

CITY OF CAMBRIDGE, MASSACHUSETTS
PLANNING BOARD
CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

NOTICE OF DECISION

Case No: PB#146

Address: 773-775 Concord Avenue

Zoning: Office 2/Parkway Overlay District

Applicant: Frank Fodera, 201A Main Street, Woburn, MA 01801

Owner: Vincent R. Leo, Trustee of VRL Realty Trust, 517 Concord Avenue, Cambridge, MA 02138

Application Date: February 16, 1999

Public Hearing: April 20, 1999

Planning Board Decision: July 27, 1999

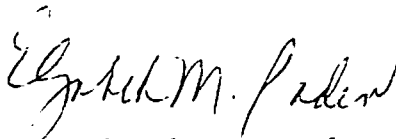
Date of Filing Decision: August 30, 1999

Application: Multifamily special permit in the Parkway Overlay District

Decision: DENIED

Appeals, if any, shall be made pursuant to Section 17 of Massachusetts General Laws, Chapter 40A, and shall be filed within twenty (20) days after the filing of the above referenced decision with the City Clerk. Copies of the complete decision and final plans, if applicable, are on file with the Office of the Community Development Department and the City Clerk.

Authorized Representative
to the Planning Board



For further information concerning this decision, please call Liza Paden at 349-4647, TTY: 349-4621, email lpaden@ci.cambridge.ma.us.

1999 AUG 30 11:15
CITY CLERK
COMMUNITY DEVELOPMENT DEPARTMENT

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Application

1. Special Permit application, with ownership certificate, dimensional form, zoning review, and supporting statement dated complete 2/16/99
2. Plans, scale as noted on plans, undated, plot plan, ground floor site plan, typical floor plan, 6th and 7th floor plan; basement parking plan, site elevation, east elevation, north elevation, south elevation, west elevation, and wall section.

Other Documents Submitted

1. Waiver of time requirement for decision dated July 6, 1999, by Stuart J. Farkus, attorney for the applicant.
2. Letter to the Planning Board from Susan Kluver, Fayerweather School, dated 4/15/99, voicing concerns on the development.
3. Letter to the Planning Board from Thomas J. Martin, 124 Appleton Street, Cambridge, dated 4/20/99, opposition as an abutting tenant.
4. Letter to the Planning Board from Vice Mayor Galluccio, dated 4/20/99, opposing the application.
5. Petition to the Planning Board from neighbors of the proposal, dated 4/20/99.

6. Letter to the Planning Board from Kenneth L. Kimmell, dated 5/28/99, representing the abutters.
7. Amended plans submitted by Attorney Stuart J. Farkus, showing the amended setback dimensions dated 6/3/99.
8. Letter to the Planning Board from Anne M. Tennis, Chair of the Cambridge Highlands Neighborhood Association, undated.
9. Copy of letter to Frank Fodera, applicant from William F. Caines, ASLA, dated 6/28/99, reviewing the landscaping plans.
10. Letter to the Planning Board from Kenneth L. Kimmell, dated 6/30/99, requesting information and that the PB continue the hearing.
11. Technical Memorandum, from Michael R. Abend, dated 7/1/99, traffic impact assessment.
12. Memo to the Planning Board, from Unit Owners Association of 777 Concord Avenue, Cambridge, dated 7/1/99, authorizing John Forster and Bryon Hartunian, representative owners of the association.
13. Letter to the Planning Board from Susan Kluver, dated 7/1/99
14. Cover to CDD staff Robyn Fitzgerald, from James Curran, with landscaping plans.
15. Copy of letter to Stuart J. Farkus, from Lauren M. Preston, Deputy Traffic Director, dated 7/2/99.
16. Letter to Paul Dietrich, from Kenneth L. Kimmel, representing abutters, dated 7/2/99
17. Letter to Paul Dietrich, from Sister Mary Mark, Administrator, Sancta Maria Nursing Facility, dated 7/2/99
18. Letter to the Planning Board, from Noor Oriental Rugs, Mohammad A. Nooree, Owner, dated 7/3/99
19. Letter to Paul Dietrich, from Stuart J. Farkus, dated 7/7/99
20. Letter to Paul Dietrich, from Frank Pitts Curtis, RA, with the shadow study submittal, dated 7/8/99

21. Letter to Paul Dietrich, from Stuart J. Farkus, dated 7/12/99
22. Letter to Paul Dietrich, from Anne Tennis, Chair of the Cambridge Highlands Neighborhood Association, dated 7/23/99
23. Letter to Paul Dietrich, from Stuart J. Farkus, dated 7/7/99
24. Letter to Paul Dietrich, from Stuart Farkus, dated 7/15/99, correcting earlier submittal
25. Letter to the Planning Board from Susan Kluver, dated 7/23/99
26. Letter to Paul Dietrich, from Kenneth L. Kimmel, representing abutters, dated 7/23/99
27. Letter to Paul Dietrich, from Mayor Franics H. Duehay, dated 7/26/99
28. Letter to Paul Dietrich, from Robert D. Busiek, MD, dated 7/27/99
29. Letter to Paul Dietrich, from Stephen Youngwirth, MD., Trustee of 777 Concord Avenue, dated 7/27/99
30. Letter to Paul Dietrich, from., Paul J. Maney, 777 Concord Avenue, dated 7/27/99
31. Letter to Paul Dietrich, from Vice Mayor Anthony D. Galluccio, dated 7/27/99
32. Letter to Paul Dietrich, from Mohammad A. Noorae, dated 7/31/99

Public Hearing

On April 20, 1999, the Planning Board held a public hearing on the application. The applicant was represented by attorney Stuart J. Farkus, who presented the application materials and review the special permits and BZA variances for the side and rear yards required by the applicant. The architect Frank Pitts Curtis explained the layout, the setbacks and the parking locations as well as the landscaping plan.

A number of abutters appeared at the hearing and objected to the height, density and the shadows which would be cast by the building proposed.

The Board requested a shadow study, a detailed drawing of the setbacks and the landscaping

On July 6, 1999, the applicant's attorney presented shadow studies and revised drawings of the landscaping plans, as well as the parking plan. The number of units was reduced to 32, the Floor Area Ratio became conforming, five of the units would be affordable. There would be 44 parking spaces for the 32 units, and all of the questions by Lauren Preston, Deputy Traffic Director were addressed. The attorney then made a comparison of this application with another Planning Board special permit, granted at 655 Concord Avenue. The Planning Board expressed concern over making a decision the same evening as receiving the plans and requested a waiver of the time for the decision. The applicant granted a waiver to August 31, 1999. The Board requested that the shadow study show the impacts on the rear abutter.

On July 27, 1999, the Planning Board reviewed the special permit criteria and made the following findings:

FINDINGS

After review of the application documents and other documents submitted to the Board; testimony taken at the public hearing; review and consideration of the multifamily Special Permit criteria; the general Special Permit criteria; the Parkway Overlay District, its dimensional requirements and urban design objectives; the Board makes the following findings.

1. Members of the Board find that the building is large and out of scale with the surrounding development and has not materially changed in that aspect from the initial application.
2. Due to its size and configuration, the proposed building will cast a shadow on the playground of the Fayerweather Street School during most of the year, particularly in the winter months (December to February), negatively impacting the play and study space for children of various age groups. The months of least impact (June and July) are the months of school vacation. The width of the shadow is approximately an hour and a half wide. There seems to be agreement between the applicant's and the neighbors' shadow studies, with the exception that the neighbors' study identifies that the small playground areas belonging to the school are impacted by shadows in addition to the large playground. The Planning Board is particularly concerned about the project's shadow impacts as the incremental shadow of the project is a major change from the existing condition, and the use being most severely impacted is a school, where open air activities are a critical programmatic component. A school is one of the few uses that publicly and legally requires the use of open space and is sensitive to impacts.

3. Given the substantial concerns expressed by immediately impacted abutters, the Board finds that insufficient efforts have been made to ameliorate negative impacts.
4. Conformance with the criteria for issuance of a Multifamily Special Permit, Section 10.47.4 of the Ordinance.

- a) Key features of the natural landscape should be preserved to the maximum extent feasible. Tree removal should be minimized and other natural features of the site, such as slopes, should be maintained.

The proposed development preserves the natural features of the site and adds additional vegetation along the north eastern edge of the site and the front setback.

- b) New buildings should be related sensitively to the existing built environment. The location, orientation and massing of structures in the development should avoid overwhelming the existing buildings in the vicinity of the development. Visual and functional disruptions should be avoided.

The proposed building is not sensitive to the existing built environment. The scale is too large and overwhelms the existing development in the vicinity. Schools, of which one is an immediate abutter, require open space to cater to play and outdoor educational functions for students. Based on the studies submitted, shadows of the proposed building are likely to disrupt the proper functioning of the Fayerweather Street School, particularly in the Fall and Winter months.

- c) The location, arrangement, and landscaping of open space should provide some visual benefits to abutters and passersby as well as functional benefits to occupants of the development.

The project proposes vegetative buffers along the north eastern edge of the site. Some additional landscaping is proposed in the front setback, creating a pleasant experience for abutters and passersby.

- d) Parking areas, internal roadways and access/egress points should be safe and convenient.

The Board feels that it can not make a finding on this criterion due to insufficient evidence. The proponent has submitted a traffic study comparing traffic generated by the proposed development to the traffic generated by an as-of-right office development on the site. The Board does not find this hypothetical comparison

satisfactory, particularly since an office development of the square footage shown would be subject to rigorous traffic impact review under Section 11.5000 of the Ordinance, Planning Overlay Requirements. Concord Avenue is a particularly busy street where access and egress from lots is very difficult at all times.

- e) Parking area landscaping should minimize the intrusion of onsite parking so that it does not substantially detract from the use and enjoyment of either the proposed development or neighboring properties.

This condition is met by placing the parking garage underground, although on the fairly small site, the deep access ramp becomes a prominent feature. A larger lot would remedy this problem.

- f) Service facilities such as trash collection apparatus and utility boxes should be located so that they are convenient for resident, yet unobtrusive.

Based on the plans submitted, the Board finds that this criterion is satisfied. The trash dumpster is placed to the rear of the site and can be easily reached from the side entrance to the building.

5. Conformance with the criteria for issuance of a special permit, Section 10.43 of the Ordinance.

- a) It appears that requirements of this ordinance cannot or will not be met.

For the most part, the requirements of the Office-2 and the Parkway Overlay District have been met or can easily be met. However, members of the Board find that some of the requirements of the criteria for a Multifamily Housing Special Permit (section 10.47.4) are not met, as described above.

- b) Traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character.

The Board feels that it can not make a finding on traffic and safety due to insufficient evidence. Please refer to 4(d) for discussion.

- c) The continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would be adversely affected by the nature of the proposed use.

The proposed development and the nature of the building will adversely affect the adjacent uses, particularly Fayerweather Street School, by the nature and amount of shadows cast on the playground.

- d) 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.

The shadow impacts on Fayerweather Street School are detrimental to the health and welfare of the students. A school is one of the few uses where open areas are required by law, as outdoor activities are essential to the proper and healthy development of children.

- e) For other reasons, the proposed use would impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of this Ordinance.

The integrity of this district or adjoining districts would not be impaired in ways other than those stated above.

6. Conformance with the criteria for issuance of a special permit in the Parkway Overlay District, Section 11.60, of the Ordinance.

The Board finds that the dimensional requirements of the Parkway Overlay District are satisfied and that there is no significant non-compliance with the Overlay District criteria.

DECISION

On a vote of six members in favor of denying the special permit, the application is DENIED for failure to meet the requirements of the Multifamily Special Permit.

Voting in the affirmative to deny the Special Permit were A. Cohn, F. Darwin, P. Deitrich, S. Lewis, C. Meith, and H. Russell. There were no abstentions, nor any negative votes.

For the Planning Board,


Paul Deitrich

Chair

A copy of this decision shall be filed with the Office of the City Clerk. Appeals, if any, shall be made pursuant to Section 17, Chapter 40A, Massachusetts General Laws, and shall be filed within twenty (20) days after the date of such filing in the Office of the City Clerk.

ATTEST: A true and correct copy of the above decision filed with the Office of the City Clerk on August 30, 1999 by Elizabeth M. Paden, authorized representative of the Cambridge Planning Board. All plans referred to in the decision have likewise been filed with the City Clerk on such date.

Twenty (20) days have elapsed since the filing of this decision.

No appeal has been filed.

DATE:

City Clerk
City of Cambridge