

BZA APPLICATION FORM

GENERAL INFORMATION

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

Special Permit: \_\_\_\_\_ Variance: \_\_\_\_\_ Appeal:

PETITIONER: McCabe's Porter LLC dba Shine Square Pub

PETITIONER'S ADDRESS: 2046 Mass Ave

LOCATION OF PROPERTY: "

TYPE OF OCCUPANCY: \_\_\_\_\_ ZONING DISTRICT: \_\_\_\_\_

REASON FOR PETITION:

- Additions
- Change in Use/Occupancy
- Conversion to Addi'l Dwelling Unit's
- Dormer
- Other: appeal of Commissioner Decision
- New Structures
- Parking
- Sign
- Subdivision

DESCRIPTION OF PETITIONER'S PROPOSAL:

See attached

SECTIONS OF ZONING ORDINANCE CITED:

Article \_\_\_\_\_ Section unspecified by Commissioner

Article \_\_\_\_\_ Section \_\_\_\_\_

Article \_\_\_\_\_ Section \_\_\_\_\_

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): Kim Courtney  
(Petitioner(s)/Owner)

Attorney for McCabe's Porter LLC  
(Print Name)

Address: dba Shine Square Pub  
2046 Mass. Ave

Tel. No.: 617 714 5734

E-Mail Address: Kim@kimcourtneylaw.com

Date: April 26, 2019

CITY OF CAMBRIDGE  
 INSPECTIONAL SERVICES  
 2019 APR 26 AM 11:35  
 OFFICE OF THE CITY CLERK  
 CAMBRIDGE, MASSACHUSETTS  
 2019 APR 26 AM 11:38

**NOTICE OF APPEAL**  
**BOARD OF ZONING APPEAL**

2019 APR 26 AM 11:12

OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

Appellant: McCabe's Porter LLC, dba Shine Square Pub  
Address: 2046 Massachusetts Avenue, Cambridge, MA  
Zoning District: BA2  
Decision Appealed: March 29, 2019 Decision of Cambridge License Commission denying entertainment application, based upon the denial of zoning approval by Commissioner Ranjit Singanayagam.

CITY OF CAMBRIDGE  
INSPECTIONAL SERVICES  
2019 APR 26 AM 11:28

Applicant McCabe's Porter LLC, dba Shine Square Pub, located at 2046 Massachusetts Avenue in Cambridge, MA, in zoning district BA2, hereby appeals a zoning decision by Inspectional Services Commissioner Ranjit Singanayagam, which formed the basis for a denial Decision by the Cambridge License Commission on March 29, 2019.

On March 27, 2019, a hearing was held before the License Commission, and the Commission voted to approve an application for entertainment at 2046 Massachusetts Avenue by a vote of 3-0. The entertainment applied for is 2 additional video games, pinball machines or automatic amusement devices, and 1 jukebox.

On March 26, 2019, Commissioner Singanayagam entered a note to the License Commission into the Viewpoint online permitting system stating, "This is in a BA2 zone and entertainment is not allowed, Whatever existing can remain, but additional devices are permitted". Exhibit A (Viewpoint notes). On March 29, 2019, Administrative Assistant O'Neil issued a letter to Appellant that he referred to as "the decision of the Cambridge Board of License Commissioners," signed by Mr. O'Neil, stating that the Commission voted to grant "the request to add entertainment subject to obtaining zoning approval. Please note zoning has rejected the additional entertainment, and therefore, the entertainment devices cannot be added to your license or used." Exhibit B (License Commission "Decision", March 29, 2019).

On April 4, 2019, Assistant Commissioner Sisia Daglian added to Mr. Singanayagam's note to the License Commission on the Viewpoint online application system, stating, "The above comment by Commissioner Singayagam has a grammatical error, below is the corrected comment: 'This is a BA2 Zone and entertainment is not allowed. Whatever existing can remain, but additional devices are not permitted'." Neither Commissioner Singayagam's nor Assistant Commissioner Daglian's notes in Viewpoint state the grounds for the zoning denial.

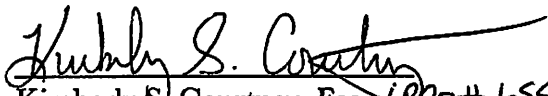
Despite numerous requests, Commissioner Singayagam has refused to provide Appellant with a formal decision on this matter, failed to state the grounds for his determination, and failed to reference the specific section of the Zoning Ordinance that he relies upon for his statement that "entertainment is not allowed" in a BA2 Zone. Commissioner Singayagam has also not informed Appellant of its appeal rights.

Appellant can find no basis for said determination in the Zoning Ordinance, and itself was issued a license at this location for similar entertainment in the past, which license is currently active. There are also numerous other establishments in the BA2 Zone that were issued and currently have active entertainment licenses. Thus, this zoning determination appears to be flawed and should be reversed.

Appellant respectfully requests the Board of Zoning Appeal reverse the "Decision" of Mr. O'Neil and/or Commissioner Singayagam, as reflected in the March 29, 2019 "Decision", in that said determinations are arbitrary, capricious, not based on substantial evidence, fail to state the grounds for said determinations, and are not supported by the law.

Dated: April 26, 2019

By Attorney for McCabe's Porter, LLC, dba Shine Square Pub

  
Kimberly S. Courtney, Esq. (BB0# 655412)  
1 Cedar Street, B  
Cambridge, MA 02140  
617-714-5734  
kim@kimcourtneylaw.com

McCabe's Porter, LLC DBA Shine Square Pub

(/dashboard/projects/159) Change to an Existing License Application

**29814**

Your Submission

Attachments

Original Submission

Application Content and Attachments

Zoning Sign-Off

Administrative Fees

Schedule Hearing

License Commission Board Vote

**Zoning Approval - Additional Entertainment Categories**

## Zoning Approval - Additional Entertainment Categories

**Stopped.** This step was stopped on Apr 4, 2019 at 2:18pm.



✓ Nicole

Mar 22nd 2019, 11:51am

Applicant's attorney informed us today the location has a total of 2 pinball machines, foosball, 1 video game. McCabe's is already licensed for 2 video games, pinball machines or automatic amusement devices. The business is asking to add the 2 additional games to their entertainment license.



✓ Nicole

Mar 25th 2019, 4:28pm

They are also seeking to add 1 jukebox.

## License Commission Hearing Decision

From: O'Neil, Christopher (coneil@cambridgema.gov)

To: thomas\_c\_covert@yahoo.com; kim@kimcourtneylaw.com

Date: Friday, March 29, 2019, 10:17 AM EDT

Attached please find the decision of the Cambridge Board of License Commissioners regarding your hearing that was held on March 27, 2019. Please let me know if you have any questions.

Thank you,

Chris O'Neil

Cambridge License Commission

617-349-6145



Shine Square Pub.pdf  
48.5kB



# CAMBRIDGE LICENSE COMMISSION

831 Massachusetts Avenue, First Floor, Cambridge, Massachusetts 02139

March 29, 2019

Via Email Only: [thomas\\_c\\_covert@yahoo.com](mailto:thomas_c_covert@yahoo.com);  
[kim@kimcourtneylaw.com](mailto:kim@kimcourtneylaw.com)

**RE: McCabe's Porter, LLC d/b/a McCabe's Bar and Grille, 2046 Massachusetts Avenue, Common Victualler All Alcohol License #11498, Application #29814 for a Change of d/b/a to Shine Square Pub and Amend Entertainment License**

Dear Mr. Covert and Ms. Courtney:

On March 27, 2019, the Board of License Commissioners granted (3-0) the change of d/b/a pending submission of a new corporate vote and ABCC monetary transmittal form. Once you submit the required documents, the change of d/b/a application will be forwarded to the ABCC for their acknowledgement and the license will be reissued with the new d/b/a.

The Board also voted to grant (3-0) the request to add entertainment subject to obtaining zoning approval. Please note zoning has rejected the additional entertainment, and therefore, the entertainment devices cannot be added to your license or used. You may petition the Board of Zoning Appeals for a variance and approval for the entertainment sought.

Sincerely,

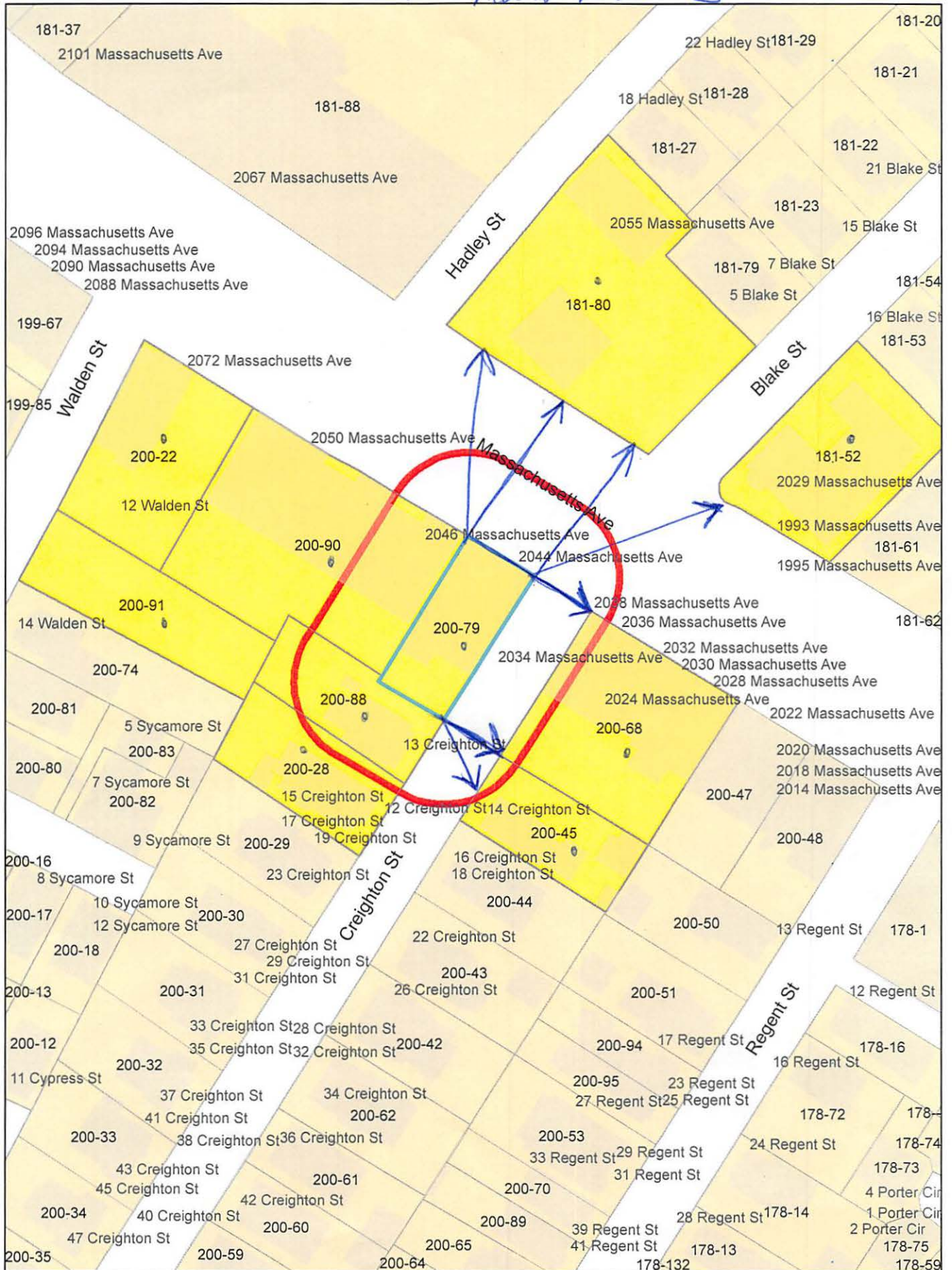
A handwritten signature in black ink that reads "Ch O'Neil".

---

Chris O'Neil, Administrative Assistant



2046 Mass Avenue





2046 Mass Ave

Petitioner

200-68  
DYER, DENNIS  
45 LEDGE RD  
WALTHAM, MA 02452

181-80  
CHRISTOS POUTAHIDIS MANAGEMENT, LLC.  
C/O HESS REALTY LLC, PROPERTY TAX DEPT.  
539 SOUTH MAIN ST  
FINDLAY, OH 45840

McCABE'S PORTER LLC  
D/B/A SHINE SQUARE PUB  
C/O KIMBERLY S. COURTNEY, ATTORNEY  
2046 MASS AVENUE  
CAMBRIDGE, MA 02140

200-28  
MCMANUS, HUGH L. & LISA M. MCMANUS  
17 CREIGHTON STREET  
CAMBRIDGE, MA 02140

200-45  
SCHENKMAN, MAX & SUSAN CICCONE  
14 CREIGHTON ST  
CAMBRIDGE, MA 02140

200-22  
2072 MASS AVE LLC  
C/O CC HRE 2072 MASS AVE LLC  
1155 WALNUT ST., #31  
NEWTON HIGHLANDS, MA 02461

200-79  
FITZSIMONS, CHRISTOPHER  
TR. THE 2046 MASS AVE. REALTY TRUST  
17 REYNOLDS STREET  
NORTH EASTON, MA 02356

200-88  
MCINTOSH, LINDA G.  
80 PARK ST #72  
BROOKLINE, MA 02446

200-90  
CAMBRIDGE HOUSING AUTHORITY  
675 MASSACHUSETTS AVE  
CAMBRIDGE, MA 02139

200-91  
CAMBRIDGE CITY OF COMMUNITY DEV  
57 INMNAN ST  
CAMBRIDGE, MA 02139

181-52  
CAMBRIDGE CITY OF FIRE STATION  
491 BROADWAY  
CAMBRIDGE, MA 02138

200-91 / 181-52  
CITY OF CAMBRIDGE  
C/O NANCY GLOWA  
CITY SOLICITOR

200-91 / 181-52  
CITY OF CAMBRIDGE  
C/O LOUIS DEPASQUALE  
CITY MANAGER