



CITY OF CAMBRIDGE  
CAMBRIDGE, MASSACHUSETTS 02139



7.

TEL 349-4300  
FAX 349-4307

EXECUTIVE DEPARTMENT  
ROBERT W. HEALY  
City Manager

RICHARD C. ROSSI  
Deputy City Manager

September 28, 1998

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item 26, regarding a report on the construction activities at 2277 Massachusetts Avenue, received from Inspectional Services Commissioner Robert Bersani.

Very truly yours,

Robert W. Healy  
City Manager

RWH/mec  
Attachment



CITY OF CAMBRIDGE  
INTEROFFICE CORRESPONDENCE

August 21, 1998

To: Robert W. Healy, City Manager

From: Bob Bersani, Inspectional Services

Subject: Council Order #174, dated 7/27/98 RE: REPORT ON  
CONSTRUCTION ACTIVITIES AT 2277 MASSACHUSETTS AVENUE

OFFICE OF THE CITY MANAGER  
98 AUG 26 AM 8:58

In response to this Council Order, I have investigated the construction project at 2277 Massachusetts Avenue and my report is detailed below.

In summary, during the course of this construction, zoning violations were uncovered relating to building height and in changes being made in the nonconforming left side setback. When these violations were brought to the attention of the owner, appropriate action was taken to bring the building into compliance with the Zoning Ordinance. Also, work was stopped in the areas effected by the violations until revised drawings were approved. Revised drawings meeting the requirements of Zoning Ordinance were approved on 8/21/98 and the stop work order lifted. Work is now proceeding.

It took longer to resolve this matter than I would have liked and for that I accept responsibility. There were, however, several unique factors on this project that complicated the review process. They include:

- a. The original structure underwent major modifications in 1978. As the building permit plans on file were not followed, it was necessary to rely on recent as-built drawings prepared and certified by the owner's architect and photographs in order to determine the building's preexisting dimensions.
- b. Subsequent to the "as of right" building permit being issued for the 8 residential units, a variance was granted for use and dimensional relief(left side setback) for use as a bed and breakfast. This variance was never exercised, however. This was possibly a contributing factor to the violations that occurred and a source of confusion to those involved with the project.
- c. There are property line and encroachment concerns being raised by the abutter. I have reviewed the registered survey in this regard and have insured that the contractor complies with the statute concerning encroachment on adjoining property for purposes of property maintenance.

## Chronological report

- On 6/6/97, a building permit was issued for the alteration of 2277 Massachusetts Avenue for use as an 8 unit apartment building, an allowed use in this BA-2 zone. The maximum gross floor area (GFA) allowed in this zone for this 4800 sq. ft. lot is 8400 sq. ft. based on a 1.75 FAR. However, since the building is nonconforming as to setback on the left side, the GFA could only be increased by 10% above the existing which resulted in a GFA of 8,260 sq. ft. The maximum height allowed in the zone is 45 ft. The plans provided for dormers on the conforming right side and a foreshortened dormer on the left side. This foreshortened dormer was necessary because the building was nonconforming as to setback on that side.

- On or about 5/20/98, an inspection was conducted in response to a complaint and it was determined that, instead of the relatively small dormer on the left side of the building, the dormer had been extended into the same plane as the existing building facade in violation of the sideyard setback. The work in this area of the building was immediately stopped and the contractor directed to comply with the plans.

- On 5/27/98, the owner applied for a variance from the BZA for the above setback violation and a Hearing was scheduled for 7/16/98.

- On or about 6/30/98, I met with the abutters to this project and they expressed several concerns, in particular the height of the structure. An approximate measurement was immediately taken of the bldg. height by the building inspector and it was determined that the height exceeded the 45 ft limit by approx. 1 ft. 10 in. The contractor was directed to confirm the height and take action to bring the building into compliance.

- The height violation was confirmed by the owner and, on 7/16/98, the owner withdrew his request for a variance with the BZA and initiated a redesign of the structure to correct the setback and height violations. The work stoppage at the 4th level of the building and the roof remained in effect pending the completion of the redesign and the approval of the revised plans.

- On or about 7/29/98, the contractor submitted revised drawings of the roof area correcting the height and dormer setback violations and these drawings were approved on 7/30/98. However, a subsequent review of related information (photographs and as-built drawings) revealed that other modifications (changes in the windows and eave height) were made in the left side setback which are not allowable.

- As these violations potentially effected the interior layout, all work on the project was stopped pending another plan revision.

- These revised drawings and associated floor area calculations were submitted on 8/17/98 and approved by ISD with stop work order lifted on 8/24/98.

- The revised plans still provide for the 8 living units with a gross floor area of 8,121 sq. ft., 139 sq. ft. less than the 8,260 sq. ft. under the original building permit.

Very truly yours,

A handwritten signature in dark ink, appearing to read "R. R. Bersani". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

R. R. Bersani

# EXHIBITS Agenda #7

1. ZONEING BOARD'S Decision Dec. 2, 1997 (PAG 4)
2. PERMIT # 75517 ISSUED FEB. 27, 1978
3. ARCHITECT MR. TATONE'S MAY 20, 1998 LETTER
4. PHOTO OF RAISED BUILDING AND FOOTING'S ON THE PROPERTY OF 2285 MASS. AVE.
5. 2277 BUILDING WITH COMPLETED REMODELING
6. PERMIT # 0597107 ISSUED MAY 7, 1997
- 7-7A POLICE REPORT OF AUGUST 1998.
8. ADDITION ON 2277 MASS. AVE. WITHOUT WINDOWS
- 9-9A ADDITION ON 2277 MASS. AVE. WITH WINDOWS
- 10 PHOTO'S SHOWING COMPLETE VIOLATION
- 11 SURVEYOR'S REPORT DATED JUNE 21, 1979  
PREPARED BY

Annette Di Stefano

P.O. BOX 717

CAMBRIDGE, MASS. 02140

(617) 441-0331

Top Sheet

Re; Council ORDER #176 DATED 7-27-98  
Report on CONSTRUCTION ACTIVITIES AT 2277  
MASS. AVE. INVOLVING MODERN CONTINENTAL  
CONSTRUCTION COMPANY.

1. The Commissioner begins his Report by stating, that several factors complicated the review process. Then he continues to state, "A lot of confusion and misunderstandings were due to the variances granted by the zoning appeals board. We enclosed a packet of photos and documentations for this honorable board to view actual facts. Enclosed is a copy of the zoning board's decision that was granted on December 2, 1997 to Modern Continental Construction Company. The zoning board made it very clear in this decision especially when they stated under the section of the decision pertaining to hardships, it states "Board found that desirable relief could be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or the purpose of this ordinance. Let's not forget the purpose of this ordinance was not for a hotel-motel. It was not intended for an (8) eight family dwelling. The intent and purpose was for an 18 bed and breakfast. The one factor not mentioned by the commissioner is, that Modern Continental  
P.1

CONSTRUCTION COMPANY WAS INDEED CONFUSE ABOUT THE VARIANCES. BUT ISN'T IT RATHER STRANGE THAT THEY FORGOT ALL ABOUT THE MANY SPECIAL CONDITION'S THAT THE BOARD PLACED ON THESE VARIANCES, WHICH WOULD HAVE HELPED TO CLEAR THE ISSUES.

2. The Commissioner's second factor is about the major modification's that took place with the ORIGINAL TWO (2) FAMILY STRUCTURE in 1978-1979 BY MODERN CONTINENTAL CONSTRUCTION COMPANY. THIS WAS A PERMIT TO REMODEL IT WAS GRANTED AND ISSUED ON FEBRUARY 27, 1978. IT IS KNOWN AS PERMIT # 75517. IN THE COMMISSIONER'S OWN WORDS, "THE PLANS THAT WERE PRESENTED FOR THIS PERMIT WERE NOT FOLLOWED BY MODERN CONTINENTAL CONSTRUCTION COMPANY. WE HAVE A COPY FOR COUNCIL MEMBER WHO WISH TO REVIEW IT. THE TWO (2) EXTREME MODIFICATION'S UNKNOWN TO INSPECTORIAL SERVICES BUT THEY WERE PERFORMED AND COMPLETED ILLEGALLY. 1. THE BASEMENT FLOOR WAS DUG OUT CLOSE TO (3) THREE FEET. THIS WAS TO INCREASE THE HEIGHT FOR PERSONAL OFFICE USE. 2. THEY RAISED THE BUILDING FOR ADDITIONAL HEIGHT ALSO IN THE BASEMENT. SEE MR. TATON THE ARCHITECT'S LETTER OF MAY 20, 1998 IN WHICH HE DENY'S THIS. BOTH ONE AND TWO CAN BE SEEN BY VIEWING PHOTO'S IN PACKET. IN PERFORMING BOTH ONE AND TWO MODIFICATION'S AND TO AVOID SERIOUS PROBLEMS WITH P.2.

The FOUNDATION, MODERN CONTINENTAL CONSTRUCTION COMPANY placed CONCRETE FOOTING ON THE PROPERTY OF THE AGGRIEVED ABUTTER'S AT 2285 MASS. AVE. WITHOUT PERMISSION AND ILLEGALLY placed. See PHOTOS AND SURVEYORS DOCUMENTATION SHOWING EXACT LOCATION OF THESE FOOTING'S. Some OF THESE SAME PHOTOS CAN ALSO help SHOW THE SIZE AND THE SPACE OF PREVIOUS STRUCTURE AFTER THE REMODELING. IN FACT YOU CAN ALSO VIEW THESE PHOTOS THAT DO SHOW WHAT CHANGED WITH THE REMODELING. ROOF DORMERS WERE RAISED TO ADD EXTRA HEIGHT TO THE ATTIC. ALSO NOTICE THAT WINDOWS WERE ALSO ADDED FOR THE LIGHT. NO ADDITION'S WERE MADE FOR ADDED SPACE IN 1978-79. BUT IN FEBRUARY OF 1995- FOR ADDITIONAL OFFICE SPACE MODERN CONTINENTAL CONSTRUCTION COMPANY DID INSTALL A PORTABLE MOBIL UNIT TO THE BACK OF THIS PROPERTY. THIS WAS NOT A PERMEMENT PART OF THE BUILDING BUT IT DID REMOVE THE PARKING SPACE AND REAR EGRESS OF THE ENTIRE BUILDING. THEY IN TURN REMOVED A SECTION OF OUR FENCE TO PUT STAIRS OUT ONTO OUR PROPERTY WITHOUT PERMISSION CREATING MORE TRESPASSING AND NUISANCE.

3. The COMMISSIONER STATES MODERN CONTINENTAL CONSTRUCTION COMPANY'S BUILDING PERMIT # 0597107 TO BUILD AN (8) EIGHT FAMILY DWELLING WAS AS HE STATE'S "AS OF RIGHT". I WOULD LIKE TO REMIND THE COUNCIL THIS WAS AL-

P.3

WAY'S A NON-CONFORMING BUILDING ON 4800 SQ. FT. THE PREVIOUS REMOLDING TURNED THE BASEMENT AND FIRST FLOOR INTO OFFICE SPACE (3) THIRD FLOOR AND ATTIC INTO (2) TWO APARTMENT THEY SHARED A 5 FT. PASSAGEWAY AS REAR EXIT'S. IT DID NOT CONTAIN ANY OPEN SPACE. (2) TWO PARKING SPACES WERE NOT REGULATED REQUIRED SQ. FT. THE ADDING OF A TOTALLY BRAND NEW TOP TWO FLOORS TO THE VERY TOP OF THIS ALREADY BURDENED AND WEAKENED FOUNDATION. SEE PHOTO OF THIS IN PHOTO WITHOUT WINDOWS TO THE TOP ADDITION. IT IS A TOTAL NEW ADDITION ON THE TOP OF THE STRUCTURE. THE PERMIT STATES ALTERATIONS WERE TO BE MADE NOT ADDITIONS TO THE STRUCTURE.

4.

THE COMMISSIONER FURTHER STATES THE ABUTTE HAD CONCERN'S ABOUT ENCROACHMENTS. WE DO BELIEVE IN SPITE OF ALL THE DOCUMENTATION'S, PHOTOS AND INFORMATION PLUS WITNESSES GIVEN TO THE COMMISSIONER, CITY MANAGER AND TO THIS HONORABLE BOARD THERE STILL EXISTS CONFUSION ABOUT WHAT'S GOING ON. ONE THING IS CERTAIN THAT IN THE PAST AND IN THE PRESENT MODERN CONTINENTAL CONSTRUCTION COMPANY HAS NOT COMPLIED WITH THE STATE AND CITY BUILDING CODE'S. IF YOU LOOK AT THE POLICE REPORT IN THE PACKET, YOU CAN SEE ON OR ABOUT AUGUST 1<sup>ST</sup>, 1998 WITHOUT PERMISSION FROM POLICE OR OWNER'S OR A BOND, MODERN CONTINENTAL CONSTRUCTION COMPANY TRESPASSED ON

P. 4

AGGRIEVED ABUTTERS PROPERTY WITH COMPLETE DISREGARD FOR CITY AND STATE BUILDING CODES.

SINCE MAY 20, 1998 SEE ARCHITECT'S LETTER ALL VIOLATIONS COULD EASILY BE SEEN BY THE NAKED EYE SEE PHOTOS OF HEIGHT OF 2277 MASS. AVE COMPARED WITH 2269 OR 2285 MASS. AVE. IT HAS BEEN APPROXIMATELY FOUR (4) MONTHS NOW AND THE VIOLATIONS STILL EXIST AND THE ILLEGAL ENCROACHMENTS EXIST.

IN CONCLUSION; WHEN HOUSE BILL #1660 WAS PASSED BY THE SENATE AND THE HOUSE ON APRIL 20, 1920 IT WAS AN ACT THAT AUTHORIZES ALL CITIES AND TOWNS TO LIMIT BUILDING ACCORDING TO THE USE AND CONSTRUCTION TO THE SPECIFIED DISTRICTS. ALTHOUGH MANY SECTIONS AND AMENDMENTS WERE ADDED TO THIS ACT, ONLY SECTION II SHOULD BE REMEMBERED BY ALL. IT STATES "THE PROVISIONS OF THIS ACT WILL BEST PROMOTE THE HEALTH, SAFETY, CONVIENCE AND THE WELFARE OF THE INHABITANTS."

WE ARE THE AGGRIEVED ABUTTERS WHO HAVE BEEN BATTERED, HUMILIATED, HARASSED, ABUSED AND PUT THROUGH SUCH STRESSFUL TRAUMA WITH A LOT OF FINANCIAL COST, FOR ALL THIS CONTINUED TRESPASSING. IT NEVER STOPPED. ALSO THE FAMILIES WHO WILL BUY OR MOVE INTO THOSE APARTMENTS MAY EXPERIENCE UNSAFE MEASURES. IT IS THE DUTY OF THE COMMISSIONER AND THIS BOARD TO PROTECT THE HEALTH, SAFETY, CONVIENCE AND THE WELFARE. GOD OF ALL PEOPLE -

Ex. I

Case No.: 7570  
Location: 2277 Massachusetts Avenue  
Petitioner: Ellen Riley - James J. Rafferty, Attorney

On October 23, 1997, Attorney James Rafferty, the petitioners, Ellen Riley and Anthony Femmino, and Architect Joseph Tatone, appeared before the Board of Zoning Appeal seeking a special permit to alter an existing non-conforming building with an addition and a variance to convert an existing building to a bed and breakfast at 2277 Massachusetts Avenue. The applicants submitted plans, drawings and photographs detailing the proposed project.

At the hearing, Attorney Rafferty stated that the petitioners are proposing to operate a Bed and Breakfast at 2277 Massachusetts Avenue and that there are to be eighteen (18) rooms at this Bed and Breakfast location. He stated that the petitioners will be leasing parking from St. John's Church for one space per two units parking requirement and that there are thirteen (13) spaces presently being leased and there will be an additional seven (7) parking spaces to be leased for a total of twenty parking spaces. He then mentioned that St. John's Church parking lot is located in the same zoning district as this property and this qualifies as an accessory parking facility within three hundred (300) feet of this location.

The Chair read into the record a memorandum, dated October 21, 1997, from the Planning Board stating:

"The Planning Board has no objection regarding the change in use from office to Bed and Breakfast at this location, and supports the reuse of the existing residential style building on Massachusetts Avenue. The Planning Board does recommend that any changes that are to be made be consistent with the North Massachusetts Avenue Overlay District requirements and goals, attached to this recommendation. Of particular concern at this location is the amount of parking to be provided be adequate for this use and the layout of that parking be in keeping with the guidelines."

Correspondence, dated 23 October 1997, from Craig A. Kelley, Vice-Chair of the North Cambridge Stabilization Committee, regarding 2277 Massachusetts Avenue, stating:

"The NCSC supports this variance for a hotel. The proponents have a lengthy history of running a pleasant neighborhood-based business and we are confident that their new business will similarly grace the Avenue. The Committee did have concerns about available parking and understands that sufficient parking will be available through Saint John's church for all 33 units of the combined inns (15 at A Cambridge House and 18 at the current proposal). Along a similar vein, some Committee members were concerned that 18 units at this site was a bit on the high side but such concerns were not overwhelming. Many Committee members were also concerned that once a variance for hotel use at this site is granted, future, unpredictable variables may force the owners to change what we are sure will be its pleasant nature. It was not clear to the Committee if the variance could be written to narrowly

specify the type of hotel use, limiting future business options at the site to the type of Bed and Breakfast that the proponents will run. If possible, the Committee would like such limitations. If such limitations are not possible, the Committee still supports the hotel variance request."

Other correspondence submitted to the file expressed support of the proposed project at 2277 Massachusetts Avenue from the following: Tom Saidnaway, President of Pemberton Orchards at 2172 Massachusetts Avenue; Charles P. Rinaldo Sr., of Rinaldo Realty Company at 2200 Massachusetts Avenue; Denise A. Jillson and George A. Pereira, of 2203 Massachusetts Avenue. A letter, dated October 16, 1997, was submitted to the file in opposition from Anthony and Annette DiStefano, of 2285 Massachusetts Avenue. No other letters were submitted from any abutters indicating any support of or opposition to the proposed special permit.

The Chair moved that the special permit to alter the existing non-conforming building at 2277 Massachusetts Avenue by changing the roof structure and first floor structure of the premises be granted on the following conditions: 1) that the gross floor area be no more than 8,500 square feet and the total height be no more than 44 feet high; 2) that the construction take place in approximate conformance with the preliminary schematic drawings which have been submitted in support of the application and the additional facade drawing, called "Proposed Front Elevation 2277 Massachusetts Avenue", and submitted at the hearing. The five member Board voted unanimously to grant the special permit and the stated conditions.

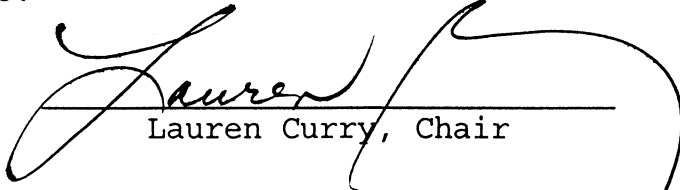
The Board based the decision upon the above findings and upon the following:

- 1) The meeting of the requirements of the Ordinance;
- 2) Traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character;
- 3) The continued operation of or the development of adjacent uses as permitted in the Ordinance would not be adversely affected by the nature of the proposed use;
- 4) Nuisance or hazard would not be created to the detriment of the health, safety and/or welfare of the occupants of the proposed use, and;
- 5) The proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the Ordinance, and in fact be a significant improvement to the structure and benefit the neighborhood.

After discussion, the Chair moved that the variance to allow a conversion of the premises at 2277 Massachusetts Avenue to use as a hotel specifically under Article 4.0, Section 4.31.I.2 be granted with the following conditions: 1) that the Bed and Breakfast include no more than eighteen (18) guest rooms and one on-site resident management space; 2) that at all times, the petitioner has a lease agreement for the exclusive use by patrons of 2277 Massachusetts Avenue of seven (7) additional parking spaces at a parking lot within three hundred (300) feet of the site; 3) that the petitioner annually presents to the Inspectional Services Department proof of the existence of the lease for that required parking; and 4) that the petitioner also utilize the two (2) on-site parking spaces for the hotel use at this property. The five member Board voted unanimously to grant the variance.

The Board based its decision on the hardship caused the Petitioner by the literal enforcement of the Ordinance. The hardship is owing to the shape and location of the structures and the land on which they are situated, but does not affect generally the zoning district in which they are located. The Board also found that desirable relief could be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Ordinance.

The Board of Zoning Appeal is empowered to waive local zoning regulations only. This decision therefore does not relieve the petitioner in any way from the duty to comply with local ordinances and regulation of other local agencies, including, but not limited to the Historical Commission, License Commission and/or compliance with requirements pursuant to the Building Code and other applicable codes.

  
\_\_\_\_\_  
Lauren Curry, Chair

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on Dec 2, 97 by maria garber Clerk.

Twenty days have elapsed since the filing of this decision

No appeal has been filed \_\_\_\_\_.

Appeal has been filed and dismissed or denied \_\_\_\_\_

Date \_\_\_\_\_ City Clerk.



CITY OF CAMBRIDGE - BUILDING DEPARTMENT

Permit No. 75516 Fee Paid, \$ 107.00

See CO (attached)

IMMEDIATE ACTION

RAZING: Prior to starting demolition, notice of commencement date MUST be given to the FIRE and BUILDING Departments.

The undersigned hereby applies for an IMMEDIATE ACTION permit to Remodel the following described building: PLEASE PRINT DATE 2/27/78 Location 2277 Mass. Ave. Cambridge Zone B-A Name of Owner? The Modern Construction Co., Inc. Address 905 Main St. Cambridge, Mass. Name of Contractor? Owner Address Same Material of building is? wood Style of roof? pitched Material of roofing? shingle Size of building, feet front? 36; feet rear? 42; feet deep? 53; No. of stories? 3 Estimated Cost of work to be done \$ 100,000 How is building occupied? offices & apartment Is a Street Occupancy Permit Necessary? no Detail of proposed work see plans attached

all work in compliance with the Cambridge Building Code

(Signature of Licensed Builder or Wrecker) Lelio Marino (Signature of Owner or Authorized Representative) (Address) 11481 (Address) 905 Main St. Cambridge, Mass. 02139 Lic. No. Class Telephone number 876-9140 My license expires

Approved (date) Permit granted MAR 1 1978 By

Experience in Bldg. Trades:

Plans Bm 362



# MODERN CONTINENTAL ENTERPRISES, INC.

600 Memorial Drive • Cambridge, MA 02139 • Phone (617)864-6300 • Fax (617)864-8766

Mr. Rangit Singanayagam – Assistant Building Commissioner  
City of Cambridge, Inspectional Services Department  
831 Massachusetts Ave.  
Cambridge, MA 02139

May 20, 1998

Re: 2277 Massachusetts Avenue – Renovations  
Permit Number 0597107, issued 6/6/97

Dear Mr. Singanayagam,

As requested I would like to verify the following information;

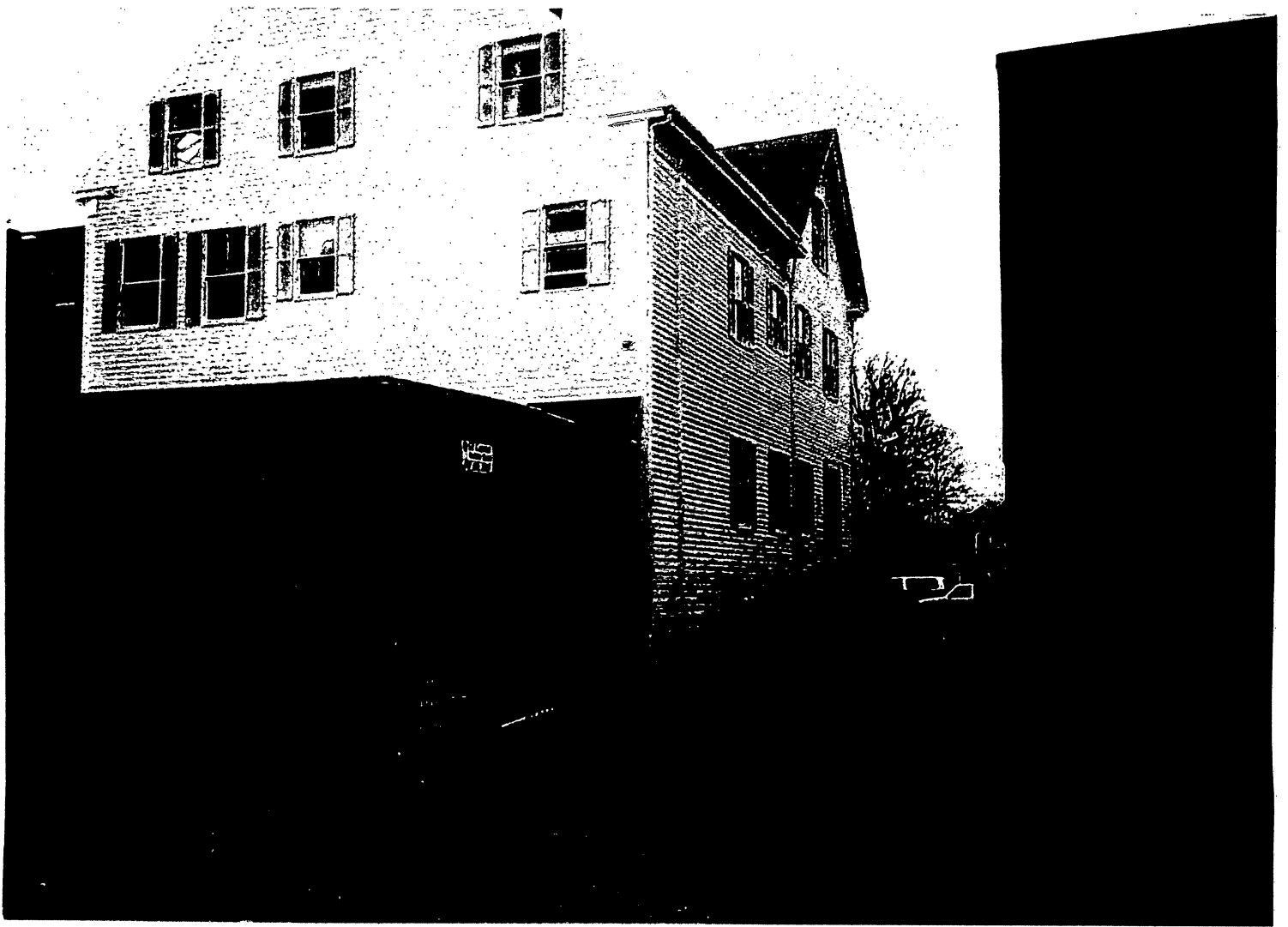
- The building was not raised up, and the basement and floors 1-3 are existing floors.
- The building was not previously sprinklered but will be fully sprinklered when the renovation is complete.
- We will apply for a variance on Wednesday, May 27, 1998.

We respectfully request permission to proceed with work on floors 1-3 and the basement, as discussed these are portions of the building which are unaffected by the zoning issues. Please contact me with any questions or comments on this matter.

Sincerely,

Joseph Tatone  
Senior Project Architect





PERMIT NUMBER

OFFICE

0597107

FEE:

SPECIAL:

TOTAL FEE:

21. SIGN OFFS

B.Z.A. DATE: ELECTRICAL DATE: 5/15/97
PLANNING BOARD DATE: PLUMBING/GAS DATE: 6-6-97
HISTORICAL DATE: RENT CONTROL DATE: 5/22/97
OTHER DATE: 5/13/97

22. APPLICATION APPROVAL: Subject to the provisions of the Mass. State Building Code, and the Zoning Laws of the City of Cambridge.

Applications accepted by: Date: 6/6/97
Plans accepted by: Bin # 1997
Zoning approved by: Date: 6/5/97
Plan Review approval by: Date:
Permit granted by: Date:

23. Certified plot plan submitted after foundation placed

24. Inspections made

FINAL INSPECTION MADE

25. Final cost affidavit submitted

26. Certificate of Use and/or Occupancy issued

\* SPOKE TO LES BARBER - OK WITH EDD
\* CD D OK AS PER LES BARBER



City of Cambridge
Inspectional Services Department
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Robert R. Bersani
Managing Director/
Acting Commissioner

(617) 349-6100
FAX (617) 349-6132

0597107

The undersigned hereby applies for a Permit to Build, Alter, or Repair in accordance with Section 113.0 of the Mass. State Building Code (MSBC).

(TYPE OR PRINT IN INK)

- 1. Building Location: 2277 MASS AVE. Date of Application: 5/7/97
2. Zone BA-2 Block# 182 Lot# Parcel 9 Lot Area 4800 sq ft. Gross Floor Area 6678 sq ft.
3. Owner: MODERN CONTINENTAL CONSTRUCTION CO. Phone No.: 864-6300
4. Applicant: ROBERT SHEPARD Lessee or Other
5. Contractor: MODERN CONTINENTAL CONSTRUCTION Phone No.: 864-6300
6. Architect/designer: Joseph Tabone Registration No.: 9080
7. Engineer: Registration No.:
8. Type of work: new addition alteration repair
9. Type of Construction per Article 4 of the MSBC 5A
10. Description of work: (clearly indicate the scope of work under this permit.)
A RENOVATION OF THE EXISTING BUILDING CONSISTING OF:
• THE EXTERIOR OF THE BUILDING SHALL RECEIVE BRICK VENEER.
• INTERIOR RENOVATIONS INCLUDING NEW MECHANICAL AND ELECTRICAL SYSTEMS AND PLUMBING SYSTEM IMPROVEMENTS.
• NEW SPRINKLER SYSTEM.

PLEASE NOTE: FOR NEW STRUCTURES AND ADDITIONS A CERTIFIED PLOT PLAN IS TO BE SUBMITTED FOR APPROVAL AFTER THE FOUNDATION IS POURED AND BEFORE FURTHER WORK COMMENCES.

(PAGE 1)

Exhibit 6

3:57 PM 8 PM
INSPECTIONAL SERVICES DEPARTMENT

5

11. Will street or sidewalk be blocked or obstructed during construction? NO  
If yes, a permit from Public Works will be required.

12. Total volume (cubic ft.) 77180 (35,000 cu. ft. or more, requires Stamp of Massachusetts registered P.E. or Architect - (EXCEPTION: single or two family house.))

13. Is structure subject to control in accordance with Section 127.0 of the Massachusetts State Building Code? YES If YES, state the following and attach affidavits in accordance with Section 113.5.1 of State Building Code.

- a. Laboratory: \_\_\_\_\_ License No.: \_\_\_\_\_  
Address: \_\_\_\_\_
- b. Technician: \_\_\_\_\_ License No.: \_\_\_\_\_  
Address: \_\_\_\_\_
- c. Other (Special Professional Services) License No.: \_\_\_\_\_  
Address: \_\_\_\_\_

14. a. Design Occupant 8951 SF GROSS / 1 OCCUPANT / 200 SF GROSS = 45 OCCUPANTS  
Load (per 806 MSBC)

b. Design Live Load. MULTIFAMILY, PRIVATE APARTMENTS 40 LBS/SF.  
1103 & table 1106 MSBC CORRIDORS 80 LBS/SF.

15. Estimated Total Cost of project including related construction costs.\*  
Cost: \$350,000

\* (TOTAL CONSTRUCTION COSTS INCLUDE ALL WORK DONE WITH OR CONCURRENTLY WITH THE WORK CONTEMPLATED BY THE BUILDING PERMIT INCLUDING DEMOLITION, PLUMBING, HEATING, ELECTRICAL, AIR CONDITIONING, PAINTING, CARPETING, LANDSCAPING, SITE IMPROVEMENTS, ETC. FURNISHINGS AND PORTABLE EQUIPMENT ARE NOT PART OF THE TOTAL CONSTRUCTION COST.)

BREAKDOWN OF COST ABOVE:

- |                                 |                  |                 |                  |
|---------------------------------|------------------|-----------------|------------------|
| a. Fire Extinguishing equipment | \$ <u>N/A</u>    | b. Plumbing (2) | \$ <u>28,250</u> |
| c. Water piping                 | \$ <u>15,255</u> | d. Gas fitting  | \$ <u>15,250</u> |
| e. Air conditioning             | \$ <u>27,335</u> | f. Heating      | \$ <u>27,335</u> |
| g. Electrical                   | \$ <u>31,700</u> | h. Sprinklers   | \$ <u>23,750</u> |
| i. Fire detection Equipment     | \$ <u>11,200</u> |                 |                  |

NOTES: 1. ITEMS a to h REQUIRE SEPARATE PERMIT.  
2. BACKFLOW PREVENTION DEVICE INSTALLATIONS MUST FIRST BE APPROVED BY THE CAMBRIDGE WATER DEPARTMENT.

16. Is compliance with Article 31 (Energy Conservation) of the State Building code required in any part of the work?  
yes  no  if YES, answer no 17.

17. Does a summary and certification of compliance with Article 31 (Energy) accompany this application?  
yes  no

18. Plans and specifications: (Section 113.5 of State Building Code)

- \* a. Specifications submitted N/A No. of copies \_\_\_\_\_
- \* b. Plans submitted 1/4" = 1'-0" No. of copies 2
- c. Microfiche submitted \_\_\_\_\_ (MICROFICHE REQUIRED FOR ALL NEW CONSTRUCTION, EXCEPT R-1.)

\* NOTE: NORMALLY TWO (2) SETS OF PLANS AND SPECIFICATIONS ARE REQUIRED TO BE SUBMITTED.

19. If existing building, complete the following:

- a. Type of Construction 5A
- b. Use group R2
- c. No. of rooms/units 8 UNITS
- d. Occupancy RESIDENTIAL, MULTIFAMILY, MPT.
- e. Height in FT. above grade: 42'
- f. Area per floor 190 (AVERAGE)
- g. # of stories above grade 3 1/2
- h. Total volume 77180
- i. Gross Floor Area (all floors, incl. basement, attic) 8951

20. READ BEFORE SIGNING: (and the following sections of Massachusetts State Building Code)  
The undersigned hereby certifies that he/she has read and examined this application and that the proposed work subject to the provisions of the Massachusetts State Building Code and other applicable laws and ordinances is accurately represented in the statements made in this application and that the work shall be carried out in accordance with the foregoing statements and in compliance with the provisions of law and ordinance in force on the date of this application to the best of his/her ability.

The following sections are quoted directly from the Massachusetts State Building Code, as of June 19, 1992.

113.5 SITE PLAN: There shall also be filed prior to a permit being granted for the excavation or for the erection of any building or structure a site plan showing the location and location of all new construction and all existing structures on the site, distances from lot lines, the established street grades if they exist (verified by the city), and proposed finished grades. The site plan shall not be changed except as specified in Sections 113.8 and 115.3.

114.3 EXPIRATION OF PERMIT: Any permit that is issued shall be deemed abandoned and invalid unless the work authorized by it shall have been placed within six (6) months after its issuance;.....

114.7 REVOCATION OF PERMITS: The building commissioner may revoke a permit or approval issued under the provisions of this Code in the case of any false statement or misrepresentation of fact in the application or the plans on which the permit or approval was based.

115.1 COMPLIANCE WITH CODE: The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of this Code, except as specifically stipulated by modification or legally granted variation in accordance with Section 126.0.

115.2 COMPLIANCE WITH PERMIT: All work shall conform to the stamped or endorsed application and plans for which the permit has been issued and any approved amendments thereto.

115.3 CHANGE IN SITE PLAN: A lot or site shall not be changed, increased or diminished in area from that shown on the official site plan, as specified in Section 113.5, unless a revised plan showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved. EXCEPTION: A revised site plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.

119.1 NEW BUILDINGS AND STRUCTURES: A building or structure hereafter shall not be used or occupied in whole or in part until the certificate of use and occupancy shall have been issued by the building commissioner or inspector of buildings or, when applicable, the state inspector. The certificate shall not be issued until the work has been completed in accordance with the provisions of the approved permits and of the applicable codes for which a permit is required, except as provided in Section 119.4.

119.2 BUILDINGS OR STRUCTURES HEREAFTER ALTERED: A building or structure, in whole or in part, altered to change: from one use group to another; to a different use within the same group; the fire grading; the maximum live load capacity; the occupancy load capacity; or a building or structure hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall not be occupied or used until the certificate of use and occupancy has not been heretofore issued, shall not be occupied or used until the certificate shall have been issued certifying that the work has been completed in accordance with the provisions of the approved permits and of the applicable codes for which a permit is required. Any use or occupancy, which was not discontinued during the work of alteration, shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is issued.

111.3 VIOLATIONS PENALTIES: A person who shall violate a provision of the Basic Code shall be punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year, or both, for each violation. Each day during which any portion of a violation continues shall constitute a separate offense.

110.3 HARMLESS CLAUSE: The Permittee(s) by acceptance of this permit agree(s) to indemnify and hold harmless the City of Cambridge, and its employees, from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City of Cambridge, and its employees, as to assume the defense of the City of Cambridge, and its employees, against all claims, demands and actions.

Richard Contino  
(Signature of Owner)

Robert J. Shepard  
(Signature of Licensed Builder)

60 Memorial Dr  
(Address)

45 Main Ave  
(Address)

Cambridge Ma  
(City)

So. Weymouth Ma  
(City)

(617) 864-6300  
(Phone)

(617) 331-6451  
(Phone)

044038 4/7/98  
(License Number) (License Expires)

City: State Class: R2 Unrestricted

CITIZENS COMPLAINT REPORT  
CAMBRIDGE POLICE DEPARTMENT  
INTERNAL INVESTIGATIONS DIVISION

FILE NO: \_\_\_\_\_

DATE: \_\_\_\_\_

Fill out this form whenever an in-person or telephoned complaint is received by a member of the Department. In addition, obtain signed statements from the complainant and witnesses without delay. Attach pertinent documents, records, statements, notes, etc., to the original of this form and forward to the Internal Investigations Division as soon as possible.

Name of Complainant: Anthony + Annette DiStefano Date Received: \_\_\_\_\_

Home Address: 2285 MASS. AVE Phone: \_\_\_\_\_

Business Address: CAMBRIDGE MASS. 02140 Phone: (617) 441-0331

Classify Nature or Type of Complaint: HARASSMENT AND INTIMATATION ON OUR PROPERTY

Name of Officer Complained About: (If more than one, so state:

1. SARGENT LAMACIVAS Rank: SARGENT Badge No. UNKNOWN

Location of Occurrence: 2285 MASS. AVE. Date: JULY 27, 1998 Time: EARLY AFTER-NOON

BRIEF SUMMARY OF COMPLAINT: NOTE: OBTAIN AND ATTACH COMPLAINANT'S SIGNED STATEMENT TO THIS FORM.

CONSTRUCTION WORKERS OF MODERN CONTINENTAL CONSTRUCTION WERE TRESPASSING ON THE PROPERTY OF 2285 MASS AVE. IN CAMBRIDGE MASS. AN EARLIER CALL WAS ANSWERED BY 121 TWO OFFICERS THEN A SARGENT WHO'S NAME IS UNKNOWN DID NOT ORDER THESE TRASPASSERS OF THE PROPERTY OFF AFTER HE WAS TOLD ABOUT THE STOP WORK ON ALL CON-  
(Use back of sheet if more space is needed.)  
\*CONTINUE'S ON SEPARATE PAGE

Parties will be notified of the results and disposition of the investigation. State if you are or are not willing to testify at any hearings connected with the investigation. (Please circle)  YES or  NO

Signature of Complainant: \_\_\_\_\_

Witnessed by: EACH OTHER \_\_\_\_\_

WITNESSES NAME, ADDRESS AND PHONE NUMBER:

1. ANTHONY DI STEFANO 2285 MASS AVE. CAM. MA. 441-0331

2. ANNETTE DI STEFANO " " " " "

3. \_\_\_\_\_

Complaint Received by: G. Robert F. Ames 8/1/98 12:00 pm  
(Name, Rank and Bureau) (Date - Time)

Complaint Form Received by: \_\_\_\_\_  
(Investigating Division Officer) (Date - Time)

Complainant contacted by: \_\_\_\_\_ Date \_\_\_\_\_ Time: \_\_\_\_\_

Notice: This Form Signed Under the Pains and Penalties of Perjury

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CONTINUENCE - SUMMARY OF COMPLAINT FROM PAGE 1

STRACTION AT 2277 MASS. AVE. He would NOT ASK TRESSPASSER'S TO MOVE. BECAUSE he STATED TO US THIS WAS A CIVIL MATTER. JUST ABOUT 45 MINUTES LATER, SARGENT LA MAEIVAS ALONG WITH ANOTHER OFFICER WHO'S NAME IS UNKNOWN CAME TO WHERE WE MY HUSBAND AND I WERE STANDING AND STATED TO MY HUSBAND AND I TO MOVE OURSELVES FROM THE AREA OF OUR PROPERTY. We explained TO him ALSO ABOUT THE STOP ORDER OF ALL CONSTRUCTION AND WE EXPLAINED TO him. These CONSTRUCTION WORKER'S WERE TRESSPASSING AND THE POLICE WON'T STOP THEM. SO BEING OUR PROPERTY WE MUST PROTECT THE ONLY WAY LEFT TO US. SARGENT LA MAEIVAS PRECEDED TO CALL MY HUSBAND AN IGORNAT FOOL. I ANNETTE DI STEFANO TOLD SARGENT LA MAEIVAS. he HAD NO RIGHT TO INTIMIDATE OR HARRASS MY HUSBAND OR I AND TO GET OF THE PROPERTY. DURING THAT CONVER SATION he STATED he WOULD ARREST MY HUSBAND ON HIS PROPERTY IF he HAD TO. He STATED we WOULD FIND OUT AND LEFT.

P.S. ENCLOSED IS STOP WORK ORDER'S

THE ABOVE ARE TRUE AND FACTUAL.

*Annette Di Stefano*  
ANNETTE D. STEFANO

AUGUST 1, 1995

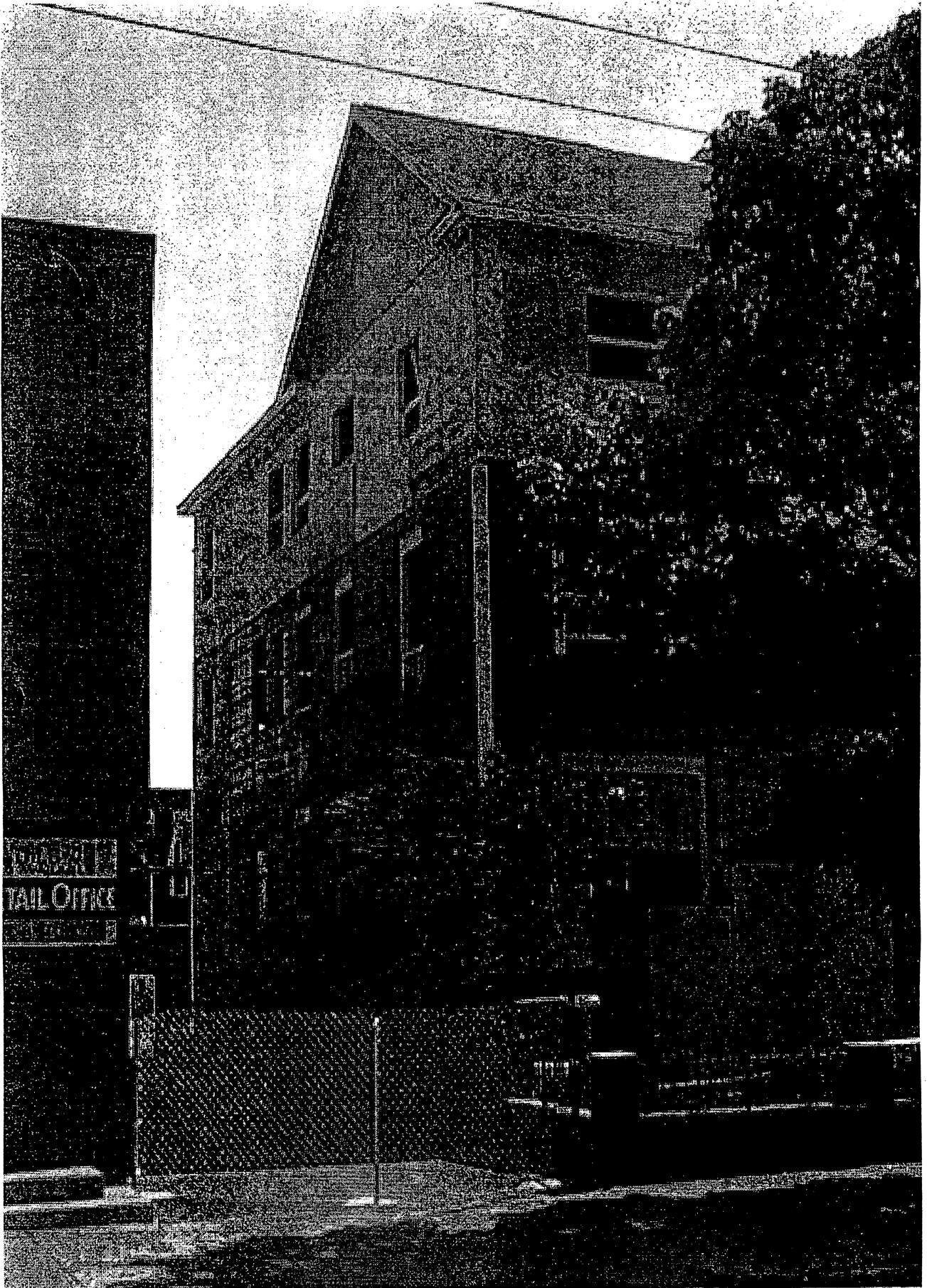
ANTHONY D. STEFANO





9A







# SOMERVILLE ENGINEERING, INC.

CONSULTING ENGINEERS

11

June 21, 1979

D. Anthony School of Cosmetology  
2285 Massachusetts Avenue  
Cambridge, Massachusetts

Attention: Mr. Anthony DiStephano

Re: Property Survey  
2277 Massachusetts Avenue  
Cambridge, Massachusetts

Dear Mr. DiStephano:

On May 18, 1979, we performed an approximate tape survey of your property located at 2285 Massachusetts Avenue, Cambridge, Mass. This survey was based on your deed, the City Assessors Block Plan, and Land Court Case 21053 .

At the time of the survey, we found a concrete footing apparently encroaching the right sideline of your property. The only way the extent of the encroachment can be exactly defined is by performing a transit and tape survey, as was outlined for you in our May 18, 1979 field report.

As we have not heard from you regarding this survey, we can only conclude that you are no longer in need of our services.

Modern Continental Enterprises, Inc. has recently contacted us requesting that we perform a transit and tape survey of the land adjacent to you at 2277 Massachusetts Avenue.

The professional code of ethics governing land surveyors prevents us from representing both parties to a dispute, unless we have notified both parties of our total involvement in the project.

June 21, 1979

Therefore it is the intent of this letter to notify you that we will be conducting an impartial transit and tape survey of the land located at 2277 Massachusetts Avenue for Modern Continental Enterprises, Inc. This survey will be based on; adjacent Land Court Cases, City of Cambridge record street lines, and the deeds and plans of record of all abutting owners.

If you have any questions or require any additional information, please do not hesitate to contact me.

Very truly yours,

SOMERVILLE ENGINEERING, INC.



Charles W. Gaffney  
Survey Supervisor

CWG/bb

cc: Modern Continental Enterprises, Inc.  
905 Main Street  
Cambridge, Mass.

Attention: Mr. Brad Bumpus



**CITY OF CAMBRIDGE**  
**INTEROFFICE CORRESPONDENCE**

August 21, 1998

To: Robert W. Healy, City Manager

From: Bob Bersani, Inspectional Services

Subject: Council Order #174, dated 7/27/98 RE: REPORT ON  
CONSTRUCTION ACTIVITIES AT 2277 MASSACHUSETTS AVENUE

RECEIVED  
98 AUG 26 AM 8:58  
OFFICE OF THE CITY MANAGER

In response to this Council Order, I have investigated the construction project at 2277 Massachusetts Avenue and my report is detailed below.

In summary, during the course of this construction, zoning violations were uncovered relating to building height and in changes being made in the nonconforming left side setback. When these violations were brought to the attention of the owner, appropriate action was taken to bring the building into compliance with the Zoning Ordinance. Also, work was stopped in the areas effected by the violations until revised drawings were approved. Revised drawings meeting the requirements of Zoning Ordinance were approved on 8/21/98 and the stop work order lifted. Work is now proceeding.

It took longer to resolve this matter than I would have liked and for that I accept responsibility. There were, however, several unique factors on this project that complicated the review process. They include:

- a. The original structure underwent major modifications in 1978. As the building permit plans on file were not followed, it was necessary to rely on recent as-built drawings prepared and certified by the owner's architect and photographs in order to determine the building's preexisting dimensions.
- b. Subsequent to the "as of right" building permit being issued for the 8 residential units, a variance was granted for use and dimensional relief(left side setback) for use as a bed and breakfast. This variance was never exercised, however. This was possibly a contributing factor to the violations that occurred and a source of confusion to those involved with the project.
- c. There are property line and encroachment concerns being raised by the abutter. I have reviewed the registered survey in this regard and have insured that the contractor complies with the statute concerning encroachment on adjoining property for purposes of property maintenance.

## Chronological report

- On 6/6/97, a building permit was issued for the alteration of 2277 Massachusetts Avenue for use as an 8 unit apartment building, an allowed use in this BA-2 zone. The maximum gross floor area (GFA) allowed in this zone for this 4800 sq. ft. lot is 8400 sq. ft. based on a 1.75 FAR. However, since the building is nonconforming as to setback on the left side, the GFA could only be increased by 10% above the existing which resulted in a GFA of 8,260 sq. ft. The maximum height allowed in the zone is 45 ft. The plans provided for dormers on the conforming right side and a foreshortened dormer on the left side. This foreshortened dormer was necessary because the building was nonconforming as to setback on that side.

- On or about 5/20/98, an inspection was conducted in response to a complaint and it was determined that, instead of the relatively small dormer on the left side of the building, the dormer had been extended into the same plane as the existing building facade in violation of the sideyard setback. The work in this area of the building was immediately stopped and the contractor directed to comply with the plans.

- On 5/27/98, the owner applied for a variance from the BZA for the above setback violation and a Hearing was scheduled for 7/16/98.

- On or about 6/30/98, I met with the abutters to this project and they expressed several concerns, in particular the height of the structure. An approximate measurement was immediately taken of the bldg. height by the building inspector and it was determined that the height exceeded the 45 ft limit by approx. 1 ft. 10 in. The contractor was directed to confirm the height and take action to bring the building into compliance.

- The height violation was confirmed by the owner and, on 7/16/98, the owner withdrew his request for a variance with the BZA and initiated a redesign of the structure to correct the setback and height violations. The work stoppage at the 4th level of the building and the roof remained in effect pending the completion of the redesign and the approval of the revised plans.

- On or about 7/29/98, the contractor submitted revised drawings of the roof area correcting the height and dormer setback violations and these drawings were approved on 7/30/98. However, a subsequent review of related information (photographs and as-built drawings) revealed that other modifications (changes in the windows and eave height) were made in the left side setback which are not allowable.

- As these violations potentially effected the interior layout, all work on the project was stopped pending another plan revision.

- These revised drawings and associated floor area calculations were submitted on 8/17/98 and approved by ISD with stop work order lifted on 8/24/98.

- The revised plans still provide for the 8 living units with a gross floor area of 8,121 sq. ft., 139 sq. ft. less than the 8,260 sq. ft. under the original building permit.

Very truly yours,

A handwritten signature in cursive script, appearing to read "R. R. Bersani".

R. R. Bersani



CITY OF CAMBRIDGE  
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300  
FAX. 349-4307



EXECUTIVE DEPARTMENT  
ROBERT W. HEALY  
City Manager

RICHARD C. ROSSI  
Deputy City Manager

September 14, 1998

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item 31, regarding a report on the construction activities at 2277 Massachusetts Avenue, received from Inspectional Services Commissioner Robert Bersani.

Very truly yours,

Robert W. Healy  
City Manager

RWH/mec  
Attachment

Consent AGenda #7

573 S

Relative to a report on the  
construction activities at 2277  
Massachusetts Avenue.

In City Council September 14, 1998

*No Action Taken*

SEP 28 1998

**PLACED ON FILE**