

Robert A. Levite
Attorney at Law
160 Chestnut Street
Cambridge, Mass. 02139

RECEIVED BY
OFFICE OF CITY CLERK

1988 NOV -3 PM 12:04

CAMBRIDGE MA.

Joseph Connarton
City Clerk
City Hall
Massachusetts Ave.
Cambridge, Massachusetts 02139

November 2, 1988

Dear Mr. Connarton:

Enclosed is a copy of a letter forwarded to Commissioner Joseph Cellucci of the Department of Inspectional Services.

I respectfully request on behalf of Mr. Steven Wilson, Ms. Khin Lin Johnson and Mr. Stanley Anderson, owners of 168-170 Chestnut Street, that a hearing be scheduled in front of the City Council regarding the substance of the enclosed letter.

I would appreciate your office notifying me in writing of a scheduled date and time for such a hearing. If a hearing can be scheduled for Monday, November 7, 1988, a phone call to me at 492-6293 will be sufficient.

It might also be advisable that the Council request the presence of both the Commissioner of Inspectional Services and the Commissioner of the Department of Public Works.

Thank-you very much for your cooperation.

Very truly yours,

Robert A. Levite

Robert A. Levite
Attorney at Law

Robert Levite
492-6293

Robert A. Levite
160 Chestnut Street
Cambridge, Mass. 02139

Joseph Cellucci
Commissioner
Cambridge Inspectional Services
City Hall
Cambridge, Mass. 02139

November 1, 1988

Dear Mr. Cellucci:

Please be advised that I represent the owners of property numbered 168-170 Chestnut Street, consisting of three condominium units.

Approximately three weeks ago, a DPW crew installed a new curb cut in front of 172-174 Chestnut Street, the property immediately abutting that of my clients. Prior to the installation of the curb cut, a full continuous curbing existed in front of 172-174 Chestnut Street. I have affidavits from a number of individuals who frequently park in the vicinity of 172-174 Chestnut Street and who have sworn to the fact that a continuous curb existed at that address for a period of at least ten years. No curb cut application was filed with the DPW, and, as a result, your department, as well as the other relevant city departments, were not notified and given the opportunity to okay or reject the proposed cut. The explanation given for this circumvention of required city procedures is that a curb cut of 80 or 90 years age already existed in front of 172-174 Chestnut Street.

Subsequently I contacted the zoning inspector of your department and requested that he examine the property and make a determination whether a driveway could be legally installed and utilized under the requirements of the Cambridge Zoning Ordinance. The inspector refused to issue an order barring the owners of 172-174 Chestnut Street from utilizing any portion of their property for driveway or parking purposes. A gravel driveway was in place and being used by the time the inspector observed the property. The inspector informed me that he was told by one of the owners that a driveway already existed in the side yard of 172-174 Chestnut Street. The inspector also informed me that he could do nothing about this situation.

Use of a driveway at 172-174 Chestnut Street violates Article 6, Sections 6.434(a) and (b) of the Cambridge Zoning Ordinance. Under Article 8, Sections 8.21 and 8.24 of the Cambridge Zoning Ordinance, a nonconforming use which is abandoned for a period of more than two years is extinguished. The use must then conform to the existing Code regulations. The affidavits which I have obtained indicate that the side yard of 172-174 Chestnut Street (where the driveway is currently located) has been completely covered with a lawn for at least the past fourteen years. The area has never been used as a driveway or

Joseph Cellucci
November 1, 1988
Page 2

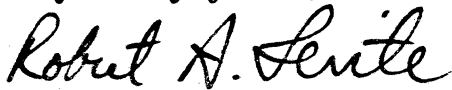
or parking area. In fact, a small stone walkway from the front door of the building to the rear door bisected the space through the middle of the side yard. The standards set forth in Article 6, Sections 6.434(a) and (b) must be applied to the use of the yard for parking purposes. This would be true regardless of whether an 80 or 90 year old curb cut existed in front of the property.

This clear circumvention of the requirements of the zoning code have resulted in a denial of my clients' right to be heard in formal hearing in front of the Zoning Board of Appeals regarding the legitimacy of the driveway.

I would like to point out also that the burden of proof in a case such as this lies with the owner of the property seeking to utilize the driveway to prove the existence of a legal nonconforming use. The mere statement that a driveway already existed in that space is insufficient to meet that burden of proof. The numerous affidavits dispel such a claim in any event.

I respectfully request that you issue a ruling on this matter within 14 days. Please consider this a formal request as required by Massachusetts General Laws, chapter 40A. Please also be aware that I intend to request a hearing in front of City Council on this issue. The ramifications of both the actions of the DFW and of your department could have some far-reaching effects on Cambridge residents.

Very truly yours,



Robert A. Levite
Attorney at Law

CC: William Summers, Commissioner, Department of Public
Works
City Clerk's office

Robert A. Levite
Attorney at Law
160 Chestnut Street
Cambridge, Mass. 02139

RECEIVED BY
OFFICE OF CITY CLERK
1988 NOV -2 AM 9:32
CAMBRIDGE MA.

Mary Horgan
City Clerk's office
City Hall
Cambridge, Mass. 02139

November 1, 1988

Dear Ms. Horgan:

Enclosed is a copy of a letter forwarded this date to Commissioner Joseph Cellucci of the Department of Inspectional Services.

I respectfully request on behalf of Mr. Steven Wilson, Ms. Khin Lin Johnson and Mr. Stanley Anderson, owners of 168-170 Chestnut Street, that a hearing be scheduled in front of the City Council regarding the substance of the enclosed letter.

I would appreciate your office notifying me in writing of a scheduled date and time for such a hearing or the specific reasons why such a hearing can not be scheduled.

It might also be advisable that the Council request the presence of both the Commissioner of Inspectional Services and the Commissioner of the Department of Public Works.

Thank-you very much for your cooperation.

Very truly yours,



Robert A. Levite
Attorney at Law

Robert A. Levite
160 Chestnut Street
Cambridge, Mass. 02139

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Joseph Cellucci
Commissioner
Cambridge Inspectional Services
City Hall
Cambridge, Mass. 02139

November 1, 1988

Dear Mr. Cellucci:

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Joseph Cellucci
November 1, 1988
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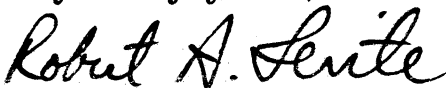
or parking area. In fact, a small stone walkway from the front door of the building to the rear door bisected the space through the middle of the side yard. The standards set forth in Article 6, Sections 6.434(a) and (b) must be applied to the use of the yard for parking purposes. This would be true regardless of whether an 80 or 90 year old curb cut existed in front of the property.

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Very truly yours,



Robert A. Levite
Attorney at Law

CC: William Summers, Commissioner, Department of Public
Works
City Clerk's office

1. H. G. Zeller #18

Comm. from Robert A. Levite, Esq., on behalf of Stanley Wilson, Khin Lin Johnson & Stanley Anderson, owners of 168-170 Chestnut St., requesting a hearing before the Council Re: a recent curb cut at 172-174 Chestnut St. in violation of the Zoning Ordinances.

In City Council,

November 7, 1988

11-7-88

Charter Right Exercised by
C. Russell.

11-14-88

Hearing Scheduled for
11-21-88 @ 6:00 P.M.

11-21-88

Hearing cancelled at
request of petitioner.