

To: The Honorable the City Council
 4 Recent Community letters to BZA re avoidance of requirement in Larkin
 amendment for 20 housing units at 300 Bent St telecom building
 From ECPT et al



EAST CAMBRIDGE PLANNING TEAM

A Neighborhood Organization for the Betterment of East Cambridge

OFFICE OF THE CITY CLERK
 CAMBRIDGE, MASSACHUSETTS

May 5, 2001

CITY OF CAMBRIDGE
 INSPECTIONAL SERVICES
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Board of Zoning Appeals
 City of Cambridge
 831 Massachusetts Avenue
 Cambridge, MA 02139

Dear Board Members:

The East Cambridge Planning Team (ECPT) voted to support the appeal of Carole Bellew et al. challenging the issuance of a Building Permit by Inspectional Services Department Commissioner, Robert Bersani, for construction of a 92,000 sq. ft. telecommunications building at and adjacent to an existing telecommunications building both at 300 Bent Street (also referred to as 137 Sixth Street in some City documents).

At our May 3rd ECPT meeting, our members felt that, in passing the Larkin Petition, the clear intention of the City Council with regard to the four block exemption for telecommunication use, was to create **housing** on this site as the major community benefit to counter the "dead" area created by edifices/telecom hotels that have few inhabitants and are dark and lifeless. It appears that this new construction is deliberately being segmented from the existing abutting building to avoid placing housing on this site, as required in the amendment to the Larkin Petition, paragraph c. Also, the parking garage to be built under the new building will serve for both telecommunications buildings.

The Cambridge Zoning Ordinance requires 20 housing units to be built on site when telecommunication use exceeds 100,000 sq. ft. We feel that it is the responsibility of the BZA to have this building permit reissued, stating that the 20 units of housing required by the Larkin Petition be incorporated into this construction site. It is unacceptable to build telecom now and leave the housing in question for later.

The members of the ECPT who attended the April 26th hearing at the BZA were disturbed by the 11th hour submission of the letter by the City Solicitor, and by the unprofessional appearance of the building permit, with cross-outs and hand written changes not initialed by officials, and the absence of a stated permit fee. The average citizen would not be allowed to submit a permit application with such sloppiness.

Thank you for your kind attention. We look forward to having members of the ECPT in attendance at the continuance on May 10th.

Sincerely,

Mary Ann Donofrio
 Mary Ann Donofrio, Vice President

Barbara Broussard
 Barbara Broussard, Secretary

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16 May 2001
Pages: 3 incl. Cover sheet

CITY OF CAMBRIDGE
INSPECTORIAL SERVICES
01 MAY 8 AM 9 05

TO: BZA

FROM: A Cunningham

RE: Carole Belkew Petition

Please see attached letter
supporting above referenced
Petition

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Page 1 of 2

5 May 2001

Board of Zoning Appeals
Cambridge, MA

TO: Members of the BZA

RE: Carole Bellew Petition

This letter is to state that we are in favor of the Carole Bellew petition. We and several other members of the East Cambridge Planning Team were present at the last BZA meeting. It was obvious to us that the developer about whom the Bellew Petition speaks (C. Lavery) is endeavoring to circumvent the law. It is apparent that the offices of the City Solicitor and Building Department are supporting the actions of the developer by their lax enforcement not only of the legal requirement to include housing in this large development (which is evident in the language clearly spelled out in the Larkin Petition), but also of the required supporting documentation related to various filings and related fees.

Over the past several months, at various planning team meetings, we have seen several "versions" of this developer's plan, each one altering the "apparent" size of the development to be just under the required 100,000 square feet. Currently, the same developer has an abutting structure with garages that are expected to be utilized interchangeably by both buildings (so stated by the developer's own attorney) which, together, are well over the 100,000 square feet. Yet the developer continues to refuse to acknowledge his legal obligation.

The "eleventh hour" legal opinion in disagreement with the original legal opinion (the latter supporting the developer's position) is, at the very least, suspicious.

The fact is that small, individual developers, having a neighborhood-supported plan, are required to fulfill even the minor technicalities in paperwork before receiving approval. The city's paperwork on the "big guys", however is sloppy, and, as was disclosed in last week's meeting, (in the case of this particular developer at least) altered with pencil changes and included no clear verification of fee payment.

We request that this developer be required to obey the requirements stipulated in the Larkin Petition with respect to required housing and submit accurate, verifiable, unaltered paperwork.

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In the interest of our East Cambridge Neighborhood, and all its residents who are required to abide by laws and regulations, we request that no less be asked of non-resident developers. This developer's self-interested interpretation of the Petition and its requirements should not take priority over what is legally and morally right for the neighborhood.

Respectfully,

Audrey A. Cunningham
Dorothy Vetrano

Audrey A. Cunningham

Dorothy Vetrano

49 Gore Street

Cambridge, MA 02141

ASSOCIATION OF CAMBRIDGE NEIGHBORHOODS

12 Florence Street, Cambridge, MA 02139

May 7 2001
CITY OF CAMBRIDGE
INSPECTORIAL SERVICES
APR 37 PM 4 53

Mr. Thomas Sieniewicz, Chair
Board of Zoning Appeal
City of Cambridge
831 Massachusetts Avenue
Cambridge, MA 02139

Reference: Appeal of the issuance of Building Permit #0301074 for 300 Bent Street.

Dear Mr. Sieniewicz:

We have appealed the issuance of this building permit based on our opinion that it does not comply with the intent of the Cambridge City Council nor with Ordinance 1234, an amendment to the Zoning Ordinance of the City of Cambridge, Section 11.602: Development Moratorium.

1. - When the Ordinance was enacted by the City Council, four blocks in the area were excluded from the Moratorium to permit development of telecommunication uses in this limited area in exchange for a commitment to build additional housing. The commitment to housing was included in Section 11.602 (c), the language of which governs this four-block area.

Paragraph (c) clearly requires 20 units of housing if the project is more than 100,000 square feet. Everyone is in agreement that the contiguous lot on which a telecom building existed prior to October 29, 1999 is part of the "parcel" and thereby part of the "project". The question then comes to the interpretation of the last sentence of paragraph (c): "This housing provision shall apply to any project that will bring the total construction on any lot, or abutting lot or lots that are or have been in common ownership at any time since October 29, 1999 to more than 100,000 square feet gross floor area during the effective period of this section: . . ."

2. - Paragraph (b) does not apply to any project within the four-block area that is specifically excluded and covered completely in paragraph (c). Therefore, it does not have any relevance to this case.
3. - Paragraph (a) authorizes the issuance of building permits only for "buildings, renovations, or additions" that do not "exceed for any parcel of land existing as of the date of enactment of this amendment:

- i. 20,000 sq. ft of floor area in case of a commercial or industrial project.
- ii. 20 dwelling units in the case of a residential project.

"For the purpose of this Section, the 20,000 square foot/20 unit limit per parcel of land shall be composed of the sum of all buildings, renovations and additions shown on all permit applications approved after October 29, 1999, to prevent circumvention of the moratorium by sequential submissions.

The reference to "all buildings" does not include any wording limiting them to only those permitted after October 29, 1999.

"For the purpose of this Section, a parcel shall be defined as all contiguous lots in the same ownership."

In light of the provisions of paragraph (a), and the explicit intent expressed therein, "to prevent the circumvention of the moratorium" and its on-site housing requirement, in this ordinance, the meaning of "all of the construction" is without any time limit. Therefore, the existing construction on the abutting property must be included in calculating the gross floor area.

4. - Further, in response to the letter of April 26, 2001 from Russell Higley, City Solicitor to Robert Healy, City Manager, (the letter which was dropped on the table at the beginning of your meeting of that date), we have discovered that the gross square feet of floor area in this building at 300 Bent Street by itself exceeds 100,000, when correctly figured. Mr. Elie Yarden, ~~a trained engineer~~, will present the facts on this calculation of gross floor area at your meeting on May 10.

To assist in Mr. Yarden's presentation to you, we request that you have on hand both the Building Permit at issue #0301074 and the invalidated permit for 300 Bent Street #0799244, originally issued in July 1999, and the building plans for each, for your committee's consideration.

Based upon this information, we request that Building Permit #0301074 be withdrawn. Thank you for your attention.

Sincerely,



John R. Moot
President

6 9T 27 16 6 AM
SECTIONAL SERVICES
CITY OF CAMBRIDGE

MEMORANDUM

TO: Mr Thomas Sieniewicz, Chair, Board of Zoning Appeal, City of Cambridge
FROM: Elie Yarden *Elie Yarden*
RE: Additional information for Continuance of Case #8299 to May 10, 2001
DATE: May 8, 2001

Cursory examination of the building plans submitted with the application for the construction of the building described in Permit #0301074 indicates that the actual gross floor space is far in excess of the 100,000sf trigger for the construction of 20 units of housing. This amendment was adopted for the specific purpose of mitigating the harm to the neighborhood, and is required by the Zoning Ordinance. There is nothing in the ordinance that allows for the exclusion of any of the 23,020 sf bounded by the framing for each of the 5 stories from Gross Floor Area. Mr. Higley's letter of April 26, 2001, to City Manager Robert W. Healy states, "As the housing provision is triggered only by new construction or renovation, alteration or demolition of an existing structure resulting in a change of the use, bulk and intensity of that structure which altogether totals 100,000 square feet of gross floor area or more, it does not apply to this project." [my underlinings]. Since this statement by Mr. Higley did not indicate whether he had studied the plans to make his determination, it was deemed necessary to do this.

The issue of whether Permit #0301074 conforms to the requirements of the Cambridge Zoning code is difficult to resolve because it requires precise measurement of Gross Floor Area as defined by the Zoning Ordinance of the City of Cambridge in Article 2.00 "Floor area Gross" subheadings: "Gross Floor Area shall include: (a-f)" and "Gross Floor Area shall not include: (1-8)." I direct your attention specifically to "Gross Floor Area shall not include: (2)" "basement and cellar areas devoted to the operations and maintenance of the building such as heating and cooling equipment, electrical and telephone facilities, and fuel storage;" Nowhere is any exclusion made for other stories.

Permit #0301074, Page 4, states for Floor Area/Proposed 95,908sf of new construction. Floor Area per Floor(sf) is stated as 15,399; presumably a number obtained by dividing 91,980 by 5. The only way of knowing how the number 91,980 or the number 95,908 was arrived at is by studying the building plans.

The Building Plans accompanying Permit #0301074 state that the building is to be of five stories: 2 St@ 23,020sf, 1 St@ 10,522sf, 1St@ 21,978sf, 1St@ 13,440sf. This adds up to 91,980sf. This appears to be 8,020sf short of triggering the need to put in the 20 units of housing. However the building plans make it abundantly clear that the construction frames 5 times 23,020sf, or 115,100sf. So what happened to the other floor space? I suppose that some equipment could be so high that it would take up two stories, or more, and therefore, if built up from a "basement or cellar" area, take up 30 to 60% of the Gross Floor Area, without being counted as FAR under this dispensation. However the ordinance clearly states that even in this case it would have to be demonstrated that exemption from inclusion as floor area is based on use for the operation and maintenance of the building. The distinction between general building maintenance, and special tenant use requirements, as intended in the ordinance, must be kept.

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Consent Communication #6

A communication was received from East Cambridge Planning Team et al., regarding housing units at 300 Bent Street Telecom building.

In City Council May 14, 2001

PLACED ON FILE