

CITY OF CAMBRIDGE, MASSACHUSETTS
PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

NOTICE OF DECISION

CASE NO: PB#84

PREMISES: 4-6 Arrow Street, 1136 Massachusetts Avenue, 13-15, 17,
and 19 Mount Auburn Street

PETITIONER: Gunwyn/Cambridge Arcade Limited Partnership

APPLICATION DATE: November 16, 1988

DATE OF HEARING: December 6, 1988

PETITION: Special Permit to construct a 51,549 square foot
office building with first floor retail use and
elimination of the side yard setback requirements,
and a reduction in the loading requirements in the
Harvard Square Overlay District.

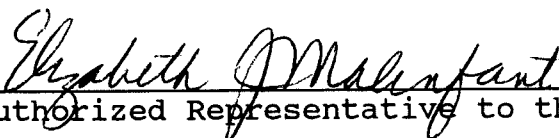
DATE OF PLANNING BOARD DECISION: March 7, 1989

DATE OF FILING THE DECISION: March 15, 1989

Decision (summary): The Planning Board voted to GRANT the
Special Permit for the elimination of the side yard
setback requirements and to DENY the retail use in the
Office District with the conditions.

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 date of 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 Community Development and the City
Clerk.


Authorized Representative to the Planning Board

3/15/89
Date

CASE NO: PB#84

PREMISES: 2-4 Arrow Street, 1136 Massachusetts Avenue, 13-15, 17,
and 19 Mount Auburn Street

ZONING DISTRICT: Office 3, Harvard Square Overlay District

PETITIONER: Gunwyn/Cambridge Arcade Limited Partnership

APPLICATION DATE: November 16, 1988

DATE OF HEARING: December 6, 1988

PETITION: Special Permit to construct a 51,549 square foot office building with first floor retail and modified side yard setback requirements in the Harvard Square Overlay District. (Sections 11.545 and 11.543(b) of the Harvard Square Overlay District)

NOTICE OF PUBLIC HEARING: Notice of the December 6, 1988 hearing appeared in the legal advertisement section of the TAB on November 22, and 29, 1988, and was posted on the Clerk's bulletin board at City Hall, and mailed to the abutting property owners as required by law.

DATE OF PLANNING BOARD DECISION: March 7, 1989

DATE OF FILING THE DECISION: March 15, 1989

DOCUMENTS SUBMITTED:

1. Special Permit Application filed with Community Development Department on November 16, 1988.
2. Plans, elevations and details dated site plan, sheets A-1 through A-6, F-1, S-1, S-2, me-1, and me-2 at various scales.

OTHER DOCUMENTS

1. Letter to the Planning Board from Riika Welsh and others dated 12/6/88, opposing the project.
2. Letter to the Planning Board from Rochelle Albin, dated 1/3/89, opposing the project.
3. Letter to the Planning Board from Lauren Preston, Deputy Traffic Director for the City of Cambridge, dated 12/15/88, reviewing the project.

4. Memorandum in support of the application from Gunwyn/
Cambridge Arcade from Victor Balter of Sullivan & Worester.
5. Memo to the Planning Board and CDD staff from Hugh Russell,
dated 1/2/89 concerning the proposal.
6. Letter to the Planning Board from Councilor William Walsh,
dated 12/7/88, opposing the project.
7. Letter to the Planning Board from Christina Malin, Manager of
the Asian Books, Inc. dated 12/6/88, supporting the proposal.
8. Letter to the Planning Board from Steffi Sommer dated
12/5/88, opposing the proposal.
9. Letter to the Planning Board from Robert J. LaTremouille,
Attorney at Law, dated 2/2/88, opposing the proposal.
10. Letter to the Planning Board from Robert J. LaTremouille,
Attorney at Law, dated 2/7/89, supplementing the letter of
2/2/88.
11. Meeting minutes between The Gunwyn Company and Metropolitan
Parking Systems, Inc regarding possible parking management
techniques.
12. Letter to the Planning Board from Jan Brodie, of the Gunwyn
Company dated 1/12/89, responding to the Planning Board
comments from the 1/7/89 meeting, including deleting the
request for relief from the loading requirements.
13. Letter to the Planning Board from Jan Brodie, of the Gunwyn
Company dated 2/13/89, regarding the application.
14. Letter to the Planning Board from Councilor David Sullivan
dated 2/13/89, discussing the issue of fronting.
15. Memo to the CDD staff from Hugh Russell, dated 2/10/89,
suggesting possible conditions for the proposal.
16. Letter to the Planning Board and others, dated 2/21/89, from
Robert LaTremouille, Attorney at Law, complaining about the
Gunwyn Application.
17. Letter to the Planning Board from Vice Mayor Alice Wolf,
dated 2/17/89, regarding the issue of fronting.
18. Letter to the Planning Board from Terry Crystal of the East
Harvard Sqaure Neighborhood Association dated 2/14/89,
opposing the proposal.

19. Letter to Michael Rosenberg, Assistant City Manager, from Paul Dietrich, Chair, dated 2/9/89, requesting an opinion regarding a possible conflict of interest.
20. Determination by Robert W. Healy, dated 2/21/89, in answer to the possible conflict of interest.
21. Photographs of the plans and renderings of the proposal.
22. Letter to the Planning Board from Robert J. LaTremouille, Attorney at Law, dated February 22, 1989 commenting on the Planning Board meeting of 2/21/89.
23. Letter to the Planning Board from Jan Brodie, Vice President of Gunwyn Company, dated March 1, 1989, granting a two week extension for consideration of the Special Permit.

PUBLIC HEARING

At the public hearing held on December 6, 1988 at the Community Development Conference Room, the City Hall Annex, Jan Bordie presented the request for the Special Permit which consists of three requests for relief. The first is to allow a retail use in the Office-3 zone within the Harvard Square Overlay District. The development would conform to the intent of the law in that the front main entrance of the building would be fronting onto Massachusetts Avenue, if not technically possessing a Mass Avenue address. The second request is to waive the loading dock dimensional requirement in order to minimize its visual impact on the street arcade. The last request is for a waiver of the setback requirement in the Office-3 district. Instead of the required setbacks, the project would have a publicly accessible arcade space through the center of the building.

Those speaking in support of the petition favored the proposed retail use as consistent with the character of the district as it exits, and a help in keeping the building and the area lively and more inviting. The total building program was thought to improve substantially the existing site conditions in a manner sympathetic to the adjacent buildings and the district in general. The design was thought to be well conceived and a positive addition to Harvard Square.

Those speaking in opposition had a number of objections: the tight site and narrow Arrow Street require that all loading dock requirements be met; that the building clearly does not front on Massachusetts Avenue and therefore does not qualify for a Special Permit retail use; that the district is residential and office in character and additional retail is inappropriate; that the new office and retail uses will generate excessive traffic and negatively impact the neighborhood; that the waiver of the

setback requirements will permit the construction of a building much larger than otherwise would be possible on the site.

After a discussion of some the questions from the Planning Board and from the public attending the hearing the chair asked for statements in support of the proposal.

Speaking in support

Betty , Harvard Street doing business at 10 Arrow Street
George Turnbull, 15 Mount Auburn Street
Greg Larson, resident of Cambridge, Commercial Broker
Brian Douse, owner of abutting building, 10-14 Arrow Street

Speaking in opposition

Natalie Ward, 1170 Massachusetts Avenue
Terry Crystal, 1170 Massachusetts Avenue
?, 1137 Massachusetts Avenue
Wendy Barry-Gould, 527 Franklin Street
Robert LaTremouille, Franklin Street
Shepard Spunt, 21 Elmer Street
Jim Farrell, 944 Cambridge Street
Larune Flynn, 1170 Massachusetts Avenue
?, 26 Mount Auburn Street
Rico Welsh, 616 Green Street
?, Ellery Street
Michael Turk, 24 Prescott Street
Eric Warner, 28 Bay Street
John Pitkin, 18 Fayette Street, MidCambridge Nieghborhood
Association

FINDINGS

1. The proposal conforms to the requirements of Section 11.545 of the Zoning Ordinance Harvard Square Overlay District which permits the Planning Board to exempt any development from the yard requirements normally imposed in the Office-3 District.
 - a. No National Register or contributing building has been or will be demolished or altered within the five years preceding the application or subsequently. In action taken on May 5, 1988 by the Cambridge Historical Commission, no building demolished or removed from the applicant site was declared a preferably preserved significant building; therefore under the provisions of Section 11.533 those buildings demolished or removed from the site to allow for the proposed new construction are not considered contributing buildings for purposes of the Harvard Square Overlay District.
 - b. The development proposal conforms in general to the objectives and criteria applicable to the site as set forth in the Harvard Square Development Guidelines.
 - (1) Guidelines Applicable to the Entire District:
 - (a) Three framed, residentially scaled buildings will be retained and preserved, (one on the development site, two on an adjacent lot,) through the conveyance of a perpetual preservation easement to the City of Cambridge. With this action the domestic scale of this portion of Mount Auburn Street will be protected and further assemblage of small lots to facilitate the construction of a larger building along Massachusetts Avenue will be made more difficult. It is because of the preservation of these buildings that the Historical Commission chose not to identify any building on the site as preferably preserved.
 - (b) The new construction is for most of its height treated as a free standing building with the maintenance of thirteen foot setbacks from the side property lines above the first floor. That detail, in combination with the retention of the small frame buildings on the adjacent site re-enforce the existing pattern of discrete buildings and widely varying scales characteristic of the commercial neighborhood surrounding it.
 - (2) Guidelines Applicable to the Bow and Arrow Street Subdistrict:

While significantly increasing the density of building on the site, the development proposal does establish a range of building scales in a pattern of independent buildings. A variety of open spaces are maintained through modest front yard setbacks at both Mount Auburn and Arrow Streets and around the frame structures that will be retained.

2. In assessing the appropriateness of granting a waiver of setback requirements, a review of the existing building context is reasonable. While the Office-3 district mandates minimum yard setbacks, much of the existing building in the neighborhood does not conform to these requirements including several buildings of the same general scale as the proposed new construction. Until 1960 the area now designated Office-3 had been zoned Business-A for forty years, a district which then as now required no setbacks. Much of the development in the district undoubtedly predated even that first Zoning Ordinance in Cambridge, adopted in 1924. St. Paul's Church, 8-10 Arrow Street, 1200 Massachusetts Avenue are all very large buildings which provide little or no setback at the public streets or to their side yards where they exist. Both the buildings on the lots abutting the proposed development on Arrow Street in part sit directly on their side lot lines. A building of this scale meeting fully the setback requirements of the Office-3 district would be an anomaly in its neighborhood. However, the new building above the first floor does provide 13 foot setbacks from the side lot lines and modest, variable setbacks from both front lot lines. For the most part the proposed new structure maintains respectful distances from abutting properties where appropriate without the creation of unusable or unattractive yards.
3. The appropriateness of the waiver of setback requirements is also in part dependent on the intent of the provision when adopted. In 1979 the original Overlay District waived automatically any setback requirements imposed by any base district. In 1986 the revised Overlay District permitted the waiving of those setback requirements by special permit only. Accompanying those actions was the imposition of height limits in the Office-3 District for the first time, those limits being more restrictive in 1986 than in 1979. Implicit in these actions, in combination, was a specific tradeoff of shorter buildings with a wider street profile in preference to taller, slimmer buildings with wide and variable setbacks (as indicated by the new construction at 931 Massachusetts Avenue, a building ca. 100 feet in height on an almost identical lot constructed to meet all of the Office-3 setback requirements.) In adopting the height limit and setback waiver provisions of the Overlay District there was no implicit or explicit understanding that a

setback waiver would be withheld in order to specifically reduce the amount of gross floor area which could be constructed on the site under unmodified Office-3 regulations. On the contrary the imposition of the special permit process was advocated explicitly as a means of reviewing the suitability of the proposed design in its specific physical context.

4. The Board finds that in its major details the proposed new building is sensitive to its built context, meets the general objectives of the Overlay District for this subdistrict, and provides, in exchange for the setbacks not provided, an interior space which provides public access into the private building and over the lot in a pedestrian sequence that promises to be both pleasant and useful to the community as a whole.
5. Minor adjustments to the building as it faces Arrow Street are appropriate, however, to better relate the new building to its two neighbors. Specifically, modification to the two one story building wings, through further setbacks, lowering of the roofs, and/or lowering of their heights, should be made so as to make the one story building elements that abut the development at 1134 Massachusetts Avenue and 8-10 Arrow Street more visible when 4-6 Arrow Street is constructed. These changes can be accomplished through the standard design review required by this Decision and conducted by the Community Development Department as final architectural plans are completed.
6. With regard to the request for a special permit to allow retail uses in the Office-3 District, Section 11.543 (b), the subject lot must be found to be fronting on Massachusetts Avenue. The Overlay District provides no standards by which that determination is made and before the merits of retail use at this location are addressed the Board must determine whether the lot fronts on Massachusetts.
 - a. In determining this question of frontage on Massachusetts Avenue, the intent of the specific Overlay District provision is central to the analysis. Section 11.543(b) establishes a less stringent requirement for retail uses in buildings along Massachusetts Avenue (principally by allowing such uses in new construction rather than exclusively in existing buildings as is the case for lots not fronting on the Avenue). It would appear that that lesser standard was adopted to foster a public objective of continuous retail frontage along the Avenue which could serve the multiple objectives of improved pedestrian amenities along the chief shopping street serving the

abutting neighborhoods of Mid-Cambridge and Riverside and to provide areas for retail and commercial services for these neighborhoods at locations which would be convenient and yet not interfere with the residential character of the immediately adjacent residential streets. The regulation would also seem to be acknowledging that in the Harvard Square Overlay District, between Putnam Square and Harvard Square there are only two short blocks where retail use is not a permitted use along Massachusetts Avenue. Despite the Office-3 designation on these two blocks a substantial inventory of retail businesses are existing as non-conforming but clearly permanent uses; therefore any new construction on the Avenue should reinforce its existing essentially retail character which public policy has determined to be desirable.

- b. It is clear from the historical record that the subject lot has always had an Arrow Street address. While clearly unambiguous as to how this lot or series of lots is identified for many official city purposes (locational identification for fire and police, delivery of mail, etc.) the address identification alone does not adequately define the term fronting as used in the Harvard Square Overlay District. It is the Board's view that the term is meant to describe a physical relationship to Massachusetts Avenue, irrespective of any official street designation and that that physical relationship should be analyzed in the light of the intent of the provision as outlined above.
- c. A strictly mechanical analysis of the lot's physical location vis a vis Massachusetts Avenue provides little evidence that this lot should be treated differently from the immediately adjacent lot which is given a Massachusetts Avenue address.

(1) No private lot exists which could be built on in the future, that would separate 4 Arrow Street visually from Massachusetts Avenue.

(2) Extension of the center line of Arrow Street results in its intersection with the centerline of Massachusetts Avenue well to the east of 1132 Massachusetts Avenue two lots to the East,

(3) Connection of the discontinuous southerly sidelines of Massachusetts Avenue, across Arrow Street, leaves 1134 and 1132 Massachusetts Avenue as well as 4 Arrow Street appearing to front on Arrow Street rather than Massachusetts Avenue.

(4) Viewed from across Massachusetts Avenue in the vicinity of 1131 and 1137 Massachusetts Avenue lots 1132 and 1134 Massachusetts Avenue and 4 Arrow Street all seem to have the same relationship to the Avenue, i.e. slightly deflected from the principal direction of the Avenue but nevertheless having a fairly direct visual relationship to it. Clearly a choice has to be made as to when Arrow Street begins; from the physical evidence in this particular circumstance the choice would appear to be fairly arbitrary: any of the three lots, 1132, 1134 Massachusetts Avenue and 4 Arrow Street could have either Massachusetts Avenue or Arrow Street addresses. The commercial history of 4 Arrow Street also suggests this ambiguity as unofficially businesses on the site have chosen to use an 1136 Massachusetts Avenue address.

- d. It is clear that the applicant lot is transitional in nature and were the discussion limited to an analysis of 6 Arrow Street only it would be clear from the physical context that the fronting standard in the zoning ordinance could not be met. However the subject lot does include 4 Arrow Street and it would appear that it is at this location that a determination must be made on the issue of fronting. Section 11.543(b) does not set a minimum dimension for fronting; therefore a finding of partial fronting on the Avenue would be sufficient to establish conformance with this specific requirement of Section 11.543 for the entire development parcel. From the foregoing analysis both of the physical circumstances at the site and of the basic intent of the Overlay District provisions the Board finds that the subject lot does front on Massachusetts Avenue and that the Board is free to consider the merits of retail use on this site as proposed by the applicants, by a special permit, under the provisions of Section 11.543(b) by virtue of the inclusion of 4 Arrow Street in the development parcel.
7. While a lot must be found to be fronting on Massachusetts Avenue before any proposed new construction may be eligible for a Special Permit for Retail Use under the provisions of Section 11.543(b), the Board must further find that the specific development proposal conforms to the additional requirements of Section 11.543(b), as well as to the more general standard of conformance to the intent of the provision, before issuance of a Special Permit. In addition the Board must find that in its specific location and in its specific design details the retail use is appropriate in this location.

- a. The uses proposed are permitted in the Business-B District; no use specifically prohibited in Subsection 11.543(a)(11) is proposed.
- b. The retail use is not located in an existing building and no contributing building will be altered or destroyed in constructing the new building within which the retail uses are proposed to be located.
- c. No retail use will displace an existing residential or dormitory use.
- d. With regard to the specific design and arrangement of the retail aspects of the development proposal, the Board finds that the intent of the retail provision is not met at this location and that, therefore, the retail special permit should not be granted.

(1) While a finding can reasonably be made that the lot fronts onto Massachusetts Avenue the conformance to that requirement is marginal at best. The intent of the provision is to permit retail uses that face foreshore onto the Avenue so that each retail establishment will have direct access to the sidewalk as is the customary pattern of retail development now. While an internally oriented retail element is certainly not prohibited under any provision of Section 11.543(b), such a building organization, in combination with a location only marginally within the Massachusetts Avenue retail corridor, removes the retail focus and center of activity well away from the Avenue.

(2) While a through block arcade is a desirable feature of this design and will benefit both the commercial and residential Harvard Square communities it does provide major entry to the retail component from Mount Auburn Street. In addition, at least two retail establishments will have frontage, if not direct access, to Mount Auburn Street. Additionally, there is nothing in the arrangement which establishes the Mount Auburn Street entry as secondary to the Massachusetts one. While perhaps not strictly prohibited under the provisions of Section 11.543(b) the arcade arrangement in this location effectively orients the retail component as much to Mount Auburn Street as Massachusetts Avenue in contravention to the intent of Section 11.543(b).

(3) While retail uses are scattered throughout the Office-3 District this development is located in an

area particularly along Mount Auburn Street that does not have a strong retail appearance or ambience.

9. The general criteria for issuance of a special permit, as outlined in Section 10.43, are met with the development proposed as modified by this decision. The Board makes a special note that the arrangement of parking and loading has been reviewed by the Traffic and Parking Department and found acceptable (with the modification of the loading to conform to the requirements of Article 6.000) and that the traffic generated by the development will not cause congestion, hazard or substantial change in the character of the area surrounding the development.

DECISION


After review and due consideration of information presented by the applicant, comments made at the public hearing, subsequent discussions by the Board and the staff, the Planning Board GRANTS a Special Permit to exempt the proposed development from the Office-3 setback requirements, as authorized in Section 11.545, and DENIES a Special Permit for Retail Business Establishments in an Office District, as authorized in Section 11.543(b), for the reasons outlined in the findings above, subject to the following conditions.

1. The final plans for which a building permit is sought shall conform in general to the plans as submitted with the application except as further modified by this decision. The plans shall conform to the dimensional limitations detailed in Appendix I of this Decision.
2. The design shall continue to undergo design review through the Community Development Department and the Department shall certify in writing to the Superintendent of Buildings that the Final Plans submitted for a building permit are in conformance with this decision.
3. The site development and architectural plans shall be modified as follows:
 - a. The loading dock shall be modified so as to conform to the requirements of Article 6.000.
 - b. The two one-story wings facing Arrow Street shall be modified so as to provide greater visibility and light to the one story building elements immediately adjacent on lots at 1134 Massachusetts Avenue and 8-10 Arrow Street (see Finding #5 above).

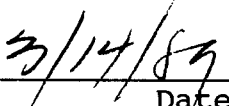
4. The public sidewalks adjacent to the lot shall be reconstructed and paved in brick, meeting all City of Cambridge standards.
5. Signs on Mount Auburn Street shall be limited in total to 12 square feet in area. They shall be unilluminated and provide identification for the building only as well as any necessary directional signs.
6. Traffic entry and exit to the garage shall be reversed from that shown on the application plans provided no objection is made by the Traffic and Parking Department (entry at the west end of the building, exit at the east end).
7. All uses in the building shall conform to the use limitations of the Office-3 District.
8. All conditions of the Decision of the Cambridge Historical Commission, dated May, 1988 shall be made a condition of this decision.
9. Except as specifically provided for in this Decision, the permittee is obligated to comply with all other provisions of the Zoning Ordinance or any other applicable local ordinances.

Voting to GRANT the Special Permit to exempt the development from the Office-3 setback requirements were Archeson Callaghan, Clarence Cooper, David Kennedy, Paul Dietrich, Hugh Russell, and Alfred Cohn. Voting to DENY the Special Permit was Carolyn Mieth.

Voting to DENY the Special Permit to allow retail use in the Harvard Square Overlay District were Carolyn Mieth, Clarence Cooper, and Paul Dietrich. While the motion to deny was defeated, there being less than two thirds of the Board voting to grant the Special Permit for retail use the permit is nevertheless denied.



For the Planning Board



Date

DIMENSIONAL FORM

| | Allowed/Required | Existing | Proposed | Granted |
|-----------------------------------|---------------------|--------------------|---------------------|----------------------|
| Floor Area Ratio (Floor Area) | 3.0 56,589 sq ft | 1/4 5,040 sq ft | 3.0 51,549 sq ft | 2.91 56,589 sq ft |
| Maximum Height | 60 feet | 37 feet | 60 feet | 60 feet |
| Max Angle Above Cornice Line | NA | vacant | 45 degrees | 45 degree |
| Min Lot Size | NA | ---- | ---- | ---- |
| Min Lot Area per Dwelling Unit | NA | ---- | ---- | ---- |
| Max Number of Dwelling Unit | NA | ---- | ---- | ---- |
| Min Lot Width | NA | ---- | ---- | ---- |
| Min Setbacks Front | 41 feet | NA | 0 | Setbacks |
| Side | 34 feet | NA | 0 | per |
| right | 34 feet | NA | 0 | |
| Rear | 41 feet | NA | 0 | Decision |
| Open Space Ratio | 10 % | NA | 18 % 3,418 sq ft | 18 % |
| Off Street Parking Minimum No. | 48 | +20 | +54 | 52* |
| Maximum No. | 79 | - | | 52* |
| Handicapped | 3 | 0 | 4 | 1 |
| Bicycle | 5 | 0 | 5 | 5 |
| Loading Bays | 1 | 0 | 3/4 | 1 |

* If the number of parking spaces increases above the granted number, then the permittee will be subject to the pending traffic mitigation zoning if ordained.