

1348 Franklin Street
OFFICE Cambridge, Massachusetts 02139
Telephone 491-7181

OCT 08 1984

CAMBRIDGE, MASS.

TO THE HONORABLE, THE CAMBRIDGE CITY COUNCIL:

When you have been working with the same people for a number of years on the same issues or series of issues, it can be very easy to assume that their memory of matters is as detailed as is your memory. That is, of course, a silly attitude to take. I have been personally emphasizing a very complicated area which is only a part of the large work on which you, the Cambridge City Council, have been working.

I therefore beg the council's indulgence. I will attempt to correct this false assumption by summarizing for you the facts as we have lived through them for the past five years. The present issue is Massachusetts Avenue between Harvard and Central Squares. It is only part of an overall pattern of difficulties in city government. The people in the Massachusetts Avenue area have been fortunate. We have faced a persistent enemy. That persistent enemy has not defeated us yet.

I have read a lot of zoning proposals prepared by the city staff during the past five years when I have been an expert on zoning. I read more proposals during the preceding five years when I was just an activist.

One matter which is common in development department associated proposals is fine print which destroys or reduces building setback/yard requirements. The simple proposals don't tend to have such language. The complicated ones very frequently have one such sentence tossed in the verbage. It is more important than the pages of verbage.

The department's 1976 Townhouse Ordinance had many bad features which the staff did not explain. Its conversion of meaningful setback requirements in our residential neighborhoods to nominal setback requirements has been a major factor in the severe damage which the staff has inflicted on so much of our city.

Fine print in the Harvard Square Overlay District proposal (1978/79) would have wiped out setback requirements in the residential and office districts of the square. If that proposal had passed, the staff would have succeeded in destroying some of the finer parts of Harvard Square. We are fortunate that it did not pass; but we must be aware that proposed staff "amendments" to the district would achieve the goal which failed when they did not pass the district the first time.

Many fine people have been working on zoning proposals for Massachusetts Avenue north of Harvard Square. I've read two drafts. Both destroy setbacks.

On Massachusetts Avenue between Harvard and Central Squares, the most important protection we have is the setback requirement. It exists in the Office 3 (O-3) district which runs, on the north side, from Dana Street to Inman Street, and, on the south side, from Hancock Street to Pleasant Street. This area is a transition district. It allows extremely large buildings, but those buildings must satisfy the same dimensional requirements as the most intensive residential district, Residence C-3. These limits make the O-3 less intrusive to the adjoining residential streets.

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The setback requirement varies with the size of the building. The bigger a building is, the further it must be from its lotlines. This operates as a minimum lot size for the biggest buildings, because smaller lots won't hold the maximum floor area ratio.

The setback requirement is also the big difference between a residential and a business district. This, plus the total lack of retail, is the reason why the north side of the O-3 district looks strikingly different from Harvard or Central Square. There are only two buildings between Dana Street and Inman Street built to the lot line. There is only one building on Lee Street built to the lot line. The setback is crucial to giving the north side of the Avenue a much more residential character than that which exists in the downtown business districts. It is crucial to its fitting in with the neighborhood.

The development department staff, however, is frustrated. It keeps telling people that Massachusetts Avenue is one big business district, but the north side of the O-3 district doesn't fit their story. To make things worse, from the staff point of view, it has been unable, during nearly five years of attempts, to persuade the city council into creating one big business district from Harvard to Central Square. It has repeatedly filed zoning recommendations which it does not explain. It has repeatedly lost in front of the city council.

The staff, in its frustration, has revolted against the city council. It has joined with the board of zoning appeals, the planning board, and the developer of 871 Massachusetts Avenue, in defiance of this repeatedly reaffirmed city policy. It has violated the law.

The La Trémouille Petition.

In early 1980, a zoning petition was considered by the city council for Massachusetts Avenue. It had the support of MCNA and RCCC, plus it had the written support of nearly 600 individuals. It proposed to limit new construction to the size of the existing buildings on the Avenue and on adjacent streets. It would have retained the neighborhood business character where it then existed. It proposed residential C-1 zoning for both sides of Green Street, rather than Massachusetts Avenue zoning on the north side and dense residential zoning on the south side east of Hancock.

Most of the Green Street concept was successful. The staff attempted to turn all of Massachusetts Avenue into one dense zoning district. Their proposal traded off a 25% reduction in bulk in the western, BB district, for creation of the same zoning in the O-3.

This first attempt legalized retail, destroyed setbacks, applied design criteria originated by Hugh Russel (the BZA chair), applied nominal height limits, and retained the O-3 density (FAR of 3.0).

The city council said "thank you". It accepted the downzoning of Green Street and of the affected BB area. It rejected the tradeoff of a major upzoning of the O-3.

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The 1981 "technical" amendments I.

In December of 1980, the staff originated a series of "technical" amendments to the ordinance. This major package was never meaningfully advertised. It included a proposal to eliminate setbacks in all O-3 districts in the city, including the area around 871 Massachusetts Avenue, and including eastern Harvard Square. The council killed the package through inaction. It was refiled without the setback change.

Lorentz I (Abel 1).

This proposal concerned the North side of Massachusetts Avenue from Dana Street to Inman Street. Cora Beth Abel of Lee Street initiated it in November 1981 with staff assistance. When the staff is involved in a proposal, it can be impossible to tell where fine print, omissions and other subtleties originate. Acting under staff advice, Ms. Abel obtained signatures on the petition from Joan Lorentz and the MCNA Coordinating Committee. She was told to avoid me because, if I learned about the proposal, the proposal would die.

The proposal allowed everything allowed in the O-3, but required a forty foot height limit. It had no parking requirement. The only way the proposal could have been amended would have been to destroy setback requirement or to raise the height limit. Without amendment it stood no chance of passage.

I pointed out the problems to Ms. Lorentz. She wished a parking requirement. I advised her to refile. Mr. Russel advised filing a letter of amendment. She attempted the latter. In legal effect, the letter was ignored by the staff in its advertisement. The letter was rendered legally meaningless.

The city council failed to hold its hearing within time limits. The petition died from inaction.

Lorentz/Abel (Abel 2).

Ms. Abel refiled her petition without the permission of the other signers. The staff recommended that it be combined with with Lorentz II. They proposed to eliminate setbacks, legalize retail, establish a height limit, and reduce FAR. The proposals were permitted to die by city council inaction.

Lorentz II.

The MCNA created a committee to propose a thoughtful package for Massachusetts Avenue. I acted as adviser to that committee as I have to many neighborhood organizations. The resulting proposal recommended development on Massachusetts Avenue at C-2 density with a lowered height limit. The Cambridge Chamber of Commerce building and the area east of it to Inman was proposed as an office district. The north side of Massachusetts Avenue west of the CCC building to Hancock was proposed to be residential. Lots off Massachusetts Avenue were proposed for the same zoning as the abutting neighborhood.

The staff proposed to eliminate setbacks, legalize retail, establish a height limit and reduce FAR. The proposals were permitted to die by the city council.

Abel 3.

After one hearing I overheard a discussion between Ms. Abel and a staff member. She was persuaded to support retail and no setback facing Massachusetts Avenue. She included these concepts in a June 82 proposal with height limits and C-2 density.

The staff responded once again with retail and with setback relaxations.

Both died.

Lorentz III.

I believe that the MCNA committee, with my assistance, refiled with straight office on Massachusetts Avenue. My memory is that the staff did its usual. No city council action was taken.

Abel 4.

Ms. Abel refiled Abel 3. The city council granted her permission to withdraw in November 1982.

1984 "Technical" Amendments I.

In January 1984, the staff and planning board filed a package of "technical" amendments which they never meaningfully advertised. Included in that package was a relaxation of zoning setbacks in O-3 districts, in the case of multiple separate walls facing in a given direction on any particular building. The change would have impacted the 871 area and eastern Harvard Square. It sounds clearly like the building design approved by the Board of Zoning Appeals variances. The city council did not conduct a hearing within the time limits.

1984 "Technical" Amendments II.

The package was refiled, including the setback relaxations. Once again no meaningful advertisement was put in the newspapers. The city council passed one item in the package, permitting the rest to die without a specific vote.

Miscellaneous.

Four other related petitions have been filed during the past five years. These affected the eastern Harvard Square area and affected the former Massachusetts Avenue BB district, now BB-1 and BB-2.

The Demers petitions. Two petitions were filed to upzone land bounded by Mt. Auburn Street, Bow Street and De Wolfe Street. A change was asked from O-3 to BB. Such a change, of course, includes destruction of setback requirements and legalization of new retail. The petitions were supported by the staff and planning board. The first died without a city council vote. The second was killed in second reading.

The Wellons and Corcoran petitions. Green Street residents in the Bay-Putnam block have been extremely active on the issue of Massachusetts Avenue zoning. By these two petitions, they attempted to require a meaningful 20 foot backyard when new buildings were constructed on Massachusetts Avenue abutting residential districts. The neighbors were particularly concerned about trees in the rear of the Spaulding & Slye project at 1030 Massachusetts Avenue. Their proposal affected the BB-1 and BB-2 areas, from Ellery to Dana on the north and 1038 Mass. Ave. to Hancock Street on the south.

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The neighbors asked the staff to draft a zoning change. Although Pat Corcoran was the first signer, the staff advertised the resulting petition as "Wellons" et al. The staff document kept new buildings 20 feet from the residential lot line, but did not affect parking garages under those buildings. That made it useless for the neighbors purposes. The staff did not tell the neighbors. I did.

The neighbors refiled with a proposal that corrected the problems included by the staff. They followed my instructions. The staff, at the planning board, tried to substitute language which would destroy significant setback requirements for garages under new buildings. The staff failed.

The Corcoran petition passed the city council unanimously.

871 Massachusetts Avenue.

Since the beginning of 1984 or earlier, the development department staff has been working with the intended developer of 871. That developer sought 13 variances and special permits. He states that he did so at the urging of the development department.

The requested variances included retail on the first floor and construction to the lot line on Lee Street and Massachusetts Avenue, exactly what had been rejected by the city council in so many zoning proposals during the past five years.

The staff put the developer in contact with three abutters who live on the sides of the construction, in turn, away from Massachusetts Avenue and Lee Street. The abutters were persuaded that they could minimize the harm to themselves by pushing the building to the lotlines at Massachusetts Avenue and Lee Street. The meetings were conducted selectively. By the time the project was made public, these abutters were locked into the plan and refused to compromise from it. The development department, however, did not tell them that government subsidies were planned to make the development easier, nor did the staff provide notice of the subsidy "hearings" to these abutters.

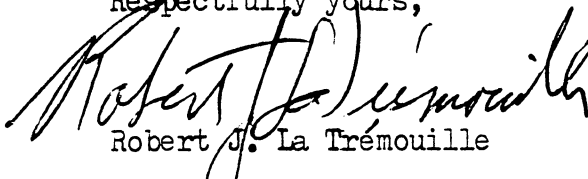
The planning board and board of zoning appeals supported the staff position.

This building is the latest staff attempt to produce downtown retail district type of development on Massachusetts Avenue. It is on a crucial lot.

Since the staff has repeatedly failed in front of the city council, this time it sought a zoning change in front of the Board of Zoning Appeals. It did not bother either the staff or the BZA that changing zoning is the province of the city council. the Board of Zoning Appeals, in open defiance of the legal limits of its authority, voted to grant 13 requests for variances and special permits.

Illegal votes do not make legal acts. Defiance of the policy making body does not constitute proper behavior by city employees, or by city boards. There are some very, very serious problems in Cambridge city government.

Respectfully yours,


Robert J. La Tremouille

Comm. from Robert J. LaTremouille, outlining & summarizing proposals over the last five years to rezone Mass. Avenue between Harvard & Central Squares, with particular reference to setback requirements.

*copy sent Kathie Spiegelman,
Community Development 10/17/84
mh*

In City Council,

October 15, 1984

10/15/84

*Referred
to Planning
Board
for
Report*