

8 Ellery Square
Cambridge, Mass. 02138-4229
25 January 2001

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2001 JAN 25 P 4: 49

Swiss House Violation of Special Permit

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

Mr. Robert Barsani, Head
Cambridge Building Department
831 Massachusetts Avenue
Cambridge, Mass. 02139

Dear Mr. Barsani:

A consulate of the Government of Switzerland opened several months ago at 420 Broadway, the former site of Sage's grocery store and a laundromat. The Swiss government applied for and received from the Board of Zoning Appeals a special permit for this activity, known as Swiss House, as "a non-commercial study and meeting center" under Article 4.00, Section 4.56(d)(2) of the Zoning Ordinance, as its purpose was described by the Swiss themselves in their application to the BZA.

In an article in the *New York Times* on 10 December 2000 by Lynnley Browning, the primary function of Swiss House is revealed to be, in fact, commercial rather than non-commercial. As reported by Ms. Browning, Dr. Xavier Comtesse, the consul who is in charge of Swiss House, states that the activities to be carried out in Swiss House are primarily to teach the Swiss how to adopt American entrepreneurial strategies for rapid progress in new-technology companies. To that end, a private, for-profit company called Swiss Entrepreneurs Network Development (SEND) has been formed and operates out of Swiss House. It may also be noted that, although the operating expenses of Swiss House will be borne by the Swiss government, the cost of acquisition and remodeling of the building was met by a \$2 million grant from Lombard Odier, a private bank in Geneva.

Another organization "hosted" by Swiss house is The Boston Economic Advancement Messengers (BEAM). BEAM is sponsored by the Swiss government and Lombard Odier, generally to promote business relationships between Switzerland and the "new economy" in the Boston area. This also does not seem to be a non-commercial activity.

Activities such as these were not mentioned in the application for a special permit, and would change the impact that Swiss House is likely to have on the neighborhood. Additional information on the organizations involved and their activities can be found at the following web sites:

Swiss House: <http://www.creativeswitzerland.com>
SEND: <http://www.sendyourstartup.com>
BEAM: <http://www.swissbeam.org>
Mirabaud & Co., a private bank involved with BEAM: <http://www.mirabaud.com>

Another article containing information about Swiss House appeared in *The News-Times*, a Connecticut newspaper, on 11 October 2000. It can be found at <http://newstimes.com/archive2000/oct11/bzh.htm>.

While these activities may be laudable, they do not appear to be consistent with the uses (non-commercial study and meeting center) for which a special permit was granted by the BZA. Indeed, it is hard to see why two different Swiss private banks would involve themselves in any non-commercial enterprise in Cambridge, one of them to the extent of making a significant money grant.

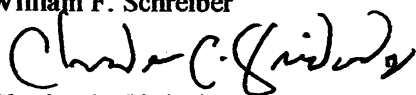
Some of the signatories of this letter were plaintiffs in a lawsuit to overturn the action of the BZA, which, we believe was incorrect. In our opinion, the Plan prohibits even the non-commercial activities that Swiss House was supposed to implement according to their request for a special permit. The primary use of the facility for commercial purposes is surely a violation of the terms of the permit. Our suit failed because, in our opinion, the language of the Zoning Ordinance was not sufficiently specific relative to the incorporation therein by the City Council of the objectives of the Institutional Growth Management Plan more than 20 years ago. In addition, our legal resources were no match for those of the Swiss government.

Enclosed is a copy of the BZA permit and the Browning article. The signatories request that the Building Department now enforce the provisions of the special permit.

Sincerely



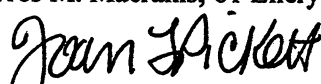
William F. Schreiber



Charles C. Girdosky



Stavros M. Macrakis, 61 Ellery Street



Joan Pickett, 59 Ellery Street



David H. Szlag, 74 Ellery Street



John Pitkin, 18 Fayette St.

President, Mid-Cambridge Neighborhood Assn.
For the Association

Encl: N Y Times article
Proceedings of the BZA relative to the application for a special permit

Cc: The City Council
Mr. Robert Healy, City Manager

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December 10, 2000, Sunday
Money and Business/Financial Desk

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BUSINESS; Coming to America to Learn a Secret: Boldness

By LYNNLEY BROWNING

SWITZERLAND, the land of Heidi, neutrality, chocolate and secret bank accounts, is not known for a business culture that encourages daring new ideas. And that is exactly what is worrying the Swiss government, which has watched in dismay as America's brash young executives spawn the hot companies and vast wealth of the new economy.

So in an uncharacteristic move, Switzerland has opened a mission in Cambridge, Mass., that is intended to help the country discover its inner entrepreneur.

Less Old World consulate and more 21st-century conduit to the Boston area's hotbed of technological and academic innovation, the outpost aims to encourage a new generation of Swiss businesspeople to think more like their American counterparts.

"We don't have a culture of, 'Let's grow big and fast and be master of the world,'" said Dr. Xavier L. Comtesse, 52, a Swiss diplomat who heads the mission, known as the Swiss House for Advanced Research and Education. "You never hear a Swiss say, 'I want to change the world,' like you do here. We need to take more risks."

Other countries with similar aspirations have taken notice of Swiss House, which is a research organization, consulting firm, incubator and meeting space rolled into one. Near the Massachusetts Institute of Technology and Harvard University, in a region with the largest concentration of start-ups and venture capitalists after Silicon Valley in California, the outpost is described in a government brochure as "a privileged observatory of the efficient American innovation and technology transfer system."

With open cubicles, a conference table, and a pillow-lined "pit," Swiss House offers Swiss entrepreneurs a place to fire up their laptops, make phone calls, network and absorb the culture of the new economy.

Swiss House officially opened in October, after a prolonged renovation, but it has been operating for many months. Last May, it held a European start-ups conference with M.I.T. In January, Swiss House and M.I.T. will sponsor a biotechnology conference.

Swiss House has also asked Clarity Capital and Atlas Venture, two venture capital firms based in Boston, to participate in business development seminars for young Swiss executives and to screen business pitches from Swiss start-ups. Saleena Goel, an associate at Atlas, and Chad M. Jackson, a principal at Clarity, said they were interested in both proposals.

The outpost was also host recently for a delegation of Swiss information technology researchers and entrepreneurs, including some from Fastcom Technology, a digital camera maker and software distributor in Lausanne. Some members of the delegation visited M.I.T.'s Media Laboratory to learn how to translate technologies from the laboratory to the market. Others met with representatives of Putnam Investments, the Boston mutual fund company, which invests in emerging foreign companies.

And in tandem with a Swiss foundation, the outpost sponsored a business-idea contest for Swiss entrepreneurs last January. Nearly two dozen winners were awarded one-week crash courses in entrepreneurialism at M.I.T.

The course, called "a brain transplant for potential European entrepreneurs" by Kenneth P. Morse, managing director of M.I.T.'s Entrepreneurship Center, covered issues like customer focus, building management and raising money for start-ups.

"The Swiss know they have a problem," Mr. Morse said. "They're taught to fear risk and failure. They're conservative and conventional. Their culture doesn't favor entrepreneurialism. But they're coming out of the closet."

A case in point is Swiss House's commercial "spin-off," called Swiss Entrepreneurs Network Development, or SEND. Operating at Swiss House but registered as a private United States company, it is a consulting firm for Swiss start-ups. One project is to find an American acquisition target for a new Swiss company, Bioring, which makes medical devices. Aceair, a manufacturer of small aircraft, is using SEND to find legal counsel as it expands into the United States.

"My idea," said Pascal Marmier, SEND's Swiss director, "is to radiate U.S. entrepreneurial skills back into Switzerland."

Mr. Marmier, 27, a lawyer by training, is paid through grants and investments from Venture Partners, one of Switzerland's biggest venture capital firms, and SpaceVest, an investment firm in Reston, Va.

An artfully designed space of glass, blond-wood floors and chrome, surrounded by Webcams, flat panel displays and giant video conference screens, Swiss House has the feel of a high-technology start-up -- albeit one with a big interior-design budget. It even has a corporate-style advisory board; one member is Paul Sagan, president of Akamai Technologies, the Internet services company based in Cambridge.

The operating costs of Swiss House are paid by the Swiss government. But the \$2 million cost of buying and renovating the red-brick building, a former grocery store, was financed by Lombard Odier, a 202-year-old private bank in Geneva. The bank hopes to organize seminars at Swiss House on how American high-tech start-ups do business.

Dr. Comtesse proposed the mission to the Swiss government in 1997, when he was the science counselor at the Swiss Embassy in Washington. Nearly two years later, Bern approved, but the deal was delayed by local homeowners who sued to block it out of concern that Swiss House would change their residential neighborhood. A judge ruled in favor of the Swiss.

The outpost idea appears to be spreading: officials from Britain, Ireland, Japan and Finland have asked Swiss House how to set up similar missions. Australia, Singapore and Canada established outposts this year in San Francisco and Silicon Valley.

Despite its small size, Switzerland is prosperous and is home to much potential start-up capital, and researchers there have developed promising biotechnologies and computer technologies. Nevertheless, the country ranks only 10th in Western Europe in private equity investing, which includes venture capital financing for new companies -- far behind Britain, France and Germany, according to the European Private Equity and Venture Capital Association, a trade group based in Brussels.

IN the United States, venture capitalists have poured hundreds of billions of dollars into risky start-ups in recent years. But Switzerland's secretive venture capital funds and financial institutions, daunted by high taxes, tend to invest in well-established Swiss companies or abroad. Swiss stock options are taxed so prohibitively that they are usually a burden, rather than a springboard to personal wealth or an incentive to build a good company quickly.

And while the American new economy has been fueled in part by the willingness of executives to put aside their dot-com failures, Swiss laws that make it difficult to write off debts can render an

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entrepreneur's failed venture his last.

Whether Swiss House can turn the Swiss into new-economy capitalists is unclear. Ms. Goel at Atlas Venture said that for Swiss House guests, learning a new entrepreneurial culture "will be a hurdle."

Dr. Comtesse sees Swiss House as a beachhead for changing a less-than-innovative mind-set. "Americans think differently," he said. "We need to have more dreamers."

Organizations mentioned in this article:

Related Terms:

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City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.
(617) 349-6100

1999 AUG 26 P 2:39
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

CASE NO: 7959

LOCATION: 420 Broadway
Cambridge, MA

Residence C-1 Zone

PETITIONER: Frank J. Frisoli, Jr. Esq.

PETITION: Special Permit: To occupy as a study and meeting center for the share program of the Government of Switzerland and to reduce the required amount of parking spaces.

VIOLATIONS: Art 4.000, Sect. 4.56 (Private Library, Study Center or Other Research Facility). Art. 6.000, sec. 6.35 (Reduction in Required Parking).

DATE OF PUBLIC NOTICE: June 29 & July 6, 1999

DATE OF PUBLIC HEARING: July 15, 1999

MEMBERS OF THE BOARD:

LAUREN CURRY – CHAIRPERSON
CHARLES PIERCE
JOHN O'CONNELL
THOMAS SIENIEWICZ
SUSAN SPURLOCK

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X

ASSOCIATE MEMBERS:

ARCH HORST
MARC TRUANT
REBECCA TEPPER
SUSAN CONNELLY
JENNIFER PINCK
ED DeANGELO

X

Members of the Board of Zoning Appeal heard testimony and viewed materials submitted regarding the above request for relief from the requirements of the Cambridge Zoning Ordinance.

The Board is familiar with the location of the petitioner's property, the layout and other characteristics as well as the surrounding district.

Case No.: 7959
Location: 420 Broadway
Petitioner: Frank J. Frisoli, Jr., Esq. – Government of Switzerland

On July 15, 1999, Attorney James Rafferty, Maria Waldvogel, an architect, Jeff Huang, an architect, Attorney Mark Redlich, representing the Government of Switzerland, and Beat Hadorn, Area Manager for the Swiss Government, appeared before the Board of Zoning Appeal seeking a special permit to occupy 420 Broadway as a study and meeting center for the SHARE program of the Government of Switzerland. The petition also sought to reduce the required number of parking spaces at 420 Broadway. The applicants submitted plans, drawings, and photographs detailing the proposed project.

Attorney Rafferty stated that the petition is for a special permit for a change in use of 420 Broadway. Rafferty informed the Board that the property is located in a Residence C-1 district and the previous retail use had been based on a pre-existing nonconforming use. He indicated that this property, which is a corner lot at Ellery Street and Broadway, has been operated as a variety of retail uses, and for the past fifteen (15) years it has been operated as Sage's Market and a self-service laundry facility. Rafferty reported that the retail use ceased operations one or two months before the hearing and that the Mid-Cambridge Conservation Commission reviewed this project and voted to issue a Certificate of Appropriateness, conditioned upon review of the siding and brick elements by the Architects Committee. He explained that the petitioners propose only a few changes to the existing structure.

Rafferty asserted that the facility will be operated by the Swiss science and technology attaché as a venue for Swiss businessmen, Swiss citizens and other science and technology, to exchange information and ideas, engage in video conferencing, seminars, exhibits about Switzerland, and a range of uses that are not typically associated with a consulate. He stated that the site would not be utilized for the traditional diplomatic functions of receiving passports or anything of that nature. The site will be used to focus awareness of Switzerland and creating an environment where Swiss graduate students, Swiss business people, and Americans can exchange ideas and information, particularly in the area of technology. The parking available is currently four spaces; however, the plans call for two (2) parking spaces for employees and a garden.

Rafferty expressed his opinion that the Board has authority to grant a Special Permit under these circumstances, pursuant to M.G.L. chapter 40A, Section 6 and pursuant to the Institutional Use Regulations, Table of Uses at Article 4.00, Section 4.56(d)(2) of the Cambridge Zoning Ordinance. In his opinion, the use being proposed, because of its institutional nature, is allowable by special permit as set forth in Article 4.00, Section 4.56(d)(2). The lot status for this property is Category 2, because its use has not been residential, and the location of the property is outside the institutional

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overlay districts. The use being proposed, according to the Table of Institutional Use Regulations, is allowed by Special Permit. He stated that Article 8.00, Sections 8.22.1 and 8.22.2 of the Cambridge Zoning Ordinance apply only to physical alterations of the structure, which is not what is being proposed by this petition. Rafferty further described how the proposed use for the property meets the criteria for granting a special permit.

The Chair read into the record a communication, dated July 7, 1999, from Charles Sullivan, Executive Director of the Cambridge Historical Commission, stating that: "This project is in review by the Mid Cambridge Neighborhood Conservation District Commission, with final approval pending an Architects Committee review of revised plans." The Chair indicated that a five (5) page petition was submitted to the file in support of the project. The Chair also noted that correspondence was submitted to the file from William F. Schreiber of 8 Ellery Street, John Devaney of 421 Broadway, and Joan Pickett of 59 Ellery Street, all of whom indicate that they have objections to this special permit application.

The following abutters, neighbors and citizens spoke in support of the proposal: Margaret Bates of 18 Ellery Square; Diane Munson of 17 Ellery Square; Chris Hahn of 419 Broadway; Ben Compaine of 5 Ellery Square; Faith Whittlesey of 419 Broadway; Paul Smyke of 38 R.C. Kelly Street; Cosmo Cremaldi of 13 William Street; Genevieve Cremaldi of 588 Franklin Street; and Michael Zeldin of 1 Waterhouse. Chris Hahn stated that he believes that this use will preserve the residential character of the neighborhood and will be quieter than another retail store. Ben Compaine and Faith Whittesley spoke about the trash and other disruptions caused by the Sage's Market and stated their belief that this use would be more in keeping with the residential character of the neighborhood.

The following abutters and neighbors spoke in opposition to the proposal: Linda Murphy of 39 Dana Street; Charlie Girdosky of 423 Broadway; John Pitkin of 18 Fayette Street, speaking as the President of the Mid-Cambridge Neighborhood Association; Joan Pickett of 59 Ellery Street; David Szlag of 74 Ellery Street and Rachel Yasui of 65 Ellery Street. The concerns posed in opposition were the following: loss of a retail service in the neighborhood; parking; public transportation; the fact that this is a residential area and zone; the traffic after hours; no benefit to the neighborhood; and expansion of an institutional use in a residential district.

After discussion, the Chair moved that the Board find that the building design and site plan would be compatible with the neighborhood. The five member Board voted unanimously in favor of this finding.

The Chair moved that the Board find that the institution would be accessible to or primarily oriented toward the neighborhood residents. The five member Board voted unanimously in opposition to this finding.

The Chair moved that the Board find that the institution would fulfill an identified neighborhood need. The five member Board voted unanimously in opposition to this finding.

The Chair moved that the Board find that the institution would fulfill an identified citywide need. Two members (O'Connell and Tepper) voted in favor of the finding and three members (Pierce, Curry and Sieniewicz) opposed this finding.

The Chair moved that the Board find that the institutional use would be particularly appropriate on the lot given previous use of the lot. Three members (Sieniewicz, Curry and Tepper) voted in favor of the finding and two members (Pierce and O'Connell) abstained.

The Chair moved that the Board find that the institutional use would be particularly appropriate on the lot given institutional use of adjacent or nearby lots. Four members (Sieniewicz, Tepper, O'Connell, and Pierce) voted in favor of the finding and one member (Curry) opposed the finding.

The Chair moved that the Board find that a residential development would not be feasible or reasonably practical on the site. Three members (O'Connell, Pierce, and Sieniewicz) voted in favor of the finding and two members (Curry and Tepper) abstained.

The Chair moved that the Board find that the proposed institutional use would create a stronger buffer or a more gentle transition between residential and non-residential areas. The five member Board voted unanimously in favor of this finding.

The Chair moved that the Board find that the proposed institutional use would result in a net improvement to the neighborhood by being more compatible than the previous use of the lot. The five member Board voted unanimously in favor of this finding.

The Chair moved that the Board find that the development of the institutional use would substantially contravene the objectives of the Cambridge Institutional Growth Management Plan. The five member Board voted unanimously in opposition to this finding.

The Chair moved that the Board find that the intensity of the institutional use would be substantially greater than the use intensity of residences in the neighborhood including traffic, building bulk, and parking demands. Three members (Curry, Pierce and Sieniewicz) voted in favor of this finding. Two members (Tepper and O'Connell) voted in opposition of this finding.

The Chair moved that the Board find that the activity patterns including pedestrian and vehicle travel to and from the institution would differ from existing neighborhood activity patterns, so as to adversely impact the neighborhood. The five member Board voted unanimously in opposition to this finding.

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The Chair moved that the Board find that the development of an institutional use would eliminate existing dwelling units. The five member Board voted unanimously in opposition to this finding.

The Chair moved that the Board find that the development of an institutional use would eliminate non-residential services or activities, which are beneficial to the neighborhood. The five member Board voted unanimously in favor of this finding.

The Chair moved that, in light of the previous findings of fact, the Board find that the benefits of the proposed use at that location would outweigh its detriments as defined in this provision of the statute. The five member Board voted unanimously in favor of this finding.

The Chair moved that the Board find that the change in use will not be substantially more detrimental to the neighborhood than the existing nonconforming use. The five member Board voted unanimously in favor of this finding.

The Chair moved that the Board find that the lesser amount of parking will not cause excessive congestion, endanger public safety, or substantially reduce parking available for other uses, otherwise adversely impact the neighborhood, or that such lesser amount of parking will provide positive environmental or other benefits to users of the lot and the neighborhood. Four members (Tepper, Pierce, Sieniewicz and O'Connell) voted in favor of this finding. One member (Curry) opposed this finding.

The Chair moved that, on the basis of the previous findings, the Board grant special permit relief for the reduction of the required parking from eleven (11) spaces to two (2) spaces on the condition that those spaces be as illustrated on the parking plan, at page 12 of plans submitted in support of the application. Four members (Tepper, Pierce, Sieniewicz and O'Connell) voted in favor of this finding. One member (Curry) opposed this motion.

The Chair moved that the Board find that the criteria under Article 10.00, Section 10.43 do not preclude the granting of a special permit for a change of use to institutional use as a non-commercial study and meeting center under Article 4.00, Section 4.56(d)(2) and, based on that finding, that the special permit be granted on the following conditions:

1. that the renovation of the premises take place in substantial conformity with the plans which have been submitted in support of the application, a bound document prepared by M. Waldvogel and J. Huang, entitled Swiss House Supporting Document, and dated July 14, 1999 and which include a floor plan on page 10 and proposed landscaping on page 11, and those plans may be revised to comply with the requirements of the Historical Commission and the Mid-Cambridge Neighborhood Conservation District Commission;
2. that the normal hours of operation be normal office hours from 8:00 a.m. to 6:00 p.m. with occasional evening and weekend use, not to exceed two evening uses in one week and one weekend use a month;
3. that the term of the special permit be for five years;

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4. that no consular activities be conducted at the site and that no offices be set up to receive members of the public seeking services from the Swiss government, visas or other kinds of applications or regular service for Swiss citizens, which would be outside the limits of Article 4.00, Section 4.56(d)(2) of the Cambridge Zoning Ordinance;
 5. that the interior floor plans be no more than three individual offices;
 6. that there are no more than three regular employees; and
 7. that there may be other variations of the floor plan space so long as those variations do not affect the exterior elevations.

Five members of the Board voted in favor of granting the special permit on the stated conditions.

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

1. The meeting of the requirements of the Cambridge Zoning 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 Cambridge Zoning Ordinance would not be adversely affected by the nature of the proposed uses;
4. Nuisance or hazard would not be created to the detriment of the health, safety and/or welfare of the occupants of the propose use, and;
5. The proposed use would not impair the integrity of the district or adjoining district otherwise derogate from the Cambridge Zoning Ordinance, and in fact be a significant improvement of the structure and benefit of the neighborhood.

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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 regulations 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.

Charles Pierce
Charles Pierce, Board Member

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on 8/26/99 by Linda Paro, 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.

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Consent Communication #16

Communication was received from
William F. Schreiber et al.,
regarding Swiss House Violation of
Special Permit.

In City Council January 29, 2001

PLACED ON FILE