



CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

BZA Application Form

BZA Number: 172691

General Information

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

Special Permit: _____

Variance: X

Appeal: _____

PETITIONER: MDHCT Holding LLC C/O HRI

PETITIONER'S ADDRESS: 280 Franklin Street, Cambridge, MA 02139

LOCATION OF PROPERTY: 808-812 Memorial Drive, Cambridge, MA

TYPE OF OCCUPANCY: Mixed-Use (Residential and Commercial)

ZONING DISTRICT: Office-2 Zone

REASON FOR PETITION:

/Sign/

DESCRIPTION OF PETITIONER'S PROPOSAL:

We are requesting relief for an illuminated wall sign for the height and setback.

SECTIONS OF ZONING ORDINANCE CITED:

Article: 7.000 Section: 7.16.22.C (Wall Sign).

Article: 10.000 Section: 10.30 (Variance).

Original
Signature(s):

(Petitioner(s) / Owner)

(Print Name)

Address:

280 Franklin St. Cambridge MA 02139

Tel. No.

617-868-4858 x209

E-Mail Address:

emacrakis@homeownersrehab.org

Date: 5/3/2022

2022 MAY -4 PM 2:36
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

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.

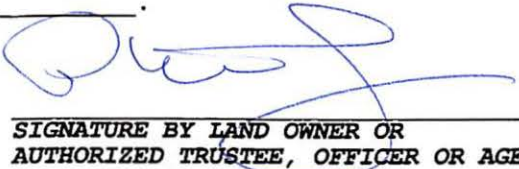
I/We MDHCT Holding LLC
(OWNER)

Address: 280 Franklin Street, Cambridge MA 02139

State that I/We own the property located at 808-812 Memorial Drive Cambridge MA 02139,
which is the subject of this zoning application.

The record title of this property is in the name of MDHCT Holding LLC



*Pursuant to a deed of duly recorded in the date 6/4/2020, Middlesex South
County Registry of Deeds at Book 74827, Page 297; 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 Peter Daly personally appeared before me,
this 28 of 04, 2022, and made oath that the above statement is true.

My commission expires 08/14/2026  (Notary Seal) 
Notary
Mariana Zapata
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Commission Expires
8/14/2026

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

1. The first of these is the fact that the

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W. J. H. H. H.

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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:

This sign is important to our property as the most visible corner of the property is dominated by a Mobil Station and a street tree. By placing the sign higher than the Ordinance allows and a bit larger than the internal lighting dimensions currently allow, our potential residential tenants, commercial customers, and office visitors will be able to properly identify the property before driving too far down Memorial Drive or River Street. In order to be a successful property, we need folks unfamiliar with the property to see the sign easily. If visitors can't easily identify the property, we will have a harder time leasing up the residential, commercial, and office spaces which can negatively affect the property's financial health and our organization's affordable housing mission.

- 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 shape of the 812 building is such that the ground floor is dominated by a Mobil Station and the part of the building that is built above the station is blocked by a street tree. As we don't intend to change the shape and size of the building and are hoping that the street tree stays on Memorial Drive as part of the streetscape, a sign that conforms to the Ordinance would be blocked and not visible for its intended purpose.

- 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:

The proposed sign will not be seen by residents in their homes in the adjacent neighborhood as the sign will face Memorial Drive and not the residential neighborhood behind the property. The slightly higher height will not be detrimental to the public good, in fact it will allow for easier identification of the property which will help those visiting the property find it more easily. In addition, this sign is consistent with other large buildings on both sides of the Charles River near this property as most nearby buildings have large building signs that are much higher than the height of the sign we are proposing.

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

Our sign location height request is site-specific as this property is located at a major intersection where people driving would not be able to see a sign below the second story sill (or 20' from ground). The same logic applies for the slightly higher sign than allowed under the internal lighting of the Ordinance - the higher proposed location will make this the sign appear smaller from ground level. We believe that both requests for relief are within the spirit of the Ordinance and simply reflect the unique nature and location of this property.

***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**DIMENSIONAL INFORMATION****Applicant:** MDHCT Holding LLC**Present Use/Occupancy:** Mixed-Use (Residential and Commercial)**Location:** 808-812 Memorial Drive., Cambridge, MA**Zone:** Office-2 Zone**Phone:** 617-868-4858 x209**Requested Use/Occupancy:** Mixed-Use (Residential and Commercial)

		<u>Existing Conditions</u>	<u>Requested Conditions</u>	<u>Ordinance Requirements</u>	
<u>TOTAL GROSS FLOOR AREA:</u>		407,073	407,073	384,923	(max.)
<u>LOT AREA:</u>		120,647	120,647	5000	(min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA: ²</u>		3.19	3.37	3.19	
<u>LOT AREA OF EACH DWELLING UNIT</u>		402	402	600	
<u>SIZE OF LOT:</u>	WIDTH	N/A	N/A	N/A	
	DEPTH	N/A	N/A	N/A	
<u>SETBACKS IN FEET:</u>	FRONT	55	54	55	
	REAR	N/A	N/A	N/A	
	LEFT SIDE	0	0	0	
	RIGHT SIDE	22	21	22	
<u>SIZE OF BUILDING:</u>	HEIGHT	209	209	209	
	WIDTH	N/A	N/A	N/A	
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u>		29	29	15	
<u>NO. OF DWELLING UNITS:</u>		300	300	201	
<u>NO. OF PARKING SPACES:</u>		257	257	300	
<u>NO. OF LOADING AREAS:</u>		0	0	6	
<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).
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'.



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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

2022 JUL -1 AM 10:39
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 # 172691

Address: 808 Memorial Drive

☐ Owner, ☐ Petitioner, or ☐ Representative: Jane Carbone
(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: 6-30-22

Jane Carbone
Signature

6/30/22

* * * * *

(9:07 p.m.)

Sitting Members: Brendan Sullivan, Andrea A. Hickey, Jim
Monteverde, Slater W. Anderson, and Jason
Marshall

BRENDAN SULLIVAN: The Board will call No. 172691
-- 810-812 Memorial Drive. Mr. Daley? Anybody? No? Peter
not calling in? Okay.

The Board is in receipt of correspondence from
Jane Carbone, Homeowners Rehab.

"MDH, LLC would like to ask for a continuance for
the BZA hearing until we review the concerns from the
Cambridge -- from a Cambridge resident, attached letter.

Also, there was concern expressed by the Planning
Board, which refers to that letter. Can you confirm that
you will remove us from the agenda?"

No, you're on the agenda, but --

"If you have received any letters from Cambridge"

--

Well, anyhow, we will accept the request for a
continuance on the condition that the petitioner sign a
waiver to the statutory requirement for a hearing and a

1 decision to be rendered thereof. Such waiver needs to be in
2 the file by 5:00 p.m. a week from Monday.

3 Any new submittals not currently in the file,
4 changes to the file be in the file resubmitted by 5:00 p.m.
5 on the Monday prior to the next available date is August 18,
6 so that any new submittals must be in the file by 5:00 p.m.
7 on the Monday prior to August 18.

8 That the posting sign must be change and updated,
9 maintained to reflect the new date August 18, 2022 at 6:00
10 p.m.

11 Any other conditions by members of the Board?

12 On the motion, then, to continue this matter to
13 August 18, 2022, Jim Monteverde?

14 JIM MONTEVERDE: In favor.

15 BRENDAN SULLIVAN: Slater Anderson?

16 SLATER ANDERSON: In favor.

17 BRENDAN SULLIVAN: Andrea Hickey.

18 ANDREA HICKEY: Yes, in favor.

19 BRENDAN SULLIVAN: Jason, you're on this one, so

20 --

21 JASON MARSHALL: I am. Jason Marshall in favor.

22 BRENDAN SULLIVAN: Brendan Sullivan yes.

1 [All vote YES].

2 BRENDAN SULLIVAN: Affirmative vote of five
3 members of the Board, the matter is continued.

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Creating and Preserving
Affordable Housing
Opportunities

BZA-172691

August 12th, 2022

Dear Members of the BZA,

MDHCT Holding LLC c/o HRI would like to withdraw our signage variance case for 808-812 Memorial Drive.

Thank you for your time.

Sincerely,

Jane Carbone
Director of Development



CITY OF CAMBRIDGE

Community Development Department

IRAM FAROOQ
Assistant City Manager for
Community Development

SIGN CERTIFICATION FORM COVER SHEET

SANDRA CLARKE
Deputy Director
Chief of Administration

KHALIL MOGASSABI
Deputy Director
Chief of Planning

Sign Text: Rivermark

Location of Sign: Building Facade above Mobil Station

Applicant: MDHCT Holding LLC

Zoning District: O-2 Overlay District: Memorial Drive

Area of Special Planning Concern: (Sec. 19.46 & 19.42.1) _____

Application Date: 4/5/2022

Sketch of sign enclosed: Yes X No _____

(B1)

PLEASE NOTE: All signs must receive a permit from the Inspectional Services Department (ISD) before installation. Community Development Department Certification action does NOT constitute issuance of a permit or certification that all other code requirements have been met. Do not contract for the fabrication of a sign until all permits have been issued including City Council approval, if necessary for signs in the public way*.

* Any sign or portion of a sign extending more than six (6) inches into the public way/sidewalk, must receive approval from the Cambridge City Council; a bond must be posted with the City Clerk.

The Sign Ordinance is available online under Article 7.000 at
<https://www.cambridgema.gov/CDD/zoninganddevelopment/Zoning/Ordinance>

Contact Liza Paden at 617 349 4647 or lpaden@cambridgema.gov for further information.

344 Broadway
Cambridge, MA 02139
Voice: 617 349-4600
Fax: 617 349-4669
TTY: 617 349-4621
www.cambridgema.gov

B1

Proposed WALL SignArea in Square feet: 56.94' Dimensions: 205" X 40"Illumination: Natural Internal X External Height (from ground to the top of the sign): 47'4"**1. COMPLETE WHEN SIGN IS ACCESSORY TO A FIRST FLOOR STORE**

Length in feet of store front facing street: (a) . Area of signs allowed accessory to store: outside (1 x a) , behind windows (0.5 x a) . Area of all existing signs on the store front to remain (including any freestanding sign): . Area of additional signs permitted: .

2. COMPLETE FOR ANY OTHER SIGN

Length in feet of building facade facing street: (a) 452'. Area of signs allowed accessory to the building facade: outside (1 x a) , behind windows (0.5 x a) . Area of all existing signs on the building facade to remain (including any freestanding sign): 0'. Area of additional signs permitted: .

SUMMARY OF LIMITATIONS FOR WALL SIGNS (see reverse side for more general summary of the sign regulations; review Article 7.000 of the Zoning Ordinance for all zoning requirements.)

AREA: 60 square feet maximum. **HEIGHT ABOVE THE GROUND:** 20 feet but below the sills of second floor windows. **ILLUMINATION:** Natural or external, or internal illumination with significant limitations. **NUMBER:** No limit.

COMMUNITY DEVELOPMENT DEPARTMENT CERTIFICATIONSign conforms to requirements of Article 7.000: YES NO XSign requires a variance from the Board of Zoning Appeal: YES XRelevant sections: 7.16.22(C)

COMMENTS: Internally illuminated wall signs must have a vertical or horizontal dimension not exceeding 30"; proposed sign is 205"Wx40"H. Wall signs must be located no higher than 20' and below sill line of second floor windows; proposed sign is 47'4" on wall face.

Date: 04/08/22 CDD Representative Daniel Messplay

Digitally signed by Daniel Messplay
DN: cn=Daniel Messplay, o=City of Cambridge, email=dmessplay@cambridgema.gov, c=US
Date: 2022.04.08 11:50:14 -0400

Building sign on Memorial Drive



Building sign on Memorial Drive



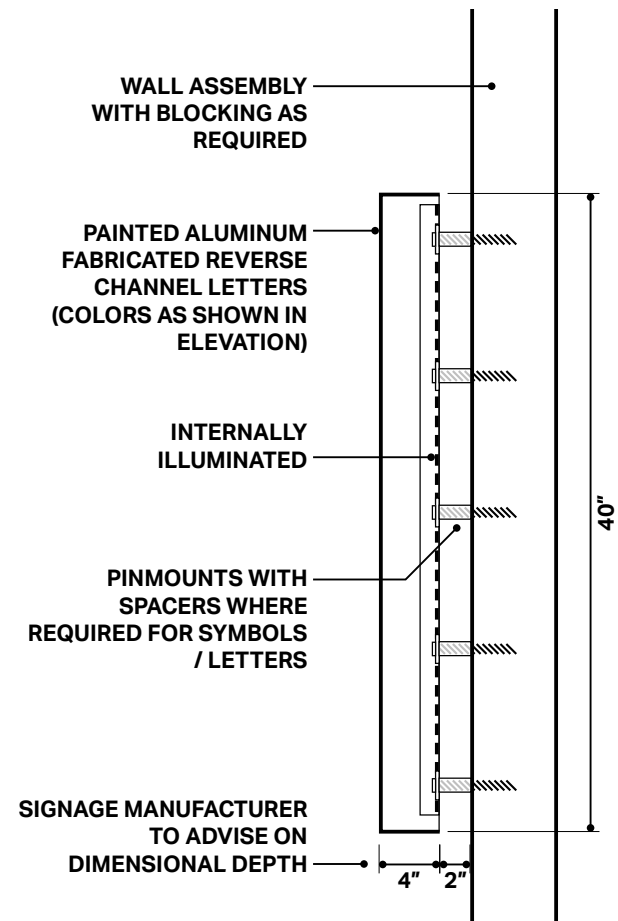
Building sign on Memorial Drive

Notes

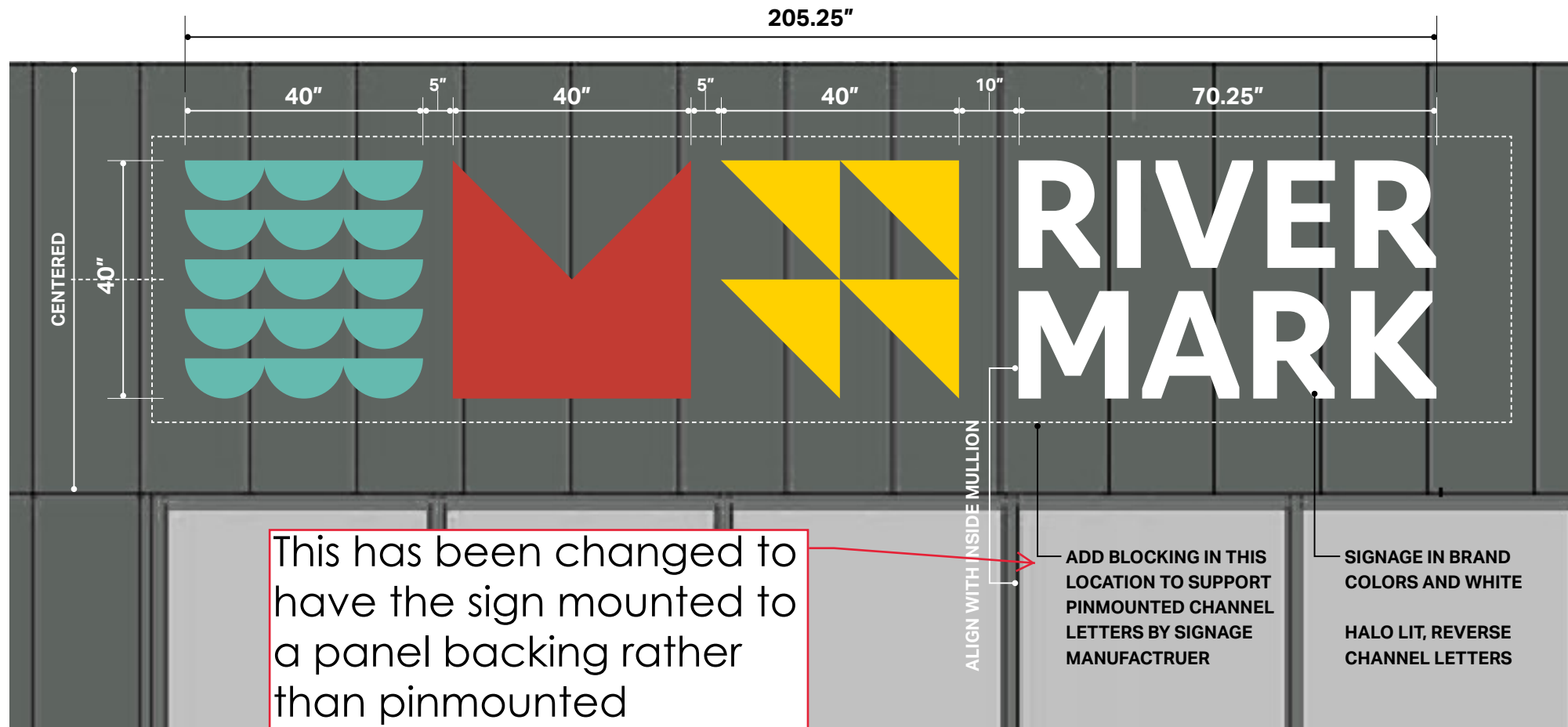
- Fabricated, reverse channel letters with internal illuminated
- Pinmounted on metal panel building system (blocking to be provided by general contractor)



B1 Key Elevation & Plan



B1 Section Detail



B1 Enlarged Elevation

May 19th, 2022

To the City of Cambridge Board of Zoning,

We are current residents of 808-812 Memorial Drive, many of whom have lived here long-term, many of us have been active participants of the community, and have raised our families here. We are writing to you today as we are in support of the proposed building sign that requires a Cambridge Board of Zoning variance due to location and size. We believe that this sign will be an asset to our community as it will allow visitors to easily identify the property from the street.

Sincerely,

⁸⁰⁸
~~Kathy Lynn Mack~~ ^{apt} 216

Kobe Pearson ^{apt} 216

Wayne Pearson ^{apt} 216

⁸⁰⁸
Theresa McKinnon ^{apt} 103

⁸⁰⁸
Dawn McKinnon ^{apt} 103

⁸¹²
Susan Johnson ^{apt} 609

Ade M Ibrahim ³¹²⁶

Darnell Ward [#] 507

⁸⁰⁸
Zuriash KEBEDE [#] 608

Yelena Ostrovskaya

O. Petruskywa Upur

⁸¹²⁻
Dilini Gunasekera ⁷⁰⁸

Roshan Bellamy ⁸¹²⁻⁸⁰¹

Rudra Dange ⁸¹² ^{APT} 1105

Sharon ⁸¹²¹

Rwadmoo 304

808
Sharon Daniels apt 112

808
Shirley Daniels apt 112

808
~~Dante H. Ide~~ 714

812
Dyana Miller #1314

~~Sam Felt~~
812
J. Pérez

808 Apt
~~Air~~ 607

808
Nahla Apt 604

Honda of C Apt 403

Angelec Apt 507

Pacheco, Maria

From: Carol O'Hare <carol@carolok.com>
Sent: Sunday, June 26, 2022 8:50 AM
To: Pacheco, Maria
Cc: Singanayagam, Ranjit; Ratay, Olivia
Subject: BZA: MDHCT Holding LLC, 2 zoning variances for too high, too large River Mark sign @ 808-812 Memorial Dr., 6/30/22 hearing
Attachments: 20220620_063717.jpg; Zoning-808-812MemorialDr-RiverMarkSign-CZO Variances10.30.doc

Dear Mr. Sullivan, Chair, Mr. Monteverde, Vice Chairs, and Board of Zoning Appeal Members:

Yes, my email's long, especially for "only a sign." But, I can't attend the BZA's hearing for MDHCT Holdings LLC's BZA hearing for their proposed Memorial Drive sign. So, thanks in advance for your time and attention.

The BZA has, in recent years, been instrumental in "taming" Cambridge signage.

Yes, MDHCT Holdings LLC's sign is very attractive. And no wonder. It was designed by Bergmeyer, the major Boston & L.A. architectural, design and branding firm.

Yes, the Shell and Mobil signs are already there. **See** my attached photo.

But, a sign variance is not a beauty contest. This is a new (not a grandfathered) sign. And, design excellence does not satisfy the fundamental, legal "substantial hardship" requirement for zoning variances. **See** attached variance standards. And, why would we ever want to return to pre-2011 days when sign variances were more the rule than the rare exception that they should be, especially so for signs?¹

A. Process > Notice of Hearing Defective! – Variance Description Incorrect

1. CDD's Zoning Certification clearly describes the sign's zoning violations:

1st: "Internally illuminated wall signs must have a vertical or horizontal dimension not exceeding 30"; proposed sign is 205"Wx40"H." **Underline added.**

2nd: "Wall signs must be located no higher than 20' and below sill line of second floor windows; proposed sign is 47'4" on wall face."

2. MDHCT's published, posted & mailed legal notice states:

"Variance: We are requesting relief for an illuminated wall sign for the height and setback."² **Underline added.**

CDD did not cite a setback violation. Rather, CDD's 1st Zoning Certification's says that the dimensions of the proposed sign itself would be either too high or too long, as reviewed below.

I think that this **material mistake in MDHCT's legally required public notice renders the notice legally defective and, therefore, requires cancellation of their June 30 BZA public hearing and reposting and re-advertising.** Of course, the Board and City personnel may wish to consult with legal counsel about this. **But**, if and when the Board does proceed with the hearing on June 30 or at a rescheduled hearing, I hope you will deny these 2 variances for the reasons I review below.

B. Substance

1. Variances Sought for MDHCT's River Mark Sign: Too High on Building & Too Large for Illuminated Sign

a. Zoning Limit: 20' maximum sign Height above ground. Variance for sign 47' 4" above ground level, which would exceed the maximum by **27' 4"**. That's more than 2 stories too high.

b. Zoning Limit: 30" maximum illuminated sign Height or Width. The sign's proposed H & W dimensions would exceed the zoning-allowed maximums by 10" or **33%** for height and by 175" or **583.3%** for width.

Note. MDHCT describes this requested dimension as "slightly higher than allowed" by the Ordinance for an internally lit sign." How is 33% higher slight? See Part B.4 below.

Why does this sign even need to be illuminated from within? Will River Mark's employees other occupants be open and conducting business there at night? After all these years, why would residents' guests need such a sign to find the building at

night. Isn't this primarily a branding effort? Bergmeyer's website's description: "a Design Collaborative of architects, strategists, **brand specialists**, interior and graphic designers." <https://www.bergmeyer.com/> *Emphasis added.*

2. Site Visit + See Attached Photo

- a. During leaf-on season, a height variance would not really improve the sign's visibility from Memorial Drive and further away. The 3 healthy Memorial Drive trees abutting the property would block the view of virtually the entire façade of that projecting portion of the building now and in the foreseeable future.
- b. During leaf-off season, the sign (at its maximum legal height) would be visible through the 3 Memorial Dr. bare, tree branches almost as well if located at the legal maximum 20' above-ground height as at the 27' 4" higher height.
- c. If "tree-blockage" of this sign justifies a zoning variance, that new precedent could encourage copycats along Memorial Drive and elsewhere to re-start their own sign-variance appeals that wasted so much of the BZA's, the Planning Board, the staff's and the public's time before 2012 when the 2 boards began denying them as unjustified.
- d.. So, even if the sign would look good at the top story of the 2-story, raised building projection, that subjective rationale doesn't and can't justify the legal criteria for a zoning variance. The sign can easily be redesigned and relocated to comply with current zoning law. After all, it's only a sign.

3. There's simply no wayfinding justification for these 2 zoning variances! Especially these days, with Google Maps, Waze, Apple Maps....

Who would even use a building sign for wayfinding these days, especially for locating a building complex of that prominence and at that major Memorial Dr./River St. intersection? And who will occupy the commercial and residential portions of the building that requires the general public to be able to "sign-find" it? It's not a hospital, police station, sports stadium, theater....

And in their appeal, MDHCT pretty much confirms that the sign is not for wayfinding.³

4. Briefly – Legal Failing: G.L. c. 40A & CZO §10.30, copy attached

Even if the 3 trees would block MDHCT's zoning-compliant sign, that would not constitute a qualifying "substantial hardship." Why? As mentioned above, if it were, how many other signs along Memorial Drive and elsewhere in the City would qualify for zoning variances due to tree-blockage, building-blockage or other blockages? And the BZA, CDD and the public would again have to devote precious time to sign variances.

MDHCT wrote: "The shape of the 812 building is such that the ground floor is dominated by a Mobil Station and the part of the building that is built above the station is blocked by a street tree. As we don't intend to change the shape and size of the building and are hoping that the street tree stays on Memorial Drive as part of the streetscape, a sign that conforms to the Ordinance would be blocked and not visible for its intended purpose."

That simply does not constitute a "substantial hardship" "especially affecting such land or structure but not affecting generally the zoning district in which it is located" per G.L. c. 40A and CZO §10.30. If the Board approves these 2 variances, it would set a new precedent for the many other buildings and properties along Memorial Drive and elsewhere that have abutting trees or structures that would block zoning-compliant signage and that would also be similarly entitled to zoning variances based on MDHCT's rationale.

Nor would MDHCT's requested excess sign height from the ground be only "slightly higher" than permitted, as they described it in their appeal. In fact, their requested sign would be more than 2x higher than 20' maximum zoning-allowed height. That's an increase of 27.4' over the zoning limit or a 137% increase.

So, granting this variance would indeed "substantially derogate from the intent or purpose of [the Cambridge Zoning] Ordinance."

I'm sure you get my drift. These are not minor zoning excesses. MDHCT's rationale for their 2 zoning variances for their sign does not satisfy the law's requirements.

As always, thanks for your service, time and consideration.

Sincerely,

Carol O'Hare
172 Magazine St.
Cambridge

¹. Some of BZA members will remember when there were regular zoning variance applications for signs. And in 2011, the short-lived Building Identification Sign Zoning Amendment (a/k/a "Microsoft Amendment") was adopted to allow by special permit large, very high signs in many areas of the City, including along Memorial Dr. But only months later, the City Council rescinded

the Amendment as a result of to a **citizens' petition signed by thousands of Cambridge residents within 20 business days**. That process lasted for many months and caused name-calling, finger-pointing and civic unpleasantness, unusual for that time.

2.

7:00 P.M. CASE NO. BZA-172691

808-812 MEMORIAL DRIVE

Office-2 Zone

MDHCT HOLDING LLC – C/O PETER DALY, HOMEOWNER'S REHAB

Variance: We are requesting relief for an illuminated wall sign for the height and setback.

Art. 7.000, Sec. 7.16.22.C (Wall Sign). & Art. 10.000, Sec. 10.30 (Variance).

3. "In order to be a successful property, we need folks unfamiliar with the property to see the sign easily. If visitors can't easily identify the property, we will have a harder time leasing up the residential, commercial, and office spaces which can negatively affect the property's financial health and our organization's affordable housing mission."



Cambridge Zoning Ordinance

10.30 - VARIANCES

10.31 A variance from the specific requirements of this Ordinance, including variances for use, may be authorized by the Board of Zoning Appeal with respect to particular land or structure. **Such variance shall be granted only in cases where the Board finds all of the following:**

(a) A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise to the petitioner or appellant.

(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.

(c) Desirable relief may be granted without either:

(1) Substantial detriment to the public good; or

(2) Nullifying or substantially derogating from the intent or purpose of this Ordinance.

Emphasis added.

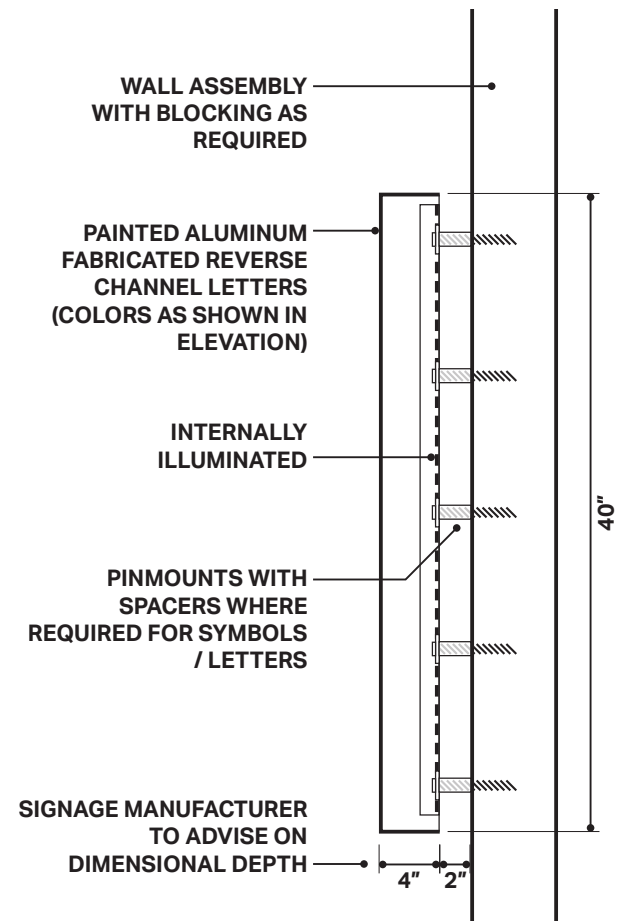
Building sign on Memorial Drive

Notes

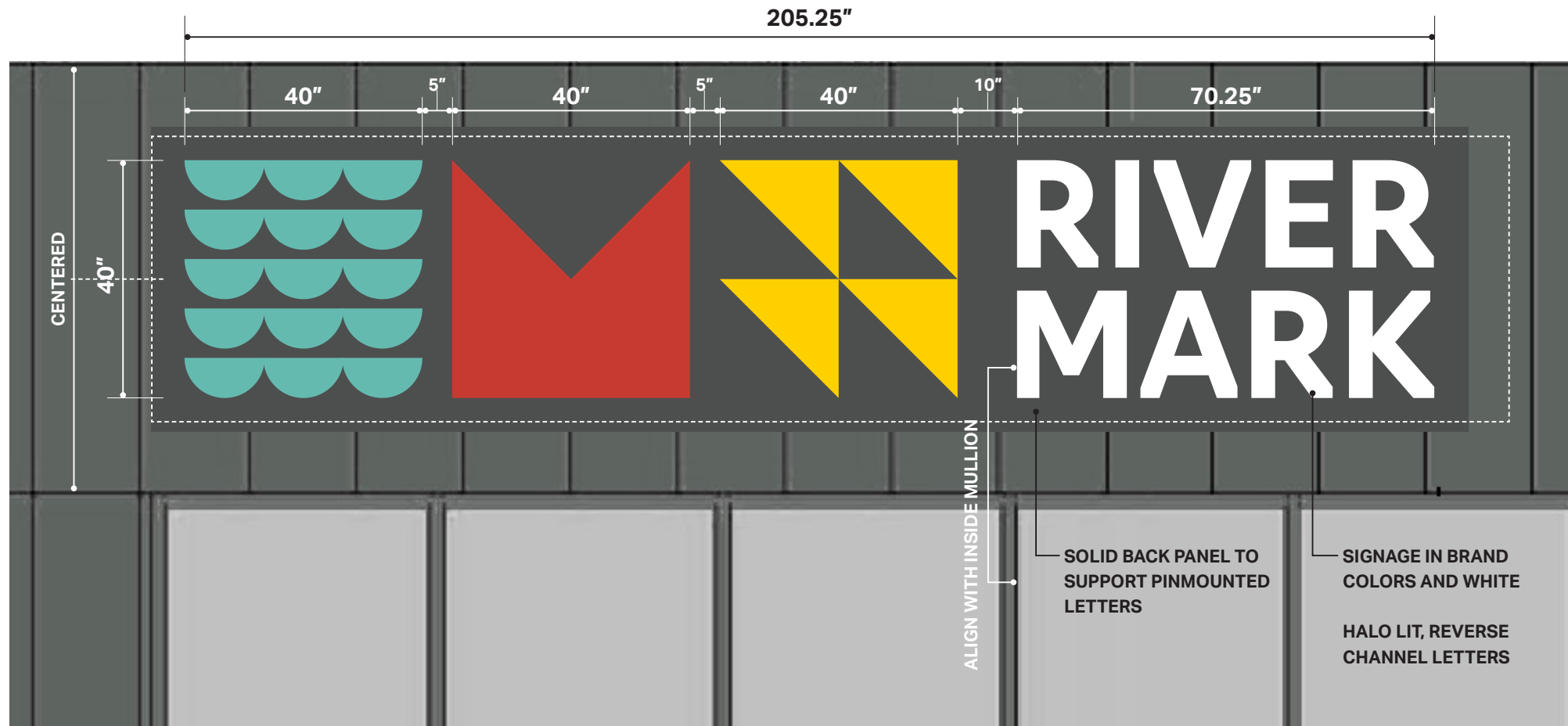
- Fabricated, reverse channel letters with internal illumination
- Pinmounted on metal panel backing



B1 Key Elevation & Plan



B1 Section Detail



B1 Enlarged Elevation



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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

3 Bds

BZA

POSTING NOTICE – PICK UP SHEET

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

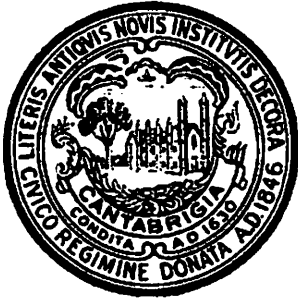
Name: Eleni Macrakis Date: 6/9/2022
(Print)

Address: 808-812 Memorial Drive.

Case No. BZA-172691

Hearing Date: 4/30/22

Thank you,
Bza Members



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

June 29, 2022

To: The Board of Zoning Appeal

From: The Planning Board

RE: BZA-172691 808-812 Memorial Drive

The Planning Board reviewed this BZA application during a meeting on June 28, 2022 and decided to forward the following comments to BZA.

The Board does not recommend granting a variance for the signs as proposed because it does not see a justification to exceed the signage limitations allowed by zoning. Board members noted longstanding community concerns about high, illuminated signage on the riverfront, and referred to a letter the Board received from Carol O'Hare (attached). Board members also questioned whether the additional height would provide any benefit in this case because it appears to be obscured by a tree.

Joseph, Swaathi

From: Carol O'Hare <carol@carolok.com>
Sent: Sunday, June 26, 2022 9:12 AM
To: Planning Board Comment
Cc: Roberts, Jeffrey; Messplay, Daniel
Subject: Corrected/Clearer for Planning Board review: MDHCT Holding LLC, 2 zoning variances for too high, too large River Mark sign @ 808-812 Memorial Dr., 6/30/22 hearing
Attachments: 20220620_063717.jpg; Zoning-808-812MemorialDr-RiverMarkSign-CZO Variances10.30.doc
Importance: High

Dear Ms. Connolly, Chair, Mr. Cohen and Ms. Flynn, Vice Chairs, and Planning Board Members:

I apologize for sending you my too-early and partly incorrect objections to this zoning variance. I was in too much of a rush to beat the Board's Friday noon 1st deadline for public comments.

Please do read my corrected, much clearer 6/26 email to the BZA before your Tuesday review of MDHCT's appeal for 2-zoning variances for their proposed Memorial Drive too high and too large sign. *Copy below.*

Many thanks for your extra time and attention.

Sincerely,

Carol O'Hare

From: Carol O'Hare [mailto:carol@carolok.com]
Sent: Sunday, June 26, 2022 8:50 AM
To: 'Pacheco, Maria'
Cc: 'Ranjit'; 'oratay@cambridgema.gov'
Subject: BZA: MDHCT Holding LLC, 2 zoning variances for too high, too large River Mark sign @ 808-812 Memorial Dr., 6/30/22 hearing

Dear Mr. Sullivan, Chair, Mr. Monteverde, Vice Chairs, and Board of Zoning Appeal Members:

Yes, my email's long, especially for "only a sign." But, I can't attend the BZA's hearing for MDHCT Holdings LLC's BZA hearing for their proposed Memorial Drive sign. So, thanks in advance for your time and attention.

The BZA has, in recent years, been instrumental in "taming" Cambridge signage.

Yes, MDHCT Holdings LLC's sign is very attractive. And no wonder. It was designed by Bergmeyer, the major Boston & L.A. architectural, design and branding firm.

Yes, the Shell and Mobil signs are already there. **See** my attached photo.

But, a sign variance is not a beauty contest. This is a new (not a grandfathered) sign. And, design excellence does not satisfy the fundamental, legal "substantial hardship" requirement for zoning variances. **See** attached variance standards. And, why would we ever want to return to pre-2011 days when sign variances were more the rule than the rare exception that they should be, especially so for signs?¹

A. Process > Notice of Hearing Defective! – Variance Description Incorrect

1. CDD's Zoning Certification clearly describes the sign's zoning violations:

1st: "Internally illuminated wall signs must have a vertical or horizontal dimension not exceeding 30"; proposed sign is 205"Wx40"H." **Underline added.**

2nd: "Wall signs must be located no higher than 20' and below sill line of second floor windows; proposed sign is 47'4" on wall face."

2. MDHCT's published, posted & mailed legal notice states:

"Variance: We are requesting relief for an illuminated wall sign for the height and setback."² ***Underline added.***

CDD did not cite a setback violation. Rather, CDD's 1st Zoning Certification's says that the dimensions of the proposed sign itself would be either too high or too long, as reviewed below.

I think that this **material mistake in MDHCT's legally required public notice renders the notice legally defective and, therefore, requires cancellation of their June 30 BZA public hearing and reposting and re-advertising.** Of course, the Board and City personnel may wish to consult with legal counsel about this. **But**, if and when the Board does proceed with the hearing on June 30 or at a rescheduled hearing, I hope you will deny these 2 variances for the reasons I review below.

B. Substance

1. Variances Sought for MDHCT's River Mark Sign: Too High on Building & Too Large for Illuminated Sign

a. Zoning Limit: 20' maximum sign Height above ground. Variance for sign 47' 4" above ground level, which would exceed the maximum by **27' 4"**. That's more than 2 stories too high.

b. Zoning Limit: 30" maximum illuminated sign Height or Width. The sign's proposed H & W dimensions would exceed the zoning-allowed maximums by 10" or 33% for height and by 175" or **583.3%** for width.

Note. MDHCT describes this requested dimension as "slightly higher than allowed" by the Ordinance for an internally lit sign." How is 33% higher slight? See Part B.4 below.

Why does this sign even need to be illuminated from within? Will River Mark's employees other occupants be open and conducting business there at night? After all these years, why would residents' guests need such a sign to find the building at night. Isn't this primarily a branding effort? Bergmeyer's website's description: "a Design Collaborative of architects, strategists, **brand specialists**, interior and graphic designers." <https://www.bergmeyer.com/> ***Emphasis added.***

2. Site Visit + See Attached Photo

a. During leaf-on season, a height variance would not really improve the sign's visibility from Memorial Drive and further away. The 3 healthy Memorial Drive trees abutting the property would block the view of virtually the entire façade of that projecting portion of the building now and in the foreseeable future.

b. During leaf-off season, the sign (at its maximum legal height) would be visible through the 3 Memorial Dr. bare, tree branches almost as well if located at the legal maximum 20' above-ground height as at the 27' 4" higher height.

c. If "tree-blockage" of this sign justifies a zoning variance, that new precedent could encourage copycats along Memorial Drive and elsewhere to re-start their own sign-variance appeals that wasted so much of the BZA's, the Planning Board, the staff's and the public's time before 2012 when the 2 boards began denying them as unjustified.

d.. So, even if the sign would look good at the top story of the 2-story, raised building projection, that subjective rationale doesn't and can't justify the legal criteria for a zoning variance. The sign can easily be redesigned and relocated to comply with current zoning law. After all, it's only a sign.

3. There's simply no wayfinding justification for these 2 zoning variances! Especially these days, with Google Maps, Waze, Apple Maps....

Who would even use a building sign for wayfinding these days, especially for locating a building complex of that prominence and at that major Memorial Dr./River St. intersection? And who will occupy the commercial and residential portions of the building that requires the general public to be able to "sign-find" it? It's not a hospital, police station, sports stadium, theater....

And in their appeal, MDHCT pretty much confirms that the sign is not for wayfinding.³

4. Briefly – Legal Failing: G.L. c. 40A & CZO §10.30, copy attached

Even if the 3 trees would block MDHCT's zoning-compliant sign, that would not constitute a qualifying "substantial hardship."

Why? As mentioned above, if it were, how many other signs along Memorial Drive and elsewhere in the City would qualify for zoning variances due to tree-blockage, building-blockage or other blockages? And the BZA, CDD and the public would again have to devote precious time to sign variances.

MDHCT wrote: "The shape of the 812 building is such that the ground floor is dominated by a Mobil Station and the part of the building that is built above the station is blocked by a street tree. As we don't intend to change the shape and size of the building and are hoping that the street tree stays on Memorial Drive as part of the streetscape, a sign that conforms to

the Ordinance would be blocked and not visible for its intended purpose."

That simply does not constitute a "**substantial hardship**" "**especially affecting such land or structure but not affecting generally the zoning district in which it is located**" per G.L. c. 40A and CZO §10.30. If the Board approves these 2 variances, it would set a new precedent for the many other buildings and properties along Memorial Drive and elsewhere that have abutting trees or structures that would block zoning-compliant signage and that would also be similarly entitled to zoning variances based on MDHCT's rationale.

Nor would MDHCT's requested excess sign height from the ground be only "slightly higher" than permitted, as they described it in their appeal. In fact, their requested sign would be more than 2x higher than 20' maximum zoning-allowed height. That's an increase of 27.4' over the zoning limit or a 137% increase.

So, granting this variance would indeed "substantially derogate from the intent or purpose of [the Cambridge Zoning] Ordinance."

I'm sure you get my drift. These are not minor zoning excesses. MDHCT's rationale for their 2 zoning variances for their sign does not satisfy the law's requirements.

As always, thanks for your service, time and consideration.

Sincerely,

Carol O'Hare
172 Magazine St.
Cambridge

1. Some of BZA members will remember when there were regular zoning variance applications for signs. And in 2011, the short-lived Building Identification Sign Zoning Amendment (a/k/a "Microsoft Amendment") was adopted to allow by special permit large, very high signs in many areas of the City, including along Memorial Dr. But only months later, the City Council rescinded the Amendment as a result of to a **citizens' petition signed by thousands of Cambridge residents within 20 business days**. That process lasted for many months and caused name-calling, finger-pointing and civic unpleasantness, unusual for that time.

2.

7:00 P.M. CASE NO. <u>BZA-172691</u>	
808-812 MEMORIAL DRIVE	Office-2 Zone
MDHCT HOLDING LLC – C/O PETER DALY, HOMEOWNER'S REHAB	
Variance: We are requesting relief for an illuminated wall sign for the height and setback.	
Art. 7.000, Sec. 7.16.22.C (Wall Sign). & Art. 10.000, Sec. 10.30 (Variance).	

3. "In order to be a successful property, we need folks unfamiliar with the property to see the sign easily. If visitors can't easily identify the property, we will have a harder time leasing up the residential, commercial, and office spaces which can negatively affect the property's financial health and our organization's affordable housing mission."

Cambridge Zoning Ordinance

10.30 - VARIANCES

10.31 A variance from the specific requirements of this Ordinance, including variances for use, may be authorized by the Board of Zoning Appeal with respect to particular land or structure.

Such variance shall be granted only in cases where the Board finds all of the following:

(a) A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise to the petitioner or appellant.

(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.

(c) Desirable relief may be granted without either:

(1) Substantial detriment to the public good; or

(2) Nullifying or substantially derogating from the intent or purpose of this Ordinance.

Emphasis added.

