

**BZA Number: 208300** 

# **CITY OF CAMBRIDGE**

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

#### **BZA Application Form**

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	General Information	AMBRID	2023
The undersigned hereby petitions the Board	l of Zoning Appeal for the followir	ng: ត្រីទុ	2
Special Permit: <u>X</u> Varia	ince:	Appeal:	0
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PETITIONER: Lubavitch of Cambridge, Inc. C/O Rabbi Hirschy Zarchi		ACHUSETTS	23
PETITIONER'S ADDRESS: 38 Banks Street, MA, Cambridge 02138			

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

TYPE OF OCCUPANCY: Day Care

ZONING DISTRICT: Residence C-1 Zone

#### REASON FOR PETITION:

/Special use permit without condition to expire /

#### DESCRIPTION OF PETITIONER'S PROPOSAL:

The petitioner was granted a special use permit for a day care use on the subject property in 2021 (Case No. BZA-121039), however, the special use permit approval was conditioned on the special use permit expiring on August 31, 2024. The petitioner now seeks a special use permit without conditions, or to otherwise make the day care use permanent for the entire building on the subject property (petitioner submits floor plans for the basement, first floor, and second floor). Since the temporary special use permit was granted in 2021, the petitioner has received overwhelming support from community members which has showed the petitioner that the day care use has provided a needed and valuable service to families in the area. The petitioner wants to continue to serve families at this location long-term. Granting a special use permit without conditions or to otherwise making the special use permit permanent at this time will allow the petitioner to make long-term operational and logistical plans and for families enrolled in the day care to make long-term family-planning decisions.

Petitioner notes that the Petitioner was before the Board of Zoning Appeal on June 9, 2022 and was granted a variance and special use permit for the basement as set forth in Case No. 172275.

#### SECTIONS OF ZONING ORDINANCE CITED:

Article: 4.000Section: 4.33.B.2 (Day Care Use).Article: 4.000Section: 4.56.C.1 (Institutional Use Regulations).Article: 10.000Section: 10.40 (Special Permit).

Original Signature(s):

(Petitioner (s) / Owner)

Hursch Zarchi (Print Name) MA 38 Banks Street Cambridget02138

Address: Tel. No. E-Mail Address:

617-547-6124 rabbi@chabadharvard.org

• . Date: 11923

#### **BZA Application Form**

#### **DIMENSIONAL INFORMATION**

Applicant:Lubavitch of Cambridge, Inc.Location:65 Banks St., Cambridge, MAPhone:617-547-6124

Present Use/Occupancy: <u>Day Care</u> Zone: <u>Residence C-1 Zone</u> Requested Use/Occupancy: Day Care

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

#### 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	I/We	Lubavitch of Cam	bridge, Inc.	
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05/03/2024 My commission expires (Notary Seal).

If ownership is not shown in recorded deed, e.g. if by court order, deed, or inheritance, please include documentation. ٠

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#### **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 <u>65 Banks St , Cambridge, MA</u> (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:

The requirements of the City of Cambridge Zoning Ordinance (the "Ordinance") have been met since the granting of the initial special use permit for a temporary day care use and it is the petitioner's position that the requirements of the ordinance will continue to be met under a permanent day care use on the subject property. The petitioner is not changing the day-to-day operations of the day care, the petitioner is not planning to make any structural improvements to the structure on the subject property, the number of children enrolled in the program is not anticipated to increase, and sufficient parking will continue to be provided. Accordingly, the petitioner intends to comply with all Ordinance requirements.

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:

Under the temporary day care use, traffic has not been a concern and the current traffic generated has not caused a hazard or substantial change in the neighborhood character. The petitioner does not anticipate any issues under a permanent day care use as the petitioner does not plan to change its day-to-day operations or the amount of children enrolled in the day care. Therefore, the petitioner does not anticipate that a permanent day care use on the subject property will cause a change in traffic patterns or increased generation of traffic resulting in congestion hazard or substantial change in established neighborhood character.

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

It is the petitioner's position that its temporary day care use has not adversely affected the operation of or the development of adjacent uses since the initial granting of the its special use permit in 2021. Given that the petitioner only seeks to make the temporary day care use a permanent day care use and the current day-to-day operations of the day care will not change, it is not anticipated that the permanent use will adversely affect adjacent uses.

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:

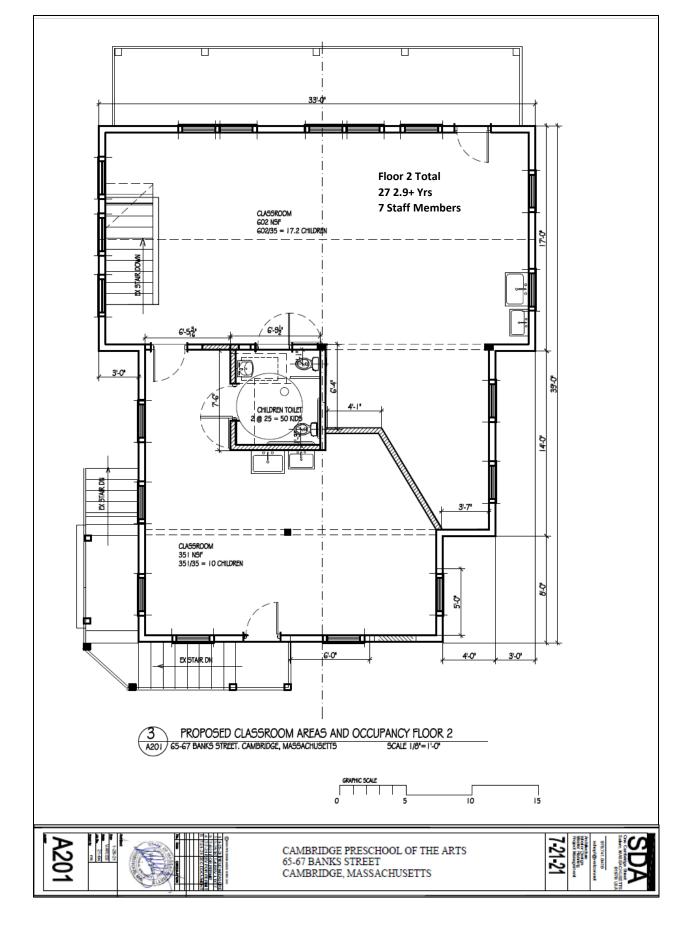
It is the petitioner's position that its temporary day care use has not created any nuisance or hazard to the detriment of the health, safety, and/or welfare of the petitioner or the citizens of Cambridge since the initial granting of the special use permit in 2021. The current day-to-day operations of the day care will not change under a permanent day care use and therefore the petitioner does not anticipate that the permanent use will cause the creation of a nuisance or hazard to the detriment of the health, safety, and/or welfare of the petitioner or the citizens of Cambridge. On the contrary,

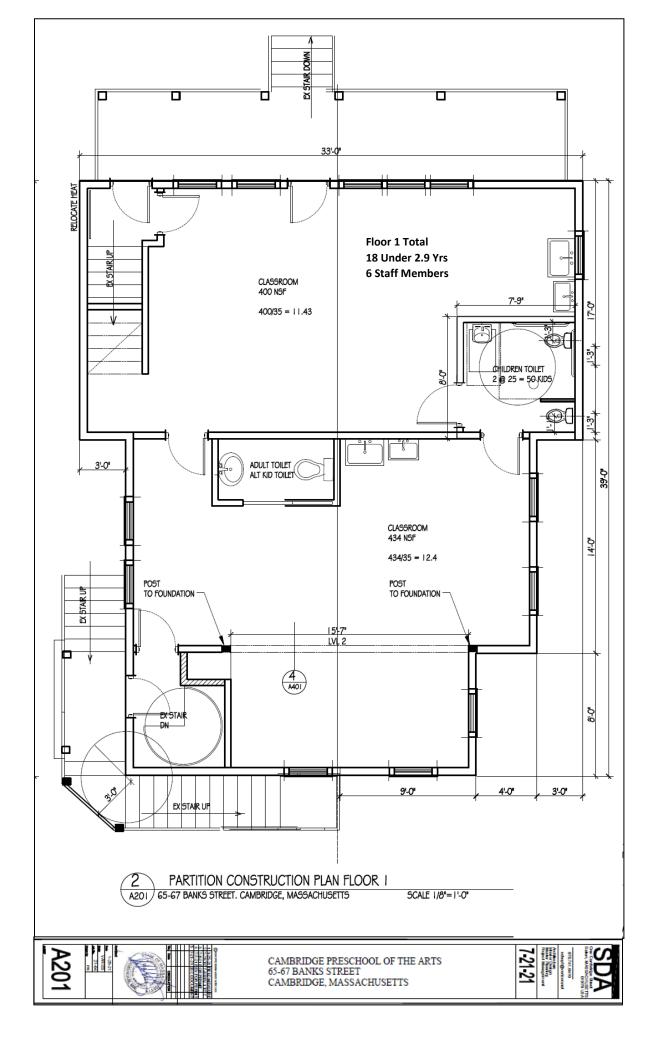
the petitioner will be able to continue to provide a use that has proven to be needed and a benefit to the community and will allow family members to make long-term plans beyond 2024.

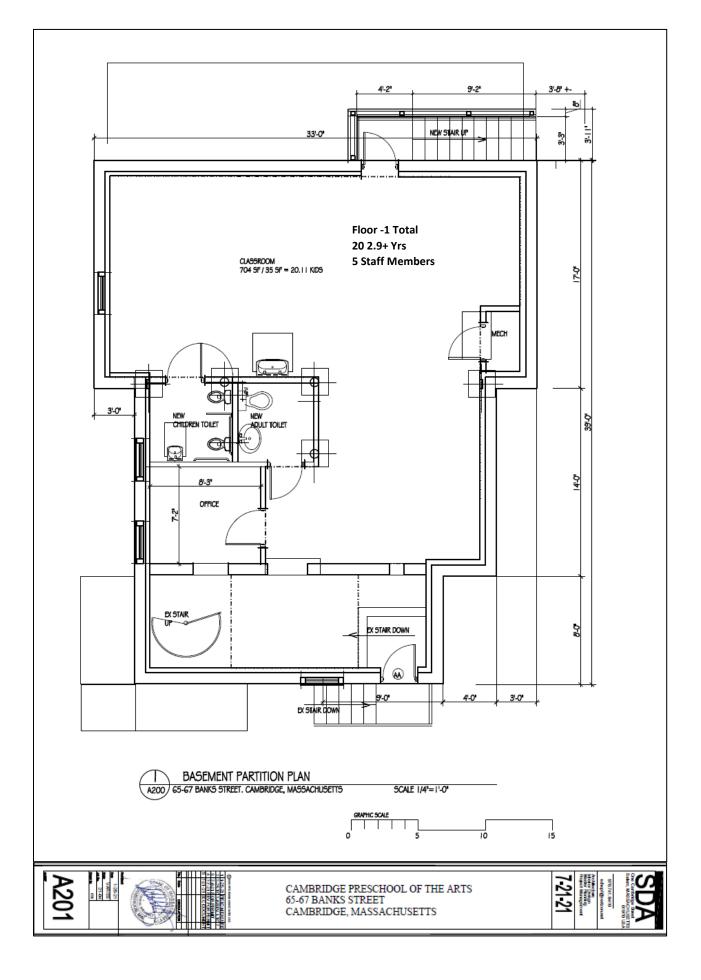
### E) For other reasons, the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of this ordinance for the following reasons:

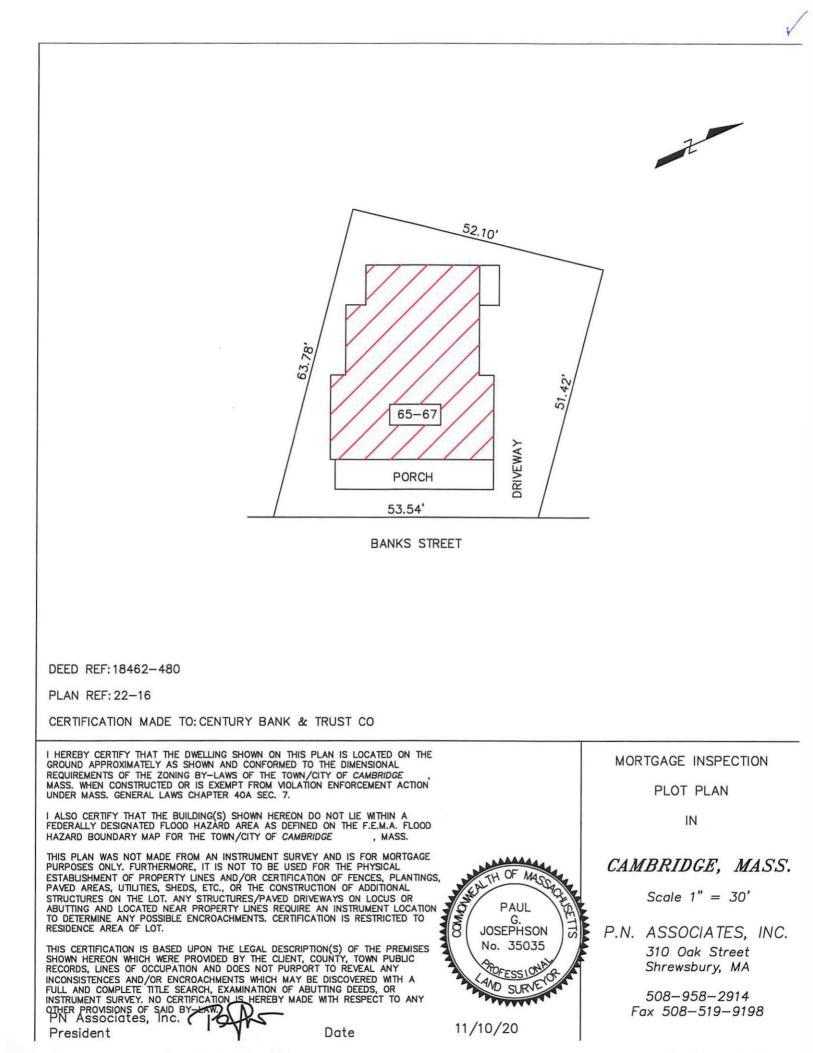
It is the petitioner's position that its temporary day care use has not impaired the integrity of the zoning district or adjoining districts, or otherwise the intent or purpose of the Ordinance since the initial granting of its special use permit in 2021. The day-to-day operations of the day care will not change under a permanent day care use and therefore the petitioner anticipates that a permanent day care use will not impair the integrity of the zoning district or adjoining district or otherwise derogate from the intent or purpose of the Ordinance. The day care use has proven to be a supported use by community members and has been fulfilling a needed service in the district. The permanent use will allow families to make long-term plans and the petitioner to continue to serve families beyond 2024. The petitioner further notes that the special use permit decision granted in 2021, the City of Cambridge Board of Zoning Appeal found that the day care use furthers the itnent and purpose of the Ordinance because it encourages educational services that are not necessarilly offered in the public schools and not for children of the age who would be attending petitioner's day care.

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













Bk: 78653 Pg: 364

# Middlesex South Registry of Deeds Electronically Recorded Document

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#### **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 Avenuc, Cambridge, MA. 617) 349-6100

2021 AUG 10 AM 11:09 CATTOR OF THE CITY OF ENTS

CASE NO:	BZA-121039	
LOCATION:	65 Banks Street Cambridge, MA	Residence C-1 Zone
PETITIONER:	Lubavitch of Cambridge, Inc. C/o Elka Zarchi	
PETITION:	<b>Special Permit</b> : To create temporary renovated at 243 Hampshire Street a daycare as families re required to re	
VIOLATIONS:	Art. 4.000, Sec. 4.33.B.3 (Day Care Use) Regulations). & Art. 10.000, Sec. 10.40 (	
DATE OF PUBLIC NO	OTICE: July 1, 2021 & July 8, 2021	
DATE OF PUBLIC HI	EARING: July 15, 2021	
MEMBERS OF THE F	BOARD: CONSTANTINE ALEXANDE BRENDAN SULLIVAN – VIO ANDREA A. HICKEY JIM MONTEVERDE LAURA WERNICK	
ASSOCIATE MEMBE	RS: SLATER W. ANDERSON ALISON HAMMER JASON MARSHALL MATINA WILLIAMS WENDY LEISERSON	

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.

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  $8 \cdot 10 \cdot 31$  with the Offices of the City Clerk and the Planning Board by Maria Dathero, 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.

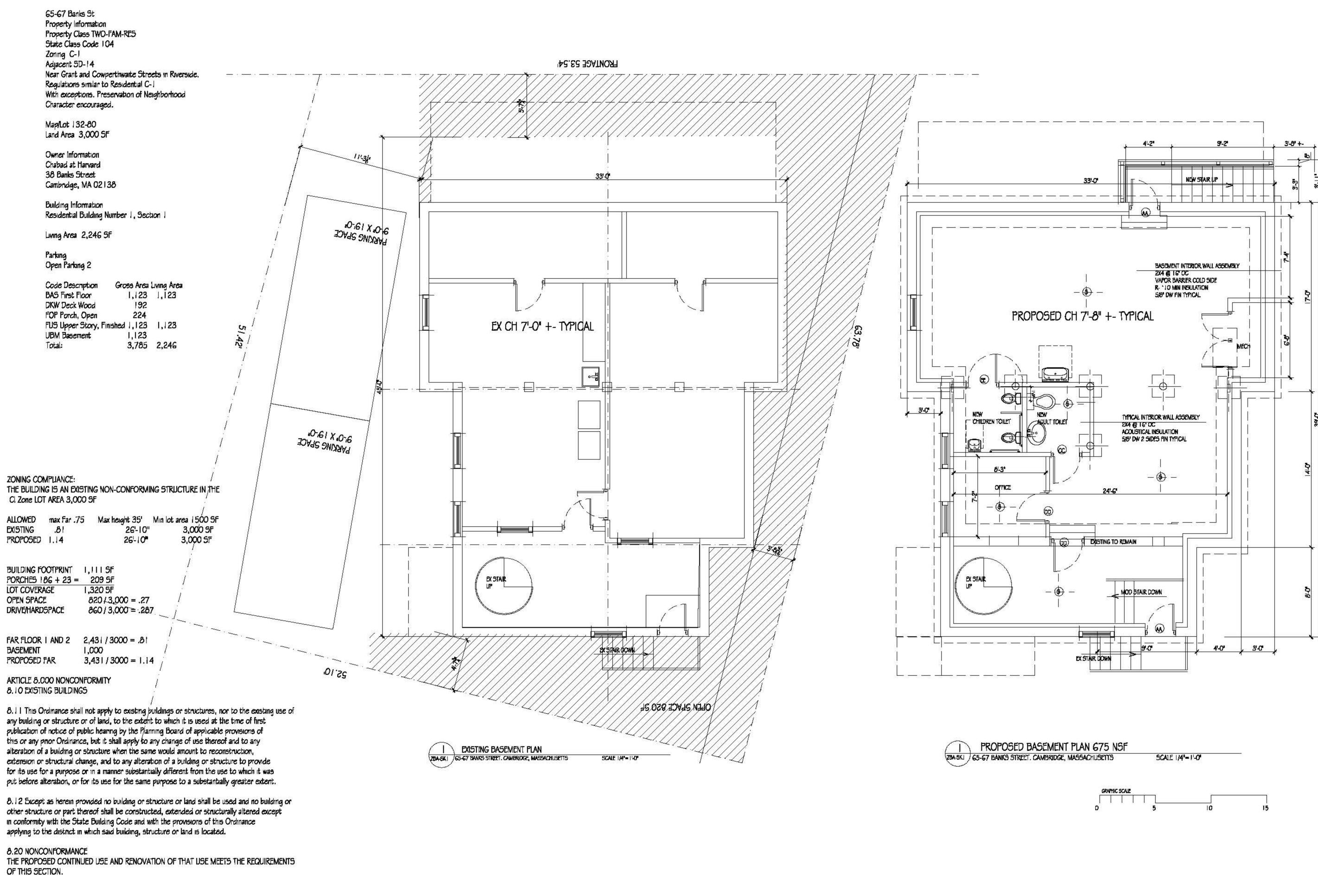
The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This certification shall in no event terminate or shorten the tolling, during the pendency of any appeals,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

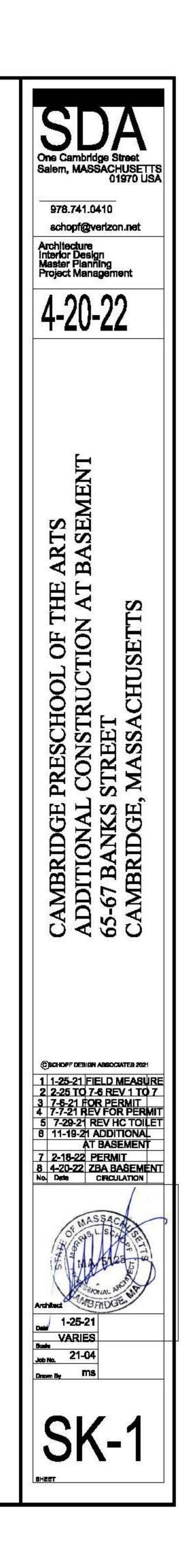
Date: 91202

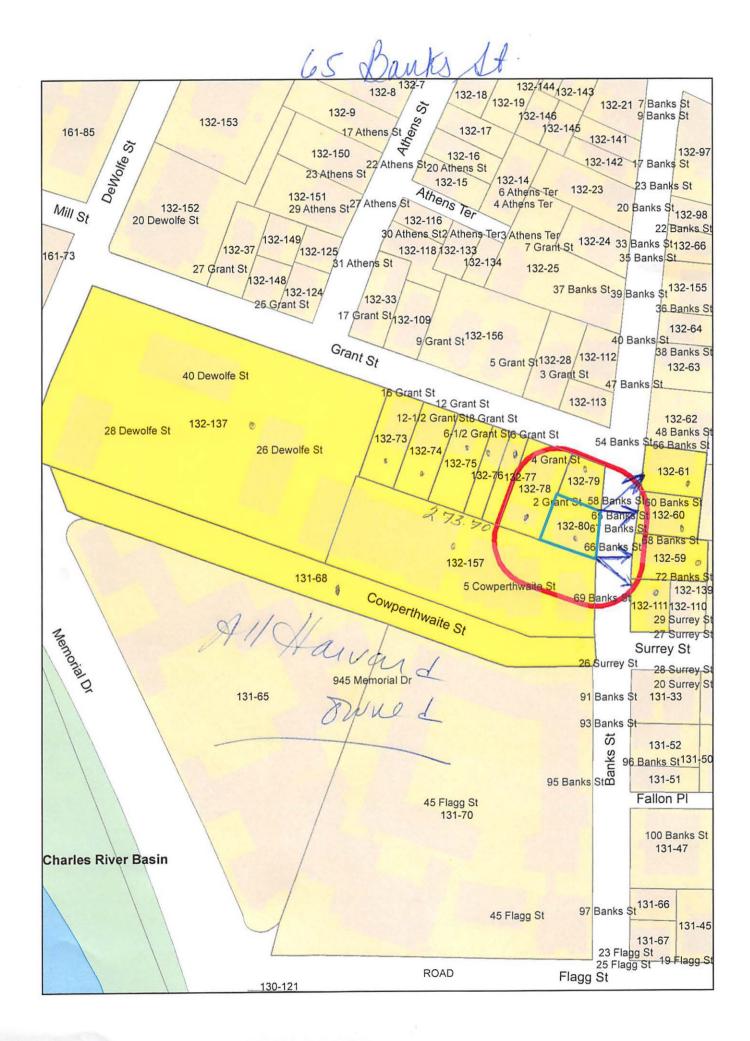
Appeal has been dismissed or denied.

Date: \_\_\_\_\_

, City Clerk







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

132-80 LUBAVITCH OF CAMBRIDGE INC 38 BANKS ST CAMBRIDGE, MA 02138

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

65 Banks St.

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

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

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

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

ArentFox Schiff C/o Christine DiBiase 800 Boylston Street Boston, MA 02199

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