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February 1, 1996

Ms. Margaret Drury  
City Clerk  
City Hall  
Cambridge, MA 02139

Re: Curb-cut Application, 10 Clarendon Avenue

Dear Ms. Drury:

Please be advised that this office represents Yoffa Company, Inc., the applicant seeking approval for the above-captioned curb-cut. You may recall that this application was before the City Council last May. The application was not acted upon at that time but instead was referred to the City Solicitor's office for further information. Now that a report has been received by the City Council, it is my understanding that the application will appear on the City Council's Agenda on Monday, February 5, 1996. My purpose in writing, therefore, is to request that the City Council act favorably upon this application at its upcoming meeting and to provide a brief procedural background on this property and the reason for this request.

The property owner was issued a Special Permit by the Board of Zoning Appeals in June, 1989 to construct an addition to the existing building. Various appeals were filed concerning the BZA's action which were ultimately dismissed by the Land Court. Thereafter, in accordance with the rights contained in the Special Permit, the property owner applied for and was issued a Building Permit to construct the addition. A structure was then erected in conformity with the Building Permit. However, when the property owner applied for a Certificate of Occupancy at the completion of construction, Inspectional Services denied the request. In so doing, Inspectional Services claimed that since the existing Clarendon Avenue curb-cut was not in the same location as the curb-cut depicted on the plans approved by the BZA, the building was not in compliance with the conditions of the Special Permit.

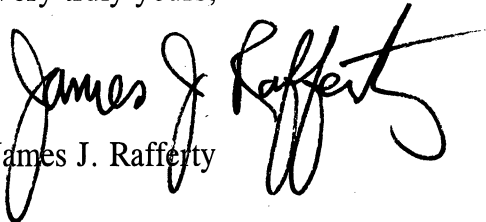
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The property owner appealed that denial to the BZA alleging that the location of the curb-cut was not a material element of the Special Permit. The BZA disagreed and upheld the determination of Inspectional Services. The property owner then appealed the BZA's ruling to the Superior Court. After a jury waived trial, the Superior Court upheld the BZA's ruling. Rather than proceed with a further appeal to the Appeals Court, the property owner elected to file this pending curb-cut application in order to relocate the existing curb-cut approximately eight feet further into Clarendon Avenue.

In making this application for a curb-cut, the property owner will be complying with the determination of the Inspectional Services Department and the Board of Zoning Appeal that the curb-cut must appear in the exact location as depicted on the plans when the Special Permit was originally approved. Moreover, the existing curb-cut will be eliminated when the new curb-cut is created so the net result to the street will remain the same.

As you are aware, prior to its submission to your office this curb-cut application has been approved by the Inspectional Services Department, the Historical Commission, Public Works, and the Department of Traffic and Parking. On behalf of the property owner, I would request that the City Council likewise approve this application at its meeting on February 5, 1996.

Very truly yours,

  
James J. Rafferty

JJR/emf

Evelyn.Drury.doc

Consent Communication #13

Communication was received from  
James J. Rafferty, Adams & Rafferty  
transmitting a communication regarding  
the curb cut application of 10 Clarendon  
Avenue.

H-16

In City Council February 5, 1996

Referred to Unfinished  
Business No. #3