

8/10/2015

Honorable Members of the Cambridge City Council  
Cambridge City Hall  
795 Massachusetts Avenue  
Cambridge, MA 02139

2015 AUG 10 AM 9 22

OFFICE OF THE CITY CLERK

Dear Mayor Maher, Vice Mayor Benzan, and Councilors ~~Carlone~~, Cheung, Kelley, Mazen, McGovern, Simmons, and Toomey:

Attached is a two part zoning petition that will expand the applicability of Cambridge's accessory housing ordinance, as well as allow single and two-family home owners to make reasonable use of existing built space in their homes.

Part A of the petition changes Article 4.22 in the following ways:

- Increases the applicable accessory housing zones from only Res-A to all zoning districts
- Removes the criteria that a home be built prior to 1940
- Allows both single and two-family homes to participate
- Decreases the applicable home size to 1800 square feet (the median home size in Cambridge)
- Alters the dimensional requirements of accessory units to a maximum of 900 square feet or 35% of gross floor area, whichever is the lesser
- Eliminates the Article 6 parking requirements for accessory apartments
- Allows for existing two-family homes to be converted to a single family with accessory apartment without need for a special permit
- Requires owners to continue to occupy at least one dwelling unit as their primary residence

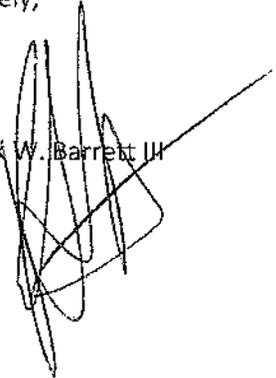
Part B redefines "basement" and "cellar" space in Article 2 in the following ways:

- Basement space in a single or two-family home is no longer calculated as Gross Floor Area regardless of height
- Basement space in other residential structures and commercial structures may be exempted by special permit provided that the applicant can meet the requisite guidelines

At a time when we are contemplating master planning, housing availability, and affordability issues, while also trying to preserve the quality and character of our great city, it makes sense to do so with a sensible set of tools that first look to make full use of the built space that we already have. This petition achieves that goal. Thank you for your consideration. We look forward to further discussions on this important matter.

Sincerely,

Patrick W. Barrett III



## **Part A: Expanded Accessory Housing**

### **Introduction**

Accessory apartments (also known as ‘accessory dwelling units’, ‘guest apartments’, ‘in-law apartments’, ‘family apartments’, or ‘secondary units’) provide housing units that can be integrated into existing neighborhoods to provide low priced housing alternatives that have little or no negative impact on the character of a neighborhood.

The regulatory approach used by most municipalities for accessory apartments is a zoning bylaw that permits an accessory unit, thereby allowing certain improvements to be made to the existing dwelling.

Provisions can address certain restrictions based on whether the dwelling existed as of a certain date, the maximum allowed building and site modifications, the options for choosing inhabitants, whether the main unit needs to be owner occupied, and minimum home and lot sizes. However, the greater the number of restrictions involved, the fewer the number of homeowners able to add accessory units.

Cambridge first created an accessory housing ordinance in 1996, but, at the same time, also chose to limit the scope of the ordinance to only a handful of the largest homes in the City. As a result, few new accessory dwelling units have been created over the past twenty years.

The following are suggested updates to the existing accessory housing ordinance contained within Article 4 of the Cambridge Zoning Ordinance. It is our hope that these updates will help to fulfill the promise of new accessory housing first pioneered by Cambridge many years ago.

For more details about the possible impact of our proposed changes to accessory housing, see our Cambridge Accessory Housing Explorer tool, available at <https://kent37.shinyapps.io/AccessoryHousing/AccessoryHousingShiny.Rmd>.

### **Statement of Facts**

WHEREAS housing in Cambridge is in limited supply and extremely expensive, and, therefore, the pursuit of new housing often pushes development to expand in undesirable ways that encroach on existing neighborhoods; and

WHEREAS accessory apartments instead provide housing units that are integrated into existing neighborhoods and transportation networks and that provide inexpensive housing alternatives that have little or no negative impact on the character of neighborhoods; and

WHEREAS the Commonwealth of Massachusetts has recently published clear guidelines (available at [http://www.mass.gov/envir/smart\\_growth\\_toolkit/bylaws/ADU-Bylaw.pdf](http://www.mass.gov/envir/smart_growth_toolkit/bylaws/ADU-Bylaw.pdf)) encouraging the expansion of accessory housing as a possible solution to our housing issues; and

WHEREAS the Cambridge Zoning Ordinance has an existing accessory apartment provision that is rarely used due to its overly restrictive conditions; and

WHEREAS there are currently 6620 one and two-family homes in the City, but only 143 homes classified as having accessory apartments (and 89 of those wouldn’t even qualify under the current rules); and

WHEREAS these restrictions on accessory housing also encourage the creation of uninspected, unsafe, and illegal housing units; and

WHEREAS relaxing the existing criteria could provide a clear path to legality for these illegal units; and

WHEREAS the average household size in Cambridge has fallen steadily from 3.27 persons per household in 1950 to only 2.0 persons in 2010, and many homeowners now find themselves with unused space in their homes; and

WHEREAS the ability to turn such unused spaces into accessory housing units could provide families, the elderly, the disabled, and other deserving Cambridge residents and property owners with the flexibility to add income-generating apartments, assisted living units, live-in spaces for childcare providers, or apartments for returning college graduates or older parents; and

WHEREAS expanding the applicability of the accessory apartment provision could create over 1000 new housing units at no additional cost to the City and without expanding the footprints of existing homes, thus fostering neighborhood preservation.

NOW THEREFORE we the Undersigned respectfully petition the honorable City Council of Cambridge to amend the Cambridge Zoning Ordinance by amending Article 2.000 (“Definitions”) and Article 4.000, section 4.22 (“Accessory Apartments”) to read as follows:

### **Suggested New Language for Article 2 (Definitions)**

*Accessory Apartment.* An accessory use with one or more rooms with separate kitchen and bathroom facilities, constituting a dwelling unit, located within and under the same ownership as a single or two-family detached dwelling and designed for the occupancy of a single family.

### **Suggested New Language for Article 4 (Use Regulations)**

**4.22 Accessory Apartments.** The purpose of this Subsection 4.22 is to allow for the creation of accessory apartments in all districts. Many large single and two-family homes are underutilized. Alteration of these homes to provide additional dwelling units would be prohibited in most cases due to the existing floor area ratio and/or lot area per dwelling unit requirements of Subsection 5.31. Given contemporary lifestyles, housing needs, and energy and maintenance costs, it is beneficial to the City to allow greater flexibility in the use of such dwellings without substantially altering the environmental quality of their surrounding neighborhoods. This Subsection 4.22 gives the Board of Zoning appeal authority to relax such requirements in certain instances as enumerated below.

**4.22.1** In all districts the Board of Zoning Appeal may grant a special permit for alteration of a single family or two-family, detached dwelling to provide one accessory apartment if the following conditions are met:

1. The dwelling has not been substantially enlarged since built. The addition in the aggregate of two hundred and fifty (250) square feet or more of gross floor area shall be considered a substantial enlargement.

2. Prior to alteration the dwelling contains at least one thousand eight hundred (1800) square feet of gross floor area.
3. The lot on which such accessory apartment is located contains at least five thousand (5,000) square feet of lot area.
4. Such accessory apartment shall not occupy more than 900 square feet or thirty-five (35) percent of the gross floor area of the principal dwelling, whichever is less, and shall not be located in a garage.
5. The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence. Prior to issuance of a building permit, the owner(s) must submit a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence.
6. Any existing two-family home may be converted to a single family home with accessory unit by right, without need for a Special Permit.

In granting a special permit the Board may impose such conditions, including requirements for off street parking and limitations on other accessory uses of the premises, as it may deem appropriate to avoid undue detriment to the neighborhood or to nearby persons or property. The Board of Zoning Appeal shall evaluate each special permit application which involves exterior changes with the appearance of and character of the neighborhood and may require that there be no change or minimal change to any face of a building oriented toward a public way or visible from a public way.

**4.22.2** The requirement for an off street parking space specified in Article 6.000 shall not apply for the addition of one accessory apartment in a single family or two-family, detached dwelling in all districts.

**Line by Line Comparison of New and Existing Language with Explanations for Each Change**

EXISTING LANGUAGE	NEW LANGUAGE	EXPLANATION
<p><b>Article 2.000: Definitions</b>  <i>Accessory Apartment.</i> An accessory use with one or more rooms with separate kitchen and bathroom facilities, constituting a dwelling unit, located within and under the same ownership as a <b>single family</b> detached dwelling and designed for the occupancy of a single family.</p> <p><b>4.22 Accessory Apartments.</b> The purpose of this Subsection 4.22 is to allow for the creation of accessory apartments <b>in Residence A districts. These districts contain a number of large single family homes that</b> are underutilized. Alteration of these homes to provide additional dwelling units would be prohibited in most cases due to the existing floor area ratio and/or lot area per dwelling unit requirements of Subsection 5.31. Given contemporary life styles, housing needs and energy and maintenance costs, it is beneficial to the City to allow greater flexibility in the use of such dwellings without substantially altering the environmental quality of <b>such residential districts.</b> This Subsection 4.22 gives the Board of Zoning appeal authority to relax such requirements in certain instances as enumerated below.</p> <p><b>4.22.1 In a Residence A District</b> the Board of Zoning Appeal may grant a special permit for alteration of a <b>single family, detached dwelling legally in existence as of the effective date of this Subsection 4.22, (6/29/81)</b> to provide one accessory apartment if the following conditions are met:</p>	<p><b>Article 2.000: Definitions</b>  <i>Accessory Apartment.</i> An accessory use with one or more rooms with separate kitchen and bathroom facilities, constituting a dwelling unit, located within and under the same ownership as a <b>single or two-family</b> detached dwelling and designed for the occupancy of a single family.</p> <p><b>4.22 Accessory Apartments.</b> The purpose of this Subsection 4.22 is to allow for the creation of accessory apartments <b>in all districts. Many large single and two-family homes</b> are underutilized. Alteration of these homes to provide additional dwelling units would be prohibited in most cases due to the existing floor area ratio and/or lot area per dwelling unit requirements of Subsection 5.31. Given contemporary lifestyles, housing needs, and energy and maintenance costs, it is beneficial to the City to allow greater flexibility in the use of such dwellings without substantially altering the environmental quality of <b>their surrounding neighborhoods.</b> This Subsection 4.22 gives the Board of Zoning appeal authority to relax such requirements in certain instances as enumerated below.</p> <p><b>4.22.1 In all districts</b> the Board of Zoning Appeal may grant a special permit for alteration of a <b>single family or two-family,</b> detached dwelling to provide one accessory apartment if the following conditions are met:</p>	<ul style="list-style-type: none"> <li>Expands the criteria to include two-family homes, as one- and two-family homes are typically quite similar in size and design, and are also treated similarly under the existing State Building Code.</li> <li>Expands the criteria to include homes in all districts. The current criteria unnecessarily restrict accessory apartments to only a few small neighborhoods of the City.</li> <li>Expands the criteria to include two-family homes.</li> </ul>
<p>1. <b>The dwelling was constructed prior to June 1, 1940, and has not been substantially enlarged since that date.</b> The addition in the aggregate of two hundred and fifty (250) square feet or more of gross floor area shall be considered a substantial enlargement.</p>	<p>1. <b>The dwelling has not been substantially enlarged since built.</b> The addition in the aggregate of two hundred and fifty (250) square feet or more of gross floor area shall be considered a substantial enlargement.</p>	<ul style="list-style-type: none"> <li>Expands the criteria to include homes in all districts</li> <li>Expands the criteria to include two-family homes</li> <li>Expands the criteria to include homes regardless of when they were built, as newer homes are actually more likely to have accessory space that is habitable under the current building code.</li> </ul>
<p>1. <b>The dwelling was constructed prior to June 1, 1940, and has not been substantially enlarged since that date.</b> The addition in the aggregate of two hundred and fifty (250) square feet or more of gross floor area shall be considered a substantial enlargement.</p>	<p>1. <b>The dwelling has not been substantially enlarged since built.</b> The addition in the aggregate of two hundred and fifty (250) square feet or more of gross floor area shall be considered a substantial enlargement.</p>	<ul style="list-style-type: none"> <li>Expands the criteria to include homes regardless of when they were built</li> </ul>

<p>2. Prior to alteration the dwelling contains at least <u>three thousand five hundred (3,500)</u> square feet of gross floor area.</p>	<p>2. Prior to alteration the dwelling contains at least <u>one thousand eight hundred (1800)</u> square feet of gross floor area.</p>	<ul style="list-style-type: none"> <li>• Reduces the required dwelling size to better reflect the median size of a typical Cambridge one- or two-family home (1871 square feet)</li> </ul>
<p>3. The lot on which such accessory apartment is located contains <u>at least three thousand (3,000) square feet of lot area per dwelling unit.</u></p>	<p>3. The lot on which such accessory apartment is located contains <u>at least five thousand (5,000) square feet of lot area.</u></p>	<ul style="list-style-type: none"> <li>• Changes the criteria from lot area per dwelling unit to lot area in order to make the requirements easier to follow.</li> <li>• Reduces the required lot size to 5000 square feet to better align the requirement with typical minimum lot sizes used for most residential zoning districts (Res B and C).</li> </ul>
<p>4. Such accessory apartment <u>shall not occupy more than thirty-five (35) percent of the gross floor area of the principal dwelling in existence prior to the effective date of this Subsection 4.22</u> and shall not be located in a garage.</p>	<p>4. Such accessory apartment <u>shall not occupy more than 900 square feet or thirty-five (35) percent of the gross floor area of the principal dwelling, whichever is less,</u> and shall not be located in a garage.</p>	<ul style="list-style-type: none"> <li>• Sets a maximum size for accessory apartments by limiting the maximum square footage to 900 square feet in cases where the home has a GFA of 2571 or more square feet. This is in keeping with Commonwealth of Massachusetts recommendations to limit accessory units to between 500-900 square feet.</li> <li>• Sets no minimum size for accessory units, beyond those already established by the State Building Code.</li> <li>• Expands the criteria to include homes regardless of when they were built</li> </ul>
<p>5. Any alteration which would increase the floor area ratio beyond that permitted in the district or which would further increase an existing violation of the applicable floor area ratio shall not be permitted.</p>	<p>&lt;Bullet point deleted&gt;</p>	<ul style="list-style-type: none"> <li>• Eliminates the current restriction based on FAR, as 50.6% of all Cambridge one-and two-family homes currently exceed FAR. The current criteria needlessly restrict accessory units even in cases where an accessory unit is constructed entirely within the existing home's footprint.</li> </ul>
<p>&lt;New requirement&gt;</p>	<p>5. The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence. Prior to issuance of a building permit, the owner(s) must submit a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence.</p>	<ul style="list-style-type: none"> <li>• This new requirement ensures that accessory apartments are managed directly by onsite owners rather than by remote and unavailable landlords.</li> </ul>

<p>&lt;New requirement&gt;</p>	<p>In granting a special permit the Board may impose such parking and limitations on other accessory uses of the premises, as it may deem appropriate to avoid detriment to the neighborhood or to nearby persons or property. The Board of Zoning Appeal shall evaluate each special permit application which involves exterior changes with the appearance of and character of the neighborhood and may require that there be no change or minimal change oriented toward a public way or visible from a public way.</p>	<p>6. Any existing two-family home may be converted to a single family home with accessory unit by right, without need for a Special Permit.</p>	<ul style="list-style-type: none"> <li>• This new requirement simplifies what was previously a needlessly complicated process that in some cases required a Special Permit.</li> <li>• &lt;No change&gt;</li> </ul>
<p>In granting a special permit the Board may impose such conditions, including requirements for off street parking and limitations on other accessory uses of the premises, as it may deem appropriate to avoid detriment to the neighborhood or to nearby persons or property. The Board of Zoning Appeal shall evaluate each special permit application which involves exterior changes with the appearance of and character of the neighborhood and may require that there be no change or minimal change to any face of a building oriented toward a public way or visible from a public way.</p>	<p>In granting a special permit the Board may impose such conditions, including requirements for off street parking and limitations on other accessory uses of the premises, as it may deem appropriate to avoid detriment to the neighborhood or to nearby persons or property. The Board of Zoning Appeal shall evaluate each special permit application which involves exterior changes with the appearance of and character of the neighborhood and may require that there be no change or minimal change to any face of a building oriented toward a public way or visible from a public way.</p>	<p>4.22.2 The requirement for an off street parking space specified in Article 6.000 shall not apply for the addition of one accessory apartment in a <b>single family</b> or <b>two-family</b>, detached dwelling in all districts.</p>	<ul style="list-style-type: none"> <li>• Eliminates the requirement to provide a parking space for all accessory apartments. The prior paragraph still allows the Board to require off-street parking as a condition of a Special Permit in cases where such parking is a concern.</li> <li>• Expands the criteria to include two-family homes</li> </ul>
<p>4.22.2 The requirement for an off street parking space specified in Article 6.000 shall apply for the addition of one accessory apartment in a <b>single family</b>, detached dwelling in a Residence A district.</p>	<p>4.22.2 The requirement for an off street parking space specified in Article 6.000 shall apply for the addition of one accessory apartment in a <b>single family</b>, detached dwelling in a Residence A district.</p>		

## **Part B: Added Living Space**

### **Introduction**

The city of Cambridge has 6,620 single and two family homes and of those homes, 50.5% are nonconforming as to Floor Area Ratio (FAR). As a result, homeowners who wish to fully utilize existing interior spaces are often faced with expensive litigation in the form of a zoning variance in order to make safe, legal use of their homes.

There currently exist thousands of square feet of usable space in Cambridge that is essentially frozen due to tight regulatory constraints. In a market where every square foot matters, it makes sense to look first to those interior spaces that already exist.

By eliminating the current provision in the Cambridge Zoning Ordinance that includes finished basement spaces with 7' of headroom or more in the calculations for gross floor area (GFA) and floor area ratio (FAR), Part B of our petition allows homeowners to make use of existing below grade living space in a legal and meaningful way.

Existing below grade spaces with less than 7' of headroom would be unaffected by the change, as would existing mechanical spaces with more than 7' of headroom. Even so, this simple adjustment would allow for the creation of "livable" and "habitable" spaces that are properly inspected, safe, comfortable, taxable, designed with climate issues in mind, and added to the total livable square footage of one's home, all without having to create any new structures.

The proposal, if adopted, would allow new and existing single and two family homes to make use of below grade space without penalty as to the allowable FAR, and would allow commercial and other residential parcels to do so by special permit. The criterion for granting such a special permit should be weighed against the purpose of our ordinance, with preferences given to affordable housing, to artistic and cultural uses, and to projects that are clearly responsive to the needs of the surrounding community.

In short, this proposal simply allows homeowners to make safe use of existing interior spaces without having to hire expensive attorneys or wait months or possibly years for approval. More importantly, it also creates a great deal of flexibility for homeowners without altering the character of existing neighborhoods.

### **Statement of Facts**

WHEREAS residential living space in Cambridge is a precious, expensive, and increasingly rare resource; and

WHEREAS the use of basement space as residential living space is a simple and highly efficient way to increase the livability of residential units without also increasing exterior dimensional nonconformity; and

WHEREAS the current Cambridge Zoning Ordinance counts as gross floor area ("GFA") any finished basement space with seven feet (7') or more of headroom, and, further, includes this finished basement space in calculations of Floor Area Ratio ("FAR"); and

WHEREAS more than half of all single- and two-family homes in Cambridge are non-conforming as to FAR, thus limiting homeowners' ability to legally add additional living space or secure conventional financing options; and

WHEREAS the current definition of GFA forces families and homeowners who wish to legally utilize already existing basement spaces to seek costly and time-consuming zoning variances, even when such existing living spaces meet all dimensional and safety requirements of the State building code.

NOW THEREFORE we the Undersigned respectfully petition the honorable City Council of Cambridge to amend the Cambridge Zoning Ordinance by amending Article 2.000 ("Definitions," subheading "Floor Area Gross") in the following two ways:

**Suggested Changes to Article 2 (Definitions)**

1) Under the paragraph "Gross Floor Area **shall** include:"

Strike the following line item:

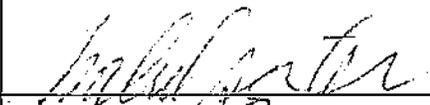
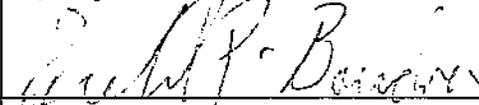
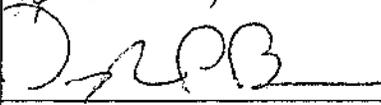
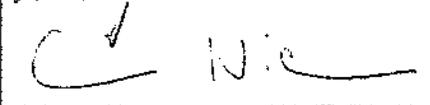
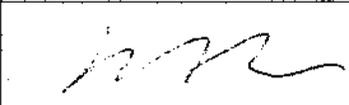
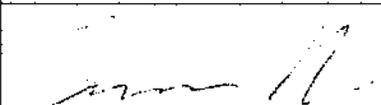
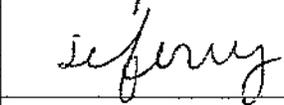
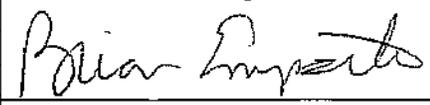
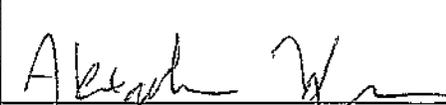
"(f) basement and cellar areas not excluded in (1), (3), and (9) below;"

2) Under the paragraph "Gross Floor Area **shall not** include:"

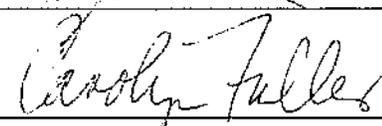
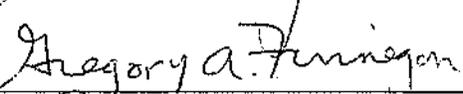
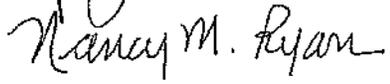
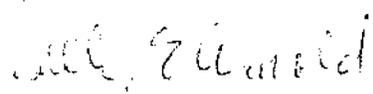
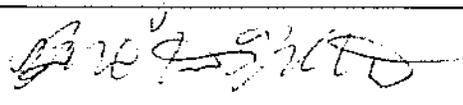
Add the following line items:

"(15) Any basement or cellar living space in any single-family or two-family home."

"(16) Any basement or cellar living space in any other type of structure with the issuance of a special permit. In granting such a special permit, the permit granting authority may approve the exemption of any portion of Gross Floor Area (GFA) located in a basement or cellar from the calculation of GFA, provided the permit granting authority finds that the uses occupying such exempted GFA support the character of the neighborhood or district in which the applicable lot is located."

NUMBER	SIGNATURE	NAME (PRINTED) & ADDRESS
✓ 1		Patrick W. Bennett 234 Broadway 02139
✓ 2		AC 18 02139
X 3	Patty Chen	85 Windsor St. Cambridge MA 02139
✓ 4		7 Brookline St. Apt #16
✓ 5		39 PLUMSTADT ST. CAMB.
✓ 6		DOUG BROWN 35 STANDISH ST, CAMBRIDGE
✓ 7		Amy Munsat 71 Standish St. Camb. 02138.
✓ 8		CHRISTOPHER NICHOLSON 205 WALDEN ST 02140 CAMBRIDGE MA 02140
✓ 9		JAN DEVEREUX 255 LAKEVIEW AVE CAMBRIDGE MA 02138
✓ 10		1 WATKINS ST. CAMBRIDGE CAMBRIDGE MA 02138
✓ 11	HARRY FLAMMI	HARRY FLAMMI 71 STANDISH 02138
X 12		SAKA FERRY 897 MAIN ST #11 02139
✓ 13		Brian Esposito 897 Main St #11 02139
✓ 14		Alexander Hayman 897 Main St #11 02139
15		Scott 16 Cottage St 02139

NUMBER	SIGNATURE	PRINTED NAME & ADDRESS
16	<i>John Brown</i>	JOHN BROWN 34 Pearl St, Cambridge, 02139
17	<i>David Sater</i>	David Sater 24 Tufts St #1 Cambridge, MA 02139
18	<i>Travis Sater</i>	171 Auburn St Cambridge
19	<i>Emilie A. Sater</i>	171 Auburn St Cambridge MA 02139
20	<i>Cecilia Sater</i>	107 Brookline St, Cambridge MA 02139
21	<i>Sonia Sater</i>	101 Brookline St Unit A Cam 02139
22	<i>Janie Sater</i>	101 Brookline St "A" Cambridge MA 02139
23	<i>Charles Sater</i>	628 Solon St, Cambridge, MA 02139
24	<i>Nancy Sater</i>	8 Solon St Cambridge MA 02139
25	<i>Melvin</i>	MORRIS GREEN 164 AUBURN ST APT 12
26	<i>Allen Burt</i>	125 Concord Ave Cambridge MASS 02138
27	<i>Arianna Hughes</i>	27 Magnolia Ave 02138
28	<i>James</i>	164 Auburn St. #2 Cambridge MA 02139
29	<i>[Signature]</i>	434 MASSACHUSETTS AVE #4 CAMBRIDGE, MA 02139.
30	<i>[Signature]</i>	Charles Carota - 42 Lopez St. Cambridge, MA 02139

NUMBER	SIGNATURE	NAME (PRINTED) & ADDRESS
21		Alex Popozian 105 Norfolk St. #3 Cambridge, MA 02139
22		CAROLYN Fuller 12 Douglas St CAMBRIDGE, MA 02139
23		31 Hubbard Ave ROBIN FINNEGAN
24		<del>31</del> 31 Hubbard Ave. GREGORY A. FINNEGAN
25		George R. Metzger 90 Antrim St Camb. MA 02139
26		Nancy M. Ryan 4 Ashburton Pl. Cambridge 02139
27		63 Massell St. Cambridge Cambridge 02140
28		127 Ames St Cambridge, MA 02139
29		18 Centre St Unit 204 Cambridge, MA 02139
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RE: Barrett Petition

Dear Cambridge Ordinance Committee,

Prior to our meeting I would like to address some of the questions and concerns brought forward by CDD and during my Planning Board ("PB") hearing. First and foremost I wish to express my gratitude toward both CDD, PB, and this body for giving me the opportunity to state my case. The PB seemed daunted by some of the issues presented in the petition and suggested that bifurcating the petition, among other suggestions, was the best course of action. I completely agree with their logic on this point. Further, the majority felt that these issues presented changes that would be too impactful to consider outside of the master planning process. It is on this point that I disagree and in the following paragraphs will proceed through both CDD's critique and the PB's apprehension in an attempt to allay some of those concerns.

### PART A

Jeff Roberts has provided an over view of my petition with some interesting critiques. CDD, through Robert's memo, brought five major points of concern under Part A of the petition; The distinction between an "accessory dwelling unit" and an actual unit of housing, difficulty in regulations of the "owner occupant requirement", elimination of the "lot per dwelling unit" calculation, parking, and long term effects on neighborhoods.

### DISTINCTION BETWEEN ACCESSORY AND REGULAR HOUSING UNIT

The first complication Robert's memo foresees is that the petition includes both one and two family structures, where the current ordinance only allows their creation in one family structures. Two family buildings were included to increase the potential number of units this petition could create. Primarily CDD's concern is that without a proper distinction "an accessory apartment could simply be a mechanism to expand the number of units on a lot without triggering other zoning limitations." Roberts is correct in the assumption however this is a weakness of definition only and one that could be easily resolved by creating a clear definition and guideline for what an "accessory apartment" is. The model by-law comments briefly on this issue:

"The limitations on accessory dwelling units that are identified in the bylaw will strengthen the distinction between two-family dwellings, and single-family dwellings with accessory dwelling units. However, it is recommended that a community review its other definitions and residential bylaws to ensure the distinction."<sup>1</sup>

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<sup>1</sup> [http://www.mass.gov/envir/smart\\_growth\\_toolkit/bylaws/ADU-Bylaw.pdf](http://www.mass.gov/envir/smart_growth_toolkit/bylaws/ADU-Bylaw.pdf) (pg. 3)

**Recommendation: Amend the petition to limit its scope to single family homes only, until we are able to properly define "accessory unit" to accommodate the full intent of this petition. This may be a matter for the Master Plan.**

#### DIFFICULTY ENFORCING OWNERSHIP REQUIREMENT

The second major issue Roberts indicated arose through the petition requiring an owner affidavit for those who wished to create an accessory apartment. This caveat was introduced simply as a means to limit abuse. However in the state guidelines for accessory housing, from which the basis of Part A was derived, the introduction of such a measure was placed as mere suggestion with the actual recommended language from the model bylaw being to encourage language that "reduce[s] the administrative burden on municipalities."

**Recommendation: Amend the petition to eliminate the requirement for an owner affidavit.**

#### ELIMINATION OF THE "LOT PER DWELLING" CALCULATION

Roberts memo mentioned some concern regarding the elimination of the so called "lot per dwelling unit" calculation ("LPD"). This was done to eliminate one tier of regulation on creating accessory apartments that is currently the most problematic for residents. The overarching goal of this petition was to free up some of the "ice" that limits development in this city or leads to costly hearings and litigation. There are many other regulations that prohibit unwanted changes to the character of neighborhoods that already add multiple challenges and layers to any project that I felt, and maintain, that the elimination of the LPD was absolutely necessary to creating homes within homes in this city. 51% of all homes this petition would affect are already "non-conforming" as to floor area ratio (FAR), thus I felt it imperative to remove an obstacle that would further exacerbate one's chances at the board of zoning appeal.

**Recommendation: No Change**

#### LONG TERM EFFECTS AND PARKING

Lastly, Roberts mentions the unknown long term effects the changes this petition proposes in relation to greater household density, parking, transportation, and public resources. To date few permits have been sought under the current zoning. I cannot speak to the long term effects of this petition, only that the current ordinance has done virtually nothing to speak to the importance of this issue. I have heard on many occasions that our goal as a community is to create more housing, and this petition does just that. It does so without changing the look any existing neighborhood or requiring one additional square foot be built. Further it allows flexibility for families over housed, under housed, and elderly folks in need of in home care.

Thus any long term effect could be managed against the great amount of good it will create. I believe the group tasked with creating the master plan for the city called it "live tv planning."

The parking restriction was removed primarily because I felt its requirement was unnecessary and this comported to the model by-law recommendations. Further, one is required to seek a special permit for any accessory dwelling unit built, thus the BZA or PB could require parking as a restriction of use. The goal of the petition was to create housing, not more off street parking.

**Recommendation: Amend the petition to require one parking spot per accessory dwelling unit and allow for its removal by special permit.**

### Part B

Part B of the petition deals with basement spaces and eliminates their inclusion as gross floor area ("GFA") in spaces with heights above 6' 11" for single and two family homes by right, and for all else by special permit. The purpose of this section was to create parity between the sanitary code, building code, and our zoning ordinance. Under the current building code existing basement spaces in one or two family homes may be finished and used at 6' 8" or greater. Under the current sanitary code basement spaces with heights below 7' are considered unlivable and uninhabitable. Under our current zoning ordinance spaces above 6' 11" are considered against the overall build of one's home or total GFA. This petition seeks to recognize that the building code for one and two family homes is different than it is for larger residential and commercial structures and that we shouldn't be encouraging homeowners to finish spaces that are uninhabitable or unlivable. I also wanted to recognize that homeowners have rights and that given the expense of all square footage in Cambridge there is logic in encouraging development that is safe and makes efficient use of space.

The Planning Board's primary concerns were categorized as; unforeseen consequences and a lack of a definition of basement spaces. There were a few concerns about flooding in CDD's memo, mostly from so called "top flooding."

### UNFORSEEN CONSEQUENCES

The biggest concern with Part B was the unforeseen consequences that releasing GFA would cause. I have spent many hours contemplating this one point and while I was unable to address this during planning board discussion I hope to allay some of their concerns herein.

First, there are many restrictions on land use that govern setbacks, height, open space, and floor area ratio (FAR). All of these guidelines greatly limit what one is able to build on their land and would continue to restrict a homeowner no matter how much GFA he would unlock due to my petition. For instance, if I had 2000sqft in my basement, which I could now use above ground in a C-1 zone, I'd still be limited by FAR, height, side setbacks, and open space. Thus I

may be able to get additional GFA, I'd have no place to put it. Granted, there will be instances where a homeowner might get additional GFA in an existing structure, but they are severely limited by article 5 and article 8 of our ordinance.

Secondly, in the case of new structures, people will almost certainly design with this newly unlocked space in mind. Thus a new home in that same C-1 zone would max out their GFA above ground, as they do now, and still be subject to the same setback, height, FAR, and open space limitations that older structures would have. The point is that we already have significant dimensional regulations on properties that this "unforeseen consequence" will be mostly anomalous. In the rare instance where a single or two family homeowner unlocks GFA down below and has FAR to build above ground he will be able to add to an existing structure, still subject to Article 8, and in the case of a new building simply be able to max the appropriate design and function of the home.

Lastly, the inclusion of larger residential spaces and commercial spaces was of some concern as well. Typically they are in zones that do not require setbacks or have significantly less limitations on construction and design than a typical residential district. However, a special permit was recommended as a means to curtail any abuse. Part of the failed recommendations of the C2 study in Central Square had such a caveat:

"4. FAR Exemption for Community-Desired Ground (First) Floor Uses Upon the granting of a special permit, the Planning Board may approve the exemption of any portion of Gross Floor Area (GFA) located on the ground floor or basement of a building from the calculation of GFA permitted on the applicable lot..."

This language provided the impetus to include similar language in my petition. Commercial space is an extremely expensive at the ground floor level and increasingly rare. Retailers, restaurateurs, and other merchants or often squeezed out of districts due to this. Thus it makes sense try to find alternative spaces for local retailers, makers, or other commercial interests that will be more resilient to market pressure and allow for a more robust local selection of spaces. Further, as we contemplate the redesign of our squares and commercial zones it makes sense to loosen regulations that may force local business out of existing basement spaces to create more lucrative above ground commercial frontage or stunt the creativity in the reuse of existing spaces.

**Recommendation:**

**1) Limit the scope of Part B to single and two family homes only**

**or**

**2) Limit the residential scope to single and two family structures only, and allow for existing commercial buildings to exempt GFA by special permit.**

## FLOODING

There was concern voiced by CDD, the PB, and a few especially concerned citizens about flooding. Climate change is real and effects us all, however I do not feel that this is an issue that should preclude rational use of below grade spaces residential or commercial. The building code already allows a homeowner to finish off below grade spaces in one or two family homes. Adoption of this petition would only make those spaces safer. We provided extensive guidelines for the so called Basement Apartment Overlay District, it makes sense to employ the same strategy for this petition. Anecdotally there are many spaces in Cambridge that this type of development would not work for and there are just as many if not more that it would be appropriate. This petition seeks to allow the homeowner to make this decision and encourages the creation of safer modern spaces that the city is aware of and is compliant with current building code standards.

**Recommendation: Provide guidelines for safe use and design and limit applicability to non Fema flood zone areas.**

Lastly, on a personal note, I would have taken the full recommendations of the C2 Advisory Board and applied them citywide. This would have included GFA exemptions for rooftop use above the third floor for private/public use, balconies, and ground floor retail spaces with frontage at or less than 30'. The need for space is truly great, and often commercial uses are ignored in favor of residential. However the spaces I'm suggesting we use are already built and simply waiting in plain sight. Some of what I have put here may be best vetted against a master plan for the city, however I feel most of this is well within the scope of the Planning Board and with my suggested amendments, even easier to disseminate. We do not have to throw touchdown passes in order to get good effective changes in zoning, sometimes it is the short yardage gained on the ground that gets us across the line. Thank you for your time.

Regards,

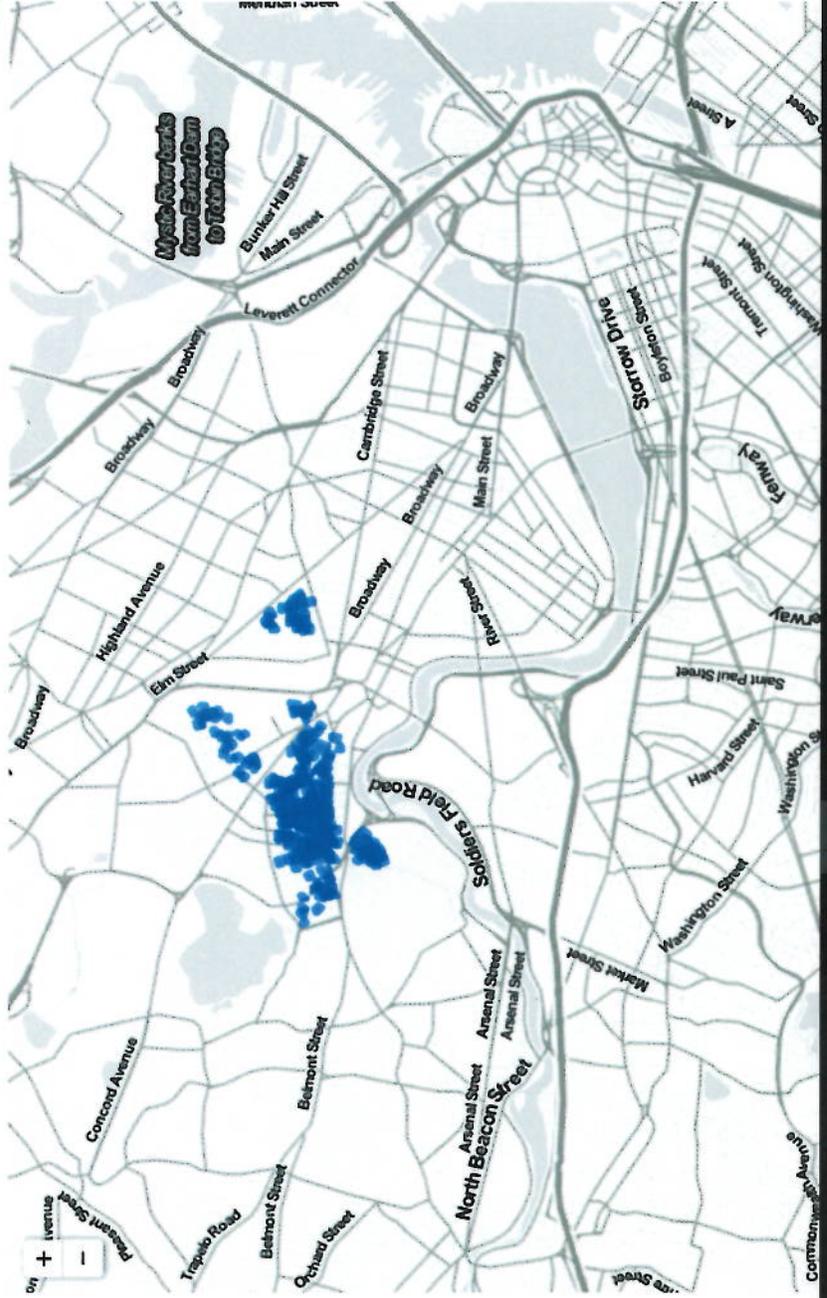
Patrick W. Barrett III

# Current Zoning

shinyapps.io | kent37.shinyapps.io | zngamend\_barrett\_pbrec\_20 | New tab

Powered by R Studio

Final result: 288 total accessory units (increase of 0 new units over current zoning).



ATTACHMENT C-1

Ask me anything | Desktop | 11:02 AM | 11/19/2015

# Proposed Change

shinyapps.io

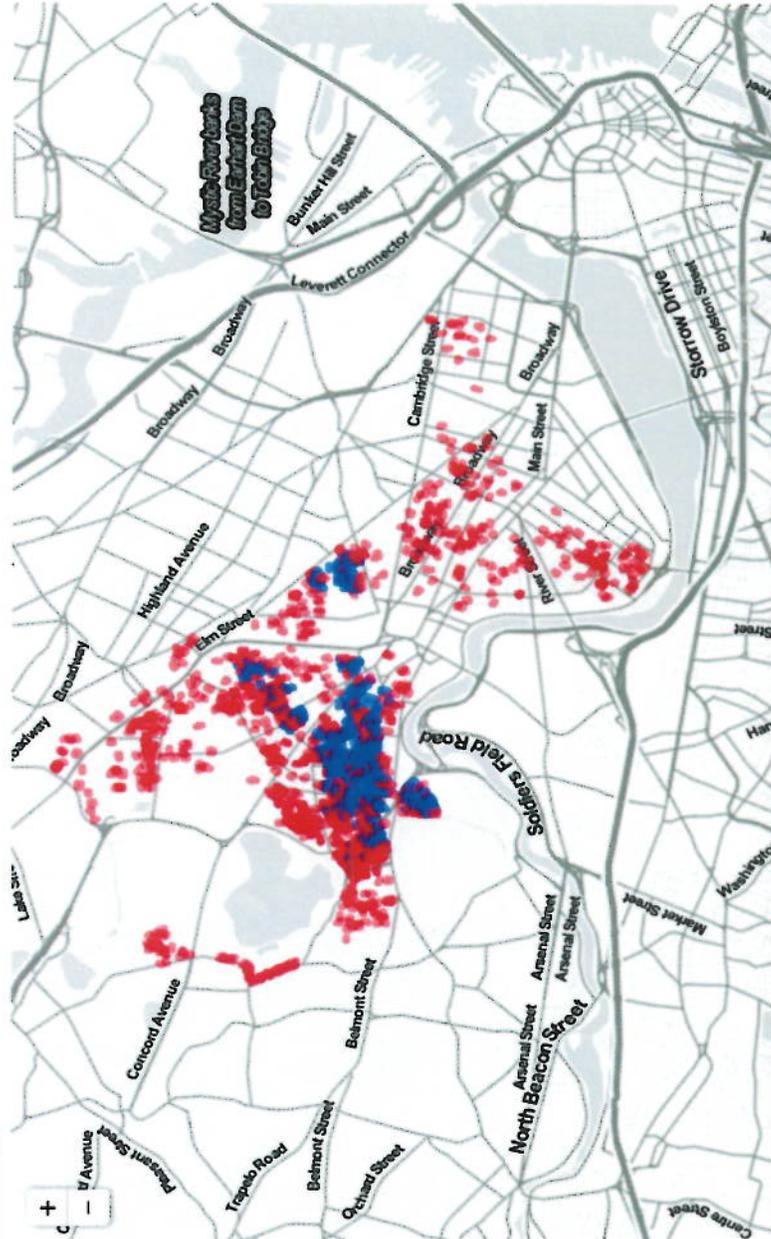
Powered by R Studio

shinyapps.io | kent37-shinyapps.io/AccessoryHousing/AccessoryHousingShirny.Rmd

shinyapps.io | kent37-shinyapps.io | New tab

shinyapps.io | kent37-shinyapps.io | Inbox - jbrealitylc@gmail.com

Final result: 1295 total accessory units (increase of 1007 new units over current zoning).



Ask me anything

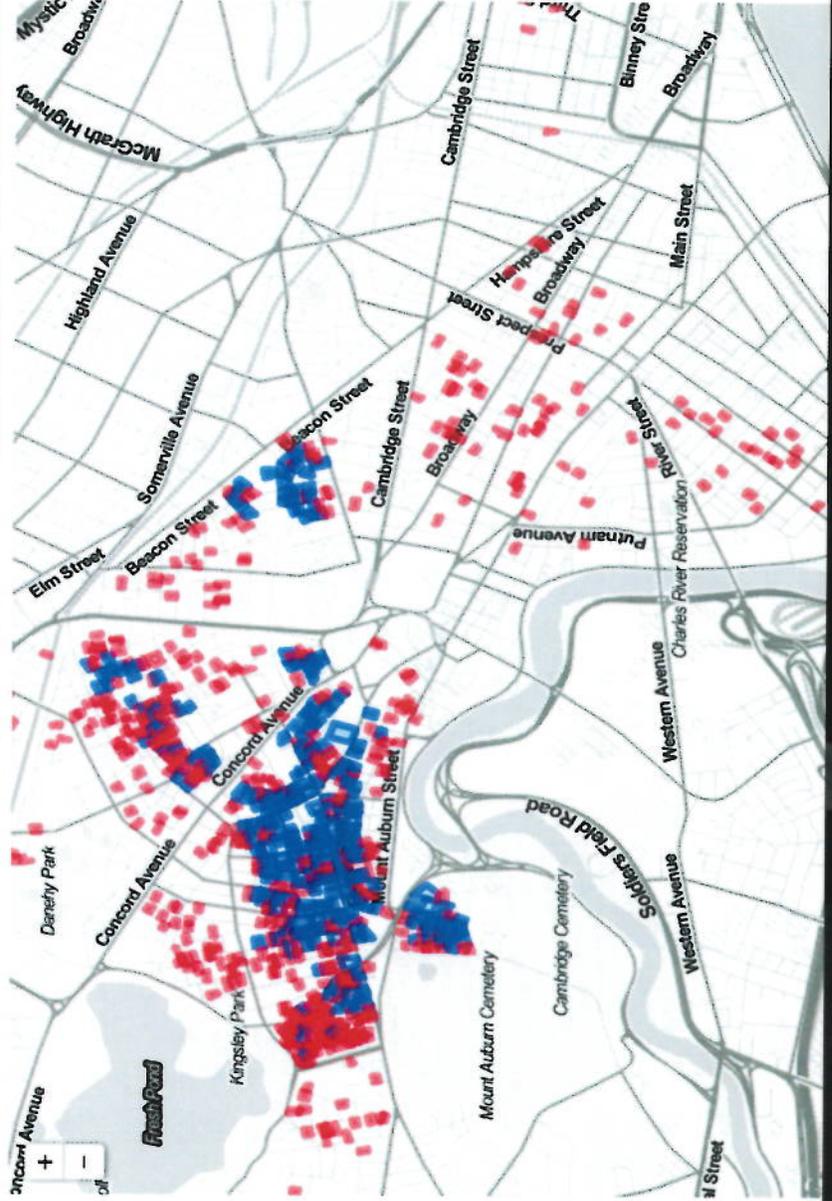
10:49 AM 11/19/2015

Desktop

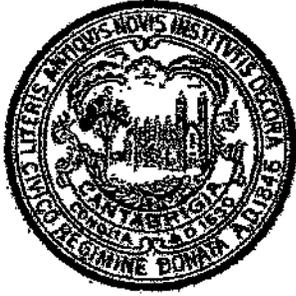
# Suggested Amendment

shinyapps.io | kent37.shinyapps.io | kent37.shinyapps.io / AccessoryHousing/AccessoryHousingShiny.Rmd | Powered by R Studio

Final result: 911 total accessory units (increase of 623 new units over current zoning).



Ask me anything | Desktop | 10:51 AM | 11/19/2015



CITY OF CAMBRIDGE, MASSACHUSETTS

# PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

Date: November 18, 2015

Subject: Barrett, et al. Zoning Petition

Recommendation: The Planning Board recommends further study.

To the Honorable, the City Council,

The Barrett, et al., Zoning Petition proposes two distinct sets of changes to the Zoning Ordinance. One set of changes would expand the allowances for accessory apartments into both single-family and two-family homes in all zoning districts and eliminate the current requirement for off street parking spaces for such apartments. The other set of changes would amend the definition of Gross Floor Area to exclude spaces in the basements or cellars of buildings.

The Planning Board held a public hearing on this petition on October 27, 2015. Following presentations from the petitioner, testimony from the public, comments from Community Development Department staff and discussion among Board members, we offer the following comments:

1. The Board believes that this is a thoughtful zoning proposal and finds that several aspects of the proposal have merit, particularly related to the need to consider more flexible and efficient use of existing housing stock in order to accommodate sustainable growth and provide housing options for diverse household types. The issues raised by the proposal are worthy of serious consideration by the City.
2. Nevertheless, the specific provisions in the proposal would have significant and far-ranging implications that might result in unintended consequences. For instance, encouraging greater residential use of basement space might result in more space that is susceptible to flooding hazards, a recurring problem throughout Cambridge that will be exacerbated by the effects of climate change. Other considerations are the potential change in neighborhood character if accessory apartments are added to single-family and two-family homes throughout the city, and the impact of such apartments on parking in the different neighborhoods. Further, the proposed changes to the Gross Floor Area definition would fundamentally change the way in which development is regulated for all buildings in the city.
3. Given the broad potential impacts of the proposed changes, it may be preferable to consider these issues as part of the comprehensive citywide planning process that is to begin soon. This planning process would provide an opportunity to look at these specific issues within a

larger context of citywide planning objectives, and may provide opportunities for more systematic approaches to development controls rather than piecemeal changes.

4. Because the citywide planning process will occur over the next few years, if the Council prefers to advance this proposal more expeditiously, the Planning Board and staff would need to devote focused time and resources to consider the full range of impacts that might result. In that case, the Board believes it would be sensible to study the two parts of the proposal separately, especially since the proposal related to accessory apartments is somewhat more limited in scope than the changes to the Gross Floor Area definition, which would have more far-reaching impact on the use of dimensional controls to regulate buildings.

Respectfully submitted for the Planning Board,



H Theodore Cohen, Chair.

**Lopez, Donna**

ATTACHMENT E

**From:** Carol O'Hare <cbo1066@gmail.com>  
**Sent:** Thursday, November 19, 2015 9:27 AM  
**To:** Benzan, Dennis; Carlone, Dennis; Cheung, Leland; Kelley, Craig; Mazen, Nadeem; McGovern, Marc; 'Denise Simmons'; Toomey, Tim  
**Cc:** Maher, David; Lopez, Donna  
**Subject:** Ordinance Committee: "Accessory-Apartments & Basement-Space"/BarrettAmendment - Not Ready for Prime Time! - Hearing, 2 p.m., Thurs., 11/19/15

Dear Chairmen Benzan and Carlone and Members of the Ordinance Committee:

**Below** is another copy of my 10/26 "Quick Take" on the Barrett Amendment for your review before your 2 p.m. hearing today.

At their hearing, Planning Board Chairman Cohen reiterated my take on the proposed Barrett Amendment: "It's Not Ready for Prime Time." As the Planning Board's recommendations and others' public comments made clear, there's no quick-fix for the certain, consequential problems of adopting this city-wide zoning amendment outside the finally, just-initiated Master Planning process. Among other problems, there's basement-flooding, exacerbation of parking demand in packed residential neighborhoods, unanalyzed impacts and likely randomness of special-permitting the exclusion of basement space throughout the City from FAR calculations, and serious enforceability concerns. See <http://www.cambridgema.gov/CDD/zoninganddevelopment/Zoning/Amendments>.

Thank you for your time and attention.

Sincerely,  
Carol O'Hare  
172 Magazine St.

**Cc: Donna Lopez** for filing with the Official Record

---

**From:** Carol O'Hare [mailto:cbo1066@gmail.com]  
**Sent:** Monday, October 26, 2015 11:55 AM **To:** Liza Paden **Cc:** [CDD personnel & Petitioners]  
**Subject:** Planning Board: "Accessory-Apartments & Basement-Space" Zoning Amendment - Not Ready for Prime Time!...

Dear Mr. Cohen, Chair, Ms. Connolly, Vice Chair, and Planning Board members:

**My Quick "Take":** Policy-wise, substantively and procedurally, the "Barrett" Amendment is not ready for prime time.

I've only briefly reviewed the "Barrett" Zoning Petition and had an email exchange with Doug Brown, one of the Petition's drafters, and I have concerns. The Petition seeks (i) to expand and liberalize property owners' ability to add or create accessory apartments in their existing and newly built 1- and 2-family residences and (ii) to exclude some basement spaces used for residential purposes from Zoning FAR calculations.

I understand and appreciate that one laudable goal of the proposed amendment (Amendment) is to encourage, ease and speed the development of additional rental housing, but, trite as it is, the devil is in the details. So, my three examples below illustrate that, although this proposed amendment (Amendment) would encourage more rental apartments, it would create obvious and subtler, serious problems, some of which would not really become evident until it's too late to address them.

1. The Amendment is based on Mass. [Executive Office of Energy and Environmental Affairs' Model Bylaw for Accessory Dwelling Units \(the "Model Law"\)](#). But, it omits a number of the Model's significant, protective provisions for assuring that this owner-occupancy requirement is maintained after the initial owner vacates. [http://www.mass.gov/envir/smart\\_growth\\_toolkit/bylaws/ADU-Bylaw.pdf](http://www.mass.gov/envir/smart_growth_toolkit/bylaws/ADU-Bylaw.pdf).

The Amendment requires: "The owner(s) of the residence in which the accessory apartment is created must continue to occupy at least one of the dwelling units as their primary residence [and p]rior to issuance of a building permit, the

owner(s) must submit a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence."

a. Jeff Roberts observed in his 10/21/15 Memo: "Enforcement of the owner-occupancy restriction would be a challenge, particularly in cases where an owner creates an accessory apartment but then decides to sell the property in the future. For instance, if a future owner decides not to occupy the unit and to rent the principal and accessory units separately, it would not necessarily require zoning review and would be difficult to remedy if it were discovered after-the-fact. Requiring owners to move in (and tenants to move out) or to somehow remove the accessory unit might not be practical or desirable."

b. The Amendment establishes no consistent or reliable method for assuring that owner-occupancy in one of the dwelling units is continued by future property owners, including estates or heirs (after owner-occupants have died) or buyers in a foreclosure sale. While the drafters' approach may encourage conversions or constructions of accessory apartments, because of their concerns about simplifying the process, the long-term goal of maintaining owner-occupancy will predictably be at least blunted.

c. Totally inadequate, complaint-driven enforcement actions (if initiated) might make life somewhat miserable temporarily for a particular absentee owner, but I can't imagine any more wide-ranging effect.

d. Compare the Amendment with the Model Law, which provides several mechanisms for assuring continued owner-occupancy, including initially recording with the appropriate Registry of Deeds or Land Court the original owner-occupant's commitment to reside in one of the units. **See** applicable sections of the Model Law, including Comments & Recommendations, in the **References** section below. Through the Model Law's recording requirement and subsequent, appropriate filings when property ownership changes, the original commitment for owner-occupancy would more assuredly be continued by subsequent owners.

2. The Petition requires **no off-street parking** to be provided for Accessory Apartments. Mr. Roberts also mentioned this as a potential concern. Remembering the Cambridgeport residents' deluge of objections and protests after a Hubway bike dock was installed in former parking spaces abutting Dana Park, I'd guess that the Amendment's no-parking requirement would cause much more distress in this tightly packed city than it would in the suburban towns that could better handle such an exemption.

Our Zoning Ordinance's existing "Accessory Use Apartment" provision requires accessory off-street parking in Residence A neighborhoods that likely have capacity to provide it. Even though we might wish it not so, eliminating the off-street parking requirement while expanding the areas in which these accessory apartments are permitted, without any review of the ramifications in a particular case, is likely to create disharmony in jam-packed neighborhoods of the City where parking has become a major headache. This too will only become evident well after-the-fact.

The Model Law has this comment and recommendation:

**COMMENT:** The accessory dwelling unit may result in demand for extra vehicle parking; however, the number of additional vehicles associated with the property may be minimal due to the limited size of the unit. The typical requirement is for one additional on-site parking space for the accessory dwelling unit.

**RECOMMENDED POSITION:** Require one additional parking space and consider allowing a waiver when transit is a reasonable option."

3. The Amendment would assign to the already over-burdened Board of Zoning Appeal yet another discretionary responsibility: Authorization, by special permit, to **exclude basement and cellar "living space" from FAR calculations** for all buildings, other than 1- and 2-family residences whose basement space the Amendment would automatically exclude from FAR calculations.

- To grant such a special permit, the BZA must be able to make a finding that the proposed residential uses of such basement space "support the character of the neighborhood or district in which the applicable lot is located."
- But, must the BZA also make the other "special permit" findings? **See** Zoning Ordinance §10.43, quoted in the **References** section below? If not, this is a pretty wishy-washy standard.
- In any event, why should such a potentially impactful exclusion from FAR be so dependent upon how many and how vigorously and effectively the narrow group of those who have legal standing (abutters, etc.) may object at a BZA hearing? For example, the traffic and parking generated from such uses and the increase in developable structures could significantly impact the wider neighborhood, depending on the square footage of the basement area. The "special permit" outcome may also depend on which group of BZA members may hear a particular case, whether an applicant has knowledgeable representation and a range of other variables.

Thank you, as always, for your service, time and attention.

Sincerely,  
Carol O'Hare  
172 Magazine St.

## **References**

### **Barrett Zoning Amendment**

**materials:** [http://www.cambridgema.gov/~media/Files/CDD/ZoningDevel/Amendments/2015/Barrett/zngamend\\_barrett\\_petitiontext.pdf](http://www.cambridgema.gov/~media/Files/CDD/ZoningDevel/Amendments/2015/Barrett/zngamend_barrett_petitiontext.pdf)

### **CDD 10/21/15 Memo re Barrett Zoning Amendment:**

[https://www.cambridgema.gov/~media/Files/CDD/ZoningDevel/Amendments/2015/Barrett/zngamend\\_barrett\\_cddmemo\\_20151021.pdf](https://www.cambridgema.gov/~media/Files/CDD/ZoningDevel/Amendments/2015/Barrett/zngamend_barrett_cddmemo_20151021.pdf)

**Model By-Law for Accessory Dwelling Units (ADU):** [http://www.mass.gov/envir/smart\\_growth\\_toolkit/bylaws/ADU-Bylaw.pdf](http://www.mass.gov/envir/smart_growth_toolkit/bylaws/ADU-Bylaw.pdf)

### **Model ADU: Some Relevant Provisions & Comments**

**Approval for an ADU requires that the owner must occupy one of the dwelling units.**

**3. ...The zoning approval and the notarized letters required in 04.4 and 04.5 below must be recorded in the County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Commissioner, prior to the occupancy of the accessory dwelling unit.**

**4. When a structure, which has received a permit for an accessory dwelling unit, is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within thirty (30) days of the sale, submit a notarized letter to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences.**

*COMMENT: Some municipalities include a provision in the bylaw/ordinance stating that the zoning approval or Special Permit for the accessory dwelling unit will lapse if the owner no longer occupies one of the dwelling units. This adds unnecessary administrative burden on the municipality. Provided that similar circumstances prevail, a change of ownership should not automatically result in a permit lapse.*

**5. Prior to issuance of a permit, the owner(s) must send a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences.**

*COMMENT: Some bylaws/ordinances specify time periods for which the owner must occupy the dwelling in any given year, however, enforcement of this adds unnecessary administrative burden on local officials.*

**6. Prior to issuance of a permit, a floor plan must be submitted showing the proposed interior and exterior changes to the building.**

*COMMENT: This is to demonstrate that the accessory dwelling unit will not significantly affect the appearance of the single-family dwelling.*

### **05.0 Administration and Enforcement**

*COMMENT: Cities and towns need to examine their development review processes to find ways that the review process can be streamlined so homeowners are encouraged to use the accessory dwelling unit ordinance. It is recognized that most towns have existing illegal accessory dwelling units, and if a town is to encourage homeowners to legalize the existing units or create new accessory dwelling units under this bylaw, the process should be made as straight forward as possible. Making the process simple for the homeowners while still imposing all reasonable requirements for accessory dwelling units helps reduce the administrative burden on municipalities.*

*COMMENT: Some towns require annual notarized letters attesting to the conditions of the accessory dwelling unit (owner-occupancy and any restriction on tenancy). Some bylaws require annual renewal of the permit.*

**RECOMMENDED POSITION:** No requirements for annual compliance or renewal are recommended. This places unnecessary burden on local officials. Using change in ownership as the trigger for renewal of the accessory dwelling unit is preferable.

[Emphasis added.]

### **Cambridge Zoning Ordinance §10.43 - Special Permit Criteria:**

"Special permits will normally be granted where specific provisions of this Ordinance are met, except when particulars of the location or use, not generally true of the district or of the uses permitted in it, would cause granting of such permit to be to the detriment of the public interest because: (a) It appears that requirements of this Ordinance cannot or will not be met, or (b) traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character, or (c) the continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would be adversely affected by the

nature of the proposed use, or (d) nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use or the citizens of the City, or (e) for other reasons, the proposed use would impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of this Ordinance, and (f) the new use or building construction is inconsistent with the Urban Design Objectives set forth in Section 19.30."

Stephen H. Kaiser  
191 Hamilton St.  
Cambridge Mass. 02139

To : The Ordinance Committee of the Cambridge City Council

From : Stephen H. Kaiser, PhD

## Public Comment for the November 19 Hearing on the Barrett Petition

As a 50-year resident and homeowner on Hamilton Street, my house is assessed for over a million dollars. However, I continue to paint the house myself, thereby saving at least \$20,000 and allowing me to charge my tenants rents at half the prevailing rent levels in Cambridgeport. I am concerned that the Barrett Zoning Petition will result in increased home conversions and increased rents, thereby having a destabilizing effect on the housing climate in the city.

At the Planning Board hearing on this petition, I stated my opposition primarily on the issue of flooding, which the Planning Board also mentions in its recommendation. Stormwater management priorities and recent experiences with storms that cause basement flooding should guide our thinking and show appropriate caution about the flooding potentials of basement apartments.

The petitioner's presentation to the Ordinance Committee offered the briefest reference to basement issues and made no mention whatsoever of flooding. The torrential downpour in July 2010 produced four inches of rain in 70 minutes, with major damage to the Somerville Police station, the basement storage area of Cambridge Public Works headquarters, and left an inch of water in my basement which almost never floods. This petition will have citywide impacts and it should be assessed in the master plan, as the Planning Board proposes.

My more recent concern is the stated purpose and likelihood of increased investment in building conversions. Such investments will likely result in at least temporary debt, and such debts must be paid off with additional income, which will likely come in the form of higher rents. At a time when almost every Councilor deplors

the loss of low and middle-income housing and seeks larger amounts of affordable housing in new housing construction, we should not be adopting programs that will undermine efforts to provide more affordable housing in the city. The complexity of the proposals and their untested nature suggests a greater potential for loopholes and unexpected consequences which will not be the result of quality zoning.

My disagreement with this proposal is based on fundamental concerns about economics and are related to my desire to save \$20,000 every time I paint my house. Large investments mean higher rents, it is that simple. We should worry that the economic motivation of simple greed may underlie the purpose of this amendment, and that the result will not be a sound and humane housing policy for the city of Cambridge.

The petitioner claims that with a "stroke of the pen" there will be housing benefits for Cambridge. I reply that with a simple stroke of the pen we can destroy zoning protections and increase housing instabilities in the city.

For this petition I support the recommendations of the Planning Board.

Sincerely,



Stephen H. Kaiser, PhD

**From:** Carole Perrault <cperrault@att.net>  
**Sent:** Wednesday, November 18, 2015 7:38 PM  
**To:** Benzan, Dennis; Carlone, Dennis; Kelley, Craig; Mazen, Nadeem; McGovern, Marc; Simmons, Denise; Toomey, Tim; Cheung, Leland  
**Cc:** Lopez, Donna  
**Subject:** Barrett et al Accessory Apartments & Basement Space Zoning Petition

Dear Ordinance Committee:

Before you, at 2 PM tomorrow (Thursday), will be the subject petition. I will not be able to attend the hearing, due to its very unfortunate time. I have an 8 to 5 job. Please find below the comments that I delivered regarding this petition at the Planning Board's 10.27.15 hearing.

Respectfully submitted,  
Carole L. Perrault  
9 Dana Street, #41  
Cambridge, MA. 02138

-----  
Carole Perrault  
Planning Board Testimony 10.27.15  
Barrett et al Accessory-Apartments & Basement Space” Zoning Amendments

I wish to reaffirm the point made in Carol O’Hare’s email to you of yesterday, particularly her statement that the “Barrett” Amendment is not ready for prime time, “policy-wise, substantively, and procedurally.” Like Carol, I, too, have not had the time to carefully review the petition, but when I did my initial reading red flags flew in many directions. Unlike, Carol, I do not have zoning expertise.

My perspective here, however, comes from having served on a neighborhood conservation district commission for many years and as an architectural conservator. I am concerned that the neighborhoods have not been systematically made aware of the potential changes this city-wide zoning petition would have on their housing stock and streetscapes. Has the petitioner made a reasonable attempt to meet with the neighborhood associations, neighborhood conservation district commissions, and the historical commission? Sometimes unfortunate changes occur to the zoning code without widespread publicity and only when those changes are enforced do residents feel the impact on their quality of life.

The exterior architectural character of both the building and the streetscape can be seriously impacted by what happens in the basement story, especially where historic structures are concerned. Savvy developers know exactly how to capitalize on basement development in additions and backyard-infill projects, especially when basement development is exempt from the GFA calculations—all to a profit-driven end.

Yes, a means and method to add to the housing stock sounds highly laudable on the surface, but this petition should not be rubber stamped until it is thoroughly understood, as to its potential impact on the architectural and historic character of our neighborhoods—character that enhances our quality of life and imparts tangible charm to our neighborhoods. Relaxed zoning can contribute to the slow but consistent erosion of that character.

The question that begs to be asked: Why isn’t this petition put on hold, to be carefully vetted as part of the