

BZA APPLICATION FORM

GENERAL INFORMATION

2019 JUN 20 PM 1:50

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

Special Permit: _____ Variance: _____ Appeal: X

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

PETITIONER: Susanne C. Howard

PETITIONER'S ADDRESS: 111 Walden Street

LOCATION OF PROPERTY: 117 Walden Street

TYPE OF OCCUPANCY: Residential ZONING DISTRICT: C-1

REASON FOR PETITION:

- Additions
- Change in Use/Occupancy
- Conversion to Addi'l Dwelling Unit's
- Dormer
- New Structure
- Parking
- Sign
- Subdivision

X Other: Appeal of Building Permit # BLDG-44750-2019

DESCRIPTION OF PETITIONER'S PROPOSAL:

Approved as set forth in attached filing with the City Clerk on June 19, 2019, MGL c 40A, Sections 6, 7 and 15 of Ordinance Article 10, Section 10.20, Article 8 Special Permit or Variance required.

SECTIONS OF ZONING ORDINANCE CITED:

Article 8 Section 8.22.1, 8.22.3

Article 10 Section 10.20

Article 5 Section 5.21.1

Article 1 Section 1.3

Applicants for a Variance must complete Pages 1-5
Applicants for a Special Permit must complete Pages 1-4 and 6
Applicants for an Appeal to the BZA of a Zoning determination by the Inspectional Services Department must attach a statement concerning the reasons for the appeal

Original Signature(s):

Susanne C. Howard
(Petitioner(s) / Owner)
Susanne C. Howard
(Print Name)

Address:

111 Walden St
Cambridge, MA 02140

Tel. No.:

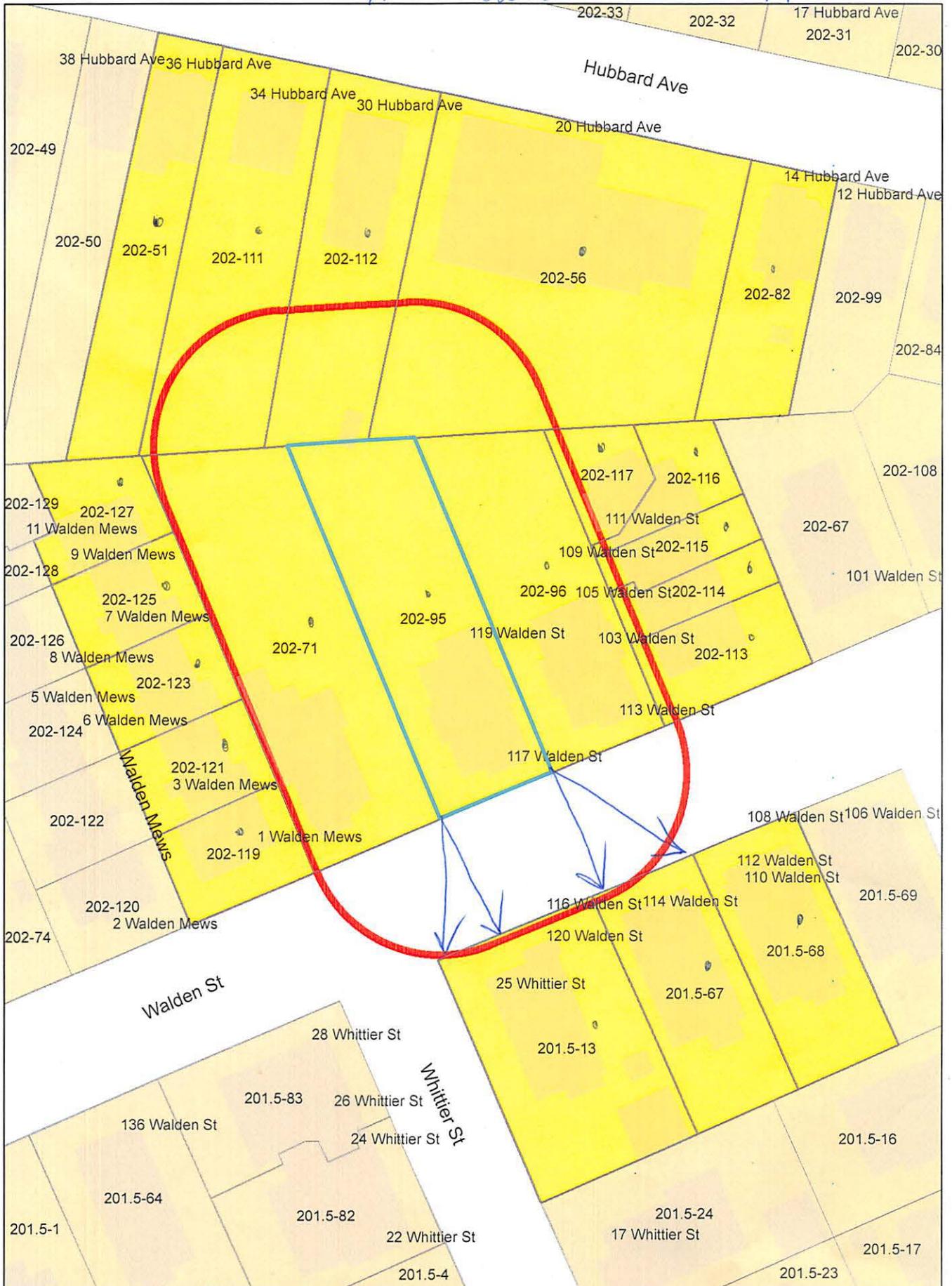
617-292-2700 / 617-285-5547

E-Mail Address:

shcci@aol.com

Date: June 20, 2019

117 Walden St. Appeal



(Appeal) 117 Walden St.

Petitioner

202-51
RICHMAN, ANDREW S. & THALIA WHEATLEY
36 HUBBARD AVE
CAMBRIDGE, MA 02140

202-56
GHADAR, MARGARET,
TRUSTEE OF C/O RENZI BULGER GROUP LLC
P.O. BOX 750057
ARLINGTON, MA 02475

202-117
HOWARD, SUSANNE C.
111 WALDEN STREET
CAMBRIDGE, MA 02138

201.5-67
HILL, JOAN H.
116 WALDEN ST.
CAMBRIDGE, MA 02140

201.5-68
PARTRIDGE, LOWELL J.
110-112 WALDEN ST., UNIT #110
CAMBRIDGE, MA 02140

201.5-68
CELIMLI, EVREN & ALLISON A. CELIMLI
112 WALDEN ST
CAMBRIDGE, MA 02140

202-125
MARCHETTI, MARCELO J. & LUISA SAN JUAN
7 WALDEN MEWS
CAMBRIDGE, MA 02140

202-127
HANNUM, ANN BARGAR & HURST HANNUM
9 WALDEN MEWS
CAMBRIDGE, MA 02140

201.5-13
FLOOD, MARYLOU E.
120 WALDEN ST
CAMBRIDGE, MA 02140

202-119
HARDACRE, HELEN
40 HARRISON ST #31D
NEW YORK, NY 10013

202-121
TYLER-WOOD, IRMA
C/O MEHTA, DARYUSH D. & ANDREA J. GABERT
3 WALDEN MEWS
CAMBRIDGE, MA 02140

202-123
ROBERTS, LEE R.
5 WALDEN MEWS
CAMBRIDGE, MA 02140

MATT HAYES
11 ELLSWORTH AVE
CAMBRIDGE, MA 02139

202-71
CHENG, LAWRENCE K. & KATHLEEN C. CHENG
121 WALDEN ST
CAMBRIDGE, MA 02140

202-82
WEEMS, LEONA BERNICE C/O KOMYEROV,
JOSHUA & MELODY KOMYEROV
14 HUBBARD AVE.
CAMBRIDGE, MA 02140

202-95
MORROW, TIMOTHY J. & PATRICIA J MORROW
117 WALDEN ST
CAMBRIDGE, MA 02140

202-96
SZENTGYORGYI, ANDREW &
NANCY S. BRICKHOUSE
113 WALDEN ST.
CAMBRIDGE, MA 02140

202-111
ARTHUR, CHRISTINE E.,
TRUSTEE REALTY TRUST
34 HUBBARD AVE
CAMBRIDGE, MA 02140

202-112
HORNSTEIN, CATHERINE B.
30 HUBBARD AVE
CAMBRIDGE, MA 02139

202-113
BARAK, BOAZ & RAVIT BARAK
103 WALDEN ST
CAMBRIDGE, MA 02140

202-114
BOSWELL, MARK & LAURA LYNCH
105 WALDEN ST
CAMBRIDGE, MA 02140

202-115
GARDNER, STANLEY G. &
JOAN BETHLEHEM TRUSTEES
107 WALDEN ST
CAMBRIDGE, MA 02140

202-116
OREN, GAD & SHIRLY OREN
38 MATIGNON ROAD
CAMBRIDGE, MA 02140

CITY OF CAMBRIDGE
INSPECTIONAL SERVICES

2019 JUN 19 P 4: 45

Susanne C. Howard, Esq.

111 Walden Street
Cambridge, MA 02140

shcci@aol.com

617-292-2700 (o)

617-292-2720 fax

2019 JUN 19 PM 4: 21

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

June 19, 2019

By Hand Filed

City Clerk for the
Cambridge Zoning Board of Appeals
831 Massachusetts Avenue
Cambridge, MA 02139

RE: 117 Walden Street – NOTICE OF APPEAL to Zoning Board of Appeals
Building Permit # BLDC-44750-2019 issued May 21, 2019

Dear Members of the Board of Appeals:

My name is Susanne Howard and I have lived at 111 Walden Street Cambridge, MA 02140 since 1986. I received notice of the above building permit on June 17, 2019 when it was posted for the first time on Cambridge Open Data (on-line). I am an abutter to an abutter of 117 Walden Street. I am directly impacted as my residence directly faces the proposed building, as do at least 12 other residences who border this green space of common backyards on Walden Street and Hubbard Avenue. I am aggrieved and here appeal the following actions of the Building Commissioner of the City of Cambridge (the "Commissioner") under M.G.L., Chapter 40A, Sections 8 and 15 and Article 10, Section 10.20 of the Cambridge Zoning Ordinance ("Ordinance") for the grounds set forth below:

1. I am aggrieved by the issuance of the above referenced Building Permit for construction of a new single family home on a non-conforming lot with an existing non-conforming building, a double non-conformity, without the issuance of a special permit, as if it was merely a separate legal vacant lot, or its non-conforming width was its only non-conformity. None of which is true.

This issue came up in the 1990's next door by the former owner at 113 Walden street and a special permit was required regarding a second building behind the non-conforming building on a non-conforming lot, after the foundation was poured, creating a public nuisance. The issue was initially missed by Inspectional Services and took the then City Manager to focus the Building Inspector on M.G. L Chapter 40 A, Section 6. Somehow the Commissioner recalls that past case as only dealing with the lot width, which was not the case then, and not the case here. The Commissioner now claims per an email of June 3 (without disclosure that the above permit had already been issued) that Article 5, Section 5.21.1 and Section 8.22.1.a applies to this project, effectively stripping the neighborhood protections M.G.L. Chapter 40A, Section 6, and the express requirements of Section 8. The Commissioner's

CERTIFIED COPY

JUN 19 2019

INTERIM City Clerk

Phillip M. Ware

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Office of the Inspector General
U.S. Department of State
Washington, D.C. 20520
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CORA
[Signature]

interpretation impermissibly guts any special permit requirements or neighborhood notice and input. The Commissioner's interpretation further ignores the still standing protections in both state law and the Ordinance requiring findings that alterations of this scope and scale should not be granted a special permit unless the facts support a finding that the proposed alteration will not be substantially more detrimental to the neighborhood than the existing non-conformity (or here plural non-conformities). Such findings cannot be made in this instance. Neighborhood concerns regarding the community loss of an unusual common green jewel of facing backyards adding to the quality of life of dozens of diverse residents are evidence by their letters in the public file of BZA # 017117-2019 requesting special permit review on the entire project at 117 Walden, which letters are hereby incorporated by reference in this appeal as evidence of neighborhood impacts. Four sample copies of which are attached hereto as Exhibit A.

The inapplicability of Section 8.22.1. a was discussed in a letter from me to the Commissioner on June 7, sent after I received a notice for a special permit (applied for on May 3 for work on the same lot for impermissibly installed windows on the existing non-conforming building on the same lot (See building permit #31618 issued February 27, 2019) . this belated special permit for installed windows is part of the same 3 unit condominium project of which this supposed single family house is a unit. My June 7 letter and related emails with the Commissioner's office is attached hereto as Exhibit B and incorporated into this appeal. It relates to my request for enforcement on May 31, when the bulldozers arrived. They stopped on June 3 and were removed the following week. There does not appear to be a stop work order yet on file which is needed pending this appeal given window violations.

Section 5.21.1 is not applicable as it applies on "On lots of less than the required area". This lot meets the lot size requirements, but remains non-conforming as to its width and other non-conforming aspects of the entire project. This project continues to need the neighborhood review and protections even under the post 1990 amendments to Article 8, and M.G. L Chapter 40 A, Section 6 remains enforce.

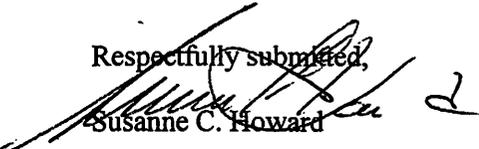
2. I am aggrieved by the failure to enforce the provisions of the Cambridge Zoning Ordinance by not requiring complete and accurate information on this entire multifamily 3 unit condominium project at 117 Walden Street with a known a non-conforming lot with an existing non-conforming building. The silo-ing and atomizing of permits is never good for Cambridge residents and systemically fails to properly assess cumulative impacts on the neighborhood of simultaneous construction on the same lot, at the same time and the same project. This practice unfairly enables developers and impermissibly deprives the citizen of the protections of M.G. L. Chapter 40 A, Section 6 by making neighbors hunt for answers in conflicting filings and misrepresents the true scope of this condo project, tipping the scales for maximizing profit at the expense of the community and its residents. Here the law requires findings that the impacts on the neighborhood are not more detrimental to the neighborhood (including but not limited to 12 neighbors who will be directly impacted) by this out of character building deposited in the midst of a rare and cherished commonly enjoyed green corridor of open space. For such a major alternation and increased intensity of

use compared to existing conditions the permitting process requires input from the neighbors not secrecy, or electing efficiency over community concerns. M.G.L Chapter 40 A, Section 6 and Article 8.

3. I am aggrieved by the failure to consider the intent of the zoning bylaws at Section 1.3, Article 1 of the Ordinance and M.G.L Chapter 40, Sections 9 requiring a harmonious reading of the Ordinance. A true single family house needs a legal lot. This one may be marketed or rented as one but it is really a very large condo. The characterization should not be used to circumvent the zoning law, where a smaller addition to the non-conforming building on the same no-conforming lot would be regulated by the Ordinance. For example windows, or a extra porch requires a special permit but not the placement of a huge building on a non-conforming lot with an existing non-conforming building disrupting an entire neighborhood, does not? The Commissioner's zoning interpretation takes words out of context, here eliminating neighborhood protections while requiring permits after the fact for small incremental items, but not larger matters. This defies common sense and should not stand as it is not reasonable and is inconsistent with the intent and purpose of Chapter 40A and the Ordinance. It also has the appearance of impermissible selective enforcement of the law. If this is a hybrid project that does not fall squarely under the multi-family town house regulations at Section 11, and as it is clearly not a true single family on a just a vacant lot with bad frontage as alleged, it may indeed more reasonably fall under the "other" category requiring a variance, as noted in Section 8.22.3 of the Ordinance.

Your consideration is appreciated.

Respectfully submitted,


Susanne C. Howard

Enc: Exhibit A – Samples of all letters on file at BZA 017117-2019 incorporated by reference; letters from 113 Walden St., 107 Walden Muse, and 34 Hubbard Ave. attached..

Exhibit B -111 Walden Letter of June 6, 2019 to Inspectional Sevices, and email correspondence of May 31 and June 3, 2019, with attachments.

cc: Building Commissioner
Board of Zoning Appeals ✓

June , 2019

Cambridge Zoning Board of Appeals
c/o Sean O-Grady, Maria Pacheco
831 Massachusetts Avenue
Cambridge, MA 02139
sogradyc@cambridgema.gov or mpacheco@cambridgema.gov , 617-349-6100

RE: 117 Walden Street (BZA # 017117-2019) –June 13, 2019

Dear Members of the Board of Appeals:

The piecemeal application for a window change on the existing non-conforming building on a non-conforming lot at 117 Walden Street is incomplete as it does not show the entire project, which is believed to include a second building in the backyard. Backyard digging for a foundation was commenced and then stopped on June 3, 2019 after this activity was brought to the attention of the building department by an impacted neighbor.

State law, M.G.L. Chapter 40A , Section 6 and the Cambridge Zoning Ordinance Article 8 provide that such a major alteration with such double non-conformity requires that a special permit or variance be issued after public notice and findings on the impact to the neighborhood. These findings should not be made by the building inspector without notice, a hearing and public review. The developer's plans should be fully disclosed and the affects on the neighborhood openly assessed for the impacts of overcrowding, diminished light and air, fire access, privacy, traffic and open space on a lot recently cleared of trees diminishing the green way behind this and adjacent lots. The process for making findings to assure neighborhood protections and legal compliance before the grant or denial of a special permit or variance should be made within the due process standards set forth in the Ordinance and state law.

While we would prefer he not, if the developer plans to place a second building at 117 Walden, rather than just the 2 units created in the renovation of the existing non-conforming building on this non-conforming lot, please require an amendment to his application.

The whole project and re-notice for a public hearing on any new filing is needed so there is no confusion that a special permit for a window does not cover other activities on this lot and so the proposed activities are properly noticed and publicly reviewed by the neighbors and the City for detrimental impacts and for legal appropriateness for our community.

Thank you.

Andrew Szentgyorgyi
113 Walden St., Cambridge, MA, 02140



June , 2019

Cambridge Zoning Board of Appeals
c/o Sean O-Grady, Maria Pacheco
831 Massachusetts Avenue
Cambridge, MA 02139
sogradey@cambridgema.gov or mpacheco@cambridgema.gov , 617-349-6100

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Thank you.

Nancy S. Brickhouse
113 Walden St., Cambridge, MA 02140

June 9, 2019

Cambridge Zoning Board of Appeals
c/o Sean O-Grady, Maria Pacheco
831 Massachusetts Avenue
Cambridge, MA 02139
sogradyc@cambridgema.gov or mpacheco@cambridgema.gov, 617-349-6100

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Thank you.

Marcelo Marchetti & Luisa San Juan
Name and Address 7 Walden News

Cambridge, MA 02140

P.S. Note that the windows have already been installed in the property ahead of this hearing

June 13, 2019

Cambridge Zoning Board of Appeals
c/o Sean O-Grady, Maria Pacheco
831 Massachusetts Avenue
Cambridge, MA 02139
sograd@cambridgema.gov or mpacheco@cambridgema.gov, 617-349-6100

RE: 117 Walden Street (BZA # 017117-2019) – June 13, 2019

Dear Members of the Board of Appeals:

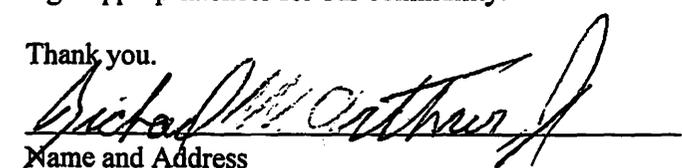
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Thank you.


Name and Address

34 Hubbard Ave.
Ball

Susanne C. Howard, Esq.
111 Walden Street
Cambridge, MA 02140
shcci@aol.com

June 7, 2019

Sean O'Grady
Cambridge Inspectional Services Department
831 Massachusetts Avenue
Cambridge, MA 20139

Re: 117 Walden Street (ZBA # -017117-2019)

Dear Sean:

Thank you for responding to the situation at 117 Walden Street and discussing my May 31 email with the Building Commissioner, Ranjit. It appears that the foundation digging has stopped.

I have reviewed the changes to the Cambridge Zoning Ordinance you sent in support of allowing construction of a new second home in the back yard of 117 on a non-conforming lot with a non-conforming structure. I find reliance on Section 8.22.1.a misplaced and inapplicable to the current situation (as discussed in detail below). I conclude that the 117 owner should amend his application to include his entire intended project at 117, rather than piecemeal one window at a time, which is distracting and incomplete at best and less than forthcoming to the neighbors. A prompt update of the pending special permit application (or variance application) with all plans, and re-noticing of neighbors as required will facilitate a resolution to this matter as intended by the Ordinance and neighborhood protections of M.G.L. Chapter 40A, Section 6.

There are several reasons that the suggested interpretation of Section 8.22.1.a of Article 8 (Non-Conformance) of the Ordinance does not apply to the facts of this case or fit the language and intent of the ordinance.

1. It is clear from reading the whole text of Section 8.22 (attached) of which Section 8.22.1.a is a subparagraph, that the exemption cited cannot be read in isolation. Section 8.22.1.a must be seen in the context of the entire Section 8.22 which focusses on "permits for the change, extension, or alteration of a pre-existing non-conforming structure or use". All discussion of the listed expedited permit process for simple projects without public review relate to relatively minor alterations to non-conforming structures. Indeed, Section 8.22.1.a specifically addresses "conforming construction to a structure located on a lot", not an entirely new non-existent structure. Structure in this context means a structure which is the subject of 8.22. (i.e. a non-conforming one). To read "structure" in isolation guts the meaning of Section 8.22 and the protections of M.G.L. Chapter 40 A, Section 6 by eliminating its context in a section specifically regulating existing non-conforming structures. Here, at 117, it also ignores the fact (elephant in the room) that there is an existing non-conforming structure on the same non-conforming lot.
2. Section 8.22.1.a also has another limitation in its express language making it inapplicable. Per the text attached, Subsection 1.a's applicability to a specific kind of non-conforming lot (i.e. due to lot size or width), is further conditioned by the language "and where only that lot width and/or lot size is non-conforming." Here there is not only a non-conforming lot; there is also an existing non-conforming building on the same lot. So a double non-conformity. Hardly an appropriate fact set for an expedited process without a full hearing on the impact on the neighborhood.

3. Section 8.22.2 (c) appears to be more applicable to the double non-conformity facts at 117, assuming disclosure of the entire project. If after a public hearing the Board of Appeals has sufficient evidence to make the required findings on the impact on the neighborhood at Section 8.22.2(discussed below), Section 8.22.2 c states:

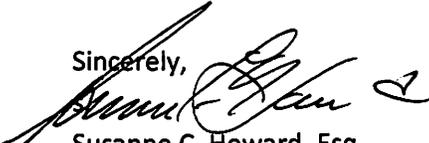
“In a Residence District the Board of Zoning Appeal may grant a special permit for the alteration or enlargement of a nonconforming structure, not otherwise permitted in Section 8.22.1 above, but not the alteration or enlargement of a nonconforming use, provided any enlargement or alteration of such nonconforming structure is not further in violation of the dimensional requirements of Article 5.000 or the off street parking and loading requirements in Article 6.000 for the district in which such structure is located and provided such nonconforming structure will not be increased in area or volume by more than twenty-five (25) percent since it first began to be nonconforming. ”

4. As noted in Section 8.22.3. “Any alteration or enlargement of a non-conforming structure or of a nonconforming use not otherwise permitted in Section 8.22.1 and 8.22.2 above shall be by a variance.”
5. The test for altering a non-existing structure or use under both M.G. L Chapter 40 A and Section 6 and throughout Article 8.22 limits the permit granting authority. A permit can only be granted if the permit granting authority finds that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing non-conformity.

This finding can only be made upon consultation with the neighborhood. This is best done through the due process accorded in the notice and hearing process of a Special Permit or Variance under the Ordinance and state law. In this case there is surely testimony to be provided by neighbors of detrimental impacts of an additional several story infill building in the back yard of a non-conforming building on a non-conforming lot. It will significantly impact fire access, trees, light, air, privacy and open space, with many vehicles simultaneously using limited ingress and egress on busy Walden Street, increasing non-conformity. Resolution of this double non-conformity situation would benefit from hearing from the neighbors as part of a design review process that publically considers the impacts on the neighbors who now enjoy open space and green corridor of trees, and birds of which 117's back yard is a part. A hearing would also further the purpose of the Ordinance for the community in Article 1.

Please share this with the Board of Zoning Appeal in connection with the pending 117 Walden Street matter (BZA # 017117-2019).

Thank you.

Sincerely,

Susanne C. Howard, Esq.

Enc. (Copy of Ordinance Article 8- Non-Conformity (emphasis supplied) and Section 1.30- Purpose.

ARTICLE 8.000 NONCONFORMITY

Text current through Ordinance #1397 of August 7, 2017.

8.10 EXISTING BUILDINGS**8.20 NONCONFORMANCE****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

8.21 Any nonconforming structure or use which existed at the time of the first notice of public hearing by the Planning Board of the applicable provisions of this or any prior Ordinance or any amendment thereto may be continued or changed to be conforming, but when so changed to be conforming it shall not be made nonconforming again.

8.22 As provided in Section 6, Chapter 40A, G.L., permits for the change, extension, or alteration of a pre-existing nonconforming structure or use may be granted as permitted in Subsections 8.22.1 and 8.22.2 below. Such a permit, either a building permit in the case of the construction authorized in Section 8.22.1 or a special permit in the case of construction authorized in Section 8.22.2, may be granted only if the permit granting authority specified below finds that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.

8.22.1 The following alterations, reconstructions, extensions, and/or enlargements of nonconforming structures, which do not result in a use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent than the existing use, or which are undertaken to accommodate a new conforming use, shall be permitted after the issuance of a building permit by the Superintendent of Buildings. Any change, extension or alteration of a nonconforming use shall be subject to the provisions of Subsection 8.22.2.

-
- a. Conforming construction to a structure located on a lot that is nonconforming due to its lot size or lot width and where only that lot width and/or lot size is nonconforming, but which structure meets the requirements of Section 5.21.1.
 - b. Conforming construction where only the requirements of Article 6.000 are nonconforming and where no change to those elements regulated by Article 6.000 are required or proposed.
 - c. Construction occurring entirely within a structure, including structural changes, provided there is no increase in an existing or creation of a new violation of the requirements of Article 5.000.
 - d. Relocation, enlargement, or addition of windows, doors, skylights, or similar openings to the exterior of a building provided that the facade of the building upon which such relocation, enlargement, or addition is occurring (1) conforms to the yard requirements of Article 5.000, or (2) faces a street.
 - e. Demolition of a structure or portions of a structure that (1) reduces the extent of an existing nonconformity, or that (2) does not increase or otherwise affect any existing nonconformity, and that (3) does not create a new zoning violation.
 - f. Conforming additions, under Article 5.000, to a structure not conforming to the requirements of Article 5.000 provided that no nonconforming element or aspect of the nonconforming structure is extended or increased and further provided that the nonconforming structure is not thereby increased in area or volume by more than ten (10) percent since the structure first became nonconforming.
 - g. Repair, reconstruction, or replacement of any lawfully established nonconforming portions of a building including but not limited to porches, decks, balconies, bay windows and building additions, provided that the repair, reconstruction or replacement does not exceed the original in footprint, volume, or area, and further provided that the area and/or volume of said portions of the building do not exceed twenty-five (25) percent of the area or volume of the entire building.
 - h. Construction of a dormer or an addition to a nonconforming one or two family dwelling which will further violate the yard and height requirements of Article 5.000, but no other requirements of Article 5.000 including FAR, in the following cases:
 1. A dormer or addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure.
 2. A dormer on the third story no longer than fifteen (15) feet that does not extend horizontally beyond the vertical walls of the existing second story nor above the existing ridge line provided that the total linear length of all dormers on the third story of the building, after the issuance of the permit authorized by this Subparagraph h 2, does not exceed fifteen (15) feet.
 - i. Any construction, alteration, reconstruction, extension or enlargement otherwise permitted in paragraphs (a) through (h) above where the lot is also nonconforming due to the presence of more than one structure containing a principal residential use
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as prohibited in Section 5.53; or any conforming construction where only the requirements of 5.53 are nonconforming.

8.22.2 The following changes, extensions, or alterations of a pre-existing nonconforming structure or use may be granted in the following cases after the issuance of a special permit. Such a permit shall be granted only if the permit granting authority specified below finds that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming use.

- a. In an Office, Business, or Industrial District the Board of Zoning Appeal may issue a special permit for the alteration or enlargement of a nonconforming structure, not otherwise permitted in Section 8.22.1 above, or the enlargement (but not the alteration) of a nonconforming use, provided any alteration or enlargement of such nonconforming use or structure is not further in violation of the dimensional requirements in Article 5.000 or the off street parking and loading requirements in Article 6.000 for the district in which such structure or use is located and provided such nonconforming structure or use not be increased in area or volume by more than twenty-five (25) percent since it first began to be nonconforming.
- b. In an Office, Business or Industrial District the Board of Zoning Appeal may grant a special permit for the issuance of a certificate of occupancy for the occupancy of an existing building designed and built for nonresidential use by any use permitted as of right in a Business or Industrial District in Article 4.000 of this Ordinance, provided such new use will be carried out entirely within the existing building and provided the off street parking and loading requirements in Article 6.000 for the district in which such building is located will not be further violated.

- c. In a Residence District the Board of Zoning Appeal may grant a special permit for the alteration or enlargement of a nonconforming structure, not otherwise permitted in Section 8.22.1 above, but not the alteration or enlargement of a nonconforming use, provided any enlargement or alteration of such nonconforming structure is not further in violation of the dimensional requirements of Article 5.000 or the off street parking and loading requirements in Article 6.000 for the district in which such structure is located and provided such nonconforming structure will not be increased in area or volume by more than twenty-five (25) percent since it first began to be nonconforming.

8.22.3 Any alteration or enlargement of a nonconforming structure or of a nonconforming use not otherwise permitted in Section 8.22.1 and 8.22.2 above shall be a variance.

- 8.23** If a nonconforming structure or use shall have been destroyed or damaged by fire, explosion or other catastrophe (except one that has been determined by the City to have been caused intentionally by or on behalf of the owner), such structure may be rebuilt or restored and used again as previously. If a nonconforming structure or use shall have been destroyed, damaged, or caused to be moved as the result of a public taking, said structure or use may be relocated or reconstructed on the lot or on an abutting lot in the same ownership, provided that said relocation or reconstruction does not result in the enlargement of the nonconforming use or structure. In either case, the rebuilding,
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restoring, relocation or reconstruction shall not require a special permit provided that it commences within twenty-four (24) months after such fire, explosion, catastrophe, public taking, or April 24, 2017 (the date of enactment of this amendment), whichever is later, and is completed within thirty-six (36) months after such fire, explosion, catastrophe, public taking, or April 24, 2017 (the date of enactment of this amendment), whichever is later, and provided that the structure as rebuilt, restored, relocated, or reconstructed shall not be greater in volume, footprint, or gross floor area, shall not further increase any nonconformities than those of the original nonconforming structure, and shall not further violate any dimensional requirements of the Ordinance.

- 8.24** A nonconforming use of a building or land which has been abandoned or not used for a period of two years shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when the intent of the owner to discontinue use is apparent, or when the use has been discontinued for a period of thirty (30) days, or when the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment, whichever shall first occur.
- 8.25** Construction or operation under a building or special permit shall conform to any subsequent amendment of this Ordinance unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

ARTICLE 1.000 PREAMBLE

Text current through Ordinance #1397 of August 7, 2017.
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1.10 TITLE

This Ordinance shall be known as and may be cited as the "Zoning Ordinance of the City of Cambridge", hereinafter referred to as "this Ordinance".

1.20 AUTHORITY

This Ordinance is adopted pursuant to the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, and amendments thereto, hereinafter referred to as the "Zoning Act". Certain provisions of this Ordinance are also adopted pursuant to Chapter 565 of the acts of 1979, as amended by Chapter 387 of the Acts of 1980.

1.30 PURPOSE

It shall be the purpose of this Ordinance to lessen congestion in the streets; conserve health; to secure safety from fire, flood, panic and other danger; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most rational use of land throughout the city, including the encouragement of appropriate economic development, the protection of residential neighborhoods from incompatible activities and including the consideration of plans and policies, if any, adopted by the Cambridge Planning Board, and to preserve and increase the amenities of the City.

1.40 EFFECTIVE DATE

This Ordinance and subsequent amendments to it shall be, and are hereby declared to be in full force and effect from their date of adoption by the City Council which shall be the effective date. The status of nonconforming uses, structures and lots with respect to regulations existing prior to the effective date of this Ordinance or subsequent amendments to it shall not be invalidated by such adoption, but shall be governed by the applicable provisions of Section 6, Chapter 40A, G.L., as amended, and by Article 8.000 of this Ordinance, as amended.

1.50 AMENDMENTS TO THE ORDINANCE AND ZONING MAP

1.51 The City Council of the City of Cambridge may from time to time amend this Ordinance or a district boundary indicated upon the Zoning Map in the manner prescribed in Section 5, Chapter 40A, of the General Laws and all amendments thereto.

1.52 No proposed amendment to this Ordinance which has been unfavorably acted upon by the City Council shall be considered on its merits within two years after the date of such unfavorable action unless such an amendment is recommended in the report which the Planning Board is required to make to the City Council. The granting of "leave to

From: O'Grady, Sean <sogrady@cambridgema.gov>
To: Shcci <shcci@aol.com>
Cc: Singanayagam, Ranjit <ranjits@cambridgema.gov>
Subject: RE: 117 Walden St BZA# - 017117-2019
Date: Mon, Jun 3, 2019 10:04 am

Hi Sue,

Having spoken with Ranjit, who is now the Commissioner of Inspectional Services, I am informed that the Cambridge Zoning Ordinance has been changed since 1990, when the previous issue was raised. At that time special permits were required for construction on lots of nonconforming width, as was the case with 113 Walden and is now the case with 117 Walden. Article 8, Section 8.22.1.a of the Cambridge Zoning Ordinance now allows otherwise conforming construction on lots of nonconforming width (See also Article 5, Section 5.21.1).

Cambridge Zoning Ordinance: <https://www.cambridgema.gov/CDD/zoninganddevelopment/Zoning/Ordinance>

Sean

From: Shcci <shcci@aol.com>
Sent: Friday, May 31, 2019 7:10 PM
To: O'Grady, Sean <sogrady@cambridgema.gov>
Cc: nbrickhouse@cfa.harvard.edu; aszentgyorgyi@cfa.harvard.edu
Subject: 117 Walden St BZA# - 017117-2019

Hi Sean,

I reside at 111 Walden Street and received the Notice for a Special Permit for 117 Walden Street regarding window changes to a non-conforming structure. The hearing is June 13.

I don't see any mention of a Special Permit application for a second building in the rear of the lot at 117 for which digging activity has begun. Many of the lots and structures in our area are non-conforming. A second home would appear to be a significant change effecting the neighborhood requiring a special permit prior to increase structures, sizes and uses.

This issue of building a second home on the same lot with a non-conforming structure (and/or a non-conforming lot) came up several years ago next door at 113 Walden St.. The prior owner began a foundation for a second building at 113. He was issued a stop work order for a failure to get a special permit, which was not issued due to neighborhood opposition. 113 Walden was then sold to its current owners.

Perhaps you can pull the old 113 Walden file. I will look for mine too but recall meeting with the then Building Inspector, City Manager and Raj to get focused on M.G. L. Chapter 40A, Section 6 mandates.

Thanks,

Sue

Susanne C. Howard
111 Walden Street
Cambridge, MA 02140
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617-285-5547