



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

COMMONWEALTH OF MASSCHUSETTS

MIDDLESEX, SS

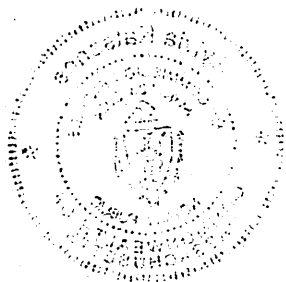
On this 30th day of November 2022, personally appeared before me, the undersigned notary public, Armia Azadian, personally known to me to be the person who signed the Property Owner's Consent and acknowledged to me that he signed it voluntarily for the purposes stated therein as the free act and deed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



Sylvia Katsenes

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

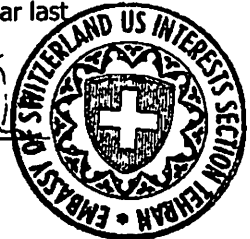
EMBASSY OF SWITZERLAND  
CONSULATE ACKNOWLEDGMENT  
U.S. Interests Section  
Tehran

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, 7<sup>th</sup> Fl., Boston, MA 02109

Applicant's Representative: Adam R. Barnosky, Esq.; Michael J. Barone, Jr., Esq.  
RIW, 255 State Street, 7<sup>th</sup> 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.

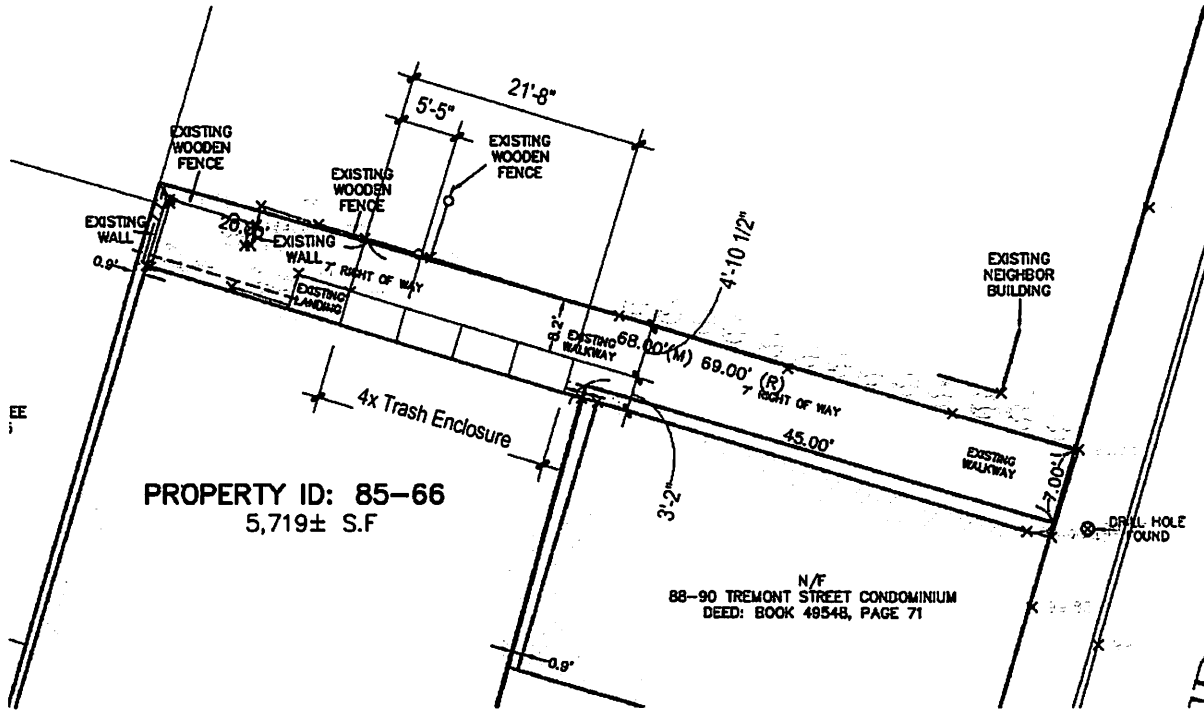
**2) Relief may be granted without nullifying or substantially derogating from the intent or purpose of this Ordinance for the following reasons:**

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: <sup>2</sup></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 faded. 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
	CHECKER	Checked
	APPROVER	Approved
	SCALE	1/16" = 1'-0"
	SHEET NAME	

**TRASH ENCLOSURE VISUALIZATION**

SHEET NUMBER

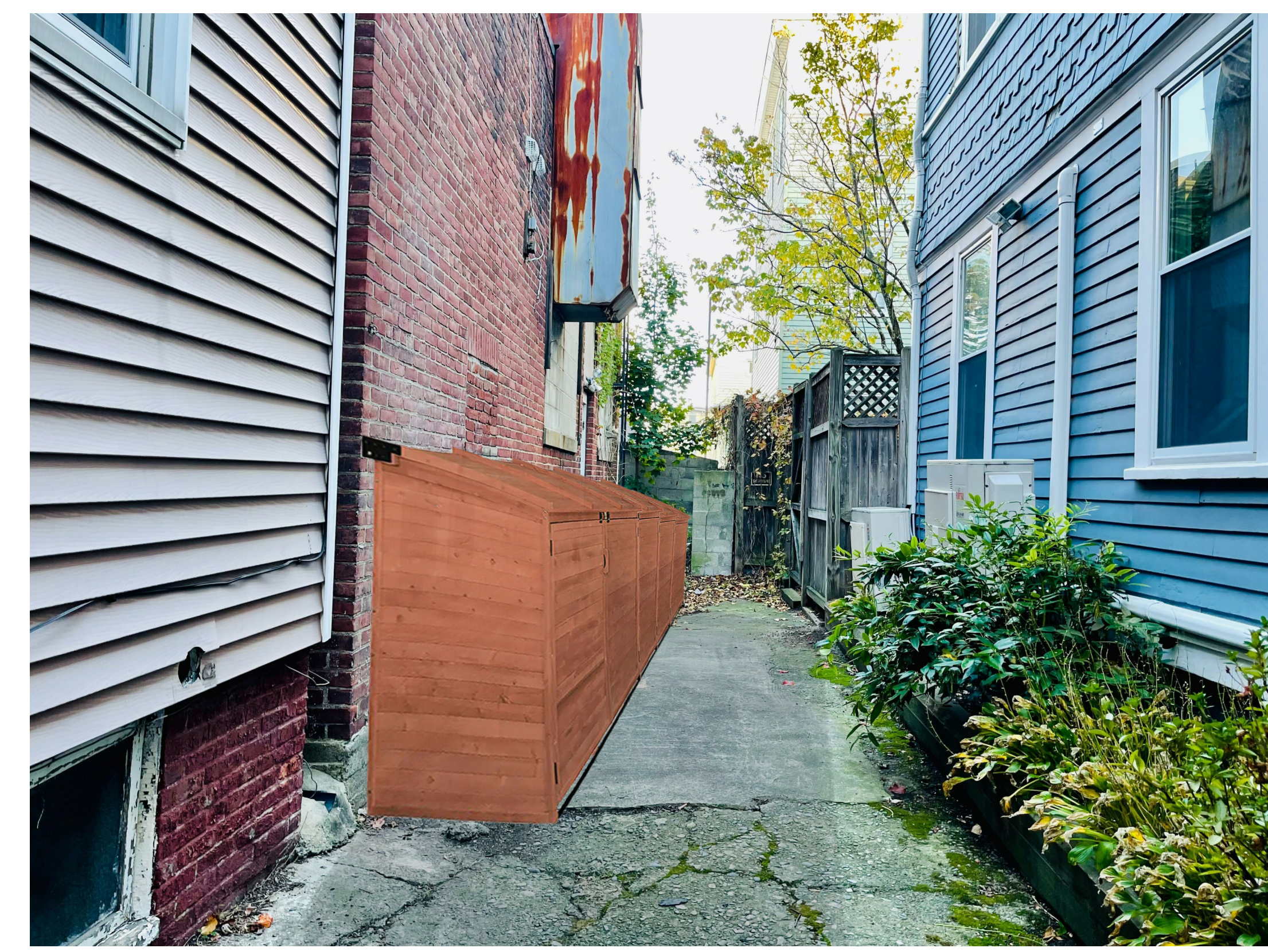
**A001**



PLAN



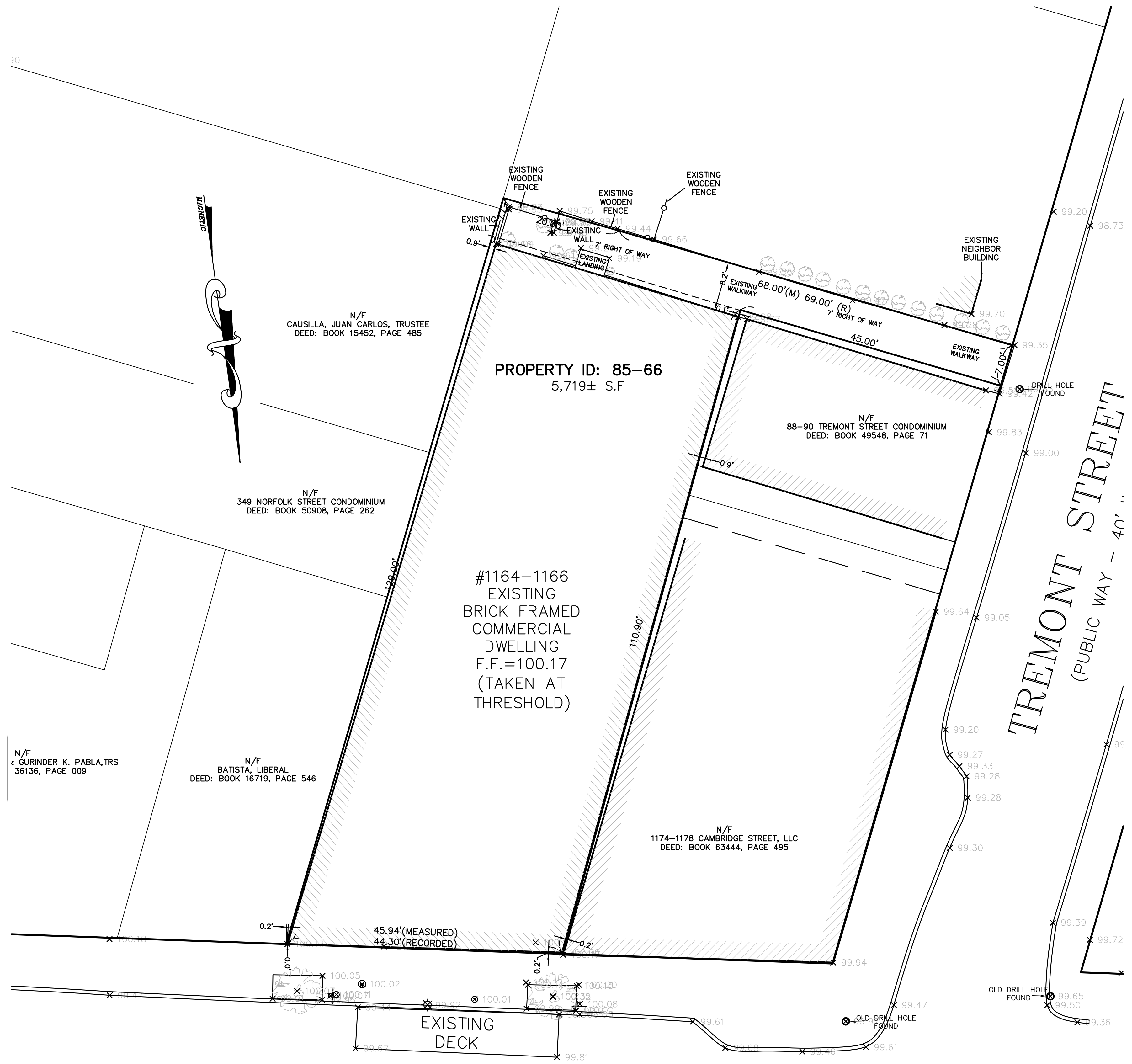
PROPOSED ENCLOSURE



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



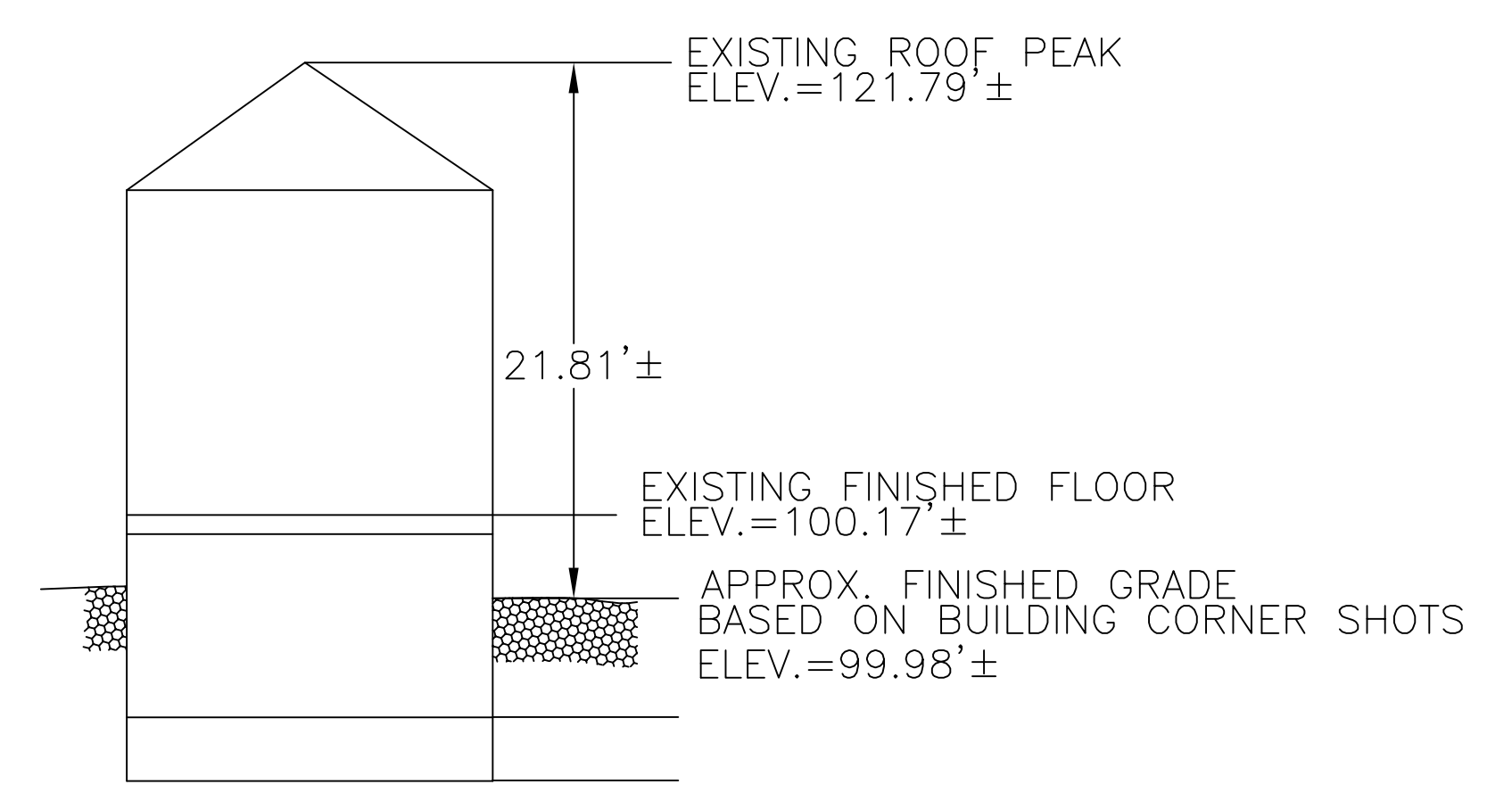
**NOTES:**

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

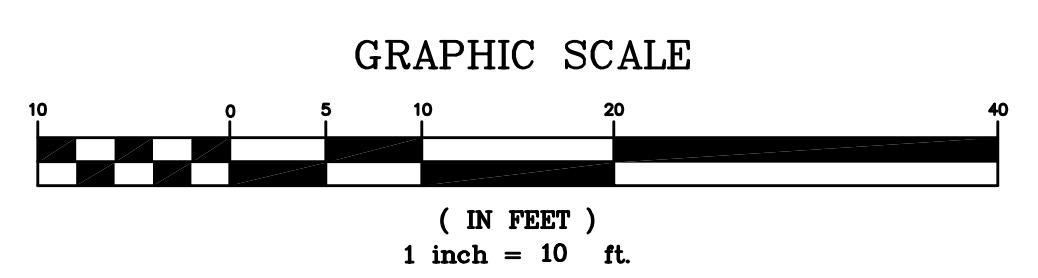
Address: 1166 Cambridge St

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



EXISTING PROFILE  
NOT TO SCALE



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 CONTRACT 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

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		
<p><b>PETER NOLAN &amp; ASSOCIATES LLC</b> LAND SURVEYORS/CIVIL ENGINEERING CONSULTANTS 80 JEWETT STREET NEWTON, MA, SUITE 1 PHONE: 857 891 7478 EMAIL: pnolan@pnasurveyors.com</p>			

SHEET NO.  
**1**

# PURITAN OYSTER

## BAR

INMAN SQ  
CAMBRIDGE, MA

TRASH ENCLOSURE

11/03/22

1

11/03/22

[www.joethearchitect.com](http://www.joethearchitect.com)

PD SD DD CD VE CA

**JtA**



PLAN

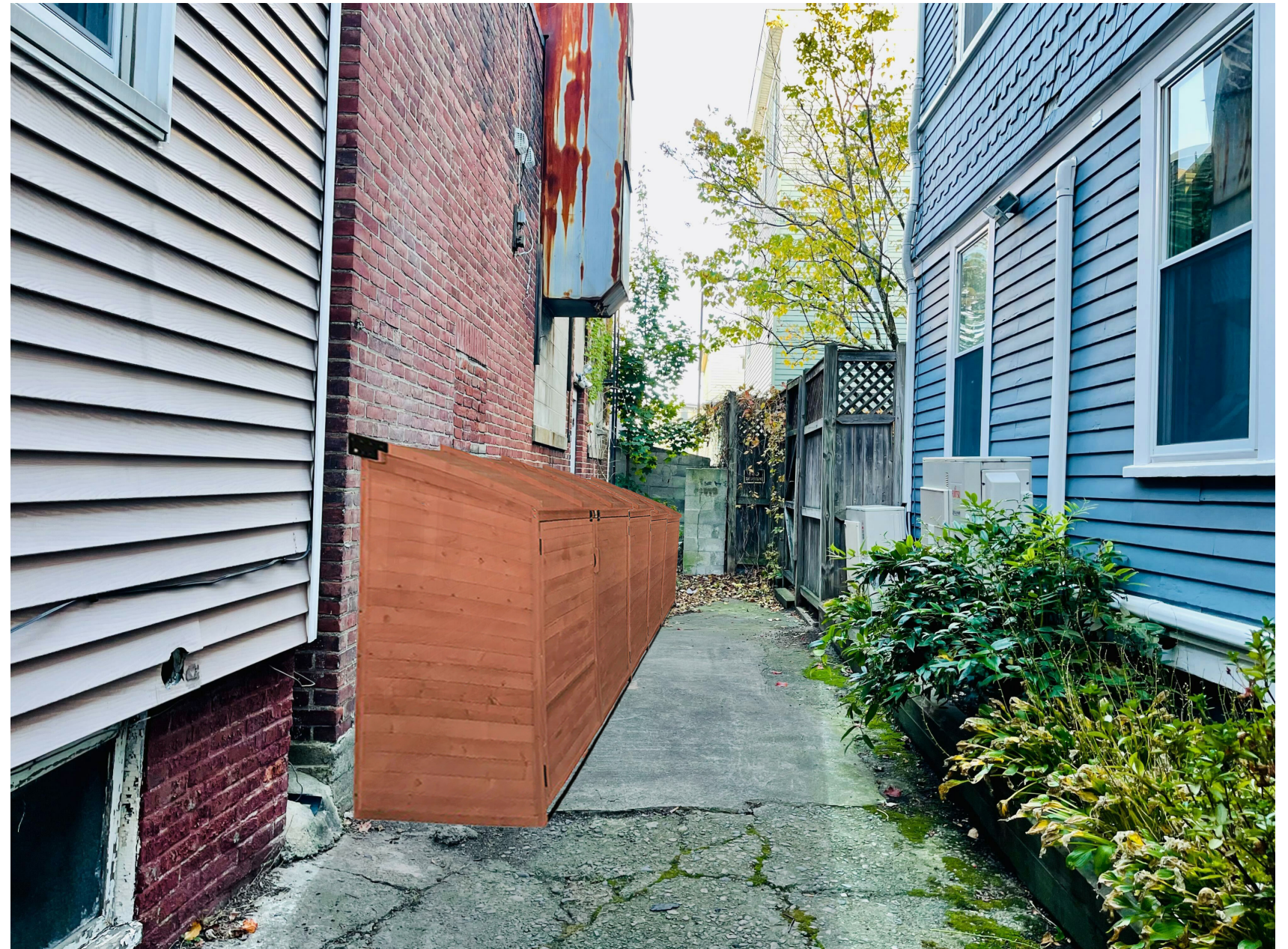
PD SD DD CD VE CA







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, 7<sup>th</sup> Floor, Boston, MA 02109

Applicant's Representative: Adam R. Barnosky, Esq.  
Ruberto, Israel & Weiner, 255 State Street, 7<sup>th</sup> 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.



**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 21<sup>st</sup> day of November, 2022.

**APPLICANT:**

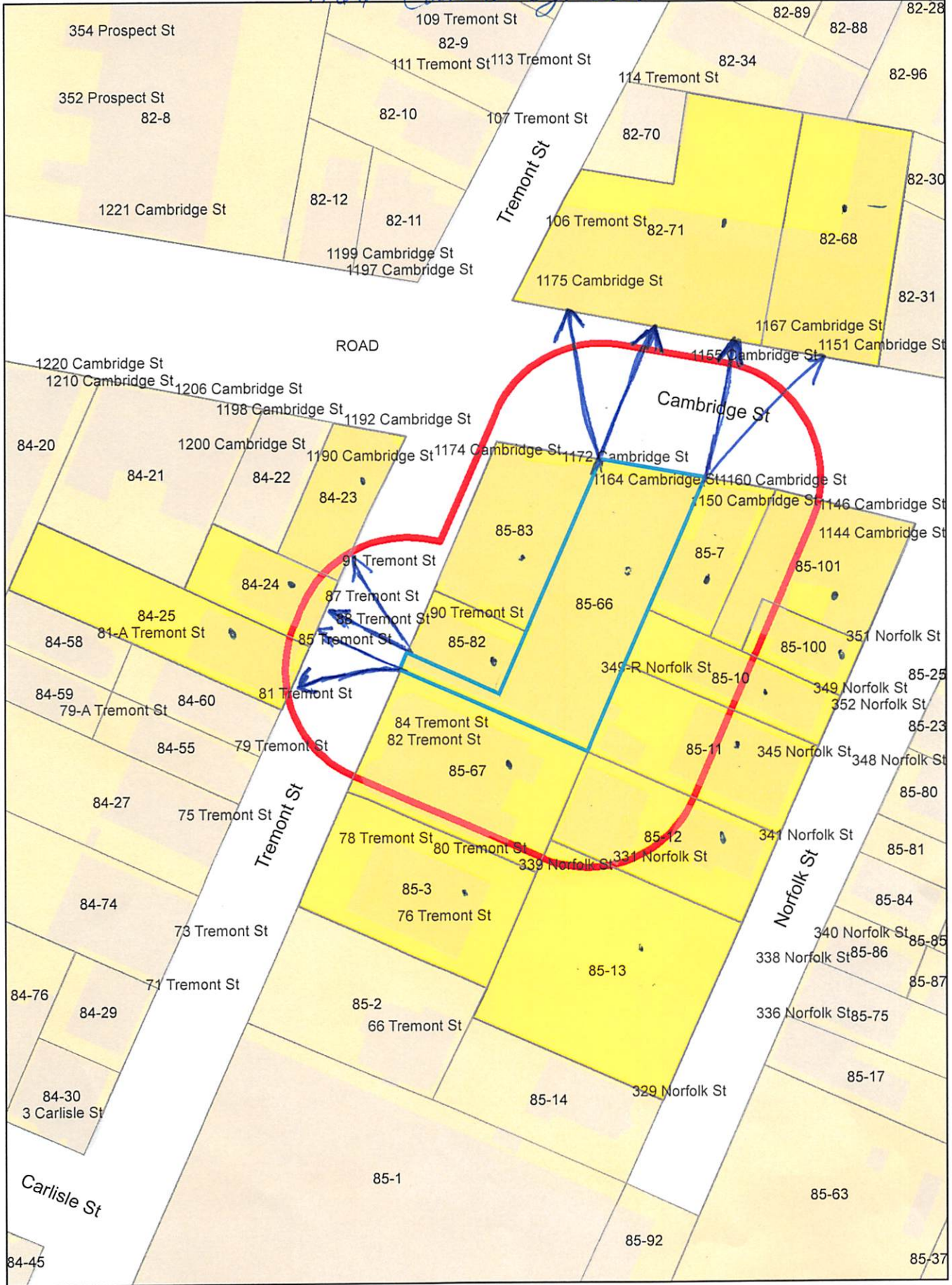
CAMBRIDGE CUISINE LLC

By: 

Name: Ming-Tai Huh

Title: Managing Member

1166 Cambridge St.



1164-1166 Camb. St.

*Petitioners*

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](mailto: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

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**From:** Jessie Saacke <[jsaacke@comcast.net](mailto: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](mailto: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](mailto: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](mailto: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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- 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-

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is essential for the proper management of the organization and for ensuring that all financial and operational data is up-to-date and reliable.

2. The second part of the document outlines the various methods and procedures used to collect and analyze data. It describes the different types of data that are collected, such as financial statements, operational reports, and customer feedback. It also discusses the various techniques used to analyze this data, including statistical analysis, trend analysis, and comparative analysis.

3. The third part of the document discusses the importance of data security and privacy. It emphasizes that all data collected and analyzed must be protected from unauthorized access and disclosure. It also discusses the various measures that can be taken to ensure data security, such as encryption, access controls, and regular security audits.

4. The fourth part of the document discusses the importance of data quality and accuracy. It emphasizes that all data collected and analyzed must be accurate and reliable. It also discusses the various measures that can be taken to ensure data quality, such as data validation, data cleaning, and regular data audits.

5. The fifth part of the document discusses the importance of data integration and interoperability. It emphasizes that all data collected and analyzed must be integrated and interoperable. It also discusses the various measures that can be taken to ensure data integration, such as data integration tools, data integration standards, and regular data integration audits.

6. The sixth part of the document discusses the importance of data governance and compliance. It emphasizes that all data collected and analyzed must be governed and compliant. It also discusses the various measures that can be taken to ensure data governance, such as data governance frameworks, data governance policies, and regular data governance audits.



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.

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](mailto: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 ASSOCIATED  
ACTS OF VIOLENCE

AND THE ASSOCIATED  
ACTS OF VIOLENCE

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AND THE ASSOCIATED  
ACTS OF VIOLENCE

UNITED STATES DEPARTMENT OF JUSTICE

INVESTIGATION OF THE  
ACTS OF VIOLENCE

AND THE ASSOCIATED  
ACTS OF VIOLENCE

10/1/68



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

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**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](mailto: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](mailto: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](mailto: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:** Jessie Saacke <[jsaacke@comcast.net](mailto: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](mailto: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

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**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

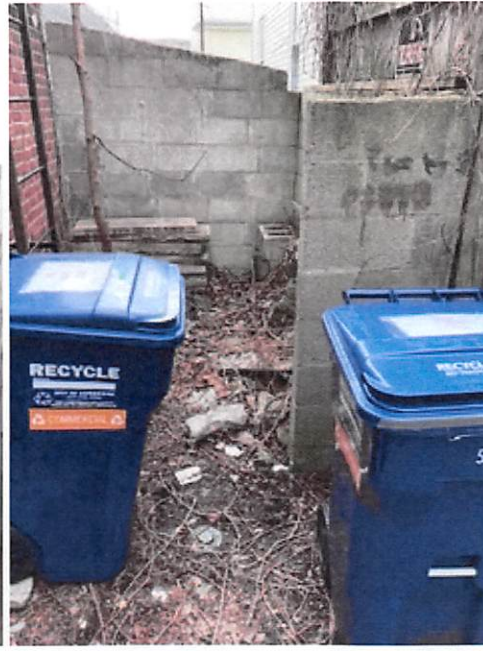
Dear Ms. Pacheco:

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](mailto: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

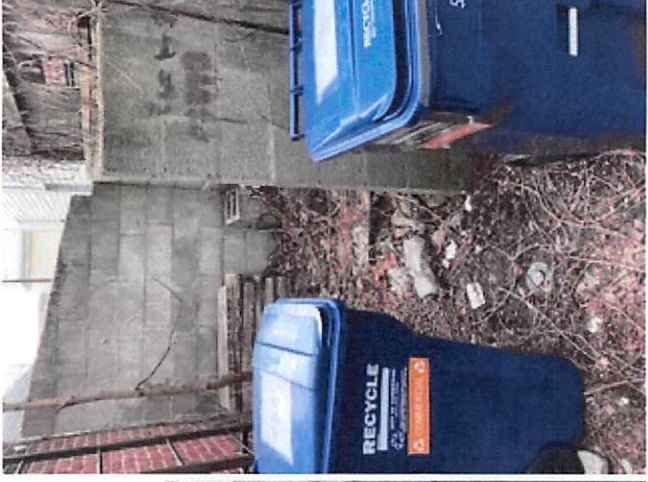
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I am one of the owners of the 82-84 Tremont Street condominium, whose property abuts the alley in the above-referenced petition before the BZA.

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](mailto: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

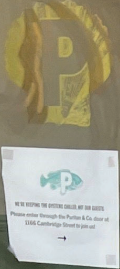


USA

*unibear@comcast.net*

617-866-3457

1164



**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 and present your comments to Maria Parkes, representative@cambridge.ma.gov. If you would like further information, please be advised that documents may be submitted to the Board of Zoning Appeal, 831 Massachusetts Avenue, Cambridge, MA, or submitted by email to the Planning Department at 349-6100 or visit our office at Memorial Services Department, 831 Massachusetts Avenue, Cambridge, MA, on Monday before the public hearing. If within the BZA's sole discretion, we accept further revisions to plans or documents at the public hearing. <https://cambridgeonline.zoom.us/j/8521065517>

**Members of the public can participate or view the meeting remotely using the Zoom Webinar**  
 Virtual Hearing - THURSDAY - MARCH 23, 2023 8:45 P.M.  
 Dial in, if you have the BZA. Participants must be logged in before the meeting starts and will not receive further comments. Please dial in at least 15 minutes before the meeting starts. For more information, please contact the City Clerk's Office at 349-6100.

**CASE NO.:** BZA 23-02668

**LOCATION:** 184 LIME AMBRIDGE STREET, CAMBRIDGE, MA

**PETITIONER:** CAMBRIDGE CEMENT LLC, DBA PETERIAN COMPANY  
 C/O ADAM R. BAISNOBY, L30

**ZONING DISTRICT:** BUSINESS RESIDENCE C-2 ONE

**PETITION:** Variance. To modify previously granted variance condition as Case BZA-0779 to permit the use of the rear door building as a temporary emergency operations, and to permit the installation of a new trash enclosure.

**VIOLATIONS:** See 40A CMR 6.00(2)(b) (General Use) & Sec. 41A.04.03 (Office Use), 40A CMR 6.00(2)(c)(3) (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, 831 Massachusetts Avenue, Cambridge, Massachusetts, MA 02139.

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

PURITAN B INM SAMBR



## 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 PURITAN & 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

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# 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

1 P R O C E E D I N G S

2 \* \* \* \* \*

3 (6:00 p.m.)

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

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

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

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

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

21 We are here regarding a modification to the  
22 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 strapped  
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**

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**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**

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**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, 7<sup>th</sup> 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**

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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")<sup>1</sup>, relative to the property located at 1164-1166 Cambridge Street in Cambridge, Massachusetts (the "Premises")<sup>2</sup>. 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.

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<sup>1</sup> 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.

<sup>2</sup> 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.



## **Pacheco, Maria**

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**From:** Jaime Mateus <jaime.mateus@gmail.com>  
**Sent:** Tuesday, June 27, 2023 9:01 PM  
**To:** Pacheco, Maria  
**Cc:** Ashley Mateus; Freeman Deutsch; Jessie Saacke; Steve Michaels; John Hopkins; Marie Barry Hopkins  
**Subject:** BZA-206665 - Letter of opposition from abutter at 84 Tremont St  
**Attachments:** 2009-05-14 BZA pdf032111bza.pdf; 2012-03-06 License Commission 030612LC.PDF; 2015-07-07 Cambridge License 772015LC.pdf; 23-06-21\_BZA\_-\_82-84\_Tremont\_St-SIGNED.pdf

Dear Maria Pacheco and Board of Zoning Appeal,

Please find attached a letter in opposition to Puritan and Company's application (BZA #206665), for which there is a hearing scheduled for this week on Thurs June 29.

The letter references several transcripts from previous Cambridge meetings. For convenience, I have attached a copy of those transcripts to this email, though they are also available from the respective committees as a public record of the hearings.

I am sending this letter on behalf of all of the unit owners at the 82-84 Tremont St Condominium. Each owner has signed the attached letter and it represents our unified response to Puritan's application, they are also cc'ed here.

I would appreciate it if you could confirm receipt of this letter.

Thank you for your continued attention to this matter,  
Jaime Mateus on behalf of the 82-84 Tremont St Condominium

June 21, 2023

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,

We, the undersigned, are the owners of the four units located at 82-84 Tremont St, which is a residential building directly abutting the alleyway in question in this zoning appeal filed by Cambridge Cuisine LLC d/b/a Puritan & Company ("Puritan"). Given the residential nature of our building and our location we believe we represent the constituents most negatively affected if this appeal is granted.

We have sent previous letters discussing our main concerns around the proposed use of the alleyway for trash storage. We continue to stand by those original letters which primarily focus on the concerns of noise, loss of privacy, rodents, and odors among other concerns due to use of the alleyway for storage of garbage. For expediency we will not re-iterate those concerns here in detail, except for asking the Board to continue to factor those many letters and their content into our opposition to Puritan's request.

We would like to set an accurate record of the history of the alleyway and the existing variance, and the best way to do so is to reference the relevant hearings and minutes from those meetings which are in the public record as the official transcripts of these discussions. A copy of these documents is enclosed in the email and are incorporated herein by reference.

**May 14, 2009 – Board of Zoning Appeal**

This was the original meeting in which the existing variance was proposed, discussed and approved. The key points are summarized below together with excerpts quoted from the minutes of this meeting. Attorney James Rafferty is representing the owner of the property currently leased to Puritan, and Constantine Alexander was the then Chair of the Board of Zoning Appeal.

**Page 205 – Conditions imposed on use of rear door to address neighbors' concerns**

*ATTORNEY JAMES RAFFERTY: They're legitimate issues, and I -- frankly we had anticipated that. And I discussed it with the petitioner, the fact that the Board might very well in granting the relief, limit that egress to **secondary means of egress necessarily to satisfy the building code**. And that would suggest **no deliveries, no trash removal can go out that door**.*

*CONSTANTINE ALEXANDER: I'd go even further, just an emergency exit which means you **only can use it for emergency, fire or whatever, and no other uses.***"

**Page 225 – Use of alleyway is also restricted**

The following quote makes the important point that it was always understood that as a condition of imposing restrictions on the use of the rear door those restrictions would also affect the use of the alleyway. This is consistent with the lengthy debate covered in the transcripts and the

noise and other concerns raised by the neighbors at the time. Any interpretation claiming that Puritan can use the alleyway located in a residential zone as of right for commercial purposes (such as storing trash) is inconsistent with the record. This is described below by the attorney representing the owner of the property.

*“ATTORNEY JAMES RAFFERTY: To Mr. Sullivan's point, the effect of the restriction on the door would have the effect of restricting the use of the alley which would accrue to the benefit of the abutters. If the door was made compliant then the Board wouldn't have the ability to, there wouldn't be the jurisdictional opportunity for the Board to oppose the condition. So the as of right solution here as costly and burdensome as it is, could result in an unfettered use of the right of way in a matter that is very inconsistent with the interest of the abutters.”*

#### **Page 261 – Summary from the Chair of the variance to be granted and its conditions**

The chair of the BZA clearly states that the variance will allow business use of the residential part of the building. This is a critical point, the variance has never granted business use of the alleyway (which falls in a residential zone), only to the 15% of the building which falls in the residential district. This is counter to the interpretation that was presented at the last meeting by Puritan's attorney. Any interpretation that the alleyway can be used for commercial purposes is counter to the entire discussion and rationale documented in the extensive record from this meeting.

*“CONSTANTINE ALEXANDER: The Chair moves that a variance be granted to permit the use in the back portion of 1164 Cambridge Street that are located in the Residence C-1 Zoning District. That uses be allowed in that residential portion -- **residentially zoned portions of the building** of such uses that are permitted as a matter of right in the Business A District.*

*Such variance would be granted on the condition -- I mean, on the basis that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner. That hardship is that unless relief is granted, given the requirements of access and egress or a secondary means of access and egress, there would be no abilities to use this commercially -- this building that was built for commercial purposes, designed for commercial purposes, and in fact is 85 percent of which sits in a commercial or Business A District.*

*[...]*

*And that condition would be satisfied based on the conditions we're going to impose on the variance being granted. **And those conditions would be that with respect to the right of way between 82-84 and 88-90 Tremont Street, the means of egress and access on that right of way be limited only to egress from the structure, and that egress would be used only as a secondary means of egress for non-reoccurring emergency situations.**”*

### **March 6, 2012 – License Commission General Hearing**

The following section speaks for itself. Attorney Hope is representing Puritan; Will Gilson from Puritan is the license holder; and Michael Gardner the then Chairman of the License Commission.

**Page 47-48:**

***"WILLIAM GILSON: We have had heard all the concerns of the previous requirements of not using the back door for any sort of trash purposes, or any staff going out there for smoking breaks, or any deliveries being received.***

***So our plan is to have all trash be stored inside the establishment and disposed of through the front door at the appropriate evening for trash pickup.***

***And the same thing for any person that would need a break, they would have to exit through the front door and walk down the street away from the establishment.***

***And the same thing with deliveries, they would be all coming in through the front door at designated delivery times and coordinated with somebody being there to receive it.***

***MICHAEL GARDNER: So the back door is purely for emergencies and a second means of egress?***

***WILLIAM GILSON: Correct.***

***ATTORNEY HOPE: Correct."***

### **July 7, 2015 – License Commission General Hearing**

The following is to illustrate that the 82-84 Tremont St Condo has not always been in opposition to Puritan's proposals. Here they had asked the licensing board to expand 665 sq.ft. into the back space of the building. They committed to not making any changes to the use of the rear egress and there was no opposition during public comment, in fact there was support from the previous owner of one of the condo units.

**Page 13**

***"Attorney Sean Hope: Also, noted for the record, there will be there will be no change to the rear egress. If the Commission remembers, the prior owner had issues with there, and so presently nothing is changing on the exterior. It's just an interior change."***

**Page 18**

***ASHLEY SEROTTA: We are the neighbors to Puritan and Company and rear egress where their fire escape is, we wanted to come and be here in support of their expansion. They have been a fantastic neighbor for us. We are delighted to continue to see their growth, their success, and we think it's fantastic that they are continuing to do more for the Inman Square community.***

***We wanted to thank them as well as they have noted here that their rear emergency exit will continue to stay an emergency exit only, but it's an egress to our property as well that opens up into our bedroom windows, so we appreciate that will continue to stay through the expansion.***

In summary, we hope that in reviewing the lengthy history here it is clear that the 82-84 Tremont Street neighbors have always been consistent in their concern and position with respect to the use of the alleyway and rear egress door. In fact, remarkably consistent, considering the 14+ year span of this debate. What has not been consistent is Puritan's commitment to abide by the conditions that the BZA has imposed on granting the original variance. We remain highly concerned about the potential negative impact of Puritan's proposal to the quality of life in our building and have expressed these concerns in detail in earlier letters.

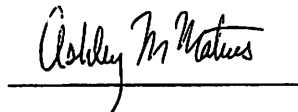
We believe that the documents and excerpts from public record provided herein provide an accurate picture of the contentious history of the alleyway in question. We believe that it has been abundantly clear that a condition of the variance is to not use the rear door or alleyway for anything other than non-recurring emergencies. We urge the BZA to make a final decision on the current appeal such that this matter may come to a conclusion.

Together the undersigned represent all of the owners of the units at 82-84 Tremont St Condominium. We are united in our opposition to Puritan's use of the alleyway, and we further request that they cease from storing trash in the alleyway, a practice that they have continued to pursue despite these ongoing discussions and repeated requests to for the to abide to the existing agreements.

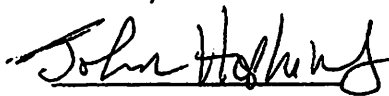
Sincerely,



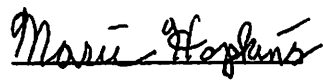
Jaime Mateus, PhD (84 Tremont St, Unit 1)



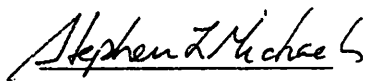
Ashley Mateus, PhD (84 Tremont St, Unit 1)



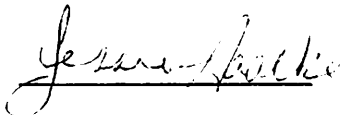
John Hopkins (84 Tremont St, Unit 3)



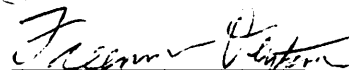
Marie Hopkins (84 Tremont St, Unit 3)



Stephen Michaels (82 Tremont St, Unit 2)



Jessie Saacke (82 Tremont St, Unit 4)



Freeman Deutsch (82 Tremont St, Unit 4)

## Pacheco, Maria

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**From:** Stephen Michaels <unibear@comcast.net>  
**Sent:** Monday, July 24, 2023 8:02 AM  
**To:** Pacheco, Maria  
**Cc:** Ashley Mateus; Freeman Deutsch; Jessie Saacke; John and Marie Hopkins; John and Marie Hopkins; Jaime Mateus  
**Subject:** BZA-206665 - Confirming continued opposition from abutter at 82 Tremont St

Dear Ms. Pacheco and Board of Zoning Appeal members:

A further continuance hearing of the above-referenced BZA petition is scheduled for this coming Thursday evening, July 27. This is the fourth in a series that has failed either to advance the petition to a decision or to sustain the opposition to the petition by the abutters at 82-84 Tremont Street, of which I am one.

I am writing to state that, despite two meetings between the abutters and Mr. Gilson, the petitioner, no proposals have been offered by the petitioner that can successfully mitigate the primary harms currently being experienced by the abutters—specifically the disruptive noise of moving 6-9 trash and recycling barrels in and out of the alley as often as twice a day, seven days a week, and the attraction of rodents to the alley by the presence of garbage being stored there.

I want to clearly note that when the barrels are being loaded and moved through the alley, it is not possible to hold a normal-level conversation in the back yard of 82-84 Tremont adjacent to the alley, indicating the noise level exceeds the Cambridge Noise Ordinance limit for residential zones of 50 dB(A) (night) or 60 dB(A) (day).

(Citation: Cambridge Noise Ordinance, section 8.16.060 part B and **TABLE 8.16.060E, TABLE OF ZONING DISTRICT NOISE STANDARDS:**

**Noise in Residential Areas or Affecting Residential Property. No person shall create or cause to be emitted from or by any source subject to the provisions of this chapter, any noise which causes or results in a noise level, measured at any lot line of any lot located in any residential area or in residential use elsewhere in conformance with the zoning ordinance, in excess of any level of subsection E of this section, residential district noise standard, provided, that if said lot is located in any industrial area, the noise level measured at the lot line shall not exceed any level of subsection E of this section, residential-industrial noise standard.)**

I firmly continue to disagree with the petitioner's assertion that it has an as-of right to use the alley, which is completely in a residential zone, surrounded by residential properties and accessible to the street ONLY through a residential zone, for the storage and removal of commercial trash and recycling. The original BZA hearing of 2009 and the Licensing Board hearing of 2013 both noted this situation and sustained the restricted use of the back door from the Cambridge Street property into the alley for emergency egress only.

Neither hearing ever approved the use of the residentially-zoned alley for commercial use to the detriment of the residential abutters—so I once again urge the BZA to deny the current petition and reaffirm this intended restriction on use of the back door—and alley--so that the residential abutters will not have to face this conflict yet again in several years and so the petitioner will not continue to inflict this daily noise and vermin nuisance on the abutters as it has since last November.

I will again participate in this Thursday's continuance hearing and ask that the BZA sustain the abutters' position.

Thank you to the BZA for considering our concerns.

Sincerely,

*Stephen L. Michaels*

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

*unibear@comcast.net*

## **Pacheco, Maria**

---

**From:** Freeman Deutsch <fdeutsch@comcast.net>  
**Sent:** Monday, July 24, 2023 10:20 PM  
**To:** Pacheco, Maria  
**Subject:** BZA-206665 - Confirming continued opposition from abutter at 82 Tremont St

Dear Ms. Pacheco and Board of Zoning Appeal members:

We have lived at 82 Tremont St for nearly 30 years and would like to reiterate our opposition to the zoning appeal by Puritan & CO.

Freeman was able to attend the in-person meeting with Will Gilson and both Jessie and Freeman attended a virtual meeting with Mr Gilson. There is nothing that we have heard that would lead us to support the zoning appeal.

The alleyway is between two residential properties. The noise that has been created by using the alleyway to manage trash is a burden on the neighbors, and quite honestly a problem created by Mr Gillson when he expanded his restaurant without considering the ramifications.

If you came to look at the alleyway, you would see that it is clearly in a residential area.

Thank you for carefully considering this issue and for the time spent on multiple meetings.

Sincerely,

Jessie Saacke and Freeman Deutsch



## **Pacheco, Maria**

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**From:** Ashley Mateus <mateus.ashley@gmail.com>  
**Sent:** Tuesday, July 25, 2023 11:07 PM  
**To:** Pacheco, Maria; Jaime Mateus  
**Subject:** BZA-206665 - Confirming continued opposition from abutter at 82 Tremont St

To whom it may concern,

My husband, Jaime Mateus, and I remain in opposition to Puritans request to use the back door and alley way next to our condo at 84 Tremont St, Unit 1. We still believe this is a problem if their own making by adding to their interior space where the trash was previously stored. We appreciate that Puritan has reached out to us since the last meeting, but so not feel the measures they have proposed do enough to protect from sound and privacy concerns in our residential zone that we have previously raised. We wish to note to the board that we remain opposed for the reasons noted in our previous correspondence and will not repeat them again.

Thank you for your consideration in this matter.

Best,  
Ashley Mateus (and Jaime Mateus)  
Owners of 84 Tremont St



# City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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

2023 JUL 26 AM 11:51  
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: 6/30/2023

Michael Barone  
Signature

## Michael J. Barone

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**From:** Will Gilson <will@puritancambridge.com>  
**Sent:** Saturday, July 22, 2023 8:06 AM  
**To:** Adam R. Barnosky; Michael J. Barone; Ming-Tai Huh; Nicholas Vantzelfde  
**Subject:** Fwd: Puritan/Tremont Street community meeting

**Follow Up Flag:** FollowUp  
**Flag Status:** Completed

----- Forwarded message -----

From: **Jaime Mateus** <[jaime.mateus@gmail.com](mailto:jaime.mateus@gmail.com)>  
Date: Fri, Jul 21, 2023 at 11:33 PM  
Subject: Re: Puritan/Tremont Street community meeting  
To: Will Gilson <[will@puritancambridge.com](mailto:will@puritancambridge.com)>  
CC: Jessie Saacke <[jsaacke@comcast.net](mailto:jsaacke@comcast.net)>, Freeman Deutsch <[fdeutsch@comcast.net](mailto:fdeutsch@comcast.net)>, Steve Michaels <[unibear@comcast.net](mailto:unibear@comcast.net)>, <[johnjhopkins@hotmail.com](mailto:johnjhopkins@hotmail.com)>, Ming-Tai Huh <[ming@puritancambridge.com](mailto:ming@puritancambridge.com)>

Hi Will,

We had a chance to talk with all the unit owners together, and we discussed the various noise mitigations that have been proposed. Unfortunately, we don't see a way in which those mitigations sufficiently address our main concerns, primarily noise in the alleyway. The trash operations fundamentally change the use of that space in a way that is not consistent with what we believe to have been the approved agreements that we have all relied on. It fundamentally alters the space in a manner that has a direct impact on the quality of life of the abutters.

I am sorry that we have not been able to find a path forward yet. We remain open to new ideas that have not yet been considered.

Sincerely,  
Jaime

On Fri, Jul 21, 2023 at 8:30 AM Will Gilson <[will@puritancambridge.com](mailto:will@puritancambridge.com)> wrote:  
Hello everyone,

I know when we spoke last week we had asked if we could expect a response on your asks by yesterday. Please send them to us as soon as possible so that we can have appropriate time to consider them.

Thank you,  
Will

On Wed, Jul 12, 2023 at 11:28 PM Jaime Mateus <[jaime.mateus@gmail.com](mailto:jaime.mateus@gmail.com)> wrote:  
Hi Will,

I can make it at 7pm Eastern for 30mins. If the meeting goes longer, I can get a debrief from Jessie.

Thanks,  
Jaime

On Wed, Jul 12, 2023 at 8:40 AM Will Gilson <[will@puritancambridge.com](mailto:will@puritancambridge.com)> wrote:  
Will Gilson is inviting you to a scheduled Zoom meeting.

Topic: Puritan/Tremont Street community meeting  
Time: Jul 13, 2023 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting  
<https://us05web.zoom.us/j/83717122163?pwd=TOZMRmlXRUdTeWEyV3JicTJvNWF3UT09>

Meeting ID: 837 1712 2163  
Passcode: gmu04G

On Wed, Jul 12, 2023 at 11:36 AM Will Gilson <[will@puritancambridge.com](mailto:will@puritancambridge.com)> wrote:  
Hi Jessie,

Happy to move this to 7pm. I will update the zoom invite.

Will

On Tue, Jul 11, 2023 at 10:19 PM Jessie Saacke <[jsaacke@comcast.net](mailto:jsaacke@comcast.net)> wrote:

Hi,  
We could be at a meeting on Thursday, but we're not available until 7. I don't know if other folks are able to attend.

Jessie Saacke and Freeman Deutsch

On Jul 10, 2023, at 10:57 AM, Freeman Deutsch <[fdeutsch@comcast.net](mailto:fdeutsch@comcast.net)> wrote:

Sent from my iPhone

Begin forwarded message:

**From:** Will Gilson <[will@puritancambridge.com](mailto:will@puritancambridge.com)>  
**Date:** July 10, 2023 at 9:34:21 AM EDT  
**To:** Freeman Deutsch <[fdeutsch@comcast.net](mailto:fdeutsch@comcast.net)>, Jaime Mateus <[jaime.mateus@gmail.com](mailto:jaime.mateus@gmail.com)>, Ming-Tai Huh <[ming@puritancambridge.com](mailto:ming@puritancambridge.com)>, [unibear@comcast.net](mailto:unibear@comcast.net)  
**Subject:** Puritan/Tremont Street community meeting

Hello all,

We would like to hold a community meeting this Thursday at 6pm via zoom. I have attached the link below. Please let us know if this will work for all of you.

Thanks,  
Will

Will Gilson is inviting you to a scheduled Zoom meeting.

Topic: Puritan/Tremont Street community meeting  
Time: Jul 13, 2023 06:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us05web.zoom.us/j/83717122163?pwd=TOZMRmlXRUdTeWEyV3JicTJvNW F3UT09>

Meeting ID: 837 1712 2163

Passcode: gmu04G

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Will Gilson  
Chef/Partner  
Puritan & Co, The Lexington, Geppetto, Cafe Beatrice, The Herb Lyceum, Puritan Oyster Bar  
[will@puritancambridge.com](mailto:will@puritancambridge.com)  
[www.puritancambridge.com](http://www.puritancambridge.com) [www.thelexingtoncx.com](http://www.thelexingtoncx.com) [www.herblyceum.com](http://www.herblyceum.com)

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Will Gilson  
Chef/Partner  
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Will Gilson

Chef/Partner

Puritan & Co, The Lexington, Geppetto, Cafe Beatrice, The Herb Lyceum, Puritan Oyster Bar

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Will Gilson

Chef/Partner

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## Michael J. Barone

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**From:** Fernandes, Kristen <kfernandes@cambridgema.gov>  
**Sent:** Tuesday, July 25, 2023 4:47 PM  
**To:** Adam R. Barnosky  
**Cc:** Will Gilson  
**Subject:** RE: Puritan & Co - Question on Outdoor Trash Storage

Mr Barnosky – restaurant trash is permitted to be outside as long as it is stored properly.

Kristen Fernandes Alizadeh  
Sanitary Inspector  
City of Cambridge  
617-349-6121

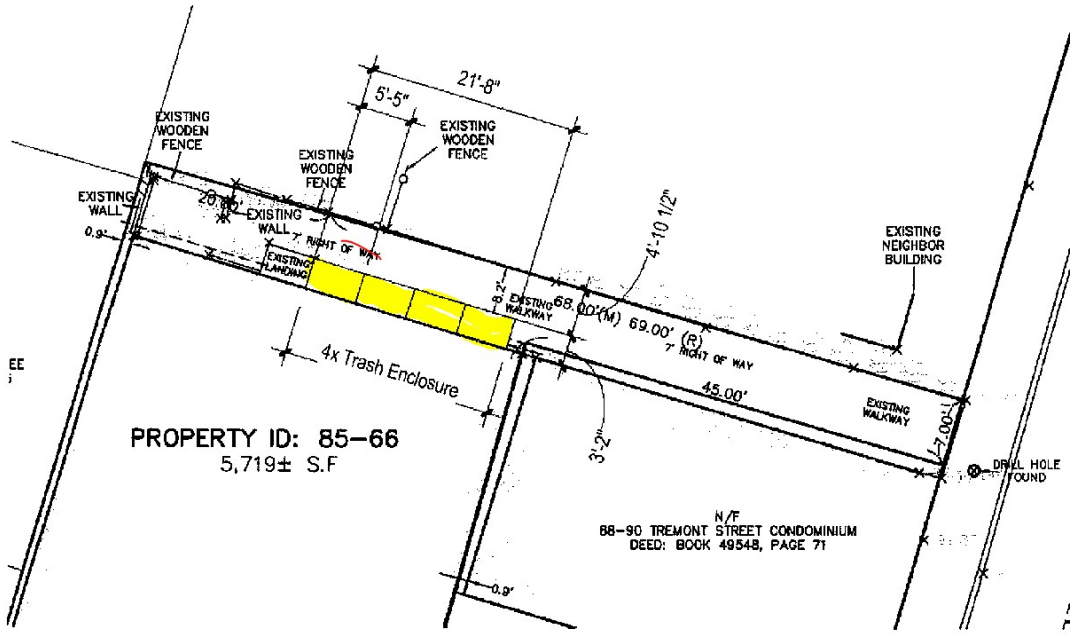
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**From:** Adam R. Barnosky <arb@riw.com>  
**Sent:** Tuesday, July 25, 2023 11:18 AM  
**To:** Fernandes, Kristen <kfernandes@cambridgema.gov>  
**Cc:** Will Gilson <will@puritancambridge.com>  
**Subject:** Puritan & Co - Question on Outdoor Trash Storage

Good morning, Kristen,

As you may be aware, my client Puritan & Co. has a pending matter before the BZA which requests use of the building's rear egress to access to its trash bins, which are stored in a rear alleyway. The restaurant currently uses the rear alleyway for storage of trash (in the area shown below in yellow, for reference). The BZA has inquired about this practice.

**Could you please confirm whether restaurant trash is permitted outside so long as it is properly stored with covered trash receptacles, area maintained and extermination provided?**



Thank you,

**Adam Barnosky, Esq.**

Co-Chair | Hospitality Practice Group

255 State Street, 7th Floor | Boston, MA 02109

Direct: 617.570.3519 | Cell: 617.686.6556

e-mail: [arb@riw.com](mailto:arb@riw.com) | [www.riw.com](http://www.riw.com)

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1 \* \* \* \* \*

2 (6:30 p.m.)

3 Sitting Members: Jim Monteverde, Wendy Leiserson, Matina  
4 Williams, Zarya Miranda, Carol Agate,  
5 Virginia Keesler, and Steve Ng

6 JIM MONTEVERDE: I'm Jim Monteverde. As a way of  
7 have introduction to the Vice Chair of the Board of Zoning  
8 Appeal, and I will be chairing this hearing, the next -- and  
9 the next continued case, and then the regular cases for this  
10 evening.

11 And I will call Case 206665 -- 1164-1166 Cambridge  
12 Street.

13 ADAM BARNOSKY: Yes. Good evening, Mr. Chairman,  
14 and members of the Board. My name is Adam Barnosky and I'm  
15 here on behalf of the applicant. And if I may, we are here  
16 regarding modification of one condition imposed by the Board  
17 in BZA Case 9779 that was issued in 2009.

18 This, as the Board might recall, condition that  
19 limits use of the rear door for non recurring emergency  
20 egress.

21 The applicant now requests modification of that  
22 condition to allow the access to the rear of the building

1 solely for the purpose of access to the applicant's trash,  
2 which is lawfully stored in a private alleyway to the rear  
3 of the building.

4 The issue that came up at the last hearing -- one  
5 of the reasons why this matter was continued, was, there was  
6 a question from the Board regarding trash, and specifically  
7 whether the applicant had the lawful right to store trash in  
8 the rear alleyway.

9 Just a reminder that this rear alleyway is a  
10 private alleyway that is part of the applicant's property.

11 There was a memo that was provided to the Board  
12 dated June 20, which details its issue in great detail. But  
13 again, we are here before the Board really only relative to  
14 the modification to access.

15 And briefly, regarding trash, it's worth noting  
16 again that the Zoning Ordinance does not prohibit outdoor  
17 storage of trash. The City's Health and Safety code permits  
18 trash storage in a private alleyway. The applicant's trash  
19 storage currently in that private alleyway is compliant with  
20 the City's laws and ordinances, and that neither the 2009  
21 decision nor the rear-door condition prohibits the use of  
22 the alleyway trash.

1           Currently, operationally, the restaurant, which is  
2 located on Cambridge Street, is required to take the trash.  
3 Because of this access issue, they have to take the trash  
4 out through the restaurant's front door on Cambridge Street,  
5 haul it down Cambridge, and then down Tremont, and then all  
6 the way through their alleyway -- private alleyway, which  
7 abuts a bunch of residences, to access the trash units.

8           And this really all relates -- again -- to access.  
9 It's not trash. There were concerns about the neighbors  
10 regarding trash.

11           But again, I want to remind the Board that the  
12 applicant will continue to use this rear alleyway for  
13 storage of their trash. This is a Health Code issue. This  
14 is all within the purview of the Health Department, who  
15 continue to do so in compliance with the Ordinances of the  
16 Health Department.

17           The problem here -- and this is really why the  
18 condition relates to public good and serving the public good  
19 -- is that this -- if the restaurant is allowed to use this  
20 rear door for access, it's going to create less noise and a  
21 much more operationally efficient restaurant, because you're  
22 no longer going to have to haul things out of Cambridge

1 Street, around the block, down the alleyway, open the cans  
2 up, go all the way back out with employees making this, you  
3 know, U shape around the block numerous times a day.

4           You're going to have an applicant that -- an  
5 operator that opens the door, puts trash, and shuts it.  
6 It's going to reduce noise, it's going to reduce traffic,  
7 and this is really just a holdover from a prior era and a  
8 prior operator in a prior business location.

9           Again, I think that this is a pretty simple  
10 request. It's a modification and I would just request that  
11 as we talk about this, as the Board reviews it, that the  
12 focus is on what this request is about. And it's not about  
13 trash, although it's related to trash.

14           So, you know, with that, again, the modification  
15 we're making is solely to allow -- the language put in the  
16 memo was to have the condition remain intact, but to include  
17 the language that access will be allowed to the rear --  
18 private rear alleyway solely for trash storage consistent  
19 with City of Cambridge Health and Safety Code.

20           That's really a brief summary.

21           Happy to elaborate on any part of this, although  
22 we have -- we did, again, detail the Zoning Code and

1 ordinances in our memo submitted by us.

2 Thank you.

3 JIM MONTEVERDE: Thank you. Do we have any  
4 questions from members of the Board? Steven?

5 STEVEN NG: I guess I'm confused. I was under the  
6 impression that the original variant for the restaurant use  
7 had it during their wait in an interior space, and that  
8 there was nothing that would be in that corridor, which is  
9 in the residential building.

10 Is that the original setup for the applicant's  
11 situation?

12 JIM MONTEVERDE: Oh Yeah. If I can elaborate  
13 there Steven?

14 STEVEN NG: Yeah.

15 JIM MONTEVERDE: I'm going to read from the March  
16 6, 2012 Licensing Commission hearing. And in it, William  
17 Gilson from the restaurant. And I'll quote.

18 "So our plan is to have all the trash be stored  
19 inside the establishment and disposed of through the front  
20 door at the appropriate evening for trash pickup."

21 And it further goes on to say -- and this is  
22 Michael Gardener speaking -- "So the back door is purely for

1 emergencies and the second means of egress. William Gilson:  
2 Correct. Attorney Hope: Correct."

3 So I think, Steven, those are the conditions that  
4 we'd heard before. And again, that's the Licensing Board.

5 ADAM BARNOSKY: Mr. Chair, if I may?

6 JIM MONTEVERDE: Yep.

7 ADAM BARNOSKY: Just on that issue. So that is  
8 correct, that the original setup of the restaurant was such  
9 that the applicant was able to utilize a portion of the  
10 inside for storage of trash. That was part of the program.

11 The restaurant has now recaptured that space.  
12 They're using it for their operation. So it's no longer  
13 utilized for trash. And not only is it no longer utilized  
14 for trash, that's not generally the best practice for a  
15 restaurant to keep trash on the interior.

16 But regardless, from a land use and zoning  
17 perspective, and health code perspective, there's no  
18 prohibition within Licensing. There's no prohibition within  
19 the code, and there's no prohibition with the 2009 decision,  
20 which prohibits this business from utilizing the private  
21 alleyway that's part of their business to store trash.

22 So again, this is -- there's no conditions that

1 will not allow this. So they will continue to use this back  
2 alleyway for trash storage, because they are lawfully doing  
3 that. Again, this is about accessing that space. And it's  
4 no longer functional to do so. And it's creating more noise  
5 and more traffic than is necessary.

6 And the -- if this condition modification is  
7 denied, it'll be to the detriment of the public good,  
8 because it will require the applicant to continue to do  
9 this.

10 So, you know, again, I just want to stress what  
11 the restaurant is lawfully doing with the use of their  
12 space.

13 JIM MONTEVERDE: Let me go to the next member, and  
14 then I'll come back for a question. Steven, did that -- did  
15 you have any further discussion?

16 STEVEN NG: No. That answers that question for  
17 now. Yeah.

18 JIM MONTEVERDE: Okay.

19 STEVEN NG: Thank you.

20 JIM MONTEVERDE: Matina, any questions or  
21 comments?

22 [Pause]

1           Matina, can you hear us? Let me go on. Zarya,  
2 any questions?

3           ZARYA MIRANDA: Yeah. So at our last meeting, it  
4 seemed that what you are requesting was to use the back door  
5 for beyond the trash, but to be able to use it for  
6 nonrecurring emergencies including deliveries. Is that  
7 still the case, or --

8           ADAM BARNOSKY: No. That is not the case. And  
9 that -- that does not reflect our application. The purpose  
10 is solely for access to the trash barrels.

11          ZARYA MIRANDA: Okay.

12          ADAM BARNOSKY: And we'd be fine with the  
13 condition that, you know, that would state that no  
14 deliveries and we -- you know, would be allowed and anything  
15 else really important that we'd require here.

16          JIM MONTEVERDE: I'm reading the advertisement for  
17 our agenda. And it basically reads -- this is a variance  
18 request -- "Modify the previous granted variance to permit  
19 the rear door to be used for general restaurant operations  
20 (staff only)." And that previously restricted use of the  
21 rear door limiting it to nonrecurring emergency use only,  
22 and to permit the installation of new trash enclosures.



1           That's what our Agenda says. That's what I assume  
2 the advertisement says.

3           ADAM BARNOSKY: Okay, correct. But I think as a  
4 result of our last meeting, and as detailed in the  
5 memorandum, the applicant would be fine in scaling down a  
6 request to make sure that it's consistent with what they  
7 actually would like to do to get access to the trash  
8 barrels.

9           In the memorandum on page 2, in the middle of page  
10 2, we have an example of the modification that would be  
11 acceptable to the restaurant. And this would -- because  
12 this is more limited in scope than the ZBA application, we  
13 think that it remains well within the purview of your Board.

14           So again, the condition would be from -- the  
15 condition right now is that the use of the rear door and the  
16 right of way between 82, 84 and 88 and 90 Tremont Street be  
17 limited to nonrecurring egress only. That's how it reads  
18 correctly.

19           And what we are proposing as a modification would  
20 be to add a tag the end of that sentence to read, "-- except  
21 for access to the private rear alleyway for trash storage,  
22 be consistent with the City of Cambridge Health and Safety

1 Code.

2 JIM MONTEVERDE: Thank you. Zarya, did that  
3 answer? Do you have any more questions?

4 ZARYA MIRANDA: I do not have any more questions.

5 JIM MONTEVERDE: Thank you. Wendy, do you have  
6 any questions?

7 WENDY LEISERSON: I just wanted to clarify my  
8 understanding of the applicant's argument, because there are  
9 so many prior proceedings in this.

10 So your position, if I understood your  
11 presentation tonight, is that you have -- feel that you have  
12 as-of-right the ability to store trash behind the restaurant  
13 in that alley? Is that part correct?

14 ADAM BARNOSKY: Yes, that's correct.

15 WENDY LEISERSON: Even though in 2009 the Board  
16 granted your variance, or the variance, saying that the shed  
17 that was in the rear of the structure be removed?

18 ADAM BARNOSKY: Yes. My understanding -- now,  
19 remember this, I believe though it was granted, was not  
20 granted as it related to my client.

21 But it's my understanding that the rear shed at  
22 that time was in a state of disarray, and the -- was

1 attracting rodents and other things that were living in it.

2 So I think part of it was that that was the give  
3 and the take is my understanding.

4 WENDY LEISERSON: So assuming that you -- and so,  
5 and what -- what -- on what basis do you say that you have  
6 the right to store the trash there? Just what's the legal  
7 basis you're saying?

8 ADAM BARNOSKY: Well, there's -- I mean, starting  
9 off with the 2009 decision, there's no -- there's no  
10 restrictions with trash in the 2009 decision.

11 The Health Code, and we had submitted a memo on  
12 June 20 to the Board that details this -- it might be in  
13 your application. But basically, the Zoning Ordinance does  
14 not prohibit outdoor storage of trash.

15 The Health and Safety Code permits trash storage  
16 in alleyways. So there are specific sections that I've  
17 cited in my memo that kind of -- that detail this whole  
18 thing, that outdoor storage of trash is approved as a matter  
19 of right, both for residential and commercial uses.

20 And there's no restrictions within the residential  
21 code or the commercial code that would prohibit the storage  
22 of trash in a private alleyway, so long as it is consistent

1 with the Health Department's code.

2           And so, any perceived violations or any issues  
3 that the restaurant has to comply with are within the  
4 jurisdiction of that Board. So that, again, the purpose  
5 that we have in front of us today is really about accessing  
6 that area. And then trash will fall within the purview of  
7 health.

8           JIM MONTEVERDE: Just to clarify, let me read. In  
9 the memo that was submitted, on page 3 on --

10           WENDY LEISERSON: I'm scrolling [laughter] through  
11 the file to get there.

12           JIM MONTEVERDE: Yeah, -- RAW, dated the  
13 twentieth. And it's under "Health and Safety Code Permits."  
14 It basically says -- Title 8 - Health and Safety of the  
15 Cambridge Code of Ordinances -- the Code. It makes it clear  
16 that the applicants using the alleyway for the storage of  
17 trash is expressly permitted.

18           Specifically, Section 8.24.100 provides that  
19 "Every owner or occupant of private property may maintain  
20 authorized rubbish receptacles outdoors on such private  
21 property, provided the receptacles are screened from the  
22 view from public streets and sidewalks."

1            "All refuse awaiting private collection shall be  
2 in refuge receptacles" -- on and on and on.

3            WENDY LEISERSON: Yeah, no, I see it --

4            JIM MONTEVERDE: Right?

5            WENDY LEISERSON: -- now. Yep. Yep. I see it.  
6 Thank you for pointing me to that. Yeah.

7            JIM MONTEVERDE: All right. And it's a fact that  
8 we have not corroborated?

9            WENDY LEISERSON: Right.

10           JIM MONTEVERDE: So we're just -- we're taking the  
11 proponent's statement at face value.

12           WENDY LEISERSON: I guess my question, then, is  
13 what is the interaction or jurisdiction between the Zoning  
14 Ordinance and the -- this section that they are citing? You  
15 know, if there's a conflict, I guess, is my question.

16           ADAM BARNOSKY: Well, at this point in time, there  
17 is no conflict. They're both consistent. I mean, the  
18 Zoning Ordinance doesn't prohibit outdoor storage of the  
19 trash, and outdoor storage of trash is within the purview of  
20 the Health Department.

21           So, there's no -- there's no --

22           WENDY LEISERSON: No, I just meant that there --

1 JIM MONTEVERDE: Yeah.

2 WENDY LEISERSON: -- I mean, the prior decision --  
3 yeah, go ahead, Jim.

4 JIM MONTEVERDE: No, I was just going to say when  
5 it just -- hold that thought, because I think after we take  
6 public comment and we come back --

7 WENDY LEISERSON: Mm-hm.

8 JIM MONTEVERDE: -- I think we can talk about --  
9 just say that. Because I think --

10 WENDY LEISERSON: Okay. Sure.

11 JIM MONTEVERDE: -- that is an interesting point.  
12 It's one I wrestle with. But --

13 WENDY LEISERSON: Okay.

14 JIM MONTEVERDE: -- just hang on to that one.

15 WENDY LEISERSON: Sure.

16 JIM MONTEVERDE: Anything else?

17 WENDY LEISERSON: Nope. That's it. Thank you.

18 JIM MONTEVERDE: Matina, do you have any  
19 questions?

20 [Pause]

21 Matina, are you there? Do you have a question?

22 All right. Hearing none, before I open this up to

1 public comment, let me just acknowledge that we have a  
2 letter in the file dated June 27. And it is on behalf of  
3 the -- it's from Jaime Mateus on behalf of the 82-84 Tremont  
4 Street Condominium in opposition to the request being made.  
5 And it is signed by seven people -- Jaime Mateus, Ashley  
6 Mateus, John Hopkins, Marie Hopkins, Stephen Michaels, Jane  
7 Saacke, Freeman Deutsch.

8 I believe that's the only correspondence that we  
9 have -- and again, in opposition. So if any of those folks  
10 will be calling in, please don't repeat what the Board has  
11 in its file and has already read but add anything else to  
12 that commentary if you like.

13 So with that, any member of the public who wishes  
14 to speak should now click the icon at the bottom of your  
15 Zoom screen that says, "Raise hand."

16 If you're calling in by phone, you can raise your  
17 hand by pressing \*9 and unmute or mute by pressing \*6.

18 OLIVIA RATAY: Jaime Mateus?

19 JIM MONTEVERDE: Please, all, keep time for a  
20 three-minute maximum, please.

21 JAIME MATEUS: Hi. Good evening. This is Jaime  
22 Mateus from 84 Tremont Street, No. 1. Can you all hear me

1 okay?

2 JIM MONTEVERDE: Yep. Thank you.

3 JAIME MATEUS: Thank you. Yeah, we submitted a  
4 letter with all the owners of the HOA at 84 Tremont Street  
5 Condo Association. Together, I think we are pretty united  
6 in our opposition, and we figured out a more streamlined way  
7 to convey our position.

8 I want to start off with two quick points. I  
9 believe at the last hearing, one of the conditions requested  
10 of the petitioner is that they submit a letter from the  
11 Health Inspector documenting that they have been  
12 specifically required to store the trash outside. I have  
13 not seen that. To my understanding, that letter has been  
14 shown, but perhaps I'm missing that.

15 There's also, I believe, a condition that further  
16 community outreach be performed. That has not really been  
17 done. We did receive an e-mail within the last 24-hours  
18 listing some of the things that Puritan -- might be willing  
19 to do.

20 I want to quote the last sentence of that e-mail.  
21 It ends with, "If you do not support the proposal, we will  
22 simply continue to do what we are currently allowed to do."



1 I will leave it up to the Board to decide if that sounds  
2 more like a good, safe, community outreach, or a threat.

3 I appreciate the Chairman reading the statement --  
4 the quote from the 2012 License Commission hearing. That  
5 was a point I wanted to make as well, and I think that is  
6 very relevant here.

7 I am not going to read our entire letter in  
8 detail, but there's a couple of points I want to point out  
9 that I think are directly relevant to the questions that are  
10 brought up. You know -- actually, sorry, before I get into  
11 that, I think the original context here -- the true hardship  
12 of this property is that without our rear egress, that  
13 building is noncompliant.

14 So the -- what the zoning variances allow is for  
15 the building to be compliant of the building code. That  
16 variance has limited that hardship, and it's done so by  
17 imposing conditions that it meets under Zoning and have  
18 impacted the neighbors, and that has worked. It's worked  
19 for 14 years, which is kind of remarkable.

20 The trash problem we have right now, that is not a  
21 hardship. It is not the hardship. That is a problem of  
22 their own making. As you have seen in the record, trash was

1 agreed to be stored inside the restaurant. Puritan then  
2 decided to build a second facility in the place where they  
3 store trash.

4 This is a problem of their own making and not a  
5 hardship that deserves relief from the Board. This spans a  
6 long time. This has been a long, contentious debate over  
7 many years.

8 I think it is important to understand that  
9 memories are not always perfect, and that the best record  
10 that we have is by looking at the transcribed record of the  
11 various meetings, and quoting exactly from those documents,  
12 so that we can understand the context, as it is -- you know,  
13 as those discussions ensue.

14 In the 2009 Board of Zoning Appeal meeting, I just  
15 want to quote very briefly what the attorney representing  
16 the owner of the property at Puritan had said -- mentioned -  
17 - there are legitimate issues. And frankly, we had  
18 anticipated that.

19 And I discussed it with the petitioner the fact  
20 that the Board might very well have granted the relief  
21 limits that egress to secondary means of egress --

22 JIM MONTEVERDE: I'm going to ask you to wrap up,

1 please.

2 JAIME MATEUS: Mr. Chairman, would it be possible  
3 for me to have a few more minutes, given that I'm  
4 representing all of the neighbors, and thus maybe --

5 JIM MONTEVERDE: If no one else is speaking from  
6 that group, then I'll give you another minute. Please, just  
7 come to a conclusion.

8 JAIME MATEUS: All right. Thank you. I think the  
9 last point I'd like to make is that they do not have the  
10 right to store trash in that alleyway. And this is  
11 reflected in that same 2009 Board of Zoning Appeal by their  
12 attorney, which says, "The effect of (sic) the restriction  
13 on the door would have the effect of restricting the use of  
14 the alley, which would accrue to the benefit of the  
15 abutters."

16 Essentially, the Board of Zoning Appeal has the  
17 jurisdictional authority to impose restrictions on that  
18 property. So if the property were compliant, they would  
19 have a fair argument that the alleyway could be used for  
20 whatever purposes. But because it is not compliant, and the  
21 BZA has the jurisdictional authority to grant that variance  
22 to also have the authority to impose conditions on the

1 variance.

2           They believe that it is fair by reviewing the  
3 record of that 2009 meeting that trash is very much a  
4 central issue, which is being discussed and the main  
5 concern.

6           So I would urge the Board of Zoning Appeals to  
7 please hear us in our unity in our concerns here and  
8 hopefully settle this matter after what's been I think the  
9 third meeting here.

10           JIM MONTEVERDE: Okay. Thank you.

11           JAIME MATEUS: Thank you.

12           JIM MONTEVERDE: Thank you for your comment.

13           OLIVIA RATAY: James Williamson?

14           JAMES WILLIAMSON: Yeah. Thank you. Can you hear  
15 me?

16           JIM MONTEVERDE: Yes, we can.

17           JAMES WILLIAMSON: Thank you, Jim. First, well,  
18 my address is 30 Churchill Ave in North Cambridge. And as a  
19 point of information I guess, is Brendan participating  
20 tonight?

21           JIM MONTEVERDE: No. He was present for the first  
22 two cases, and for the purposes --

1           JAMES WILLIAMSON: -- and he's done? He's retired  
2 now? I just really wanted -- there was no other way I could  
3 do it. I just wanted -- if I could just briefly, you know,  
4 kind of skirt the topic and say just congratulations to  
5 Brendan. I thought he did a great job. And I think the  
6 rest of you have done a very good job.

7           And I appreciate especially the work that Brendan  
8 did all these years sticking up for -- I think doing a good  
9 job sticking up for ordinary people and trying to be fair  
10 and also, you know, judicious and respectful of the  
11 Regulations. So --

12           JAMES WILLIAMSON: Good luck, Brendan. Thank you.

13           JIM MONTEVERDE: Yep. Thank you. Anyone else  
14 wishing to speak?

15           OLIVIA RATAY: Ming-Tai Huh?

16           MING-TAI HUH: My name is Ming-Tai Huh. I'm one  
17 of the co-owners of the business Puritan that occupies the  
18 building at 1166 Cambridge Street. Also, a resident of  
19 Cambridge at 259 Washington Street in the Port for 18 years.  
20           I've been attending all of these hearings, this is  
21 the first time I'm speaking on behalf of our business, given  
22 the strong opposition that we received from our abutters.

1           I think it's really important that we characterize  
2 the history of the result here, and obviously the building.  
3 Some of the history of our building, and why our business is  
4 called Puritan Company is because the building was built in  
5 the '30s by a bakery called Puritan Cake Company.

6           I actually looked it up in the history and the  
7 historical record; that's how we actually defined and built  
8 our building and named our restaurant that way.

9           So it's really rooted in history.

10          There's been a commercial building for 100 years  
11 in this space, and only the restriction has been applied  
12 since 2009.

13          And more recently in the past previous -- from  
14 2009 previous three decades, there was a private club -- a  
15 private club that had the similar capacity, same use,  
16 similarities -- food and beverage business for weddings, for  
17 parties, for big anniversaries.

18          And that operation went over the line, let's put  
19 it frankly.

20          And this is why the abutters are extremely,  
21 extremely against the use of this door. Because that  
22 business went over the line and pretty much was

1 [indiscernible] on the neighbors with outdoor activity,  
2 smoking, guests out there, partying, late-night activity.

3           These are the reasons why the 2009 decision in my  
4 opinion, reading the documents, understanding what happened  
5 that day, and why there was an extreme decision put on this  
6 building, over a lack of the back door.

7           This is certainly not the case of our business  
8 today. Puritan & Company does not operate a nightclub. We  
9 do not operate a business that is characterized in that way  
10 at all. We're stewards of the community. We do great  
11 charity work. We've helped rebuild buildings in Cambridge  
12 Street that burned down to the ground, and to be  
13 characterized kind of like our abutters that we're bad for  
14 the neighborhood is really, really surprising and  
15 unfortunate because we like to think that we're very  
16 positive for the neighbors. We've done a really great job  
17 in maintaining this building and keeping it in a great  
18 place.

19           So the standard of which the decision was made in  
20 2009 was of extreme case. That is no longer the case today.  
21 I feel like the history of 100 years of this building we had  
22 commercial building, and the zoning law was drawn in the

1 '60s, which drew a line right through this building, all of  
2 a sudden negated our rights to be owned and operated as a  
3 food and beverage business, and continuing. That's all.

4 JIM MONTEVERDE: Thank you. Anyone else? No?  
5 Okay. Let me send it back to the Board. Any discussion  
6 among the Board members? Wendy, you want to reintroduce --

7 WENDY LEISERSON: Sure. I think my question is  
8 this is a little complicated, because of the history, and  
9 because I recognize that the business has changed ownership.  
10 But yet, the neighbors remain, and their concerns remain  
11 about use of the alley.

12 And there is some documentation in the file that  
13 even Puritan has been using the back door in ways that were  
14 not intended, such as for employees going on snack break or,  
15 you know, smoke breaks, snack breaks or whatever.

16 So it's not entirely the predecessors' fault that  
17 the neighbors are worried about there being excessive or  
18 irregular usage of the back door. I'm not sure what the --  
19 I mean, I would like to see the Health Board's order to the  
20 restaurant as to what they expect.

21 One question I have is whether they're objecting  
22 to trash being stored inside the restaurant overnight as



1 opposed to trash simply being taken out at the end of the  
2 night, which would reduce part of the concern. I'm sure  
3 that no one dining at a fine restaurant wants to see a bag  
4 of trash pass their table. So I'm sympathetic to that.

5 But I'm not sure where we go from here yet.

6 JIM MONTEVERDE: Okay.

7 WENDY LEISERSON: Jim, do you have questions?

8 JIM MONTEVERDE: No. More of a comment. But I  
9 want to pass it on to the other Board members first. So  
10 Zarya, do you have any discussion?

11 ZARYA MIRANDA: I agree with Wendy. I would like  
12 to see something, if anything, from the Health Department.  
13 That would be helpful.

14 JIM MONTEVERDE: Okay. All right. Thank you.  
15 Matina, any discussion among the Board?

16 Steven, any discussion amongst the Board?

17 STEVEN NG: Yes. I think I can -- at the last  
18 hearing --

19 MATINA WILLIAMS: Hi. It's Matina. Can you hear  
20 me?

21 STEVEN NG: We'll let Matina go.

22 JIM MONTEVERDE: Yeah. Just give us a second.

1 We'll let Steven go through, and then --

2 STEVEN NG: Okay.

3 JIM MONTEVERDE: -- you're next.

4 MATINA WILLIAMS: I don't have any questions.

5 JIM MONTEVERDE: All right. Thank you.

6 STEVEN NG: So I think at the last hearing we did  
7 ask for some information about when that Board of Health or  
8 information or guidance from them came about. And I'm a  
9 little dismayed that we did not get that information.

10 And I don't -- I think it didn't complete right  
11 now. That, you know, because of the expansion of, you know,  
12 services inside the restaurant space, maybe that's what came  
13 about of that memo. But no one provided us that information  
14 or the timing.

15 And I -- that is, you know, I think there was a  
16 change in the design and use of the space inside that  
17 impacted the trash storage. And this has been a solution  
18 they may have wanted to use but, you know, we have to go  
19 over that right now. This is what -- it could have been  
20 that change that created this problem for their management  
21 of trash.

22 So I don't know if there's any information on that

1 -- the timing, the history of, you know, when the Board of  
2 Health brought that concern up?

3 JIM MONTEVERDE: Okay, thank you. So my comments  
4 have been -- you know, for the Board members. The  
5 discussion is -- we need to find a hardship. And it seems  
6 that the hardship is kind of self-imposed.

7 The agreement that was made, or at least the  
8 correspondence we have here from the Licensing Commission  
9 hearing back in 2012 about storing trash -- if I read it  
10 correctly -- storing it inside and disposing of it from the  
11 front door simply became untenable or inconvenient when they  
12 decided to occupy that same space and no longer be able to  
13 store trash inside.

14 At the moment, I don't think that's the basis for  
15 a hardship, as being self-imposed.

16 And hearing the neighbors' concerns, I am leaning  
17 toward not accepting the request for the variance and  
18 keeping it to the language of the previous Zoning Board  
19 hearing, which restricted the use to non-recurring emergency  
20 egress only.

21 And since I agree with some of our other members  
22 who we did -- I do recall, and I read in a transcript

1 requesting a statement from the Health Department not having  
2 seen that, my sense is to enter in the opinion that we  
3 specifically are -- we are asking that -- I don't know how  
4 to do this -- either we don't allow the installation of  
5 trash enclosures, because that's what's being requested; if  
6 they can store trash there by the Health Department, we  
7 don't have any say over that, but installation of new trash  
8 enclosures, I guess we do.

9           So I'm not in favor of the -- I'm not leaning to  
10 accept the variance request. I don't know how -- if any of  
11 the other members feel similarly.

12           And if there's one other member who is not in  
13 favor of this proposal, then if we go ahead with the vote,  
14 you're voted down, can't come back for two years, or you can  
15 withdraw one more time and come up with another proposal,  
16 and do the community outreach, and provide --

17           WENDY LEISERSON: Well --

18           JIM MONTEVERDE: -- from the Health Department.

19           ADAM BARNOSKY: Mr. Chair?

20           JIM MONTEVERDE: Not yet. Hold on, hold on.

21           Nope. Hold on. Let me hear from the Board.

22           WENDY LEISERSON: I was only going to say I think

1 you mean continue another time, yes.

2 JIM MONTEVERDE: Okay. So now, Counselor, are you  
3 amenable to a continuance?

4 ADAM BARNOSKY: I think we're amenable to a  
5 continuance. I would like to clarify a few things, if I  
6 may, Mr. Chair, which would be -- I mean, yes.

7 Briefly, in finding for a hardship, I would say --  
8 you know, I think the thing -- again, that's important to  
9 know here is that the applicants are utilizing their  
10 property lawfully.

11 And I think it's difficult to say that there's no  
12 hardship if the only way that the applicant can operate is  
13 if they do so under their own restricted rights of their own  
14 land.

15 Currently, the only way that they can comply is to  
16 either bring all of their trash around or store it inside,  
17 which is a self-imposed reduction of their own rights.

18 This is a -- this is a restaurant that's been  
19 around for over 10 years, made it through COVID. It is one  
20 of the few that have really done so in the area and is  
21 really doubling down by including additional space and  
22 expanding their operations.

1           Their hardship is both economic, but it's also  
2 practical. Again, the only way that they could comply with  
3 zoning code decision is either to reduce their own land  
4 rights or to have think of bizarre operation that can go  
5 around the block. But in this --

6           JIM MONTEVERDE: Mr. Barnosky, Mr. Barnosky? This  
7 --

8           ADAM BARNOSKY: Yes.

9           JIM MONTEVERDE: -- isn't an opportunity for your  
10 rebuttal. We're at the point where we're ready to make a  
11 motion, and either -- if I get the sense of the Board --  
12 deny the variance or give you the opportunity for -- to  
13 continue one more time.

14          ADAM BARNOSKY: So --

15          WENDY LEISERSON: Mr. --

16          JIM MONTEVERDE: -- and that's the end of it.  
17 Which would you prefer?

18          ADAM BARNOSKY: -- I want to be clear on what the  
19 Board would be seeking if we did continue it. I -- on the  
20 Health Department issue, when we looked into the Health  
21 Code, it became so clear that what they were doing was  
22 lawful under the Code. We found that no other

1 correspondence from the Health Department would be required  
2 because it's a black letter of the City's law.

3 So I do want to be very clear as to what --

4 JIM MONTEVERDE: We --

5 ADAM BARNOSKY: -- the Board would want in a  
6 continuance.

7 JIM MONTEVERDE: I'll suggest --

8 WENDY LEISERSON: Jim, just -- yep.

9 JIM MONTEVERDE: Yep.

10 WENDY LEISERSON: Go ahead, Jim.

11 JIM MONTEVERDE: Nope.

12 WENDY LEISERSON: I would want to see, because the  
13 basis of your petition before us is that the Health -- the  
14 Board of Health has ordered you to do something different  
15 than what you've been doing. Is that not right?

16 ADAM BARNOSKY: That -- that -- that --

17 WENDY LEISERSON: Is that not why you're here?

18 ADAM BARNOSKY: That's not the basis for it, no.

19 I mean, the basis for it is to be able to access and utilize  
20 the trash.

21 A compounding factor was, as I understand it, that  
22 the restaurant was talking to the Health Department. They

1 did suggest that that would be a more appropriate use for  
2 the trash. But fundamentally, that's not -- it's not -- you  
3 know, that's not the reason why we're here.

4 WENDY LEISERSON: Well, I think the basis of a  
5 hardship for me, anyway, is that you are being required to  
6 do something that is in conflict with the restrictions from  
7 the Zoning Board, the prior restrictions, like --

8 JIM MONTEVERDE: If I --

9 WENDY LEISERSON: -- Yeah. Go ahead, Jim.

10 JIM MONTEVERDE: -- if I can suggest, if we do a  
11 continuance, what we'd require -- request -- is not your own  
12 recap of either the Health Department ordinance, but a  
13 letter/statement on their letterhead saying that their  
14 ordinance permits trash storage in that alley. Simply.

15 It's basically just to corroborate what you've  
16 stated in your memo but coming from the Health Department.

17 WENDY LEISERSON: And that they've ordered them  
18 not to store it inside. Right?

19 JIM MONTEVERDE: If that's the statement that the  
20 proponent has made, yes. Okay?

21 ADAM BARNOSKY: Well, that, we will --

22 JIM MONTEVERDE: And I would ask you also to --



1 personally, I would ask you to outreach to the neighbors.  
2 If it's true that they got a correspondence today and not  
3 previously that you outreach to the neighbors and chat with  
4 those folks who've objected. That's what I would suggest  
5 would be conditions on the continuance.

6 Are we ready to move to motion? Board members?

7 WENDY LEISERSON: Yes.

8 JIM MONTEVERDE: Okay. I'm going to state the  
9 motion. Keep in mind that the motions are always stated in  
10 the affirmative. So be careful how you vote.

11 The Chair makes a motion to grant the relief from  
12 the requirements of the Ordinance under the variance  
13 sections -- on the conditions, well, on the conditions that  
14 the work proposed conform to the statement in the files  
15 submitted, initialed and dated by the Chair.

16 And further, that we incorporate supporting  
17 statements. There are no dimensional forms, drawings  
18 submitted as part of the application.

19 Further, the variance is granted and incorporated  
20 in the following conditions. There are no conditions, so  
21 I'll get to that in a moment.

22 Oh, I'm sorry.

1 WENDY LEISERSON: I'm sorry, Jim. Are we -- are  
2 we --

3 JIM MONTEVERDE: Yeah --

4 WENDY LEISERSON: -- doing a continuance?

5 JIM MONTEVERDE: -- I hit the wrong one. Sorry.

6 WENDY LEISERSON: Okay.

7 JIM MONTEVERDE: I'm in the wrong one.

8 WENDY LEISERSON: Yep. No problem.

9 JIM MONTEVERDE: Thank you. Let's continue this  
10 matter. Do we have a date?

11 ADAM BARNOSKY: Yep.

12 JIM MONTEVERDE: July 27. Are all these Board  
13 members present? Counsel, that work for you?

14 ADAM BARNOSKY: Yes. Thank you.

15 JIM MONTEVERDE: Board members?

16 WENDY LEISERSON: The twenty-seventh works for me.

17 STEVEN NG: Twenty-seventh works for me.

18 JIM MONTEVERDE: Matina and Zarya?

19 ZARYA MIRANDA: The twenty-seventh works for me as  
20 well.

21 JIM MONTEVERDE: Okay. Matina?

22 MATINA WILLIAMS: The twenty-seventh works for me.

1           JIM MONTEVERDE: Great. Okay. Make a motion to  
2 continue this matter until July 27, 2023, on the condition  
3 that the petitioner change the posting sign to reflect the  
4 new date of July 27, 2023 and the time at 6:00 p.m.

5           And in furtherance that the petitioner sign a  
6 waiver to the statutory requirement for a hearing. Said  
7 waiver can be obtained from Maria Pacheco or Olivia Ratay at  
8 the Inspectional Services Department.

9           I ask that you sign it and return it to us by a  
10 week from this coming Monday. Failure to do so will de  
11 facto cause this Board to give an adverse ruling on this  
12 particular case.

13           If there are any new submittals or changes to the  
14 drawings, those be on file by 5:00 p.m. on the Monday prior  
15 to the new hearing date.

16           Also, if there are any changes to the dimensional  
17 form and potentially the supporting statements, they also be  
18 changed and submitted along with the new documents.

19           And on your request that correspondence from the  
20 Health Department be provided that states that the Health  
21 Department allows trash to be stored in the alleyway behind  
22 the building and that they have required that the trash be

1 stored behind the alleyway.

2 Wendy, is that correct?

3 WENDY LEISERSON: Yes. Or, rather, the point is  
4 that they not -- that they've required that trash not be  
5 stored in the restaurant --

6 JIM MONTEVERDE: Inside, sorry.

7 WENDY LEISERSON: -- for any time at all. In  
8 other words, if it's okay for them to -- how do I rephrase  
9 it? Yeah.

10 JIM MONTEVERDE: Okay. So we get a correspondence  
11 that the proponent get and send to us a correspondence from  
12 the Health Department --

13 STEVEN NG: Excuse me. Can we also ask the Board  
14 to help with the reasons why they changed their mind about  
15 storage in the restaurant versus out in the alleyway?

16 JIM MONTEVERDE: That's fine. I think, Steven, if  
17 we just limit it to -- without making this burdensome on the  
18 proponent, that if there's just -- we can get a simple  
19 statement from the Health Department that they understand  
20 trash will no longer be stored inside the building or that  
21 they requested the trash no longer be stored inside the  
22 building and they are approved -- you know, approve that the

1 trash being stored in the alleyway that should give us  
2 everything we need to vote on the variance.

3 Do you agree?

4 STEVEN NG: Okay.

5 JIM MONTEVERDE: All right.

6 STEVEN NG: That's fine.

7 JIM MONTEVERDE: So with that condition that the  
8 proponent obtain and send to us the statement from the  
9 Health Department that contains the statement that they have  
10 changed their request for trash to be stored inside the  
11 building so that trash can be stored in the alley.

12 And that storage of trash in the alley is allowed  
13 by the Health Department ordinances, and that the proponent  
14 reach out to the neighbors who have written in this evening  
15 on this case and reach out to do a community outreach to  
16 hear them out and try and come to a compromise.

17 On that basis, on the motion, then, to continue  
18 this matter until July 27, Wendy?

19 WENDY LEISERSON: In approval.

20 JIM MONTEVERDE: Zarya?

21 ZARYA MIRANDA: In approval.

22 JIM MONTEVERDE: Matina?

1 MATINA WILLIAMS: Approve.

2 JIM MONTEVERDE: Steven?

3 STEVEN NG: In approval.

4 JIM MONTEVERDE: And Jim Monteverde in approval.

5 [All vote YES]

6 JIM MONTEVERDE: That's five accepted. Case is  
7 continued.

8 ADAM BARNOSKY: Thank you.

9 MATINA WILLIAMS: I'm done for the night. Have a  
10 good evening.

11 WENDY LEISERSON: Happy Fourth --

12 MATINA WILLIAMS: Jim?

13 WENDY LEISERSON: -- Matina. Bye-bye.

14 JIM MONTEVERDE: Thank you.

15 WENDY LEISERSON: Oh, same to you.

16 JIM MONTEVERDE: Thank you, Matina.

17 ZARYA MIRANDA: I'm also not sitting for the rest  
18 of the cases this evening.

19 JIM MONTEVERDE: Okay.

20 WENDY LEISERSON: Happy Fourth to you too.

21 ZARYA MIRANDA: Bye.

22 JIM MONTEVERDE: Who do we have? Let me see.

1 Wendy, okay.

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