

PETITION OF Daniel E. Geer, Jr et al
re: Variance Limitations

Petition filed with the City Clerk April 6, 1989

(all hearings to be completed 65 days from In City Council date)

20 days April

31 days May

14 days June

65 days = June 14, 1989 = all hearings

In City Council April 10, 1989

Referred to the Planning Board for report April 10, 1989

Planning Board Hearing _____

(CITY COUNCIL must act within 90 days of the ORDINANCE COMMITTEE hearing which would be _____.)

City Council hearing published _____ on _____

and _____

Hearing before the Ordinance Committee _____

Reported to the City Council _____

Passed to a second reading on _____

published in _____ on _____

Planning Board report received on _____

Ready for ordination on _____

Passed to be ordained on _____

published in _____ on _____

COMPLETION DATE _____

6/19/89 - Placed on file due to expiration of time limit

City of Cambridge
ZONING PETITION

Sponsored by:
CAMBRIDGE CITIZENS FOR LIVEABLE NEIGHBORHOODS

VARIANCE LIMITATIONS

FINAL / AS FILED 6 APR 89

WHEREAS concern among Cambridge citizens increases that variances to the Zoning Ordinance have become too commonplace, and too easy to obtain; and

WHEREAS non-residential intrusions into residential areas represents a development trend most disturbing to neighborhoods and its residents;

NOW THEREFORE we the Undersigned respectfully petition the Honorable, the City Council of the City of Cambridge, to amend the Cambridge Zoning Ordinance as follows:

- A. Deleting from the first paragraph of SUBSECTION 10.31 the phrase "..., including variances for use,...".
- B. Adding to the end of SUBSECTION 10.31, just after (d) (2), the paragraph following:

"Upon making the findings required above, the Board of Zoning Appeals may grant variances with respect to uses permitted, except in all Residence and Open Space districts, where no use variances of any kind shall be permitted."

EXPLANATION: As presently written, Subsection 10.31 allows the Board of Zoning Appeals to permit non-residential uses to enter residential districts. This re-write prevents this kind of variance, but does not prevent use variances from occurring in commercial districts. If there is good reason to allow non-permitted uses to enter a residential area, then this can be accomplished by a change of zoning district, by rewriting the table of permitted uses in Article 4, or by establishment of a PUD.

City of Cambridge
ZONING PETITION

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VARIANCE LIMITATIONS

FINAL / AS FILED 6 APR 89

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- A. Deleting from the first paragraph of SUBSECTION 10.31 the phrase "... including variances for use...".
- B. Adding to the end of SUBSECTION 10.31, just after (d) (2), the paragraph following:

"Upon making the findings required above, the Board of Zoning Appeals may grant variances with respect to uses permitted, except in all Residence and Open Space districts, where no use variances of any kind shall be permitted."

EXPLANATION: As presently written, Subsection 10.31 allows the Board of Zoning Appeals to permit non-residential uses to enter residential districts. This re-write prevents this kind of variance, but does not prevent use variances from occurring in commercial districts. If there is good reason to allow non-permitted uses to enter a residential area, then this can be accomplished by a change of zoning district, by rewriting the table of permitted uses in Article 4, or by establishment of a PUD.

VARIANCE LIMITATION PETITION

CITY OF CAMBRIDGE

APR -6 PM 12:04

We the Undersigned respectfully petition the Honorable, the City Council of the City of Cambridge, to prevent the unwarranted intrusion of commercial uses into residential districts by amending Subsection 10.31 of the Zoning Ordinance in conformance with the Petition attached hereto.

Signature	Printed Name	Address	Phone
	DANIEL E. GEER, JR.	40 Bellis Circle	354-3253 ¹⁰⁴ ✓
	Debra McManus	19 Cornelius	864-2686 ¹²
	Anne R. Toop	294 Green St.	547-3834 ⁶² ✓
	Walter Grant	302 Brookline St.	864-1441 ⁵² ✓
	Jennie Ray Bush	302 Brookline St.	864-1441 ⁵² ✓
	SUSAN DOWDS	48 BANKS	354-6094 ⁶² ✓
	Priscilla J. McMillon	12 Hilliard St	547-6260 ⁸² ✓
	Susan Yanow	221 Norfolk St	492-1032 ³² ✓
	Robert Owen Edbrooke, Jr.	20 Prescott St. #5	492-8267 ⁶³ ✓
	JONATHAN MYERS	6 Howe St	491-8745
	STEPHEN H. KAISER	191 HAMILTON ST.	491-8277
	HENRY S. A. A. H.	1851 MASS ST	864-4635
	Peter D. Kinder	7 Dana Street	547-3236
	J.P. MARKS	7 Cornelius way	661-7236
	John T. St. George	248 Windsor St. 02141	547-4059 ^{HV} ✓
	Hugo Salemmé	89 Third St	576-1073 ^{HV} ✓
	Jean Salemmé	89 Third St	576-1073 ^{HV} ✓
	Jane Myers	165 Charter St	492-3582
	Margaret M. Myers	576 Lewis St	491-8745
	Richard A. Coan	117 Rindge Ave	497-0870

I, the above signed, am a registered voter in the City of Cambridge, MA.

✓ = registered voters

NICHOLAS MAVROULES
6TH DISTRICT, MASSACHUSETTS

COMMITTEES:
ARMED SERVICES
SMALL BUSINESS

CHAIRMAN:
SUBCOMMITTEE ON READINESS

WASHINGTON OFFICE:
2432 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-8020

Congress of the United States
House of Representatives

Washington, DC 20515

APR -3 AM 11:34
CAMBRIDGE MA.

DISTRICT OFFICES:
70 WASHINGTON STREET
SALEM, MA 01970
(508) 745-5800

140 UNION STREET
LYNN, MA 01902
(617) 599-7105

10 WELCOME STREET
HAVERHILL, MA 01830
(508) 372-3461

TOLL FREE WITHIN
MASSACHUSETTS
(800) 272-6730

March 28, 1989

Mr. Joseph E. Connarton
City Clerk
City of Cambridge
City Hall
Cambridge, MA 02139

Dear Mr. Connarton:

Thank you for advising me of the resolution passed by the Cambridge City Council urging a reduction in the defense budget and increased funding for affordable housing.

It is my opinion that with a \$150 billion deficit, we must be willing to accept a flat level of growth in the defense budget, and redirect our budget priorities to health care, housing, and other social programs to assist our neediest citizens.

Sincerely,



Nicholas Mavroules
Member of Congress

NM/djm

City of Cambridge
ZONING PETITION

Sponsored by:
CAMBRIDGE CITIZENS FOR LIVEABLE NEIGHBORHOODS

LINKAGE FEE ENHANCEMENTS

5 MAR 89 / FINAL / AS FILED

WHEREAS the City of Cambridge has recently amended its Zoning Ordinance to include a new SECTION 11.200, INCENTIVE ZONING PROVISIONS; and

WHEREAS the intent, in part, of this new section is to "mitigate the impacts of commercial development on the availability and cost of housing and especially affordable housing"; and

WHEREAS the impacts of commercial development on housing are described and calculated in a Report to the City entitled THE IMPACT OF CAMBRIDGE OFFICE DEVELOPMENT ON CAMBRIDGE HOUSING PRICES (J S Kayden and R Pollard, April, 1988); but unfortunately

WHEREAS SECTION 11.200 fails to adequately address the impacts described in this Report because:

- (1) The Report says that "the average price impact of one square foot of Cambridge development is \$3.00" (p. 16), while Subsection 11.203 (a) requires only \$2.00 per square foot in impact fee; and and because
- (2) SECTION 11.200 does not require the first 30,000 square feet of office buildings to contribute an impact fee, even though the Report does not state or explain why the first 30,000 square feet fail to impact the Cambridge housing market; and further

WHEREAS SECTION 11.200 requires an impact fee contribution from commercial projects seeking special permits within certain limited districts, but inexplicably fails to require a similar contribution from projects seeking variances, or special permits outside the districts specified, even though all such projects have impact on the Cambridge housing market; and

WHEREAS SECTION 11.200 can realize a substantial increase in funding for the Affordable Housing Trust if the aforementioned deficiencies are corrected;

NOW THEREFORE we the Undersigned respectfully petition the Honorable, the City Council of the City of Cambridge, to amend the Cambridge Zoning Ordinance as follows:

A. Amend existing text by inserting new words as follows:

1. At the definition of "Covered Project", insert the words "or variances" immediately following the words, "...provisions of the special permits..."
2. At subsection 11.203 (b) Housing Creation Option, insert the words "or variance" immediately following the words "...special permit..." wherever they may occur.
3. At section 11.203 Standards..., insert the words "or variance" immediately following the words "...special permit..." wherever they may occur.

B. Delete section 11.202 Applicability in its entirety, and substitute therefore the paragraph following:

"11.202 Applicability. Where a developer chooses to seek a special permit or variance pursuant to any rules and procedures of this Ordinance, the developer shall be subject to the provisions of this Section 11.200 et al."

C. Delete the first two paragraphs of 11.203 (a), and substitute in their place the paragraph following:

"(a) Housing Contribution. For a Covered Project, the developer shall contribute three dollars (\$3.00) for every square foot of Project gross floor area."

C. Delete the present text of 11.205.1, Uses of the Affordable Housing Trust, in its entirety, and substitute in its place the text following:

"11.205.1 Uses of the Affordable Housing Trust. The Trust Property shall be used exclusively to encourage the development and creation of additional affordable housing units through a variety of means, including but not limited to the provision of favorable financing terms or direct write-down of costs for either non-profit or for-profit developers, or to subsidize the purchase of sites, existing structures, or affordable units within a larger development."

LINKAGE FEE ENHANCEMENT PETITION

RECEIVED
CITY OF CAMBRIDGE
1989 MAR 20 11:11 AM

We the Undersigned respectfully petition the Honorable, the City Council of the City of Cambridge, to enhance funds available to support affordable housing in Cambridge by amending Section 11.200 of the Zoning Ordinance in conformance with the Petition attached hereto.

Signature	Printed Name	Address	Phone
✓ Robert Owen Edbrooke, Jr.	Robert Owen Edbrooke, Jr.	20 Prescott St. #5	492-8267 1/3
✓ Vincent Lawrence Dixon	VINCENT LAWRENCE DIXON	287 HARVARD ST. #4	492-0954 3/3
✓ Alan Clark	ALAN CLARK	2 ELSWORTH AVE	868-8330 3/1
✓ Martha Osler	MARTHA OSLER	4 IRVING TERR	864-2668 U1
Jean Lorentz	JEAN LORENTZ	419 BROADWAY	547-8936
John R. Pitkin	JOHN R. PITKIN	18 FAYETTE ST.	492-4035 3/4
✓ William J. Morris	William J. Morris	37 Highland Ave	864-5279 3/1
Brian P. Murphy	BRIAN P. MURPHY	19 Irving St. #1	354-6378
✓ Margaret M. Myers	Margaret M. Myers (Gizney)	5 Hales St.	491-8745 1/1
Howard D. Mednes	HOWARD D. MEDNES	58 WASHINGTON AVE.	868-8805
John T. St. George	John T. St. George	348 Windsor St.	547-4059
✓ Craig B. Watkins	CRAIG B. WATKINS	157 MAGAZINE ST.	497-0370 6/2
Lyne Alexis Molnar	Lyne Alexis Molnar	14 Magnolia Ave	868-1737 4/4
Constance Thibault	Constance Thibault	42 Linnaean St, No. 14	amb. 02138 547-5140
Mary Martell	Mary Martell	27th. Auburn St.	amb. 02138 491-7969
✓ James D'Entremont	JAMES D'ENTREMONT	296 WESTERN AVE.	497-7193 5/1
✓ Robert B. Chaille	ROBERT B. CHAILLE	296 WESTERN AVE	497-7193
Elizabeth Hanley	Elizabeth Hanley	43 Ellen St	547-8149
✓ Frances Siegel	FRANCES SIEGEL	36 Highland Ave.	354-1188 3/1

I, the above signed, am a registered voter in the City of Cambridge, MA.

✓ = registered voters

City of Cambridge
ZONING PETITION

Sponsored by:
CAMBRIDGE CITIZENS FOR LIVEABLE NEIGHBORHOODS

LINKAGE FEE ENHANCEMENTS

5 MAR 89 / FINAL / AS FILED

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- (2) SECTION 11.200 does not require the first 30,000 square feet of office buildings to contribute an impact fee, even though the Report does not state or explain why the first 30,000 square feet fail to impact the Cambridge housing market; and further

WHEREAS SECTION 11.200 requires an impact fee contribution from commercial projects seeking special permits within certain limited districts, but inexplicably fails to require a similar contribution from projects seeking variances, or special permits outside the districts specified, even though all such projects have impact on the Cambridge housing market; and

WHEREAS SECTION 11.200 can realize a substantial increase in funding for the Affordable Housing Trust if the aforementioned deficiencies are corrected;

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3. At section 11.203 Standards..., insert the words "or variance" immediately following the words "...special permit..." wherever they may occur.

B. Delete section 11.202 Applicability in its entirety, and substitute therefore the paragraph following:

"11.202 Applicability. Where a developer chooses to seek a special permit or variance pursuant to any rules and procedures of this Ordinance, the developer shall be subject to the provisions of this Section 11.200 et al."

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LINKAGE FEE ENHANCEMENT PETITION

RECEIVED
OFFICE OF CITY CLERK
1989 MAR 20 AM 11:58

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Signature	Printed Name	Address	Phone
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✓ <u>Alan Clark</u>	<u>ALAN CLARK</u>	<u>2 ELSWORTH AVE</u>	<u>868-8330 3/4</u>
✓ <u>Martha Osler</u>	<u>MARTHA OSLER</u>	<u>4 IRVING TERR</u>	<u>864-2668 1/3</u>
<u>Joan Lorentz</u>	<u>JOAN LORENTZ</u>	<u>419 BROADWAY</u>	<u>547-8936</u>
<u>John R. Pitkin</u>	<u>JOHN R. PITKIN</u>	<u>18 FAYETTE ST.</u>	<u>492-4035 3/4</u>
✓ <u>William J. Morris</u>	<u>William J. Morris</u>	<u>37 Highways Ave</u>	<u>864-5279 3/1</u>
<u>Brian P. Murphy</u>	<u>BRIAN P. MURPHY</u>	<u>19 Irving St. #1</u>	<u>354-6378</u>
✓ <u>Margaret M. Myers</u>	<u>Margaret M. Myers (Girney)</u>	<u>5 Halls St.</u>	<u>491-8745 1/1</u>
<u>Howard D. Medwed</u>	<u>HOWARD D. MEDWED</u>	<u>58 WASHINGTON AVE.</u>	<u>868-8800</u>
<u>John T. St. George</u>	<u>John T. St. George</u>	<u>348 Windsor St.</u>	<u>547-4059</u>
✓ <u>Craig B. Watkins</u>	<u>CRAIG B. WATKINS</u>	<u>159 MAGAZINE ST.</u>	<u>497-0370 5/2</u>
<u>Lynne Alexis Molnar</u>	<u>Lynne Alexis Molnar</u>	<u>14 Magnolia Ave</u>	<u>868-1737 4/4</u>
<u>Constance Thibault</u>	<u>Constance Thibault</u>	<u>42 Linnaean St, No. 14 Camb. 02138</u>	<u>547-5149</u>
<u>Mary Martell</u>	<u>Mary Martell</u>	<u>2 Mt. Auburn St. Camb. 02138</u>	<u>491-7969</u>
✓ <u>James D'Entremont</u>	<u>JAMES D'ENTREMONT</u>	<u>296 WESTERN AVE.</u>	<u>497-7193 SH</u>
✓ <u>Robert B. Chaille</u>	<u>ROBERT B. CHAILLE</u>	<u>296 WESTERN AVE</u>	<u>497-7193B</u>
✓ <u>Elizabeth Hanley</u>	<u>Elizabeth Hanley</u>	<u>43 Ellen St</u>	<u>547-8149 4</u>
✓ <u>Frances Siegel</u>	<u>FRANCES SIEGEL</u>	<u>36 Highland Ave.</u>	<u>354-1188 3/4</u>

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City of Cambridge
ZONING PETITION

Sponsored by:
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LINKAGE FEE ENHANCEMENTS

5 MAR 89 / FINAL / AS FILED

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WHEREAS SECTION 11.200 requires an impact fee contribution from commercial projects seeking special permits within certain limited districts, but inexplicably fails to require a similar contribution from projects seeking variances, or special permits outside the districts specified, even though all such projects have impact on the Cambridge housing market; and

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B. Delete section 11.202 Applicability in its entirety, and substitute therefore the paragraph following:

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C. Delete the first two paragraphs of 11.203 (a), and substitute in their place the paragraph following:

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LINKAGE FEE ENHANCEMENT PETITION

RECEIVED
CITY OF CAMBRIDGE
1989 MAR 20

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RECEIVED
 OFFICE OF CITY CLERK
 MAR 20 1988

LINKAGE FEE ENHANCEMENT PETITION

We the Undersigned respectfully petition the Honorable, the City Council of the City of Cambridge, to enhance funds available to support affordable housing in Cambridge by amending Section 11.200 of the Zoning Ordinance in conformance with the Petition attached hereto.

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✓ Martha Osler	MARTHA OSLER	4 IRVING TERR	864-2668 1/3
Joan Lorentz	JOAN LORENTZ	419 BROADWAY	547-8936
John R. Pitkin	JOHN R. PITKIN	18 FAYETTE ST.	492-4035 3/4
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✓ Margaret Myers	Margaret M. Myers	5 Hales St.	491-8745 1/1
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John T. St. George	John T. St. George	348 Windsor St.	547-4059
✓ L.B. Watkin	CRAIG B. WATKINS	158 MAGAZINE ST.	497-0370 5/2
— Lynne Alexis Molnar	Lynne Alexis Molnar	14 Magnolia Ave	868-1737 4/4
Constance Thibault	Constance Thibault	42 Linnaean St, No. 14	amb. 02138 547-5149
Mary Martell	Mary Martell	2 Mt. Auburn St.	amb. 02138 491-7969
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✓ Robert B. Chaille	ROBERT B. CHAILLE	296 WESTERN AVE	497-7193B
✓ Elizabeth Hanley	Elizabeth Hanley	43 Ellen St	547-8149 4
✓ Frances Siegel	FRANCES SIEGEL	36 Highland Ave.	354-1188 3/4

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City of Cambridge
ZONING PETITION

Sponsored by:
CAMBRIDGE CITIZENS FOR LIVEABLE NEIGHBORHOODS

LINKAGE FEE ENHANCEMENTS

5 MAR 89 / FINAL / AS FILED

WHEREAS the City of Cambridge has recently amended its Zoning Ordinance to include a new SECTION 11.200, INCENTIVE ZONING PROVISIONS; and

WHEREAS the intent, in part, of this new section is to "mitigate the impacts of commercial development on the availability and cost of housing and especially affordable housing"; and

WHEREAS the impacts of commercial development on housing are described and calculated in a Report to the City entitled THE IMPACT OF CAMBRIDGE OFFICE DEVELOPMENT ON CAMBRIDGE HOUSING PRICES (J S Kayden and R Pollard, April, 1988); but unfortunately

WHEREAS SECTION 11.200 fails to adequately address the impacts described in this Report because:

- (1) The Report says that "the average price impact of one square foot of Cambridge development is \$3.00" (p. 16), while Subsection 11.203 (a) requires only \$2.00 per square foot in impact fee; and and because
- (2) SECTION 11.200 does not require the first 30,000 square feet of office buildings to contribute an impact fee, even though the Report does not state or explain why the first 30,000 square feet fail to impact the Cambridge housing market; and further

WHEREAS SECTION 11.200 requires an impact fee contribution from commercial projects seeking special permits within certain limited districts, but inexplicably fails to require a similar contribution from projects seeking variances, or special permits outside the districts specified, even though all such projects have impact on the Cambridge housing market; and

WHEREAS SECTION 11.200 can realize a substantial increase in funding for the Affordable Housing Trust if the aforementioned deficiencies are corrected;

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A. Amend existing text by inserting new words as follows:

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2. At subsection 11.203 (b) Housing Creation Option, insert the words "or variance" immediately following the words "...special permit..." wherever they may occur.
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B. Delete section 11.202 Applicability in its entirety, and substitute therefore the paragraph following:

"11.202 Applicability. Where a developer chooses to seek a special permit or variance pursuant to any rules and procedures of this Ordinance, the developer shall be subject to the provisions of this Section 11.200 et al."

C. Delete the first two paragraphs of 11.203 (a), and substitute in their place the paragraph following:

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City of Cambridge
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CAMBRIDGE CITIZENS FOR LIVEABLE NEIGHBORHOODS

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VARIANCE LIMITATION PETITION

CITY OF CAMBRIDGE

PAGE | OF |

APR -6 PM 12:04

We the Undersigned respectfully petition the Honorable, the City Council of the City of Cambridge, to prevent the unwarranted intrusion of commercial uses into residential districts by amending Subsection 10.31 of the Zoning Ordinance in conformance with the Petition attached hereto.

Signature	Printed Name	Address	Phone
	<u>DANIEL E. GEER, JR.</u>	<u>40 Bellis Circle</u>	<u>354-3253</u> 104 ✓
	<u>Debra McManus</u>	<u>19 Cornelius</u>	<u>864-2686</u> 12 ✓
	<u>Anne R. Toop</u>	<u>294 Green St.</u>	<u>547-3834</u> 62 ✓
	<u>Walter Grant</u>	<u>302 Brookline St.</u>	<u>864-1441</u> 52 ✓
	<u>Jennie Ray Bush</u>	<u>302 Brookline St.</u>	<u>864-1441</u> 52 ✓
	<u>SUSAN DOWDS</u>	<u>48 BANKS</u>	<u>354-6094</u> 62 ✓
	<u>Paicilla J. McMillan</u>	<u>12 Hilliard St</u>	<u>547-6260</u> 82 ✓
	<u>Susan Yanow</u>	<u>221 Norfolk St</u>	<u>492-1032</u> 32 ✓
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	<u>STEPHEN H. KAISER</u>	<u>191 HAMILTON ST.</u>	<u>491-8277</u>
	<u>HENRY G. SHAUGH</u>	<u>1857 MASS AVE</u>	<u>864-4635</u>
	<u>Peter D. Kinder</u>	<u>7 Dana Street</u>	<u>547-3236</u>
	<u>J.P. MARKS</u>	<u>7 Cornelius Way</u>	<u>661-7236</u> 8 ✓
	<u>John T. St. George</u>	<u>248 Windsor St. 02141</u>	<u>547-4059</u> HV ✓
	<u>Hugo Salemme</u>	<u>89 Third St</u>	<u>576-1073</u> HV ✓
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	<u>Jane Myers</u>	<u>165 Charles St</u>	<u>492-3582</u>
	<u>Margaret M. Myers</u>	<u>56 Lewis St</u>	<u>491-8745</u>
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City of Cambridge
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Sponsored by:
CAMBRIDGE CITIZENS FOR LIVEABLE NEIGHBORHOODS

VARIANCE LIMITATIONS

FINAL / AS FILED 6 APR 89

WHEREAS concern among Cambridge citizens increases that variances to the Zoning Ordinance have become too commonplace, and too easy to obtain; and

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NOW THEREFORE we the Undersigned respectfully petition the Honorable, the City Council of the City of Cambridge, to amend the Cambridge Zoning Ordinance as follows:

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"Upon making the findings required above, the Board of Zoning Appeals may grant variances with respect to uses permitted, except in all Residence and Open Space districts, where no use variances of any kind shall be permitted."

EXPLANATION: As presently written, Subsection 10.31 allows the Board of Zoning Appeals to permit non-residential uses to enter residential districts. This re-write prevents this kind of variance, but does not prevent use variances from occurring in commercial districts. If there is good reason to allow non-permitted uses to enter a residential area, then this can be accomplished by a change of zoning district, by rewriting the table of permitted uses in Article 4, or by establishment of a PUD.

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CITY OF CAMBRIDGE

Russell B. Higley
City Solicitor

Donald A. Driscoll
Deputy City Solicitor

Michael C. Costello
Assistant City Solicitor

Office of the City Solicitor
City Hall
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

 (617) 498-9020

Birge Albright
Legal Counsel

Gail S. Gabriel
Legal Counsel

Joseph M. Kargler
Legal Counsel

April 6, 1989

Mr. Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Reconsideration of Zoning Amendment Petition
after Referral to Planning Board

Dear Mr. Healy:

The Deputy City Clerk, John Flynn, has requested a legal opinion regarding the following question:

When a zoning amendment petition transmitted to the City Council by the City Manager on March 27, 1989 was voted by the City Council to be referred to the Planning Board on April 4, 1989, and a City Councillor moved for reconsideration, and the next regular meeting of the City Council is scheduled for April 10, 1989, does G.L. c. 40A require that the petition be submitted to the Planning Board prior to the April 10, 1989 meeting?

General Laws, c. 40A, s. 5 provides in pertinent part that:

The ... city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review. [emphasis added]

This statute makes submission to the Planning Board mandatory within fourteen (14) days of "receipt" of the proposed zoning amendment.

The petition under consideration appeared on the City Manager's Agenda for March 27, 1989. The petition was therefore received by the City Council on that date.

Mr. Robert W. Healy
April 6, 1989
Page 2

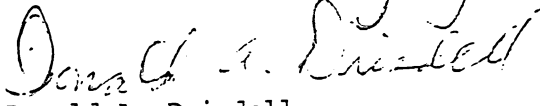
As a general rule of interpretation, when a statute provides for an act to be done within a certain number of days, the day of the event after which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. See, Massachusetts Rules of Civil Procedure, Rule 6(a). Applying these rules the fourteenth day for submission to the Planning Board of the subject petition will be April 10, 1989.

Since G.L. c. 40A requires that the City Council "submit" the petition to the Planning Board, it is a fair conclusion that the Planning Board should receive the petition by the fourteenth day. Moreover, it is a fair conclusion that the Planning Board should receive the petition by the close of business on the fourteenth day. While we have found no court decisions specifically addressing these issues, it is our opinion that a risk of a procedural defect may be created by failing to "submit" the petition to the Planning Board before the City Council meeting scheduled for Monday night, April 10, 1989.

As a general rule a clear, mandatory state statute, such as G.L. c. 40A, s. 5, supercedes any conflicting local rule. Since it does not appear that the City Council, upon reconsideration, can legally fail to refer the petition to the Planning Board, the petition should be referred prior to the meeting to prevent the risk of a procedural defect.

Respectfully submitted,


Russell B. Higley


Donald A. Drisdell

RBH/DAD/jml

City of Cambridge
ZONING PETITION

Sponsored by:
CAMBRIDGE CITIZENS FOR LIVEABLE NEIGHBORHOODS

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VARIANCE LIMITATION PETITION

CITY CLERK

APR -6 PM 12:04

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Signature	Printed Name	Address	Phone
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	Debra McManus	19 Cornelius	864-2686 ¹²
	Anne R. Toop	294 Green St.	547-3834 ⁶² ✓
	Walter Grant	302 Brookline St.	864-1441 ⁵² ✓
	Jennie Ray Bush	302 Brookline St.	864-1441 ⁵² ✓
	SUSAN DOWDS	48 BANKS	354-6094 ⁶² ✓
	Paicilla J. McMillan	12 Hilliard St	547-6260 ⁸² ✓
	Susan Yanow	221 Norfolk St	492-1032 ³²
	Robert Owen Edbrooke, Jr.	20 Prescott St #5	492-8267 ⁶³ ✓
	JONATHAN MYERS	6 Howe St	491-8745
	STEPHEN H. KAISER	191 HAMILTON ST.	491-8277
	HENRY G. SHAUGHNESSY	1857 MASS AVE	864-4635
	Peter D. Kinder	7 Dana Street	547-3236
	J.P. MARRAS	7 Cornelius way	661-7236
	John T. St. George	248 Windsor St. 02141	547-4059 HV ✓
	Hugo Salemmé	89 Third St	576-1073 HV ✓
	Jean Salemmé	89 Third St	576-1073 HV ✓
	Jane Myers	165 Charter St	492-3582
	Margaret M. Myers	564 is St	491-8745
	Richard A. Coan	117 Rudge Ave	497-0870

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✓ = registered voters

City of Cambridge
ZONING PETITION

Sponsored by:
CAMBRIDGE CITIZENS FOR LIVEABLE NEIGHBORHOODS

VARIANCE LIMITATIONS

FINAL / AS FILED 6 APR 89

WHEREAS concern among Cambridge citizens increases that variances to the Zoning Ordinance have become too commonplace, and too easy to obtain; and

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1.

O-86

Petition of Daniel E. Geer, Jr., et al, to amend the Zoning Ordinances of the City of Cambridge in Subsection 10.31 Re: variances granted by the Board of Zoning Appeal; said petition would prevent use variances being permitted in all Residence and Open Space districts.

In City Council,

April 10, 1989

*6/19/89 Placed in file
due to expiration of
time limit*

*Copy sent to Leo Barber, Planning Board
4/12/89. Copy to Council for Walsh,
Ordinance Committee Chair 4/21/89*