

City of Cambridge

PETITION OF BARBARA B. CLURMAN

Petition filed with the City Clerk

April 7, 1978

(All hearings to be completed by June 13, 1978)

April 21 days 23

May 31 " 31

June ~~12~~ " 11

65 " 65

65 day = June 11, 1978

In City Council

April 10, 1978

Referred to Planning Board for Report

April 12, 1978

P.B. hearing

May 2, 1978

~~4/12~~ *5/2/78*

(City Council must act within 90 days of the Planning Board's hearing which would be July 31, 1978.)

May 29 days

June 30 "

July 31 "

90 "

City Council hearing published

Hearing before the City Council

(latest date - June ~~13~~, 1978)

Report to the City Council

Passed to a second reading

Published

Ready for ordination

Published

THURSDAY

City Council Hearing - May 11, 1978

Retest May 11, 1978

Post May 11, 1978

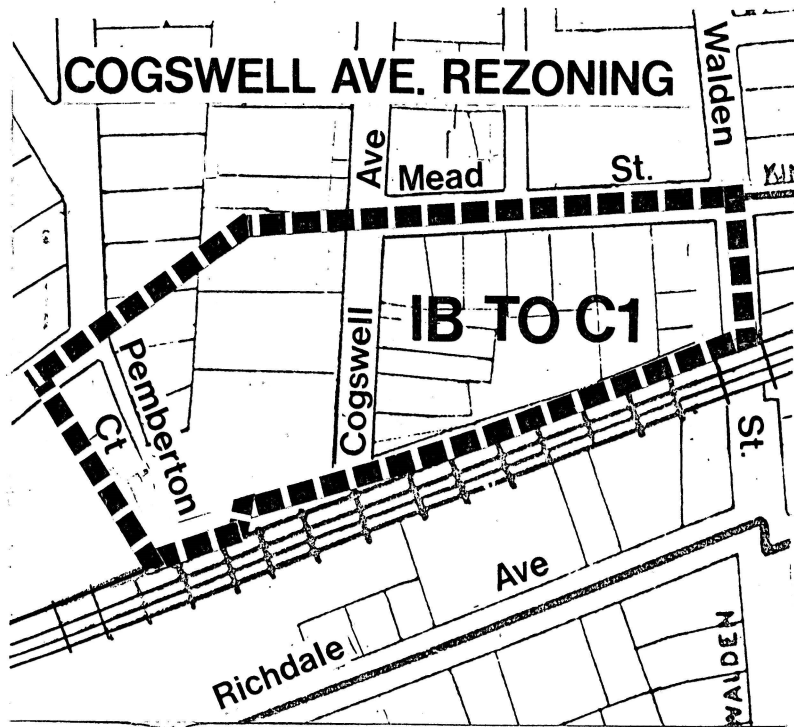
PUBLIC NOTICE
RELATIVE TO ZONING.

City of Cambridge

MASSACHUSETTS

Office of the City Clerk.

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition, and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council will hold a public hearing on Thursday, May 18, 1978 at 6:00 P. M. in the City Council Chamber, City Hall, Cambridge, Massachusetts on the petition of Barbara Clurman to amend the map accompanying the text of the Zoning Ordinance by striking out the designation Industry B and substituting in place thereof the designation Residence C-1 insofar as it relates to the areas shown on the map below:-



City of Cambridge

Copies of this petition are on file in the Office of the City Clerk,
City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be
heard.

For the committee

Councillor Frisoli,
Chairman, Committee on Ordinances.

PUBLIC NOTICE
RELATIVE TO ZONING.

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COGSWELL AVE. REZONING

IB TO C1

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.
All persons interested in this matter may appear at this time and be heard.

For the Committee
Councilor Friel,
Chairman, Committee on Ordinances

PUBLISHED IN: Herald American

EDITION: Cambridge Page

DATE: May 9, 1978

PUBLICATIONS - BARBARA
CLURMAN

**PLANNING BOARD
NOTICE OF
PUBLIC HEARING**

The Planning Board of the City of Cambridge will hold a public hearing on **Tuesday, May 2, 1978** at 8:30 p.m. in the City Council Chamber, City Hall, Cambridge, Mass. on a petition by **Barbara Clurman et al.** to amend the map accompanying the text of the Zoning Ordinance by striking out the designation **Industry B** and substituting in place thereof the designation **Residence C-1** insofar as it relates to the areas shown on the map below:

COGSWELL AVE. REZONING

IB TO C1

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Mass. Questions concerning this petition may be addressed to Richard Horgan at 867-6800 ext. 345.

11:16 (C) Apr 13, 20

PUBLISHED IN: Chronicle

EDITION: _____

DATE: April 13th & 20th edition

City of Cambridge

PETITION OF BARBARA B. CLURMAN

Petition filed with the City Clerk

April 7, 1978

(All hearings to be completed by June 11, 1978)

April ~~23~~ days
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April 10, 1978

Referred to Planning Board for Report

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Planning Board's hearing

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(City Council must act within 90 days of the Planning Board's hearing which would be July 31, 1978.)

May 29 days
June 30 "
July ~~31~~ "
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City Council hearing published

Herald American May - 1978
1984 - 1978

Hearing before the City Council

May 18 11:30 PM

(latest date - June ~~11~~, 1978)

Report to the City Council

May 29, 1978

Passed to a second reading
Published

- - -

Ready for ordination
Published

- - -

Planning Board Hearing May 2, 1978

29 May
30 June

Completion date -> 31 July ✓
90 days



CITY OF CAMBRIDGE, MASSACHUSETTS
PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

May 18, 1978

The Honorable, the City Council

Dear Councillors:

SUBJECT: Planning Board Recommendation on the Clurman Rezoning
Petition

In accordance with Chapter 40A of the General Laws, the Planning Board held a public hearing on Tuesday, May 2, 1978 on a petition by Barbara Clurman et al to rezone land at the end of Cogswell Avenue between Mead Street and the Fitchburg Division railroad right-of-way from Industry B to Residence C-1. The land is presently occupied by several residencies, one residential structure containing an office, and an open lot in which a warehouse is under construction.

At the hearing Warren Carstensen, the largest land owner in the petition and developer of the warehouse, opposed the petition. In addition to the petitioner, two other residents of the area spoke in favor of the petition.

The petition area is encompassed in the North Cambridge rezoning petition. Under that petition, endorsed by the Planning Board, the area would be rezoned to Residence B. The Board recommends that the City Council TAKE NO ACTION on the proposed Clurman rezoning until acting upon the Planning Board's petition. If the Council does not ordain the North Cambridge rezoning petition, at least as it pertains to the area of the Clurman proposal, we would then recommend that this petition be APPROVED.

Respectfully submitted,

For the Planning Board

Arthur C. Parris
Arthur C. Parris
Chairman

ACP:jp

Rec'd by City Clerk 5-18-78 in Room 2000

Michael J & Barbara B. Clurman = Prop owners
4/7/78 (all)

RECEIVED BY
OFFICE OF CITY CLERK

Cambridge, April 7, 19 78

APR 7 11 39 AM '78

To the Honorable, the City Council of the
City of Cambridge, MASS.

The undersigned respectfully pray

that the Zoning Ordinance of the City of Cambridge be amended as follows:

AMEND THE ZONING MAP BY CHANGING THE DISTRICT DESIGNATIONS FOR THE FOLLOWING AREA:

Rezone to Residence C-1 that area presently zoned Industry B, which is circumscribed by a line beginning at a point, said point being the intersection of the centerline of Mead Street and thence running 130 feet, more or less, to the intersection of the centerline of Walden Street, this line running in a southerly direction from the point of origin.

Thence running westerly 650 feet, more or less, along the southern lot lines of lots numbered 84, 48, 41, 40, and 3, then turning south for 15 feet, along lot 3, thence turning and running 40 feet westerly along lot 3, as shown on Assessors' Plat #199.

Thence running northerly for 200 feet, more or less, along the western lot lines of lots numbered 3, 2, and 1, as shown on Assessors' Plat #199, to the intersection of the centerline of Pemberton Street.

Thence running easterly for 320 feet, more or less, along the centerline of Pemberton Street and its projection until said projection intersects the projection of the centerline of Mead Street

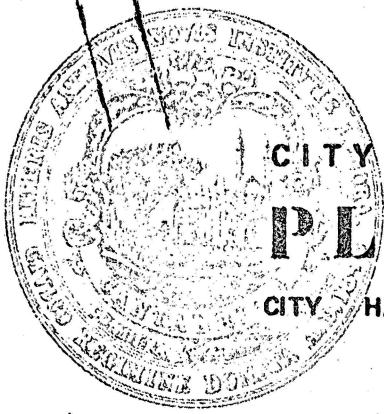
Thence running westerly along the centerline of Mead Street and its projection for approximately 480 feet more or less to a point, said point being the point of origin, and which comprises an area of more or less 111,272 square feet.

Said area includes all or parts of the following parcels:

Premises shown on Assessors' Plat #199

- A. Even numbers 6 through 30 Mead Street, which includes all or parts of lots numbered 43, 44, 45, 46, 47, 48, 49, as designated on Assessors' Plat #199.
- B. Odd numbers 43 and 45 Walden Street, which includes all or parts of lots numbered 49, 83, and 84, as designated on Assessors's Plat No. 199.
- C. Even numbers 42, 44, 46 Cogswell Avenue, which includes all or parts of lots numbered 40, 107, 108, 109, 41, as designated on Assessors' Plat #199.
- D. Odd numbers 39, 41, 43, 45, and 47 Cogswell Avenue, which includes all or parts of lots numbered 38, 104, 103, and 3, as designated on Assessors' Plat #199.
- E. Odd number 97 Pemberton Street, which includes all or parts of lot number 1, as designated on Assessors' Plat #199.
- F. Odd numbers 85, 87, 93, 95 Pemberton Court, which includes all or parts of lots numbered 1, 2, 4, 5, as designated on Assessors' Plat #199
- G. Odd numbers 81 and 83 Pemberton Street, which includes all or parts of lots numbered 6 and 7 as designated on Assessors' Plat #199.

Barbara B. Clurman



CITY OF CAMBRIDGE, MASSACHUSETTS
PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

May 18, 1978

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Dear Councillors:

SUBJECT: Planning Board Recommendation on the Clurman Rezoning
Petition

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At the hearing Warren Carstensen, the largest land owner in the petition and developer of the warehouse, opposed the petition. In addition to the petitioner, two other residents of the area spoke in favor of the petition.

The petition area is encompassed in the North Cambridge rezoning petition. Under that petition, endorsed by the Planning Board, the area would be rezoned to Residence B. The Board recommends that the City Council TAKE NO ACTION on the proposed Clurman rezoning until acting upon the Planning Board's petition. If the Council does not ordain the North Cambridge rezoning petition, at least as it pertains to the area of the Clurman proposal, we would then recommend that this petition be APPROVED.

Respectfully submitted,

For the Planning Board

Arthur C. Parris
Chairman

ACP: jp

Michael S & Barbara B. Clurman = Prop. address
4/7/78 (all)

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OFFICE OF CITY CLERK

Cambridge, April 7, 1978

APR 7 11 39 AM '78

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F. Odd numbers 85, 87, 93, 95 Pemberton Court, which includes all or parts of lots numbered 1, 2, 4, 5, as designated on Assessors' Plat #199

G. Odd numbers 81 and 83 Pemberton Street, which includes all or parts of lots numbered 6 and 7 as designated on Assessors' Plat #199.

Barbara B. Clurman

City of Cambridge

In City Council..... May 22, 1978

The Ordinance

Committee

to which was referred a petition by Barbara Clurman, et al to rezone land at the end of Cogswell Avenue between Mead Street and the Fitchburg Division railroad right-of-way from Industry B to Residence C-1.

The Committee held a hearing on May 18, 1978 at 6:40 P. M. in the City Council Chamber, City Hall.

Present were Chairman Frisoli, Councillors Crane, Duehay, Vellucci and Wylie.

The Committee heard from Don Balcom from the Community Development Department who presented to the City Council a report from the Planning Board who had a hearing on May 2, 1978 on the petition of Barbara Clurman. In the report from the Planning Board, Arthur Parris, Chairman of the Planning Board recommended that the City Council take no action on the proposed Clurman rezoning petition until the North Cambridge rezoning petition was resolved, that in the event the City Council failed to ordain the North Cambridge petition the Planning Board would recommend that the Clurman petition be approved.

Mr. Balcom outlined the restrictions available under the Residence C-1 zoning.

The Committee heard from Barbara Clurman of 24 Mead Street who stated that the petition was in behalf of the residents of Mead Street, that there was a small rectangular lot from 3500 sq. ft to 6500 sq. ft. between Mead Street and the railroad right-of-way which the residents wished to rezone.

Councillor Wylie informed the committee that the last thursday in June would be the deadline for action by the City Council.

The Chair declared the hearing for the proponent closed and the city Council now heard from the opponents.

The committee heard from John Alison of 79 Pemberton Street who recorded himself in opposition and that the area was dangerous for children due to the location to the school and heavy trucking should be restricted for the safety of the children.

The committee heard from Warren Carstensen in behalf of the Carstein Coal and Oil Co., Inc. who informed the City Council that this down zone would devalue the property the Carstensenfamily owned, that he had four building permits for new mini storage units that he would not create a traffic jam with these new units and that use should remain industrial use, that he filed a petition to this effect with the Planning Board.

He further stated that on November 10, 1977 he obtained a building permit during a moratorium lapse on the advice of legal counsel, that the value of the land is affected by the position of the land to the railroad. He further stated that the land in question near the railroad tracks was only good for self service storage area with parking and included 14,300 sq. ft.

Mr. Carstensen further alleged the petition of Barbara Clurman was spot zoning and included copies of the Massachusetts case of Benjamin Shapiro vs. the City of Cambridge 340 MAS 652 which in a similar situation in a neighborhood location the proposed zoning was declared to be illegal and constituted spot zoning.

Mr. Carstensen also filed a statement with the City Clerk on May 12, 1978 which indicated that his organization owned 20% or more of the land proposed to be included in the zoning amendment by Barbara Clurman. He also stated that it was not feasible for residence between the location near the railroad tracks.

No one else appeared in opposition at the call of the Chair and the Chairman declared that part of the hearing closed.

At this time the committee heard from Beverly Ketchum of 21 Mead Street who was recognized by the chair and recorded herself in favor of the proposed zoning amendment.

The hearing was closed at 7:35 P. M.

The committee reports recommending the petition be referred to the City Council without recommendation, pending the action taken by the City Council on the North Cambridge rezoning petition.

For the Committee,

Councillor Lawrence Frisoli,
Chairman.

RECEIVED BY
OFFICE OF CITY CLERK

MAY 12 12 41 PM '78

CAMBRIDGE, MASS.

To the Honorable City Council
City Hall
Cambridge, Massachusetts 02139

We are the owners of parcels numbered 41, 109, 103, 3, 104, and 4 which are shown on Assessor's Plat Number 199, located on Cogswell Avenue abutting the Boston & Maine Railroad tracks.

We object to both the petition of Barbara Clurman to rezone these parcels from Industry B to Residence C-1, and also object to the proposal of the Cambridge Planning Board to rezone these parcels from Industry B to Residence B. We do not object to the City Council's considering rezoning of other parcels in the area but we request that either these parcels remain in the Industrial B zone or that our petition filed on May 4, 1978 requesting that the zone map be changed for those parcels to Industrial A-1 be approved by the City Council. Our reasons are as follows:

1. The land designated as Lots 41, 109, 103, 3, 104 and 4 shown on Plat No. 199 have historically been industrial in use and in character. Their industrial use dates back to the 1880s.
2. The lots are not suitable for residential use. Clearly, two family use under Residence B is singularly inappropriate. Apartment house use under Residence C-1 would not be suitable. The lots are immediately adjacent to the railroad tracks and if they were used for residential purposes it would not be safe for children who could wander onto the railroad tracks. The passing of passenger and freight trains with a considerable degree of frequency makes the lots very unattractive for residential use. The area south of the tracks is composed of heavy industrial use and would not be attractive for residential use.
3. There is no market for the sale of these lots for residential use. The net effect of any zoning change to either Residence B or Residence C-1 would be to make the lots effectively unsaleable and thereby deprive the owners of their lawful interest in the land and deprive them of due process.

4. The petition of Barbara Clurman is clearly spot zoning. There is no justification for singling out these lots. Attached to this letter is a copy of the decision of the Massachusetts Supreme Court dated April 6, 1960 in the case of Benjamin Shapiro v. the City of Cambridge which involves an attempt to rezone on a similar basis a nearby lot and the Supreme Judicial Court in that case held that the rezoning by the City Council of Cambridge of that land constituted unlawful spot zoning. There is no fundamental difference between the efforts in this situation and the Shapiro case.
5. The owners of these parcels presently have building permits to construct mini warehouses which is a lawful use consistent with the Industry B zone. This use will be a desirable use in the Industry B zone. It does not involve any manufacturing activities. The warehouses are small in scale and are utilized by small retailers who customarily leave inventory in the warehouses for a period of time. The use does not involve any large trucks or heavy traffic. Since the owners already have the building permits for these parcels construction will shortly begin. Therefore, the proposed rezoning is unnecessary and will ultimately affect the owners by depriving them of their ability to sell the land for industrial purposes at a fair price.

Very truly yours,

Carsten Coal and Oil Co. Inc
By Warren Carstensen
Warren Carstensen
Evelyn H. Carstensen

Comm. from Warren Carstensen, in behalf of Carstein Coal and Oil Co., Inc., registering his opposition to the proposed amendment by Barbara Clurman to rezone the Cogswell Ave. area from Industry B to Res. C-1.

RECEIVED BY
OFFICE OF CITY CLERK

MAY 12 12 41 PM '78

CAMBRIDGE, MASS.

In City Council,
May 15, 1978

5/15/78

*Referred to the
Hearing on 5/18/78*

RECEIVED BY
OFFICE OF CITY CLERK

MAY 12 12 41 PM '78

CAMBRIDGE, MASS.

Paul E. Healy, City Clerk
City Hall
Cambridge, Massachusetts 02139

Dear Mr. Healy:

We are the owners of 20% or more of the area of land proposed to be included in the change of zone proposed in the petition of Barbara Clurman to amend the map accompanying the text of the zoning ordinance by striking out the designation Industry B and substituting in place the designation Residence C-1 as shown on the map accompanying said petition.

In accordance with the provisions of General Laws, Chapter 40A, Section 7, we hereby file this written protest against such change prior to the close of the first hearing before the City Council, and as reasons we state the following:

1. The proposed change is arbitrary, unreasonable, and denies us our rights of due process of property and is an attempt to take away our property interest.
2. There is no valid zoning reason for a change of the zone for the parcels owned by us because said parcels are contiguous to railroad tracks and therefore are not suitable for residential zoning.
3. The attempt to rezone our parcels constitutes unlawful spot zoning.

Very truly yours,

Carsten Coal and Oil Co. Inc

By, *Manu Carstensen*

Manu Carstensen

Evelyn G. Carstensen

Shapiro v. Cambridge.

struction and validity of St. 1959, c. 608, which may arise if an appropriation is hereafter made and the payment of money pursuant thereto impends.

The decree will provide that the Treasurer and Receiver General, under St. 1953, c. 606, § 10, as amended by St. 1959, c. 608, § 4, may not borrow, and, on the case presented, may not pay from funds raised by taxation deficiencies in interest on the bonds of the Authority.

So ordered.

**BENJAMIN SHAPIRO & others vs. CITY OF CAMBRIDGE
& another.**

Middlesex. February 2, 1960. — April 6, 1960.

Present: WILKINS, C.J., SPALDING, WILLIAMS, WHITTEMORE, &
CUTTER, JJ.

Zoning. Cambridge.

Evidence respecting a city area in which, by the city's original zoning ordinance, strips of land abutting both sides of an east-west main line railroad for about a mile were placed in a heavy industry zoning district, except for a playground in the northerly strip, and land to the north of the northerly strip was placed mostly in residence districts did not support a conclusion that a parcel about in the middle of the northerly strip adjacent to the playground was sufficiently different from the other land in the strips to justify an amendment of the ordinance, fifteen years after it was originally adopted, rezoning such parcel as a light industry district; the amendment was invalid as spot zoning.

PETITION, filed in the Land Court on May 13, 1958.

The case was heard by *Fenton, J.*

Philip M. Cronin, for the petitioners.

J. Henry Smith, Assistant City Solicitor, for the city of Cambridge.

WHITTEMORE, J. An amendment to the Cambridge zoning ordinance adopted April 21, 1958, was held valid by the decision of the judge in the Land Court on June 11, 1959, on

Shapiro v. Cambridge.

a petition under G. L. c. 240, § 14A, and c. 185, § 1 (1½), both inserted by St. 1934, c. 263. The petitioners, owners of land on the southerly side of Pemberton Street, which by the amendment, with other adjacent land, was reclassified from an Industry B district, heavy industry, to an Industry A district, light industry, claimed exceptions to the findings and rulings of the decision and to the failure to rule, inter alia, in substance, that the amendment was invalid as spot zoning and violative of the requirements of uniform classification of like areas. The bill of exceptions includes the decision and "all the evidence" with exhibits.

The zoning ordinance was adopted in December, 1943, and the judge found that the districts are shown on the zoning map of December, 1943. The rezoned area is adjacent on the north to the tracks of the Fitchburg division of the Boston and Maine Railroad. These tracks enter Cambridge from the east at Porter Square and run westerly for about two miles to the Belmont line. With four exceptions all the land on both sides of the tracks was in 1943 zoned Industry B. At Porter Square, on either side of Massachusetts Avenue, for a total length of about 1,200 feet along the tracks, the zone was Business B. Where the tracks cross Alewife Brook Parkway a strip which appears to scale 100 feet on the west side of the parkway was Residence A-2. At the westerly city line, the tracks run through the north corner of a Residence B district for about 450 feet. Approximately 2,200 feet westerly of Massachusetts Avenue, a strip on the north of the tracks about 550 feet long and 130 feet wide, which the evidence showed is a playground, was zoned Residence C-1. This playground parcel is bounded on the north by Pemberton Street and on the west by the parcel rezoned in April, 1958. The evidence showed that this playground area was an extension across Pemberton Street of the playground use of Rindge field and is occupied by a "tennis court and basketball court, hard court surface." The rezoned parcel is just about midway in a segment of the extensive Industry B district. This segment, much narrower in its eastward aspect, extends without a break, except for

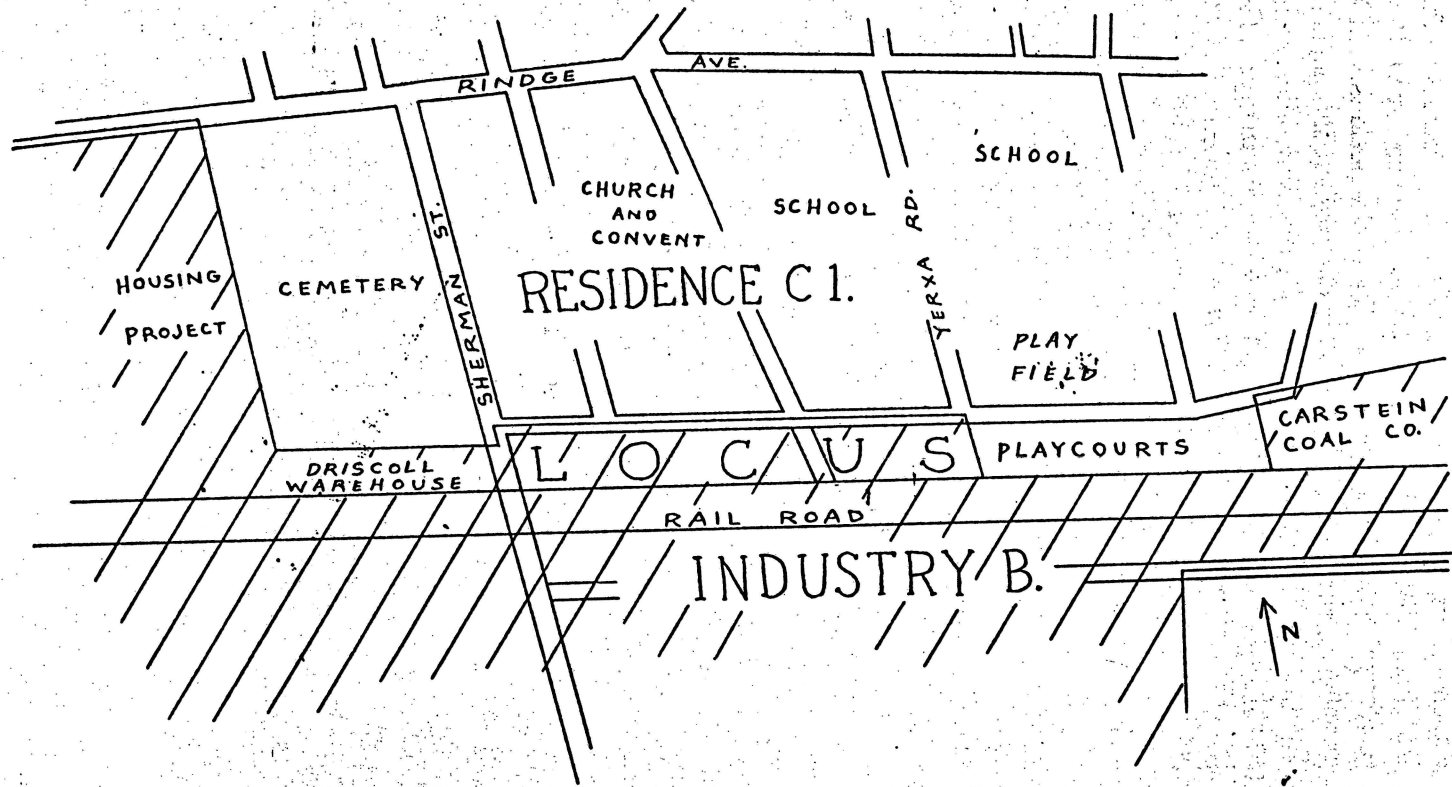
Shapiro v. Cambridge.

the playground, for about a mile along both sides of the tracks from a point near Massachusetts Avenue to Alewife Brook Parkway. The rezoned parcel is a rectangle about 1,000 feet in length and 130 feet deep between the center lines of Sherman Street and of Yerxa Road extended. Most of the land north of this segment of the Industry B zone and south of a narrow Business A zone on Massachusetts Avenue is in a Residence C-1 zone; some of it is in a small Residence B zone and some is in a small Business A zone on Rindge Avenue. The locus and some aspects of nearby areas are shown on the accompanying sketch.¹ There are in the locus structures used by an auto body business and a carpet cleaning business, nine houses, and the site of a former plant of Metropolitan Coal Company.

Industry A districts in 1943 were few and relatively small in size, and none was adjacent to the railroad tracks. The zoning map shows an A zone at Alewife Brook Parkway and Concord Avenue, and another at the northern side of the Industry B district where the industrial zone abutted a Residence C-1 zone. The permitted uses in an Industry A zone are: Any use or accessory use which is permitted in the Business B district; dyeing and cleaning establishment; food products manufacture; laundry; milk distributing station; machine shop; any other light manufacturing use similar in character to the foregoing uses and not otherwise prohibited. The permitted uses in an Industry B district include the uses permitted in an Industry A district, other specified uses including "Building materials storage yard," and manufacturing uses generally but with the exclusion of certain named uses and those which are "obnoxious or offensive by reason of the emission of smoke, dust, gas, noise or odor."

The petitioners by deed of December 12, 1957, took title to 42,487 square feet of land about in the middle of the subject area. On this parcel Metropolitan Coal Company had for many years maintained a depot with about eighteen

¹ Adapted from a sketch in evidence found to be a sketch of the uses of the locus and surrounding land.



340 Mass. 652

Shapiro v. Cambridge.

655

cement storage pockets, some wooden sheds and an office building. The parcel has a spur track for seven cars. Prior to December 12, 1957, there was a fire in the pockets. After purchasing the land the petitioners demolished the pockets. The petitioners are real estate developers and officers and stockholders of Hub Building Wrecking Company. The judge found that "[t]here had been some thought that the petitioners might move the Hub Building Wrecking Company yard and establish a so called 'junk yard' at the premises." The amendment followed a petition on November 25, 1957, asking for the change which the amendment later enacted. The transcript of the planning board hearing on this petition, referred to it by the city council, shows that several who spoke in favor of the change wished to prevent the coming to the area of a building wrecking business and a junk yard. The conclusion was warranted that a purpose of those asking the change had been to prevent this. The petitioners denied an intent to establish such businesses on the site.

The evidence showed that since 1943 a substantial number of houses had been built in the residence zone north of Pemberton Street with an "upgrading and betterment of this residential section" on a number of streets. The Jefferson Park Housing Project had been built to the west of the rezoned parcel. The large M. E. Fitzgerald School on Yerxa Road was new. Across Rindge Avenue "Outer Russell Field" had been added to existing playground facilities. St. John's Church and Grammar School, on Massachusetts Avenue, had been reconstructed. For reasons to be stated we need not decide if these changes were sufficient to justify a change in the classification of adjacent land in the Industry B zone.

The evidence does not support the conclusion that the rezoned area was sufficiently differentiated from other land in the Industry B zone to support a change in the established classification of only the rezoned area. It was a basic determination of the 1943 zoning ordinance that the Industry B classification be applied to the areas adjacent to the rail-

Shapiro v. Cambridge.

road tracks, with the limited exceptions noted above. The recommendation of the planning board¹ showed its view that industrial use remained appropriate for trackside land. The planning director of the city, called by it, although he testified that "a change . . . from Industry B to Industry A will encourage the improvement of the neighborhood generally, which is now underway," testified also that "the parcel from Sherman Street to Yerxa Road, on the northeasterly side of the railroad tracks . . . is for all purposes comparable to all the property marked Industry B in the North Cambridge area." The zoning map shows that in the aspect of its effect on the adjacent Residence C-1 zone it is not significantly differentiated from much of other parts of the Industry B district also adjacent to that residence zone. A real estate operator and appraiser acquainted with the area testified that the rezoned parcel did not "lend itself to heavy industry. It is not desirable on the part of people who would like to own industrial land . . . because the area to the north . . . has been decidedly improved . . . from a residential standpoint." This view would be of equal application to all the Industry B zone near Pemberton Street and also all that which is located west of the cemetery and west and north of Russell Field and which surrounds and is adjacent to the C-1 Residence area between Pemberton Street and Massachusetts Avenue on its west and northerly sides.

We think the razing of the buildings on one lot is not a significant change in the character of the area for purposes

¹ The planning board reported as follows: "At the hearing 196 persons were recorded in favor of the petition including some of the original signers as well as speakers at the hearing. Two persons including Benjamin Shapiro, one of the owners of the property in question, appeared in opposition. . . ."

"The planning board feels that since the establishment of the original zoning of Industry B that conditions in the general neighborhood have altered, justifying upgrading of the property in question. In the past several years a substantial and new public housing development has been constructed at Jefferson Park and Jefferson Park Extension. A new city playground, Outer Russell Field, has been constructed. More recently the M. E. Fitzgerald School has been erected on Rindge Field. These improvements reinforce the general residential character of the neighborhood. In view of the fact that this property is located on a main railroad line and is served by a spur track, an industrial use is nevertheless suitable."

of zoning classification. Such a change may appropriately direct attention to the possible desirability of a change in zones. But where, as here, almost all the nearby industrially zoned land is in use, a change of zone will, except for the single vacant parcel, have an effect only gradually, and the appropriate area for rezoning is all that which for the same reason is differentiated from the rest of the zone having in mind not only the conditions within the zone, but also important changes in relationship to adjacent zones of other classification.

It is well established that there is wide latitude in the local legislative body to determine the particular location of zoning district boundaries. *Marblehead v. Rosenthal*, 316 Mass. 124. *Caires v. Building Commr. of Hingham*, 323 Mass. 589, 593-595. *Lamarre v. Commissioner of Pub. Works of Fall River*, 324 Mass. 542, 544-546. *Raymond v. Commissioner of Pub. Works of Lowell*, 333 Mass. 410, 413-414. *Tracy v. Board of Appeals of Marblehead*, 339 Mass. 205, 208, and cases cited. Nevertheless the criteria applicable to a change of established lines may impose limitations not present when zoning is first adopted. *Leahy v. Inspector of Bldgs. of New Bedford*, 308 Mass. 128, 132-133. See *Tracy* case, *supra*, p. 208. The immediate adjacency to the railroad tracks of the subject parcel and nearby land which remained in Industry B zone is a dominant circumstance.

We see "no substantial relation between . . . [this change] and the furtherance of any of the general objects" of zoning. *Caires v. Building Commr. of Hingham*, 323 Mass. 589, 593. G. L. c. 40A, §§ 2, 3. The view is persuasive which was expressed in the testimony that the change from Industry B to Industry A would make little difference to the nearby residential area, as all the uses of Industry B would be permitted on nearby land most of which was unchanged.

The answer of the city asserts that "the prevention of the use of the land as a 'junk yard' was a minor factor in its . . . decision." This admission did not require the conclusion that the amendment was invalid. See *Simon v.*

Shapiro v. Cambridge.

Needham, 311 Mass. 560, 566; *Caires v. Building Commr. of Hingham*, 323 Mass. 589, 596; *Raymond v. Commissioner of Pub. Works of Lowell*, 333 Mass. 410, 412. But for the reasons stated the ruling was required that the amendment of April 21, 1958, was invalid as spot zoning and violative of the requirement of uniform classification. *Leahy v. Inspector of Bldgs. of New Bedford*, 308 Mass. 128. *Whittemore v. Building Inspector of Falmouth*, 313 Mass. 248. *Smith v. Board of Appeals of Salem*, 313 Mass. 622. *Caputo v. Board of Appeals of Somerville*, 331 Mass. 547. *McHugh v. Board of Zoning Adjustment of Boston*, 336 Mass. 682, 688-689. *Atherton v. Selectmen of Bourne*, 337 Mass. 250, 253-255. Compare *Caires v. Building Commr. of Hingham*, 323 Mass. 589; *Lamarre v. Commissioner of Pub. Works of Fall River*, 324 Mass. 542; *Co-Ray Realty Co. Inc. v. Board of Zoning Adjustment of Boston*, 328 Mass. 103, 109; *Morgan v. Banas*, 331 Mass. 694, 695-696; *Raymond v. Commissioner of Pub. Works of Lowell*, 333 Mass. 410; *Cohen v. Lynn*, 333 Mass. 699.

There is no issue of the correctness of findings. The judge found the changes in the use of land in the neighborhood described above. There are no express findings in respect of the Industry B district other than those stating the changes of ownership of and structures on the petitioners' land. We have assumed all the findings which are implicit in the decision and which the evidence would support.

The petitioners' exceptions are sustained. The decision is reversed and a new decision is to be entered in accordance with the opinion. This is the opinion of a majority of the court.

So ordered.

RECEIVED BY
OFFICE OF CITY CLERK

MAY 12 12 41 PM '78

CAMBRIDGE, MASS.


Paul E. Healy, City Clerk
City Hall
Cambridge, Mass. 02139

Dear Mr. Healy:

Attached are letters in opposition to a petition by the Planning Board to amend the Zoning Ordinances to change the classifications of my land from Industry B to Residence B, and a petition by Barbara Clurman to change the classification of my land from Industry B to Residence C-1.

Would you kindly sign and date this as receipt of these letters.

Sincerely,



Warren Carstensen

**PUBLIC NOTICE
RELATIVE TO ZONING.**

City of Cambridge

MASSACHUSETTS
Office of the City Clerk.

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition, and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council will hold a public hearing on Thursday, May 18, 1978 at 6:00 P.M. in the City Council Chamber, City Hall, Cambridge, Massachusetts on the petition of Barbara Clurman to amend the map accompanying the text of the Zoning ordinance by striking out the designation Industry B and substituting in place thereof the designation Residence C-1 insofar as it relates to the areas on the map below:—

COGSWELL AVE. REZONING

IB TO C1

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.
All persons interested in this matter may appear at this time and be heard.

For the Committee
Councilor Frisoli,
Chairman, Committee on Ordinances.

PUBLISHED IN: Boston Herald American

EDITION: Cambridge Page

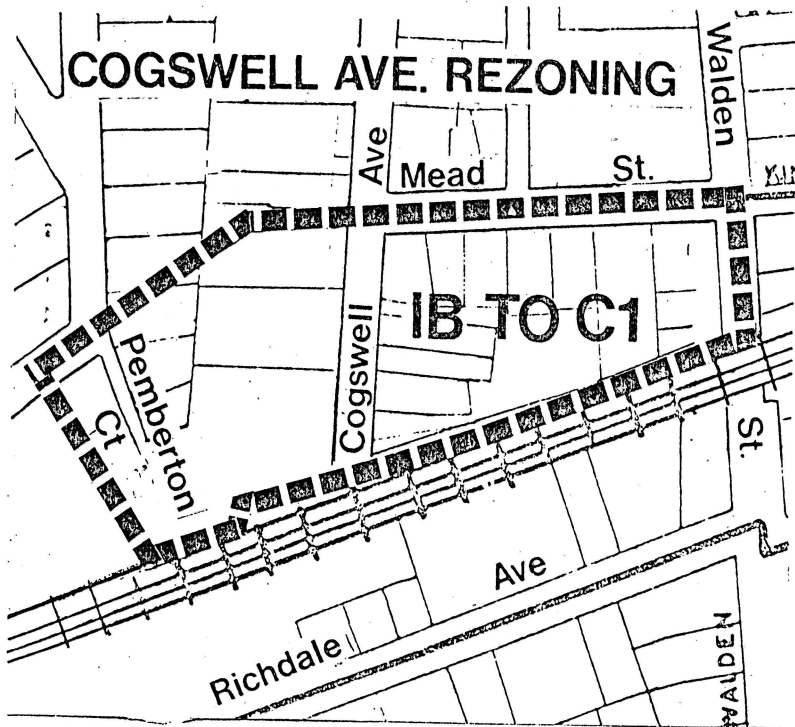
DATE: May 2, 1978

City of Cambridge

MASSACHUSETTS

Office of the City Clerk.

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition, and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council will hold a public hearing on Thursday, May 18, 1978 at 6:00 P. M. in the City Council Chamber, City Hall, Cambridge, Massachusetts on the petition of Barbara Clurman to amend the map accompanying the text of the Zoning Ordinance by striking out the designation Industry B and substituting in place thereof the designation Residence C-1 insofar as it relates to the areas shown on the map below:-



City of Cambridge

Copies of this petition are on file in the Office of the City Clerk,
City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be
heard.

For the committee

Councillor Frisoli,
Chairman, Committee on Ordinances.

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OFFICE OF CITY CLERK

APR 28 9 12 AM '78

CAMBRIDGE, MASS.

Michael S & Barbara B. Curman = Prop. owners
4/7/78 (dl)

RECEIVED BY
OFFICE OF CITY CLERK

Cambridge, April 7, 1978

APR 7 11 39 AM '78

To the Honorable, the City Council of the
City of Cambridge, MASS.

The undersigned respectfully pray

that the Zoning Ordinance of the City of Cambridge be amended as follows:

AMEND THE ZONING MAP BY CHANGING THE DISTRICT DESIGNATIONS FOR THE FOLLOWING AREA:

Rezone to Residence C-1 that area presently zoned Industry B, which is circumscribed by a line beginning at a point, said point being the intersection of the centerline of Mead Street and thence running 130 feet, more or less, to the intersection of the centerline of Walden Street, this line running in a southerly direction from the point of origin.

Thence running westerly 650 feet, more or less, along the southern lot lines of lots numbered 84, 48, 41, 40, and 3, then turning south for 15 feet, along lot 3, thence turning and running 40 feet westerly along lot 3, as shown on Assessors' Plat #199.

Thence running northerly for 200 feet, more or less, along the western lot lines of lots numbered 3, 2, and 1, as shown on Assessors' Plat #199, to the intersection of the centerline of Pemberton Street.

Thence running easterly for 320 feet, more or less, along the centerline of Pemberton Street and its projection until said projection intersects the projection of the centerline of Mead Street.

Thence running westerly along the centerline of Mead Street and its projection for approximately 480 feet more or less to a point, said point being the point of origin, and which comprises an area of more or less 111,272 square feet.

Said area includes all or parts of the following parcels:

Premises shown on Assessors' Plat #199

A. Even numbers 6 through 30 Mead Street, which includes all or parts of lots numbered 43, 44, 45, 46, 47, 48, 49, as designated on Assessors' Plat #199.

B. Odd numbers 43 and 45 Walden Street, which includes all or parts of lots numbered 49, 83, and 84, as designated on Assessors's Plat No. 199.

C. Even numbers 42, 44, 46 Cogswell Avenue, which includes all or parts of lots numbered 40, 107, 108, 109, 41, as designated on Assessors' Plat #199.

D. Odd numbers 39, 41, 43, 45, and 47 Cogswell Avenue, which includes all or parts of lots numbered 38, 104, 103, and 3, as designated on Assessors' Plat #199.

E. Odd number 97 Pemberton Street, which includes all or parts of lot number 1, as designated on Assessors' Plat #199.

F. Odd numbers 85, 87, 93, 95 Pemberton Court, which includes all or parts of lots numbered 1, 2, 4, 5, as designated on Assessors' Plat #199

G. Odd numbers 81 and 83 Pemberton Street, which includes all or parts of lots numbered 6 and 7, as designated on Assessors' Plat #199.

Barbara B. Curman

0-58

PETITION

of Barbara B. Clurman

for Amendment of the Zoning Map
in the area bounded by Mead St.,

No. Walden Street, Pemberton St.,
Cogswell Ave. and Pemberton Court.

April 7 19 78

4/10/78

*Referred to the
Planning Board for
Hearing & Report*

In City Council, April 10 19 78

Referred to the Committee on

Attest:

City Clerk.

*Copy sent 4-12-78
Copy sent 4/12/78*

APR 11 1978