



CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2022 APR 27 PM 2: 15

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

BZA Application Form

BZA Number: 172275

General Information

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

Special Permit: _____

Variance: X

Appeal: _____

PETITIONER: Lubavitch of Cambridge, Inc. C/O Rabbi Hirschy Zarchi

PETITIONER'S ADDRESS: 38 Banks Street, Cambridge, MA 02138

LOCATION OF PROPERTY: 65 Banks St., Cambridge, MA

TYPE OF OCCUPANCY: Day Care

ZONING DISTRICT: Residence C-1 Zone

REASON FOR PETITION:

/Dimensional Variances from: (1) Dimensional Standards (2) Dimensional Nonconformity /

DESCRIPTION OF PETITIONER'S PROPOSAL:

On July 15, 2021, the petitioner was granted a special use permit to operate a daycare at the property located at 65 Banks Street, Cambridge, MA (the "Subject Property") (see attached decision). Due to an increase in demand for the petitioner's daycare and educational services, the petitioner now seeks to finish and utilize the basement space of the existing structure to accommodate more families and children from the community. By finishing the basement for this purpose, the petitioner increases the floor area ratio ("FAR") above the maximum FAR allowed in the Residence C-1 district pursuant to the dimensional standards under Section 5.31 of the Ordinance. Additionally, the structure is a pre-existing nonconforming structure and as such the petitioner seeks a variance under Section 8.22.3 of the Ordinance for an alteration or enlargement of a nonconforming structure.

SECTIONS OF ZONING ORDINANCE CITED:

| | |
|-----------------|--|
| Article: 5.000 | Section: 5.31 (Dimensional Requirements - Floor Area Ratio). |
| Article: 8.000 | Section: 8.22.3 (Alteration or enlargement of a nonconforming structure not otherwise permitted in Section 8.22.1 and 8.22.2 of the Ordinance) |
| Article: 10.000 | Section: 10.30 (Variances) |

Original
Signature(s):

[Signature]
(Petitioner (s) / Owner)

HIRSCH ZARCHI
(Print Name)

BZA APPLICATION FORM - OWNERSHIP INFORMATION

To be completed by OWNER, signed before a notary and returned to The Secretary of the Board of Zoning Appeals.


I/We Lubavitch of Cambridge, Inc.
(OWNER)

Address: 38 Banks Street, Cambridge, Massachusetts

State that I/We own the property located at 65-67 Banks St.,
which is the subject of this zoning application.

The record title of this property is in the name of Lubavitch of Cambridge, Inc.

*Pursuant to a deed of duly recorded in the date June 16, 2021, Middlesex South
County Registry of Deeds at Book 78028, Page 466; or
Middlesex Registry District of Land Court, Certificate No. _____
Book _____ Page _____.

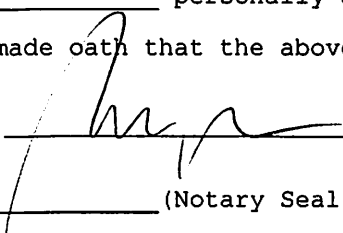


SIGNATURE BY LAND OWNER OR
AUTHORIZED TRUSTEE, OFFICER OR AGENT*

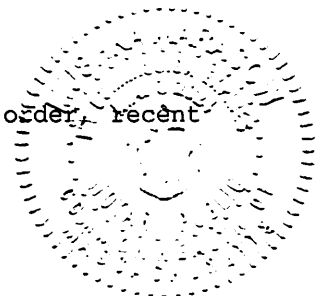
**Written evidence of Agent's standing to represent petitioner may be requested.*

Commonwealth of Massachusetts, County of Middlesex

The above-name Hirsch Zarchi personally appeared before me,
this 24 of April, 2022, and made oath that the above statement is true.

 Notary
My commission expires 05/03/2024 (Notary Seal).

- If ownership is not shown in recorded deed, e.g. if by court order, recent deed, or inheritance, please include documentation.





BZA Application Form

SUPPORTING STATEMENT FOR A VARIANCE

EACH OF THE FOLLOWING REQUIREMENTS FOR A VARIANCE MUST BE ESTABLISHED AND SET FORTH IN COMPLETE DETAIL BY THE APPLICANT IN ACCORDANCE WITH MGL 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:

There is an increased demand for the petitioner's daycare services and therefore the petitioner seeks to finish and utilize the existing basement space in order to accomodate more families and children in the community in need of affordable daycare and educational services. Without the basement space the petitioner will not be able to meet the increased demand and will not be able to serve more families and children in the community.

- 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 by not affecting generally the zoning district in which it is located for the following reasons:

The hardship is due to the space constraints in the existing structure.

- C)** **DESIRABLE RELIEF MAY BE GRANTED WITHOUT EITHER:**

- 1)** Desirable relief may be granted without substantial detriment to the public good for the following reasons:

There will not be a substantial detriment to the public good if the relief requested herein is granted. The petitioner only seeks to utilize the basement space in the existing structure. The petitioner is not constructing or altering the existing structure in a way that would impact the public. On the contrary, the petitioner will be meeting a demand for quality and affordable daycare and educational services from the community. By doing so, the petitioner will be helping the public good by serving more families and children.

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

The relief granted will not nullify or substantially degrogate from the intent or pupose of the Ordinance. The petitioner is only seeking to finish and utilize an existing basement space in order to accomodate more families and children in need of daycare services. The relief requested would further the intent and purpose of the Ordinance because it would continue to encourage educational services not offered to the general public and will allow the petitioner to serve more families and children in need of its daycare and educational services.

***If you have any questions as to whether you can establish all of the applicable legal requirements, you should consult with an attorney.**

Address: _____

Tel. No. 617-547-6124

E-Mail Address: rabbi@chabadharvard.org

Date: _____

BZA Application Form**DIMENSIONAL INFORMATION****Applicant:** Lubavitch of Cambridge, Inc.**Present Use/Occupancy:** Day Care**Location:** 65 Banks St., Cambridge, MA**Zone:** Residence C-1 Zone**Phone:** 617-547-6124**Requested Use/Occupancy:** N/A

| | | <u>Existing Conditions</u> | <u>Requested Conditions</u> | <u>Ordinance Requirements</u> | |
|---|--------------------------|-----------------------------------|------------------------------------|---|--------|
| <u>TOTAL GROSS FLOOR AREA:</u> | | 2,431 | 3,431 | 2,250 | (max.) |
| <u>LOT AREA:</u> | | 3,000 | 3,000 | 5,000 | (min.) |
| <u>RATIO OF GROSS FLOOR AREA TO LOT AREA: ²</u> | | 0.81 | 1.14 | 0.75 | |
| <u>LOT AREA OF EACH DWELLING UNIT</u> | | N/A | N/A | N/A | |
| <u>SIZE OF LOT:</u> | <u>WIDTH</u> | 53.54/52.10 | 53.54/52.10 | 50 | |
| | <u>DEPTH</u> | 54.12/63.76 | 54.12/63.76 | U/K | |
| <u>SETBACKS IN FEET:</u> | <u>FRONT</u> | 53.54 | 53.54 | U/K | |
| | <u>REAR</u> | 4.6 +/- | 4.6 +/- | 20 | |
| | <u>LEFT SIDE</u> | 3.6 +/- | 3.6 +/- | 7.5 | |
| | <u>RIGHT SIDE</u> | 11.25 +/- | 11.25 +/- | 7.5 | |
| <u>SIZE OF BUILDING:</u> | <u>HEIGHT</u> | 26'-10" +/- | 26'-10" +/- | 35'-0" | |
| | <u>WIDTH</u> | 45'-0" | 45'-0" | U/K | |
| <u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u> | | .27 | .27 | .30 | |
| <u>NO. OF DWELLING UNITS:</u> | | N/A | N/A | N/A | |
| <u>NO. OF PARKING SPACES:</u> | | 2 | 2 | 3 per 2 instructional rooms, or 1 per 5 seats in the main auditorium, whichever is greater. | |
| <u>NO. OF LOADING AREAS:</u> | | N/A | N/A | N/A | |
| <u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u> | | N/A | N/A | N/A | |

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.:

N/A

1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS).



CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2022 MAY 16 PM 3:32
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

BZA Application Form

Revised
General Information

BZA Number: 172275

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Variance: X

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To expand the day care use from the first and second floor into the basement.

SECTIONS OF ZONING ORDINANCE CITED:

| | |
|-----------------|--|
| Article: 5.000 | Section: 5.31 (Dimensional Requirements - Floor Area Ratio). |
| Article: 8.000 | Section: 8.22.3 (Alteration or enlargement of a nonconforming structure not otherwise permitted in Section 8.22.1 and 8.22.2 of the Ordinance) |
| Article: 10.000 | Section: 10.30 (Variances) & Sec. 10.40 (Special Permit). |
| Article: 4.000 | Section: 4.33.B.3 (Day Care Use). Sec. 4.56.C.2 (Institutional Use Regulations). |

Original
Signature(s):

[Signature]
(Petitioner (s) / Owner)

Hirsch Zarchi

(Print Name)

Address:

65 Banks St Cambridge MA

Tel. No.

617-547-6124

E-Mail Address:

rabbi@chabadharvard.org

Date:

5/16/02**BZA Application Form****DIMENSIONAL INFORMATION****Applicant:** Lubavitch of Cambridge, Inc.**Present Use/Occupancy:** Day Care**Location:** 65 Banks St., Cambridge, MA**Zone:** Residence C-1 Zone**Phone:** 617-547-6124**Requested Use/Occupancy:** N/A

| | | <u>Existing Conditions</u> | <u>Requested Conditions</u> | <u>Ordinance Requirements</u> | |
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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.:

N/A

BZA APPLICATION FORM - OWNERSHIP INFORMATION

To be completed by OWNER, signed before a notary and returned to The Secretary of the Board of Zoning Appeals.

I/We Lubavitch of Cambridge, Inc.

(OWNER)

Address: 38 Banks Street, Cambridge, Massachusetts

State that I/We own the property located at 65-67 Banks St.,
which is the subject of this zoning application.

The record title of this property is in the name of Lubavitch of Cambridge, Inc.

*Pursuant to a deed of duly recorded in the date June 16, 2021, Middlesex South
County Registry of Deeds at Book 78028, Page 466; or

Middlesex Registry District of Land Court, Certificate No. _____

Book _____ Page _____.

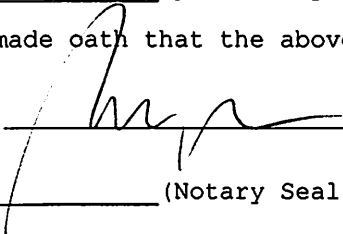


SIGNATURE BY LAND OWNER OR
AUTHORIZED TRUSTEE, OFFICER OR AGENT*

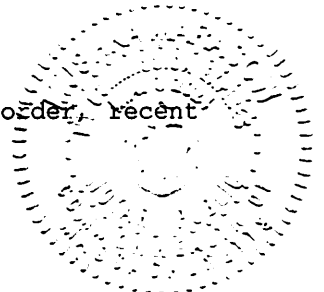
**Written evidence of Agent's standing to represent petitioner may be requested.*

Commonwealth of Massachusetts, County of Middlesex

The above-name Hirsch Zarchi personally appeared before me,
this 24 of April, 2022, and made oath that the above statement is true.

 Notary
My commission expires 05/03/2024 (Notary Seal).

- If ownership is not shown in recorded deed, e.g. if by court order, recent deed, or inheritance, please include documentation.





BZA Application Form

SUPPORTING STATEMENT FOR A VARIANCE

EACH OF THE FOLLOWING REQUIREMENTS FOR A VARIANCE MUST BE ESTABLISHED AND SET FORTH IN COMPLETE DETAIL BY THE APPLICANT IN ACCORDANCE WITH MGL 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:
- There is an increased demand for the petitioner's daycare services and therefore the petitioner seeks to finish and utilize the existing basement space in order to accomodate more families and children in the community in need of affordable daycare and educational services. Without the basement space the petitioner will not be able to meet the increased demand and will not be able to serve more families and children in the community.
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- The hardship is due to the space constraints in the existing structure.
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- The relief granted will not nullify or substantially degrogate from the intent or pupose of the Ordinance. The petitioner is only seeking to finish and utilize an existing basement space in order to accomodate more families and children in need of daycare services. The relief requested would further the intent and purpose of the Ordinance because it would continue to encourage educational services not offered to the general public and will allow the petitioner to serve more families and children in need of its daycare and educational services.

***If you have any questions as to whether you can establish all of the applicable legal requirements, you should consult with an attorney.**

BZA Application Form

SUPPORTING STATEMENT FOR A SPECIAL PERMIT

Please describe in complete detail how you meet each of the following criteria referring to the property and proposed changes or uses which are requested in your application. Attach sheets with additional information for special permits which have additional criteria, e.g.; fast food permits, comprehensive permits, etc., which must be met.

Granting the Special Permit requested for 65 Banks St., Cambridge, MA (location) would not be a detriment to the public interest because:

A) Requirements of the Ordinance can or will be met for the following reasons:

As described in Section B) through E) below, all provisions of the Ordinance will be met in connection with the proposed use, both procedural and substantive, and the use, and any construction work associated therewith, will not be inconsistent with the Urban Design objectives as contained in Section 19.30 of the Ordinance. In addition, there is a surfeit of parking on the lot presently, plus a large driveway which will be available for pick up and drop off should any issue develop in the public way (and most parents/families utilizing the facility actually live within walking distance of the property.

B) Traffic generated or patterns of access or egress would not cause congestion hazard, or substantial change in established neighborhood character for the following reasons:

The number of children attending the school/center as part of this arrangement will be a maximum of 66. This remains a low number of children and we will continue to be a neighborhood school. As such, we will continue to encourage parents and others to walk their children to and from the school.

C) The continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use for the following reasons:

The only times when there could be any effect on adjacent uses as permitted by the Zoning Ordinance would be during drop off or pick up. Those will occur once, respectively, each day, and, as noted immediately above, the small number of participants will mean that the amount of time at any adjacent uses could be affected will be very minimal (and the driveway and parking available onsite, as mentioned above, will further facilitate that).

D) Nuisance or hazard would not be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the City for the following reasons:

In addition to the information and reasons provided in items B and C immediately above, the proposed use will fill a need for the city, providing a distinct, separate benefit and an essential service.

E) For other reasons, the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of this ordinance for the following reasons:

As noted above, this use will be a day care center/preschool, in full compliance with all laws and regulations of the Commonwealth of Massachusetts applicable thereto, filling a distinct need in the City of Cambridge and serving additional children which intrinsically would not derogate from the intent or

purpose of the Zoning Ordinance or the integrity of the zoning district or any adjacent district or otherwise.

***If you have any questions as to whether you can establish all of the applicable legal requirements, you should consult with an attorney.**

65-67 Banks St
Property Information
Property Class TWO-FAM-RES
State Class Code 104
Zoning C-1
Adjacent 5D-14
Near Grant and Cowperthwaite Streets in Riverside.
Regulations similar to Residential C-1
With exceptions. Preservation of Neighborhood
Character encouraged.

Map/Lot 132-80
Land Area 3,000 SF

Owner Information
Chabad at Harvard
38 Banks Street
Cambridge, MA 02138

Building Information
Residential Building Number 1, Section 1

Living Area 2,246 SF

Parking
Open Parking 2

| Code Description | Gross Area | Living Area |
|---------------------------|------------|-------------|
| BAS First Floor | 1,123 | 1,123 |
| DKW Deck Wood | 192 | |
| FOP Porch, Open | 224 | |
| FUS Upper Story, Finished | 1,123 | 1,123 |
| UBM Basement | 1,123 | |
| Total: | 3,785 | 2,246 |

ZONING COMPLIANCE:
THE BUILDING IS AN EXISTING NON-CONFORMING STRUCTURE IN THE
C1 Zone LOT AREA 3,000 SF

| ALLOWED | max Far .75 | Max height 35' | Min lot area 1500 SF |
|----------|-------------|----------------|----------------------|
| EXISTING | .81 | 26'-10" | 3,000 SF |
| PROPOSED | 1.14 | 26'-10" | 3,000 SF |

| | |
|--------------------|--------------------|
| BUILDING FOOTPRINT | 1,111 SF |
| PORCHES 186 + 23 = | 209 SF |
| LOT COVERAGE | 1,320 SF |
| OPEN SPACE | 820 / 3,000 = .27 |
| DRIVEHARDSPACE | 860 / 3,000 = .287 |

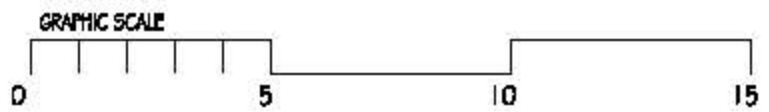
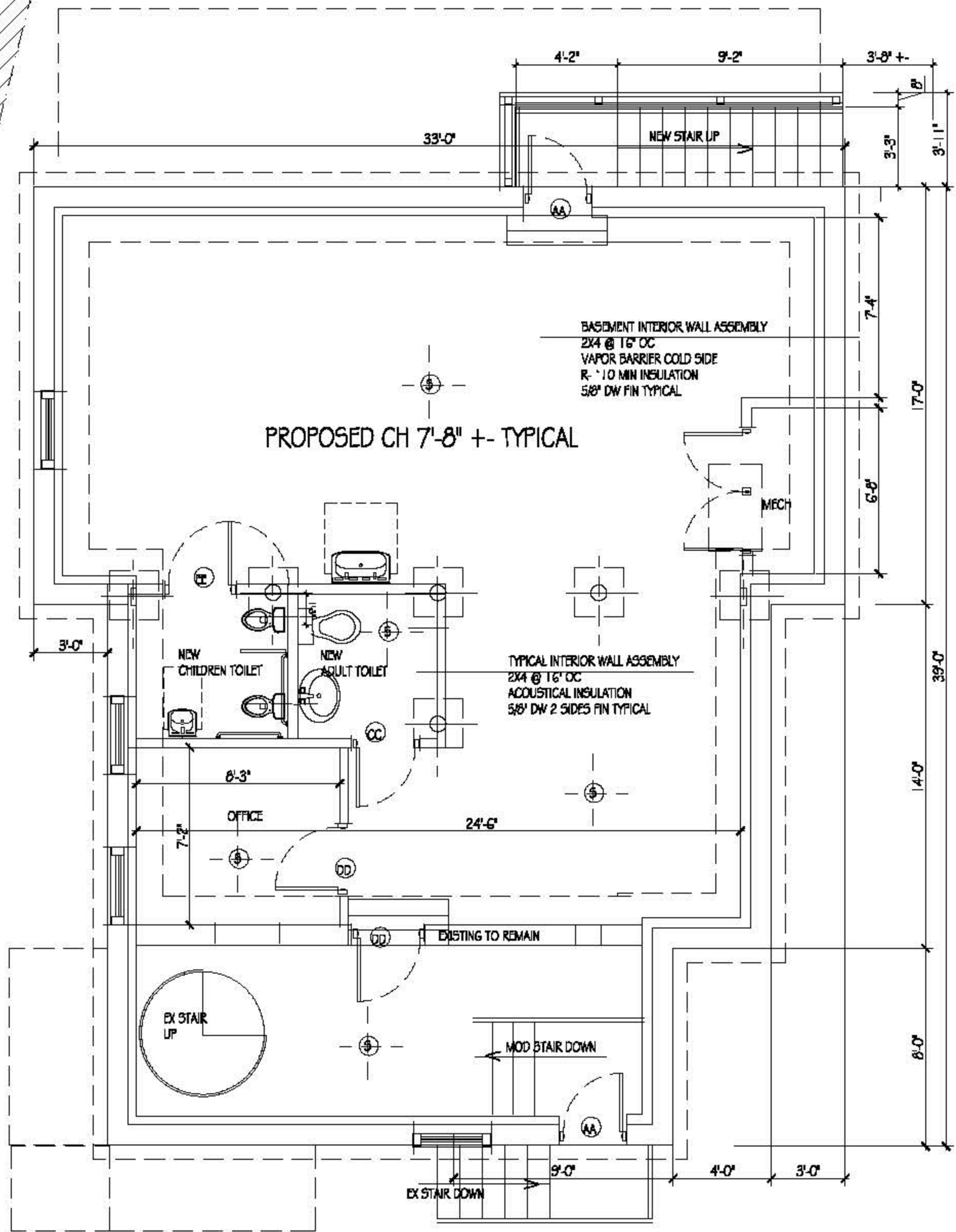
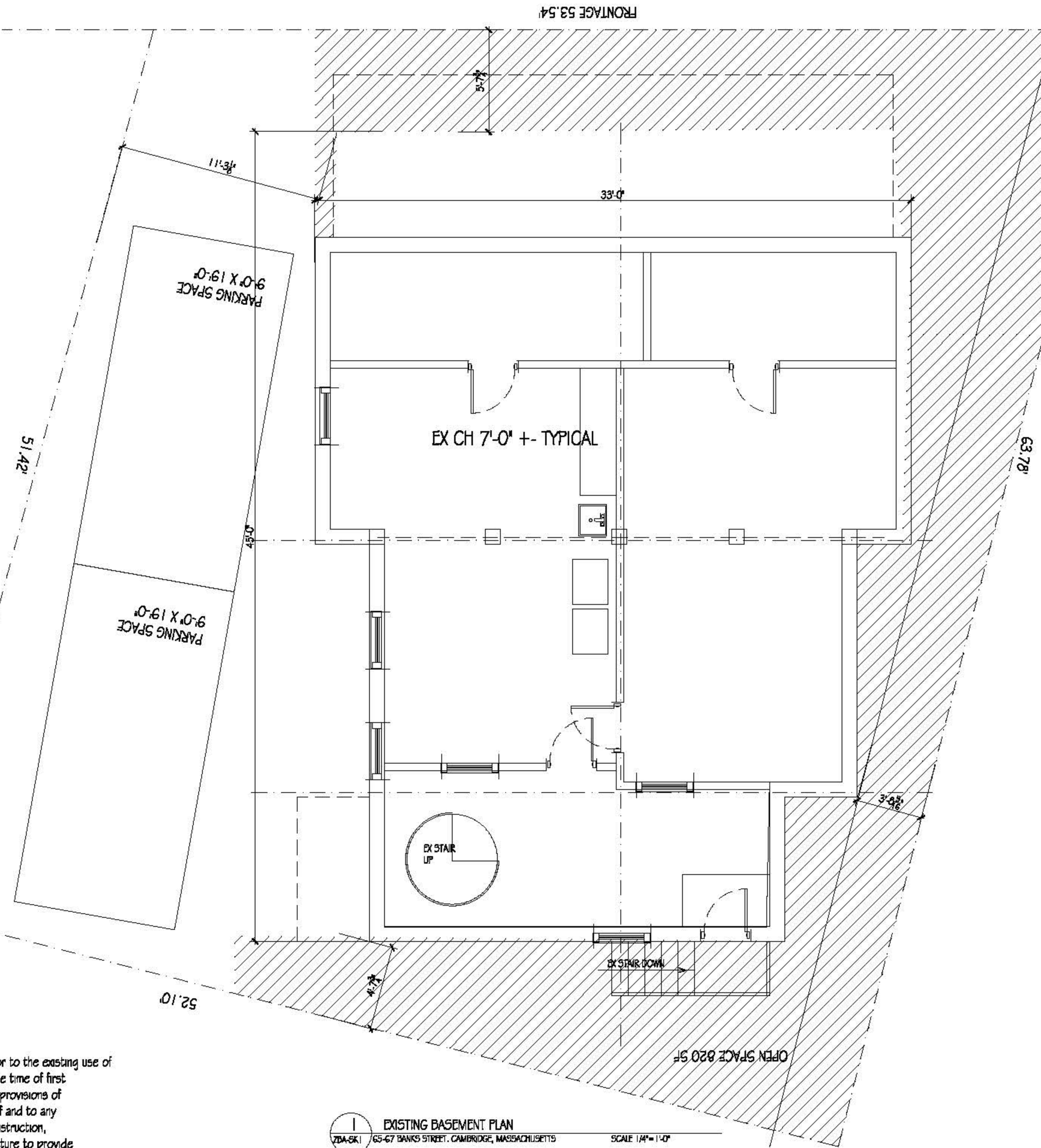
| | |
|-------------------|---------------------|
| FAR FLOOR 1 AND 2 | 2,431 / 3000 = .81 |
| BASEMENT | 1,000 |
| PROPOSED FAR | 3,431 / 3000 = 1.14 |

ARTICLE 8.000 NONCONFORMITY
8.10 EXISTING BUILDINGS

8.11 This Ordinance shall not apply to existing buildings or structures, nor to the existing use of any building or structure or of land, to the extent to which it is used at the time of first publication of notice of public hearing by the Planning Board of applicable provisions of this or any prior Ordinance, but it shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, and to any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent.

8.12 Except as herein provided no building or structure or land shall be used and no building or other structure or part thereof shall be constructed, extended or structurally altered except in conformity with the State Building Code and with the provisions of this Ordinance applying to the district in which said building, structure or land is located.

8.20 NONCONFORMANCE
THE PROPOSED CONTINUED USE AND RENOVATION OF THAT USE MEETS THE REQUIREMENTS OF THIS SECTION.



SDA
One Cambridge Street
Salem, MASSACHUSETTS
01970 USA

978.741.0410
schopf@verizon.net

Architecture
Interior Design
Master Planning
Project Management

4-20-22

CAMBRIDGE PRESCHOOL OF THE ARTS
ADDITIONAL CONSTRUCTION AT BASEMENT
65-67 BANKS STREET
CAMBRIDGE, MASSACHUSETTS

©2019 HOFF DESIGN ASSOCIATES, P.C.

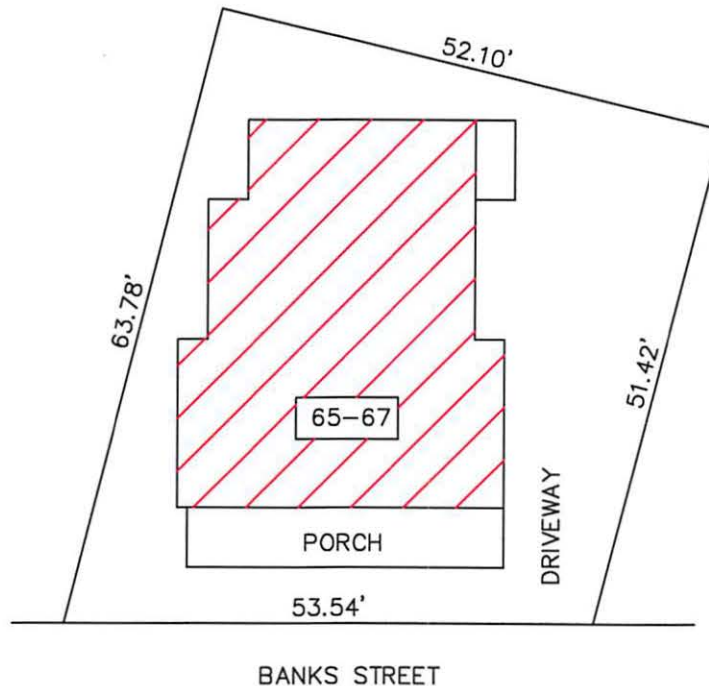
| | | |
|---|----------|--------------------------|
| 1 | 1-25-21 | FIELD MEASURE |
| 2 | 2-25-21 | TO 7-5 REV 1 TO 7 |
| 3 | 7-5-21 | FOR PERMIT |
| 4 | 7-7-21 | REV FOR PERMIT |
| 5 | 7-29-21 | REV HC TOILET |
| 6 | 11-19-21 | ADDITIONAL AT BASEMENT |
| 7 | 2-18-22 | PERMIT |
| 8 | 4-20-22 | ZBA BASEMENT CIRCULATION |



Architect
1-25-21
Date
VARIES
Scale
21-04
Job No.
Drawn By
MIS

SK-1

SHEET



DEED REF: 18462-480

PLAN REF: 22-16

CERTIFICATION MADE TO: CENTURY BANK & TRUST CO

I HEREBY CERTIFY THAT THE DWELLING SHOWN ON THIS PLAN IS LOCATED ON THE GROUND APPROXIMATELY AS SHOWN AND CONFORMED TO THE DIMENSIONAL REQUIREMENTS OF THE ZONING BY-LAWS OF THE TOWN/CITY OF CAMBRIDGE, MASS. WHEN CONSTRUCTED OR IS EXEMPT FROM VIOLATION ENFORCEMENT ACTION UNDER MASS. GENERAL LAWS CHAPTER 40A SEC. 7.

I ALSO CERTIFY THAT THE BUILDING(S) SHOWN HEREON DO NOT LIE WITHIN A FEDERALLY DESIGNATED FLOOD HAZARD AREA AS DEFINED ON THE F.E.M.A. FLOOD HAZARD BOUNDARY MAP FOR THE TOWN/CITY OF CAMBRIDGE, MASS.

THIS PLAN WAS NOT MADE FROM AN INSTRUMENT SURVEY AND IS FOR MORTGAGE PURPOSES ONLY. FURTHERMORE, IT IS NOT TO BE USED FOR THE PHYSICAL ESTABLISHMENT OF PROPERTY LINES AND/OR CERTIFICATION OF FENCES, PLANTINGS, PAVED AREAS, UTILITIES, SHEDS, ETC., OR THE CONSTRUCTION OF ADDITIONAL STRUCTURES ON THE LOT. ANY STRUCTURES/PAVED DRIVEWAYS ON LOCUS OR ABUTTING AND LOCATED NEAR PROPERTY LINES REQUIRE AN INSTRUMENT LOCATION TO DETERMINE ANY POSSIBLE ENCROACHMENTS. CERTIFICATION IS RESTRICTED TO RESIDENCE AREA OF LOT.

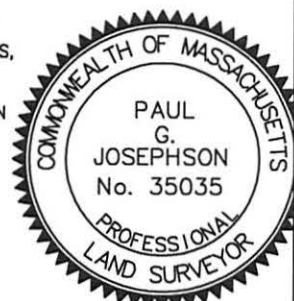
THIS CERTIFICATION IS BASED UPON THE LEGAL DESCRIPTION(S) OF THE PREMISES SHOWN HEREON WHICH WERE PROVIDED BY THE CLIENT, COUNTY, TOWN PUBLIC RECORDS, LINES OF OCCUPATION AND DOES NOT PURPORT TO REVEAL ANY INCONSISTENCIES AND/OR ENCROACHMENTS WHICH MAY BE DISCOVERED WITH A FULL AND COMPLETE TITLE SEARCH, EXAMINATION OF ABUTTING DEEDS, OR INSTRUMENT SURVEY. NO CERTIFICATION IS HEREBY MADE WITH RESPECT TO ANY OTHER PROVISIONS OF SAID BY-LAW.

President

P.N. Associates, Inc.

Date

11/10/20



MORTGAGE INSPECTION

PLOT PLAN

IN

CAMBRIDGE, MASS.

Scale 1" = 30'

P.N. ASSOCIATES, INC.

310 Oak Street
Shrewsbury, MA

508-958-2914
Fax 508-519-9198

65 Banks St. BZA-172275





Middlesex South Registry of Deeds

Electronically Recorded Document

This is the first page of the document - Do not remove

Recording Information

| | |
|--|----------------------|
| Document Number | : 200456 |
| Document Type | : DECIS |
| Recorded Date | : September 09, 2021 |
| Recorded Time | : 08:29:01 AM |
| Recorded Book and Page | : 78653 / 364 |
| Number of Pages(including cover sheet) | : 4 |
| Receipt Number | : 2714832 |
| Recording Fee | : \$105.00 |

Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.middlesexsouthregistry.com



CITY OF CAMBRIDGE

Massachusetts
BOARD OF ZONING APPEAL
831 Mass Avenue, Cambridge, MA.
617) 349-6100

2021 AUG 10 AM 11:09
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

CASE NO: BZA-121039

LOCATION: 65 Banks Street Residence C-1 Zone
Cambridge, MA

PETITIONER: Lubavitch of Cambridge, Inc.
C/o Elka Zarchi

PETITION: **Special Permit:** To create temporary classrooms while new facility is renovated at 243 Hampshire Street and to meet demand for affordable daycare as families re required to return to work after Covid restrictions.

VIOLATIONS: Art. 4.000, Sec. 4.33.B.3 (Day Care Use). & Sec. 4.56.C.2 (Institutional Use Regulations). & Art. 10.000, Sec. 10.40 (Special Permit).

DATE OF PUBLIC NOTICE: July 1, 2021 & July 8, 2021

DATE OF PUBLIC HEARING: July 15, 2021

MEMBERS OF THE BOARD:

| | |
|-------------------------------|-------------------------------------|
| CONSTANTINE ALEXANDER – CHAIR | <input checked="" type="checkbox"/> |
| BRENDAN SULLIVAN – VICE-CHAIR | <input checked="" type="checkbox"/> |
| ANDREA A. HICKEY | <input type="checkbox"/> |
| JIM MONTEVERDE | <input type="checkbox"/> |
| LAURA WERNICK | <input checked="" type="checkbox"/> |

ASSOCIATE MEMBERS:

| | |
|--------------------|-------------------------------------|
| SLATER W. ANDERSON | <input checked="" type="checkbox"/> |
| ALISON HAMMER | <input type="checkbox"/> |
| JASON MARSHALL | <input type="checkbox"/> |
| MATINA WILLIAMS | <input type="checkbox"/> |
| WENDY LEISERSON | <input checked="" type="checkbox"/> |

Members of the Board of Zoning Appeal heard testimony and viewed materials submitted regarding the above request for relief from the requirements of the Cambridge Zoning Ordinance. The Board is familiar with the location of the petitioner's property, the layout, and other characteristics as well as the surrounding district.

PROPERTY: 65 BANKS STREET, CAMBRIDGE, MA BOOK 78028, PAGE 466

Case No. BZA-121039
 Location: 65 Banks Street
 Petitioner: Lubavitch of Cambridge, Inc. – c/o Elka Zarchi

On July 15, 2020, Petitioner's representative Elka Zarchi appeared before the Board of Zoning Appeal with architect Morris Schopf requesting a special permit in order to create temporary classrooms while a new facility is renovated at 243 Hampshire Street and to meet demand for affordable daycare as families are required to return to work after Covid restrictions. The Petitioner requested relief under Article 4, Sections 4.33.B.3 and 4.56.C.2 and Article 10, Section 10.40 of the Cambridge Zoning Ordinance ("Ordinance"). The Petitioner submitted materials in support of the application including information about the project, plans, and photographs.

Mr. Schopf stated that the property contained a two-family house. He stated that the proposal was to convert the use to daycare for the next few years, while the petitioner's new facility was being renovated. He stated that the building would not be materially altered. Ms. Zarchi stated that affordable daycare was badly needed in the neighborhood. She stated that the students would be arriving on foot and so would not affect traffic.


One of the parents spoke in support of the proposal. The Chair noted a letter of support.

After discussion, the Chair moved that the Board make the following findings based upon the application materials submitted and all evidence before the Board and that based upon the findings the Board grant the requested relief as described in the Petitioner's submitted materials and the evidence before the Board: that the Board find that the requirements of the Ordinance could not be met without the special permit; that the Board find that traffic generated or patterns of access or egress would not cause congestion hazard, or substantial change in established neighborhood character; that the Board find that the proposal would bring children and parents to the site for the next few years; that the Board find that the continued operation of or development of adjacent uses, as permitted in the Ordinance, would not be adversely affected by the nature of the proposed use; that the Board find that no nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use, or the citizens of the City; that the Board find that, generally, what was being proposed would not impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of the Ordinance; that the Board find that what was proposed would further the intent and purpose of the Ordinance, because it would encourage educational services that are not necessarily offered in the public schools and certainly not for children of the age who would be attending these classes at the facility.

The Chair further moved that based upon all the information presented the Board grant the requested relief as described in the Petitioner's submitted materials and the evidence before the Board on the condition that that this special permit terminates August 31, 2024, at which time there will be no ability to use these temporary classrooms as proposed by the petitioner, except if further zoning relief is granted.

The five-member Board voted unanimously in favor of granting the special permit with the above condition (Alexander, Sullivan, Anderson, Wernick, and Leiserson). Therefore, the special permit is granted as conditioned.

The Board of Zoning Appeal is empowered to waive local zoning regulations only. This decision therefore does not relieve the petitioner in any way from the duty to comply with local ordinances and regulations of the other local agencies, including, but not limited to the Historical Commission, License Commission and/or compliance with requirements pursuant to the Building Code and other applicable codes.


Brendan Sullivan, Vice-Chair

ATTEST: A true and accurate copy of the above decision has been filed on 8-10-21 with the Offices of the City Clerk and the Planning Board by Maria Pacheco, duly authorized representative of the Board of Zoning Appeal.


~~Twenty~~ days have elapsed since the above decision was filed in the office of the City Clerk and:

 no appeal has been filed; or

 an appeal has been filed within such twenty days.

The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This certification shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the periods provided under the second paragraph of G.L. c. 40A, §6.

Date: 9/1/2021

, City Clerk

Appeal has been dismissed or denied.

Date: _____

_____, City Clerk

[illegible]

65 Banks St.

Petitioner

131-68 /132-74-78-75-76-77-79-157-137
PRESIDENT & FELLOWS OF HARVARD COLLEGE C/O
HARVARD REAL ESTATE, INC.
HOLYOKE CENTER, ROOM 1000
1350 MASSACHUSETTS AVE
CAMBRIDGE, MA 02138-3895

132-60
DIERCKS, GILLIAN R.,
TRUSTEE CHARLES NOMINEE REALTY TRUST
64 BANKS ST
CAMBRIDGE, MA 02138

LUBAVITCH OF CAMBRIDGE INC.
C/O RABBI HIRSCHY ZARCHI
38 BANKS STREET
CAMBRIDGE, MA 02138

132-59
HAWKINSON, JACQUELYN A.,
TR. THE PARADIS-ALMER INVESTMENT TRS
91 GRANT ST
LEXINGTON, MA 02420

132-73
KELLER, SUSAN, SARA OSEASOHN &
C/O HARVARD REAL ESTATE SERVICES
1350 MASS AVE - HOLYOKE CTR RM 1017
CAMBRIDGE, MA 02138

132-80
ANNIS, MARTIN
65-67 BANKS STREET
CAMBRIDGE, MA 02138

132-61
LUBAVITCH OF CAMBRIDGE, INC.
54-56 BANKS ST
CAMBRIDGE, MA 02138

132-111
THORGERSON, ERIC J. & ELIZABETH FOOTE
29 SURREY ST
CAMBRIDGE, MA 02138

27-29 Surrey Street
Cambridge, MA 02138
June 6, 2022

Board of Zoning Appeal
831 Mass Ave
Cambridge, MA

corrected

Eric Thorgerson and Elizabeth Foote of 27-29 Surrey Street, Cambridge, **object to the Petition for variance BZA Number 172275 at 65 Banks Street**, Cambridge, for the enlargement of the basement to attract more students of the preschool.

Elizabeth has resided in Cambridge for over 50 years and Eric for over 20. We have owned the home at 27-29 Surrey Street for approximately 20 years. We enjoy both the city and our neighborhood immensely and feel fortunate to be members of this great community. Watching the POTA children march to the city playground is a joy, as is joining in the activities offered by our Harvard neighbors. However, we have serious concerns and do not feel an enlargement of the basement leading to an increase to 66 students in the district's best interests.

Please note: The Board of Zoning Appeal granted the petition of July 21, 2021, as a temporary, 2-year variance allowed while improvements are made to another site. We do not understand why this petition is being considered at this time.

C) 1&2) Without substantial detriment to the public good and substantially derogating from the intent or purpose of the Ordinance:

We object to the Supporting Statements for a Special Permit for the following reasons:

- A) There is likely to be more congestion.
 - a. There is not a surfeit of parking on the lot presently. The driveway holds up to 4 cars in tandem and usually holds dumpster(s) taking up 1-3 of those 4 spaces.
 - b. Pick up and drop off now requires automobiles to pull in front of our and neighbors' driveways on the even numbered side of Banks Street or on the curb and in the bike lane on the odd numbered side of Banks Street, the length of which does not allow parking.
- B) There is currently congestion during morning and afternoon hours.
 - a. We consider 66 students more than a "low number." As much as we love watching groups of 10-15 parade to the local playground on Memorial Drive throughout each weekday, we find the additional children added to these groups plus St Paul's students of 20-30 heading there for the basketball/hockey recess each day "congestion."
- C) Currently, we are concerned with the small children and their parents being in danger of cars pulling into and out of driveways on the odd side of the street.

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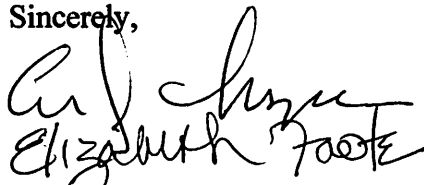
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- a. We currently do not travel unless absolutely necessary during those hours. We have someone direct traffic if we must leave or enter. We have been considering this inconvenience “temporary” and are disturbed to find it otherwise.
 - b. The arrival and departure of Surrey Street Market delivery trucks, Harvard buses and idling shared rides automobiles raise more concerns for the families. The increase in students (and possible permanent status granted to the school) cause us concern.
 - c. Again, parking in the 38 Banks Street driveway is minimal. We see no other “on site” parking.
- D) As stated above, we do find the above a “nuisance or hazard” to our neighborhood. The increase numbers of children and parents are a concern for us. We see more opportunity and risk for injuries and congestion.
- E) We feel the “integrity of the district” and its “intent and purpose” are impaired if the number increases. We are members of a friendly, helpful Riverside group of neighbors. Larger and more permanent commercial activities are not in our interest.

For the above reasons, Elizabeth Foote and Eric Thorgerson object granting this variance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth Foote', written over a printed name.

Elizabeth Foote & Eric Thorgerson



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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

BZA

POSTING NOTICE – PICK UP SHEET

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

Name: Mandy Perlman Date: May 23, 2022
(Print)

Address: 65 Banks St.

Case No. BZA-172275

Hearing Date: 6/9/22

Thank you,
Bza Members