comply with the provisions of Chapter 8.25. *All such refuse receptacles shall be kept on private property at all times and not on public streets or sidewalks.* All such refuse receptacles in residentially zoned areas or within thirty feet of such an area shall be screened from view by being completely enclosed by a fence at least six feet in height.”

To wit, the title of the above cited Section 8.24.120, referencing storage of refuse in residentially zoned areas, is: “**Commercial or non-profit establishments or multifamily dwellings – Frequency – Receptacle specifications,**” providing further evidence that trash from a commercial building may indeed be stored in a residential zoning district.

In accordance with Title 8 of the Code, the Applicant keeps all trash in authorized rubbish receptacles in the alleyway and pulls the cans around the corner to Cambridge Street for pickup by a private waste contractor on a regular basis. The receptacles are currently stored out of view from the public way, approximately 45 feet down the alleyway from Tremont Street, and are otherwise screened from view by the building to the north and wooden fences to the east and south.

The 2009 Decision's Door Restriction Results in Negative Impact on the Neighborhood

The Rear Door Condition was not narrowly or appropriately tailored and is now having unforeseen negative effects on the neighborhood.

The restricted use of the rear door requires the Applicant to remove trash from the Premises through the building's front door on Cambridge Street. This means that the Applicant not only must bring trash through the dining area of the restaurant, but must also carry the trash along Cambridge Street, down Tremont Street, and then down the alleyway in full view of the diners, shoppers, pedestrians, and neighbors. If the trash leaks or spills, such refuse ends up on the public sidewalk, creating a mess for pedestrian and neighboring businesses. If use of the rear door had been permitted, any mishaps would be contained to the rear steps or the alleyway. Alternatively, if the Applicant instead walks around the block to the alleyway to retrieve its authorized rubbish receptacle(s), rolls its authorized rubbish receptacles around the block to the front of the Premises, and then rolls the authorized rubbish receptacle back to the alleyway, that activity still occurs on the public sidewalk resulting in a sight and a din that most any pedestrian, diner, or business owner would prefer not to see.

Conclusion

In consideration of the foregoing, the Applicant respectfully requests that the Board grant its Application to modify the Rear Door Condition so as to allow the use of the door for the removal of trash. In granting the Applicant's requested relief, the Board will offend neither the Zoning Ordinance nor the Code and will instead better protect the neighborhood by reducing the arguably less than desirable sight and noise created by the carrying and/or dragging of refuse along the public sidewalk.