



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

2021 OCT -5 PM 1:01
CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

NOTICE OF DECISION

Case Number:	380
Address:	48 Pearl Street
Zoning:	Residence C-2A (C-2A)/ Central Square Overlay District
Applicant:	Jonathan Miller 40 Pearl Street Cambridge, MA 02139
Owner:	Lauren Reznick and Eric Nielsen 345 Broadway, Unit 6, Boston, MA 02127
Application Date:	June 23, 2021
Date of Planning Board Public Hearing:	July 13, 2021; August 17, 2021
Date of Planning Board Decision:	August 17, 2021
Date of Filing Planning Board Decision:	October 5, 2021
Application:	Special permits in the Central Square Overlay District for waiver of yard setback requirements (Section 20.304.4.1) and reduction of required open space (Section 20.304.4.2) and special permit for increase in non-conforming building height (Section 8.22.2(d)) to renovate an existing single-family dwelling unit.
Decision:	GRANTED the special permits for waiver of yard setback requirements (section 20.304.4.1) and reduction of required open space (20.304.4.2), with Conditions. Planning Board granted LEAVE TO WITHDRAW the application for a special permit for alteration of preexisting dimensionally non-conforming building height of a detached single-family dwelling (section 8.22.2(d)) without prejudice, in order for the Applicant to seek such relief by variance from the Board of Zoning Appeal.

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 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: Swaathi Joseph

For further information concerning this decision, please contact Swaathi Joseph at 617-349-4648, or sjoseph@cambridgema.gov.

DOCUMENTS SUBMITTED

Application Documents and Supporting Material

1. Special Permit Application submitted on 6/23/2021, containing the Special Permit Cover Sheet, Dimensional Form, Ownership Certificate, Community Outreach Summary, Project Narrative, and plan set titled 48 Pearl St Volume 2 prepared by Frank Shirley Architects, dated 6/3/2021.
2. Presentation slides shown to the Planning Board on 7/13/2021.
3. Application amendment dated 7/15/2021, including clarification that the requested relief for the extension of nonconforming height falls under section 8.22.2 (d) of the Cambridge Zoning Ordinance, updated Cover Sheet, and narrative supplement.
4. Letter to the Planning Board on 8/18/2021, requesting to withdraw the requested special permit for additional building height.

City of Cambridge Documents

5. Memorandum to the Planning Board from Community Development Department (CDD) staff, dated 7/6/2021.
6. Letter to Louis A. DePasquale, City Manager, from Nancy E. Glowa, City Solicitor, in response to the Planning Board's request for a legal opinion regarding Case No. PB-380, dated 8/13/2021.

APPLICATION SUMMARY

The Applicant proposes to renovate an existing, single-family, row-house by expanding the existing connector between the main building and the garage towards Franklin Street (the “Project”). The Applicant also proposes to replace the existing roof deck head-house with a new, slightly taller head-house in order to construct a safer access stair. The site is located two blocks south of Massachusetts Avenue in Central Square in the Residence C-2A District within the Central Square Overlay District. The property is listed in the National Register of Historic Places and is a contributing building in the Central Square National Register District. The Applicant reviewed the proposal with staff at the Cambridge Historical Commission, who concluded that the project does not require a formal hearing by the Commission. The requested special permits are discussed in detail in the Findings below.

FINDINGS

After review of the Application Documents and other documents submitted to the Planning Board, testimony given at the public hearing, and review and consideration of the applicable requirements and criteria set forth in the Zoning Ordinance with regard to the relief being sought, the Planning Board makes the following Findings:

1. Special Permits for development in the Central Square Overlay District (Section 20.300)
The Project requires special permits under the provisions of the Central Square Overlay District for waiver of setback and open space requirements, described in further detail below. In granting such special permits the Planning Board finds that the Project is in general conformance with the standards set forth in Section 20.305, for the reasons set forth below.

20.305. Standards for Issuance of Special Permits. In addition to the general standards for the issuance of a special permit found in Section 10.40 of the Zoning Ordinance, the special permit granting authority shall in addition make the following findings:

(1) The proposed development is consistent with the goals and objectives of the Central Square Action Plan:

- *encourage responsible and orderly development;*
- *strengthen the retail base to more completely serve the needs of the neighborhoods;*
- *preserve the Square’s cultural diversity;*
- *create active people oriented spaces;*
- *improve the physical, and visual environment;*
- *provide retail establishments that serve people of diverse economic and social groups who live in the surrounding neighborhoods;*
- *encourage the development of new mixed income housing; and*
- *promote compatible retail adjacent to residential uses.*

The proposed development makes minor alterations that respect the building’s existing character and do not negatively impact the development goals and objectives for Central Square.

- (2) The building and site designs are consistent with “Urban Design Plan for Central Square” as outlined in the “Central Square Action Plan” and the “Central Square Development Guidelines”;*

The proposed minor alterations and additions are barely perceptible on the street-facing elevations and therefore have no substantive impact on the public realm. The window and clapboard siding on the west face appear are a good fit with the building’s existing character.

- (3) The building and site designs adequately screen the parking provided and are sensitive to the contributing buildings in the vicinity;*

The off-street parking will continue to be provided in an enclosed garage accessed from Franklin Street.

- (4) No National Register or contributing building is demolished or so altered as to terminate or preclude its designation as a National Register or contributing building; and*

- (5) No National Register or contributing building has been demolished or altered so as to terminate or preclude its designation within the five (5) years preceding the application.*

The existing contributing building’s exterior façade will be restored without modification that will impact its designation. Staff from the Cambridge Historical Commission have reviewed the designs along with CDD urban design staff and are supportive of the proposed restoration.

The Board makes the following additional findings with regard to the specific special permits being sought.

2. Special Permits for waiver of yard requirements and open space requirements in Central Square Overlay District (Section 20.304.4)

20.304.4 Waiver of Setback and Open Space Requirements.

- 1. Yard Setbacks. Upon issuance of a special permit from the Planning Board the yard requirements of a base zoning district may be waived except where such yard abuts a lot, but not a public way, outside the Overlay District. However, in waiving or reducing a front yard setback, the Planning Board shall take into account the width of the adjacent public sidewalk and may limit the reduction of the setback in order to provide additional sidewalk width within the front yard setback where appropriate, taking into account applicable City standards and expected pedestrian traffic on the street.*
- 2. Private Open Space. Open Space shall be provided as required in the Base Zoning District, however the Planning Board may allow, by Special Permit, the reduction of required Open Space, and permit such Open Space to be located at levels other than at grade if the applicant can demonstrate that the urban design objectives as set forth in the Central Square Overlay District can be met.*

The existing setbacks and the amount of open space on the lot are nonconforming with respect to base zoning. The sidewalks on both Pearl Street and Franklin Street are approximately 7' wide, which is sufficient to accommodate expected pedestrian traffic on those streets. The total amount of Open Space will decrease to be only 0.2% less than what currently exists.

3. Special Permits for alteration of preexisting dimensionally non-conforming building height of a detached single-family dwelling (Section 8.22.2(d))

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.

d. In all districts the Board of Zoning Appeal may grant a special permit for the alteration or enlargement of a preexisting dimensionally nonconforming detached single-family dwelling or two-family dwelling, not otherwise permitted in Section 8.22.1 above, but not the alteration or enlargement of a preexisting nonconforming use, provided that there is no change in use and that any enlargement or alteration of such preexisting nonconforming detached single-family dwelling or two-family dwelling may only increase a preexisting dimensional nonconformity but does not create a new dimensional nonconformity. In order to grant the special permit the Board of Zoning Appeal is required to find that the alteration or enlargement shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood, and that the alteration or enlargement satisfies the criteria in Section 10.43.

The Application proposes to demolish and replace a roof headhouse access, which will increase the height of the building from approximately 47.1 feet to approximately 48.2 feet. The district height limit, as modified by the Central Square Overlay District, is 45 feet. At the initial public hearing, the Planning Board requested a legal opinion concerning the question of whether a special permit could be granted to allow an increase in height as proposed in this case. The Board received a communication from Nancy E. Glowa, City Solicitor, dated August 13, 2021, expressing the legal opinion that “although the Property is arranged, intended or designed as the home or residence of one family, it does not fall under the Zoning Ordinance’s definition of a ‘detached dwelling’ and it instead falls under the definition of a ‘semi-detached dwelling (or Townhouse or Row House)’ and the provisions of Section 8.22.2(d) are not applicable to the Property “ and therefore “the Planning Board may not grant a special permit to allow the increase in the height at the Property, and the Applicants will need to apply to the BZA [Board of Zoning Appeal] for a variance for that relief.” The Applicant subsequently requested leave to withdraw its application for a special permit under Section 8.22.2 in order to apply for a variance from the BZA, and the Planning Board granted such leave to withdraw without prejudice.

4. General Criteria for Issuance of a Special Permit (Section 10.43)

The Planning Board finds that the project meets the General Criteria for Issuance of a Special Permit, as set forth below.

10.43 Criteria. Special permits will normally be granted where specific provisions of this Ordinance are met, except when particulars of the location or use, not generally true of the district or of the uses permitted in it, would cause granting of such permit to be to the detriment of the public interest because:

(a) It appears that requirements of this Ordinance cannot or will not be met, or ...

Upon granting of the requested special permits, with the exception of the requested special permit under Section 8.22.2 for the increase in height discussed above that will require relief by variance from the BZA, it appears that the requirements of the Ordinance will be met in regard to the yard setback and open space requirements.

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

The proposed renovation of an existing single-family row house is not anticipated to cause particular congestion, hazard, or substantial change in established neighborhood character.

(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, or ...

The proposed uses comply with allowed uses in this district and will not adversely affect adjacent uses that exist or are anticipated in the future.

(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, or ...

The proposed uses will not create nuisance or hazard, and all development activity will be subject to applicable health and safety regulations.

(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, and ...

The Applicant proposes to continue using the property for single-family residential use.

(f) the new use or building construction is inconsistent with the Urban Design Objectives set forth in Section 19.30.

The Board finds no inconsistency with the citywide urban design objectives. The Proposal is consistent with the pattern of development in the area and will have a minimal impact on abutters and City infrastructure.

DECISION

Based on a review of the Application Documents, testimony given at the public hearings, and the above Findings, the Planning Board hereby grants LEAVE TO WITHDRAW, without prejudice, the application for a special permit to increase the preexisting nonconforming building height pursuant to Section 8.22.2 of the Zoning Ordinance, and subsequently GRANTS the requested Special Permits for waiver of yard and open space requirements pursuant to Section 20.304.4 of the Zoning Ordinance, subject to the following conditions and limitations. Hereinafter, for the purposes of this Decision, the Permittee shall mean the Applicant for the requested Special Permits and any successor or successors in interest.

1. All use, building construction, and site plan development shall be in substantial conformance with the Application Documents and other supporting materials submitted to the Planning Board, except as modified by the additional Conditions of this Special Permit Decision. The project plans hereby approved by the Planning Board are the plan set titled 48 Pearl St Volume 2 prepared by Frank Shirley Architects, dated 6/3/2021. Appendix I summarizes the dimensional features of the project as approved.
2. The project shall be subject to continuing design review by the Community Development Department (“CDD”). Before issuance of each Building Permit for the project, CDD shall certify to the Superintendent of Buildings that the final plans submitted to secure the Building Permit are consistent with and meet all conditions of this Decision. As part of CDD’s administrative review of the project, and prior to any certification to the Superintendent of Buildings, CDD may present any design changes made subsequent to this Decision to the Planning Board for its review and comment.
3. The alterations proposed to the rooftop headhouse shall require relief from height limitations by variance from the Board of Zoning Appeal (BZA). The Planning Board cannot grant such relief by special permit. The proposed alterations shall be authorized only if the necessary relief is granted by the BZA.
4. The Permittee shall address the following comments through the continuing design review process set forth above. Each of the below items shall be subject to CDD review and approval of the final design details prior to issuance of a Building Permit:
 - a. Selection of all exterior materials, colors, and details.
 - b. Any work required in the public right of way and protections to basement improvements, if proposed, shall also be reviewed by the Department of Public Works.
5. All authorized development shall abide by all applicable City of Cambridge Ordinances, including the Noise Ordinance (Chapter 8.16 of the City Municipal Code).

Voting in the affirmative to grant the requested Special Permits were Planning Board Members Louis Bacci, Jr., H Theodore Cohen, Steven Cohen, Catherine Preston Connolly, Mary Flynn Hugh Russell, and Tom Sieniewicz, constituting at least two thirds of the members of the Board.

For the Planning Board,

A handwritten signature in cursive script that reads "Catherine Preston Connolly". The signature is written in black ink and is positioned below the text "For the Planning Board,".

Catherine Preston Connolly, Chair

A copy of this decision PB #380 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 has been filed on October 5, 2021 with the Office of the City Clerk, by Swaathi Joseph, duly authorized representative of the Planning Board. All plans referred to in the decision have been filed with the City Clerk on said date.

Twenty days have elapsed since the above decision was filed in the office of the City Clerk and:
_____ no appeal has been filed; or

_____ an appeal has been filed within such twenty days.

The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This certification shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the periods provided under the second paragraph of G.L. c. 40A, §6.

Date: _____, City Clerk

Appeal has been dismissed or denied.

Date: _____, City Clerk

Appendix I: Approved Dimensional Chart

	Existing	Allowed or Required	Proposed	Permitted
Lot Area (sq ft)	1,500	5,000	1,500	No Change
Lot Width (ft)	20.0/75.0	50.0	20.0/75.0	No Change
Total GFA (sq ft)	2,856	3,000	2,854	2,854
Residential Base	2,856	3,000	2,854	Consistent with Application Documents and applicable zoning requirements
Non-Residential Base	0	0	0	
Inclusionary Bonus	n/a	n/a	n/a	
Total FAR	1.9	2.0	1.9	Consistent with Application Documents and applicable zoning requirements
Residential Base	1.9	2.0	1.9	
Non-Residential Base	0	0	0	
Inclusionary Bonus	n/a	n/a	n/a	
Total Dwelling Units	1	1	1	1
Base Units	1	1	1	Consistent with Application Documents and applicable zoning requirements
Inclusionary Bonus Units	n/a	n/a	n/a	
Base Lot Area / Unit (sq ft)	1,500	300	1,500	
Total Lot Area / Unit (sq ft)	1,500	300	1,500	
Height (ft)	47.1	45	48.2	Subject to variance by the Board of Zoning Appeal ³
Front Setbacks (ft)	7.9	10	7.9	Consistent with Application Documents and applicable zoning requirements
Side Setback (ft)	0.2	10	0.2	
Side Setback (ft)	-0.7 ¹	7.5	-0.7 ² /0.0	
Rear Setback (ft)	4.8	5.9	4.8	
Open Space (% of Lot Area)	13.8%	30%	13.6%	Consistent with Application Documents and applicable zoning requirements
Private Open Space	0%	15%	0%	
Permeable Open Space	13.8%	15%	13.6%	
Off-Street Parking Spaces	2	2	2	2
Long-Term Bicycle Parking	0	n/a	0	Consistent with Application Documents and applicable zoning requirements
Short-Term Bicycle Parking	0	n/a	0	
Loading Bays	0	n/a	0	

¹ Existing side setback encroaches on abutting property.

² Existing side setback encroaches on abutting property.

³ Proposed alterations to rooftop headhouse shall be permitted only if the necessary relief from height limitations is granted by variance from the Board of Zoning Appeal (BZA), per Condition #3 of this Special Permit Decision.