



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

NOTICE OF DECISION

Permit No: #233

Address: 280-290 River Street

Applicant Owner: Commonwealth Commons, LLC, 35 Boston Street, Middleton, MA 01949

Zoning District: Business A-3, Residence C-1

Application Date: November 14, 2007

Public Hearing: January 8, 2008

Planning Board Decision: July 15, 2008

Date of Filing Decision: August 6, 2008

Application: Special Permit for a Townhouse Development of twelve or more units as required in Section 11.12.2 in a Residence C-1 and a Business A-3 District; Special Permit to allow a ten foot minimum dimension for the required minimum Useable Open Space as permitted in Section 11.15.5.

Decision: DENIED

2008 AUG -6 P 3:46
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

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 Community Development Department and the City Clerk.

Authorized Representative of the Planning Board
For more information concerning this decision, please call Liza Paden at 617-349-4647, TTY: 617-349-4621, or lpaden@cambridgema.gov

Application Documents:

Application dated 11/14/07, cover sheet, summary of application, dimensional form, useable open space calculation, ownership certificate, and project narrative.

Drawings cover dated 11/7/07, for 280 River Street, containing building code and overall site zoning (Z-1), open area site plans (Z-2), first through roof plans, courtyard, front, left and right elevations, building sections, stair section and plan @units 1, 2, 3 & 4, and details (A1-13) foundation plan S1-6). 286 River Street, containing building code & zoning site plan, (Z-1), open space calculation and total open space (Z-2) site plan, first to roof plans, front, rear, left & right elevations, building section, units 6, 7, 8, 9 & 10 sheets A1-13, foundation plan S-0 and second floor framing plan S1-6. Plans of existing conditions dated 11/19/07 and photographs dated 11/15/07, site plan dated 10/10/07, sheet 2 of 4, open space plan sheet 3 of 4, grading 4 of 4, utilities plan 4 of 4, sidewalk and tree plan 4a of 4.

Other application documents submitted

Revised site plans dated 4/29/08 with explanation by Daniel Orwig, Orwig Associates, Sheets 5-12, 282 River Street, A01-06.

Revised site plans dated 7/14/08, sheets 6 – 9, Main Pedestrian entrance, 282 River St, plans, A01-06.

Time extension to 6/6/08.

Time extension to 8/8/08.

Other Documents

Copy of email to Planning Board from Hugh Russell, dated 1/13/08.

Letter to Ranjit Singanayagam, ISD, from Dan Orwig, dated 1/1/7/08, re: multifamily v. townhouse design.

Copy of email and drawing draft to the Planning Board from Hugh Russell, undated.

Townhouse analysis by applicant, dated 5/6/08.

Memo to Ranjit Singanayagam, Commissioner of ISD from David Byrne, Senior Building Inspector, dated 7/15/08, re: Fire Separation.

Written Public Comment

1. Letter to the Planning Board, from Joseph Klompus, 126 Kinnaird St, #1, dated 12/26/07.

2. Memorandum to the Planning Board from Holly Miller, 19 Fairmont St, et al, dated 12/7/07.
3. Email to the Planning Board from Mark Mulligan, Fairmont Neighbors Association, dated 12/7/07.
4. Letter to the Planning Board from Kate Todd, et al, 268 River Street, #1, dated 12/11/07.
5. Copy of letter to Rocco Scippa, applicant, from Ranjit Singanayagam, Commission of ISD, dated 12/20/07.
6. Letter to the Planning Board from Deborah Lerne Goodman, et al, 8 Fairmount Street, dated 1/1/08.
7. Petition from Nils Fonstad, et al, no date.
8. Letter to the Planning Board from Shelley Kaplan, 9 Fairmount Ave, dated 1/7/08.
9. Petition from Holly Foskett, et al, dated 1/8/08.
10. Letter to the City of Cambridge from Stephanie M. Hale, MD, 290-2 River St, dated 1/8/08.
11. Letter to the Planning Board from Ednan K. Bajwa, 280-1 River St, dated 1/8/08.
12. Email to the Planning Board from Councillor Craig Kelley, dated 1/8/08.
13. Email to the Planning Board, from Councillor Sam Seidel, dated 1/8/08.
14. Letter to the Planning Board from Mark Mulligan, 66 Fairmount St, dated 1/8/08.
15. Letter to Ranjit Singanayagam, from Meladu Zewde, dated 1/11/08.
16. Copy of the letter to Donald A. Drisdell, City Solicitor, from Emma Rothfeld, 280 River St, dated 2/20/08.
17. Memorandum to Beth Rubenstein, Assistant City Manager for Community Development from Michael Brandon, dated 2/4/08.
18. Letter to the Planning Board from Robb Johnson, 20 Fairmount Ave, dated 4/27/08.
19. Email to the Planning Board from Kuangshin and Catherine Tai, 284 River St, dated 4/28/08.
20. Email to the Planning Board from Naomi Leeds, 52 Garden St, dated 4/28/08.

21. Email to the Planning Board from Kathleen Roosevelt, 182 Magazine St, dated 4/28/08.
22. Email to the Planning Board from Darrin Samaha, 243 Bent St, dated 4/28/08.
23. Email to the Planning Board from Annie Barrett, 52 Garden St, dated 4/28/08.
24. Letter to the Planning Board from Holly Miller, 19 Fairmount Ave, dated 4/28/08.
25. Letter to the Planning Board from Jose Onorato. 280 River St, dated 4/29/08.
26. Email to the Planning Board from Paddy B. McDonald, 66 Clay St, 4/29/08.
27. Email to the Planning Board from Jennifer L. Sullivan, 10 Museum Way, dated 4/29/08.
28. Email to the Planning Board from Sally Waldron, 196 Hamilton St., dated 4/29/08.
29. Email to the Planning Board from Alexandria Hogan, 170 Harvard St, dated 4/29/08.
30. Email to the Planning Board from Ann Kao, MD, 284-3 River St, dated 4/29/08.
31. Email to the Planning Board from Kevin Durand, 284-1 River St, dated 4/29/08.
32. Email to the Planning Board from Zachery N. Coseglia, 10 Museum Way, dated 4/28/08.
33. Email to the Planning Board from Hannah B. Waldron, 194 Hamilton St, dated 4/29/08.
34. Letter to the Planning Board from Ednan K. Bajwa, 280-1 River St, dated 4/29/08.
35. Letter to the Planning Board from Emma Rothfeld, 280-3 River St, dated 4/29/08, w/ photos, undated.
36. Email to the Planning Board from Helen Bouscaren, 18 Hemlock Rd, dated 4/30/08.
37. Email to the Planning Board from Naomi Leeds, 52 Garden St, dated 4/30/08.
38. Email to the Planning Board from Tudor Paunov, 254 Lexington Ave, dated 4/30/08.
39. Letter to the Planning Board from Ednan K. Bajwa, MD, 280-1 River St, dated 5/1/08.

40. Letter to the Planning Board from Kevin Durand, et al, dated 5/12/08 w/ attachment from Maria Scippa, re: the paver installation, dated 4/30/08 and phase 2, sub-phase 1 plan for building 288.
41. Email to the Planning Board from Tony Chin, dated 6/2/08.
42. Email to the Planning Board from Emma Rothfeld, dated 6/3/08, re: email to Ranjit Singanayam, dated 6/3/08.
43. Copy of agreement signed by Rocco Scippa, dated 7/1/08.
44. Email to the City Council, from Kai Long, 7/4/08.
45. Letter to the Committee on Transportation, Traffic and Parking, Cambridge City Council, from Mark Mulligan, 66 Fairmont St, dated 7/4/08.
46. Letter to Ranjit Singanayagam, ISD, and the Planning Board from Emma Rothfeld, et al, dated 7/8/08.
47. Letter to the Planning Board from Emma Rothfeld, et al, dated 7/8/08, re: condo expenses.
48. Letter to the Planning Board from Ednan K. Bajwa, MD, dated 7/8/09.
49. Letter to the Planning Board from Mark Mulligan, dated 8/8/08, with attachments, email to B. Rubenstein of 5/7/08, Building permit application for 288 River St, Photos of 288 River St BP and units 1 and 2.
50. Letter to the Planning Board from Holly Miller, 19 Fairmont Ave, dated 7/8/08.
51. Email to the Planning Board from Carolyn Leigh, 268 River St, dated 7/15/08.

Project Description

The Petition is to convert a partially built, as-of-right multi-use project consisting of twenty units of Townhouse Development and Multifamily and Two Family Dwelling units into an eighteen unit Townhouse Development with a single two family dwelling. Construction of the as-of-right project was initiated in reliance on a Building Permit for nine multifamily dwellings, nine Townhouse Development dwelling units and a two family dwelling (including four inclusionary housing bonus units authorized in Section 11.200 of the Zoning Ordinance); both the Townhouse Development and Multifamily Dwelling units authorized by the building permit were each less than the 12 unit threshold that would have required the issuance of a Special Permit for such uses in these districts. In the Petition, the twelve unit special permit threshold would be exceeded.

Subsequent scrutiny of the Building Permit by city staff and abutters indicated that certain provisions of the Zoning Ordinance were not correctly applied. As a result, the final three Townhouse Development Units originally authorized by the Building Permit cannot be built, as the area they occupy is needed to provide the minimum Useable Open Space required for the project in Residence C-1 and Business A-3 Districts.

The Petition would require the conversion of certain already-built or under-construction Multifamily Dwellings to Townhouse Development dwelling units, also necessitating certain physical changes to the multifamily dwellings to remake them into townhouse units as defined in the Ordinance.

The conversion of the project to a Townhouse Development, through the issuance of a special permit under the provisions of Section 11.10, would make that development subject to the Useable Open space provisions of Section 11.15.5.

Findings

Based on its review of the Application Documents, Supplemental Documents, and Other Documents submitted to the Board and referenced above, testimony taken at the public hearing and submitted in written form to the Board, and the review and consideration of the relevant special permit criteria, the Planning Board makes the following findings:

1. Conformance to the standards of a Special Permit to Reduce the Useable Open Space Dimension in a Townhouse Development, Section 11.15.5.

The Business A-3 District requires that a minimum of 30% of the affected lot area be Useable Open Space, with a minimum dimension of fifteen feet required for all of that open space. That requirement can only be met if the location of the three dwelling units yet to be built identified as 282 River Street on the Plans and originally authorized by the Building Permit is Useable Open Space.

However, Section 11.15.5 allows the Planning Board to reduce the minimum dimension of that Usable Open Space to ten feet if the following standards can be met: (1) the peculiarities of the parcel warrant such reduction, (2) the smaller dimension will result in a superior design, and (3) the total amount of open space in the development is not reduced. With the reduction in the minimum dimension, the 30% requirement for Useable Open Space can be met (and exceeded) even with the addition of an additional structure containing three dwelling units.

The Board finds that not all of these standards can be met.

The amount of open space on the site exceeds the 30% required in both the Residence C-1 and Business A-3 Districts, with the total amount of Useable Open Space on the lot at 36.5% in the proposed Townhouse Development scheme as submitted (provided a minimum dimension of 10 feet is allowed). A reduction in the minimum dimension of the open space to ten feet will not result in a reduction in the amount of open space below that required in the applicable zoning districts.

However, the Board does not find that there is any compelling peculiarity of the lot that justifies a reduction in the open space dimension. While not perfectly square, the lot is large and fairly regular, with ample dimensions on all its four sides; it is not particularly unusual for a large lot in the city. The Board finds that the inability to accommodate the required fifteen foot dimension for open space has more to do with the limited flexibility to provide alternate site development options imposed by the already built structures on the lot, rather than the shape and character of the lot itself.

Furthermore, a waiver to the ten foot dimension will not result in a superior design. While meeting the nominal dimensional requirements for parking and aisle width on the site, maneuvering on the site and into the already occupied parking facilities is less than ideal, as indicated by public testimony and review of the plans and site inspection indicates. The addition of three additional units of housing in a new structure, which would be possible with the reduction in the open space minimum dimension, is likely to further complicate moving about the site for both existing parking spaces and for those to be provided in the new building; proposed placement of the last building compromises vehicle maneuverability and any opportunity to significantly landscape the courtyard/circulation space in the development. Again, already built construction on the site, rather than the open space requirement, appears to be the limiting factor in developing superior arrangements for development on this site.

2. Conformance to the standards of a Townhouse Development Special Permit, Sections 11.10 and 10.47.4 and the general special permit criteria of Section 10.43.

As the standards for a reduction in the minimum dimension for Useable Open Space in the Business A-3 district cannot be met, the Board finds that it cannot approve the twenty-unit Townhouse Development Special Permit. The feasibility of the plan as submitted in the application documents is dependent on that reduction in the minimum dimension for Useable Open Space; without the reduction the Townhouse Development is not in compliance with the requirements of Section 11.10 as regards minimum Useable Open Space (30% of the entire lot in both the Business A-3 and Residence C-1 districts). Furthermore, no acceptable alternate plan was presented that could cure the defect.

Decision

Based on a review of the application documents, comments made at the public hearing, and based on the above findings, the Planning Board, voting on a motion to grant the requested Waiver of Open Space Dimensional Requirement Special Permit (Section 11.15.5), DENIES the requested special permit by virtue of a failure to achieve the necessary two-thirds of Board members voting in the affirmative.

Voting in the affirmative to grant the Special Permit were: T Anninger and P. Singer; voting in the negative to deny the permit were W. Tibbs, H. Russell, T. Cohen, and C. Studen

Voting on a motion to grant the requested Townhouse Special Permit (Sections 11.10 and 11.12.2), the Planning Board DENIES the requested special permit by virtue of a failure to achieve the necessary two-thirds of Board members voting in the affirmative.

No member voted in the affirmative to grant this Special Permit; voting in the negative to deny the permit were W. Tibbs, H. Russell, T. Cohen, C. Studen and T. Cohen. Abstaining on the vote were T. Anninger and P. Singer.

For the Planning Board,

Handwritten signature of William Tibbs in cursive, with the initials "W. Tibbs" and a circled "emo" next to it.

William Tibbs, Chair

A copy of this decision #233 shall be filed with the office of the City Clerk. 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.

ATTEST: A true and correct copy of the above decision filed with the Office of the City

Clerk on August 6 , 2008, Elizabeth M. Paden , authorized representative of the Cambridge Planning Board. All plans referred to in the decision have been filed with the City Clerk on said date.

Twenty (20) days have elapsed since the filing of the decision. No appeal has been filed.

DATE:

City Clerk of Cambridge