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OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS
January 20, 1999

TO THE HONORABLE, THE CAMBRIDGE CITY COUNCIL:

RE: So-called Yards Proposal:

Enclosed is a copy of the handout I distributed at the recent Ordinance Committee hearing on this matter. Also enclosed is a copy of the fourth, unnumbered, paragraph of c. 40A, §5, a provision about which you have received repeated incorrect "advice" from the City Solicitor (comparable in lack of quality to the City Solicitor's advice on how to calculate percentage of property objecting).

At the hearing, the Development Department passed out a piece of paper of very limited value, something that the Planning Board is considering including items which have been rejected by the Planning Board. The reality is that the complaints I have made as supplemented by the enclosed have not been responded to by the Planning Board and probably won't be until the time is extremely late.

The reality is that, even without wasting my time doing a full legal analysis on items which may or may not have value, the initiative cannot be amended to make it meaningful without refileing. It may or may not be possible to amend it to make it non-destructive.

A few basic points, nevertheless:

1. It is a flat out falsehood to say that the initiative provides anything like what the average human being would call yard. It is a flat out falsehood to say that the initiative provides anything like what the average human being would call green area. **Without landscape meaningfully required, this initiative is a falsehood.**
2. The vast amount of increases in requirements are only applicable to lots which exceed 5,000 square feet, lots which are in a minority in the city.
3. Once again, I have not looked at the changes in detail. One item I did notice came in the supposed reinstatement of existing green area requirements. To put it succinctly, existing requirements are for:

- * "A landscaped area of land" [Section 2.000, Definition of "Green Area"].

The proposal would require:

- * "A kind of Permeable Open Space **intended to be landscaped**" [proposed section 2.00, Definition of "Open Space, Landscaped", emphasis added]

There is a very big difference between requiring something to be done and requiring something to be intended.

4. The games with accessory buildings have been "deleted" in the latest language, giving the city council an all or nothing alternative: pass the irresponsible initial proposal or do nothing.
 - a. The language initially proposed would wipe out all size limits on "accessory buildings", allowing the accessory buildings with essentially meaningless yards to be larger than the principal buildings. In the denser zoning districts this would wipe out the formula yard requirements. The residentially neighbors of these districts would be destroyed.

- b. Language purporting to provide greater protection against "accessory buildings" does so only in four districts, using language which can be interpreted as stripping from all other districts the requirement that accessory buildings be accessory. I repeat in all districts but four, "accessory buildings" would no longer need ~~to be~~ *they need be accessory.*
 - c. The initiation of language which, for the first time, exempts garages from the same yard requirements as principal buildings mean that a garage structure may fill the entire back yard in all districts up to five feet from the back yard and ten feet from the side yard. This protects back yards?
- 5. The enclosure describing the destruction of the Galluccio protections fully applies to any and all "protections" which protect only above 5,000 square feet or other minimums. Requirements which may be evaded by subdivision are not requirements.
 - 6. The City Council should base yard protections on the language adopted for the C-2B district, language adopted over the objections of the Planning Board, although, admittedly that language was conservative and could stand significant improvement.
 - 7. If the City Council chooses to give more time to the present non-proposal, the City Council should be advised in a meaningful correct manner as to the time limits applicable. The governing statute is the fourth, unnumbered, paragraph of c. 40A, §5, copy attached. The relevant portion reads as follows:

... If a city council fails to vote to adopt any proposed ordinance within ninety days after the city council hearing . . . , no action shall be taken thereon until after a subsequent public hearing is held with notice and report as provided.

There is nothing in the statute which says the initiative is dead after ninety days. I firmly think it should be because the people of Cambridge want meaningful yard protections. The initiative does not provide them ,

Sincerely,



Robert J. La Trémouille

The Gutting of the Galluccio Residence B Protections

- ◆ Under the proposed “back yards” upzoning, much lauded protections which are provided to a small minority of lots and the existing Galluccio protections could both be evaded by subdivision games.
- ◆ Supposed “protections” are rendered shams to the extent they do something in the first place.
- ◆ The Galluccio protections would be destroyed to get these sham protections.

L. Barber of the Development Department on January 6 gave an excellent example of how the sham works. It is the basis of the following. The analysis assumes a 15,000 sq. ft. lot, and shows how, before subdivision .5 FAR is allowed for the first 5,000 square feet, and then .35 FAR for each subsequent 5,000 square feet, for an average FAR of .4.

- ◆ The Galluccio protections, without the upzoning, would retain the average, .4, on each lot after subdivision.
- ◆ The “back yards” upzoning would allow “protections” to disappear upon subdivision simply by drawing lines on a map:

Lot before subdivision

Part A	Part B	Part C
.5	.35	.35

Average FAR: .4

Subdivision of lot with the Galluccio protections

Lot 1	Lot 2	Lot 3
.4	.4	.4

Average FAR: .4,
protections are meaningful

Subdivision of lot after “back yards” upzoning

Lot 1	Lot 2	Lot 3
.5	.5	.5

Average FAR: .5,
protections are fake

Accessory Building Amendments

At the January 6 presentation, the Development Department refused to publicly discuss the Accessory Building portion of the upzoning, except to claim that the “accidental” portions were being deleted, a very bizarre aspect of a bizarre presentation. **Copies of the language of the proposal were removed from the table and denied to the public.**

- ◆ By the Accessory building amendments, yard requirements are destroyed in all districts on side and rear lots and between buildings (down to 5 or 10 feet) except the key four zoning districts because the definition of accessory building definition is stripped of any and all meaning except in four favored districts, Residence A, B, C and C-1.
- ◆ All a developer has to do is build two buildings and call one an accessory building. This specifically destroys major parts of the C-2B changes and massively eases Harvard expansion at the expense of its neighbors.
- ◆ In the four supposedly favored districts, existing protections which require parking garages structures to obey the same laws as the principle building are destroyed.
- ◆ The Accessory building proposal as submitted to the city council would allow “accessory buildings” to be larger than the principal building on the lot, thus the principal building (in reality) could be 5 or 10 feet from side and rear lot lines..

No vote to adopt any such proposed ordinance or by-law or amendment thereto shall be taken until a report with recommendations by a planning board has been submitted to the town meeting or city council, or twenty-one days after said hearing has elapsed without submission of such report. After such notice, hearing and report, or after twenty-one days shall have elapsed after such hearing without submission of such report, a city council or town meeting may adopt, reject, or amend and adopt any such proposed ordinance or by-law. If a city council fails to vote to adopt any proposed ordinance within ninety days after the city council hearing or if a town meeting fails to vote to adopt any proposed by-law within six months after the planning board hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as provided.

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MAY 10 1966
CITY OF
BOSTON

Emphasis added

Consent Communication #118- 643

A communication was received from
Robert J. LaTremouille, transmitting
concern over the "Yards" proposal.

In City Council January 25, 1999

PLACED ON FILE