

HARVARD
PLANNING & PROJECT MANAGEMENT



September 28, 2016

Mr. Ranjit Singanayagam, Commissioner
City of Cambridge Inspectional Services Department
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

RE: Zoning Application – 1607-1615 Massachusetts Avenue

Dear Mr. Singanayagam:

Harvard University is seeking the Board of Zoning Appeal's approval to facilitate the development of a new four-story mixed use building at 1607-1615 Massachusetts Avenue. This project has been carefully designed to respect its neighborhood context along Massachusetts Avenue, including nearby residential, institutional and commercial buildings. The building will accommodate ground floor retail, provided in response to community preferences which requires zoning relief, and Harvard Law School public service clinical program space on the upper floors. The project will also require dimensional relief for setbacks and a special permit for the retail parking.

Harvard has hosted several community open houses to share information and get feedback on this project with the Cambridge community.

Please call me at (617) 384-8155 if you have any questions regarding this application. Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexandra Offiong".

Alexandra Offiong
Director of Planning Services

CC: John Arciprete, Tanya Iatridis, Thomas Lucey

Enclosure

APPLICATION FORM - GENERAL INFORMATION

CITY OF CAMBRIDGE - BOARD OF ZONING APPEAL

The undersigned hereby petitions the Board of Zoning Appeal for the following:

Special Permit _____ Variance X Appeal _____

PETITIONER: President and Fellows of Harvard College, c/o John Arciprete, Harvard Law School

PETITIONER'S ADDRESS: Holmes Hall, 18 Everett Street, Cambridge, MA 02138

LOCATION OF PROPERTY: 1607-1615 Massachusetts Avenue

TYPE OF OCCUPANCY: Institutional ZONING DISTRICT: Residence C-2A, Mass Ave Overlay, Institutional Overlay

REASON FOR PETITION:

_____ Additions X New Structure
_____ Change in Use/Occupancy _____ Parking
_____ Conversion to Add'l Dwelling Units _____ Sign
_____ Dormer _____ Subdivision
_____ Other: _____

DESCRIPTION OF PETITIONER'S PROPOSAL:

Petitioner proposes new building that requires zoning relief for retail use, front and side yard setbacks, and special permit for required parking for retail use.

SECTIONS OF ZONING ORDINANCE CITED:

Article 4.000 Section Section 4.35.a, 4.35.e and 4.35 f.1, Retail Use
Article 5.000 Section Section 5.31, Table 5-1, Minimum Front Yard
Article 5.000 Section Section 5.31, Table 5-1, Minimum Side Yard
Article 6.000 Section Section 6.35, Relief from Parking Requirements

Applicants for a Variance must complete Pages 1-5
Applicants for a Special Permit must complete Pages 1-4 and 6
Applicants for an Appeal to the BZA of a Zoning determination by the Inspectional Services Department must attach a statement concerning the reasons for the appeal

Original Signature(s): John Arciprete Director of Facilities HCS
(Petitioner(s))
Address: Harvard Law School, Holmes Hall, 18 Everett Street, Cambridge, MA 02138
Tel. No.: 617-496-6199
Date:

BZA APPLICATION FORM - OWNERSHIP INFORMATION

(To be completed by OWNER, signed before a notary, and returned to Secretary of Board of Appeal.)

I/We President and Fellows of Harvard College
(OWNER)

Address: c/o John Arciprete, Harvard Law School, Holmes Hall, 18 Everett Street, Cambridge, MA 02138

State that I/We own the property located at 1607-1615 Massachusetts Ave which is the subject of this

zoning application.

The record title of this property is in the name of President and Fellows of Harvard College

*Pursuant to a deed of duly recorded in the date 9/30/1988, Middlesex South

County Registry of Deeds at Book, 19377, Page 388; or Middlesex

Registry District of Land Court, Certificate No. _____ Book _____

_____ Page _____

John Arciprete, Director of Facilities HLS
Signature by Land Owner or Authorized
Trustee, Officer or Agent*

Commonwealth of Massachusetts, County of Middlesex

The above-name John Arciprete personally appeared before me, this

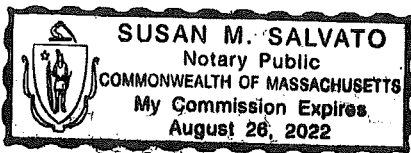
22nd of Sept, 20 16, and made oath that the above statement is true.

Susan M. Salvato Notary

My Commission Expires

August 26, 2022 (Notary Seal).

* If ownership is not shown in recorded deed, e.g. if by court order, recent deed, or inheritance, please include documentation.



Ownership Form
ATTACHMENT B
(BZA - PG.3)

BZA APPLICATION FORM
DIMENSIONAL INFORMATION

APPLICANT: President and Fellows of Harvard College, c/o John Arciprete, Harvard Law School Cambridge MA 02138 PRESENT USE/OCCUPANCY: Unoccupied formerly Retail 4.35
 LOCATION: 1607-1615 Massachusetts Avenue ZONE: Residence C-2A, Mass Ave Overlay, Institutional Overlay

PHONE: 617-496-6199 REQUESTED USE/OCCUPANCY: Retail, CZO 4.35a, and e and f1, Institutional Educational, CZO

		<u>EXISTING CONDITIONS</u>	<u>REQUESTED CONDITIONS</u>	<u>ORDINANCE REQUIREMENTS¹</u>	
<u>TOTAL GROSS FLOOR AREA:</u>		<u>7,994 sf</u>	<u>20,925 sf</u>	<u>20,943 sf</u>	<u>(max.)</u>
<u>LOT AREA:</u>		<u>8,377 sf</u>	<u>No change</u>	<u>5,000 SF</u>	<u>(min.)</u>
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA²:</u>		<u>0.95</u>	<u>2.5</u>	<u>2.5</u>	<u>(max.)</u>
<u>LOT AREA FOR EACH DWELLING UNIT:</u>		<u>N/a</u>	<u>N/a</u>	<u>---</u>	<u>(min.)</u>
<u>SIZE OF LOT:</u>	<u>WIDTH</u>	<u>90'</u>	<u>No change</u>	<u>---</u>	<u>(min.)</u>
	<u>DEPTH</u>	<u>60'</u>	<u>No change</u>	<u>---</u>	
<u>SETBACKS IN FEET:</u>	<u>FRONT -- to Mass Ave</u>	<u>50'-2" to centerline (0' to street line)</u>	<u>55'-2" to centerline (5' to street line)</u>	<u>24' to centerline (5' to street line)</u>	<u>(min.)</u>
	<u>FRONT -- to Everett St</u>	<u>25'-7" to centerline (0' to street line)</u>	<u>25'-7" to centerline (0' to street line)</u>	<u>20'-4" to centerline (5' to street line)</u>	<u>(min.)</u>
	<u>LEFT SIDE -- to north prop line</u>	<u>0'</u>	<u>0'</u>	<u>20'-2"</u>	<u>(min.)</u>
	<u>RIGHT SIDE -- to east prop line</u>	<u>31'-10" (AVG.)</u>	<u>20'-4"</u>	<u>24'-0"</u>	<u>(min.)</u>
<u>SIZE OF BUILDING:</u>	<u>HEIGHT</u>	<u>14'</u>	<u>54'</u>	<u>60'</u>	<u>(max.)</u>
	<u>LENGTH</u>	<u>90'</u>	<u>90'</u>	<u>---</u>	
	<u>WIDTH</u>	<u>60'</u>	<u>68'-2"</u>	<u>---</u>	
<u>RATIO OF USEABLE OPEN SPACE TO LOT AREA³:</u>		<u>N/a</u>	<u>N/a</u>	<u>---</u>	<u>(min.)</u>
<u>NO. OF DWELLING UNITS:</u>		<u>N/a</u>	<u>N/a</u>	<u>---</u>	<u>(max.)</u>
<u>NO. OF PARKING SPACES:</u>		<u>9</u>	<u>18 allocated in University pool</u>	<u>21-25</u>	<u>(min./max.)</u>
<u>NO. OF LOADING AREAS:</u>		<u>0</u>	<u>0</u>	<u>0</u>	<u>(min.)</u>
<u>DISTANCE TO NEAREST BUILDING ON SAME LOT:</u>		<u>N/a</u>	<u>N/a</u>	<u>---</u>	<u>(min.)</u>

Describe, where applicable, other occupancies on same lot, the size of adjacent buildings on same lot, and type of construction proposed, e.g.; woodframe, concrete, brick, steel, etc.
N/a

1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS.)
 2. TOTAL GROSS FLOOR AREA (INCLUDING BASEMENT 7'-0" IN HEIGHT AND ATTIC AREAS GREATER THAN 5') DIVIDED BY LOT AREA.
 3. OPEN SPACE SHALL NOT INCLUDE PARKING AREAS, WALKWAYS OR DRIVEWAYS AND SHALL HAVE A MINIMUM DIMENSION OF 15'.

BZA APPLICATION FORM
SUPPORTING STATEMENT FOR VARIANCES and SPECIAL PERMIT

Requested Relief

President and Fellows of Harvard College, a Massachusetts educational and charitable corporation, acting by and through the Harvard University Law School (“HLS”), seeks three variances and one special permit from the requirements of the Cambridge Zoning Ordinance (“CZO”) that will allow a proposed new development at 1607-1615 Massachusetts Avenue for a mixed use retail and institutional educational building. The following zoning relief is requested:

Variance 1: Retail Use

(CZO 4.35.a, 4.35.e, 4.35.f.1, Retail Business and Consumer Service Establishments)

- To allow the establishment of a retail / restaurant use

Variance 2: Front yard setback to Everett Street

(CZO 5.31, Table 5.1 Minimum front yard)

- Everett Street: To permit the building to be built to the street line of Everett Street, less than the 5’ minimum, while conforming to the formula requirement to the centerline of the street.

Variance 3: Side yard setbacks to north and east

(CZO 5.31, Table 5.1 Minimum side yard)

- North: To permit the setback of the upper floors and a portion of the ground floor which exceeds the height of the one-story abutting building, with a partially compliant ground floor that meets the adjacent property that has an existing non-conforming setback.
- East: To permit the setback of 20’-4”, less than the required 24’ setback.

Special Permit: Required Parking for Retail Business and Consumer Service Establishments

(CZO 6.35, Relief from Parking Requirements for Retail Use)

- To waive the required parking for retail or restaurant use while meeting the parking requirements for the institutional educational use

Harvard has held an open house for the community and met multiple times with abutters and the neighborhood. Input from the community has resulted in changes to the project reflected in this application.

Project Description

Harvard Law School is proposing a new four-story building (20,925 SF) on the corner of Massachusetts Avenue and Everett Street. The mixed use building will combine retail or restaurant use on the ground floor, as requested by the community, with HLS public service law clinic programs on the upper floors.

The proposed mixed use building is well suited to this site located at the transition between the scale and use of the academic campus and the Massachusetts Avenue mixed use corridor. Approval of the requested variances will allow HLS to achieve its programmatic goals within the site’s allowable FAR and height, optimizing the ground floor space for retail or restaurant use and appropriately engaging with the surrounding streetscapes. The proposed building will meet all of the provisions of the CZO with the exception of the areas of requested zoning relief.

1. Petition – Supporting Statement for Variances

A) A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant for the following reasons:

Retail use

Massachusetts Avenue between Harvard Law School and Porter Square presents a consistent corridor of ground floor retail uses that contribute to a dynamic urban environment. In order to foster an active streetscape along Massachusetts Avenue at the proposed project site, the community has requested that any new development on this site include ground floor retail space. This commitment to maintain the neighborhood vitality through ground floor retail use at this site was codified in 2007 in an Implementation Agreement between Harvard and the Agassiz and Neighborhood Nine communities. In response to the community's desires and this commitment, the project proposes to include approximately 1,875 square feet of ground floor space dedicated to a retail or restaurant use.

The proposed retail use represents a continuation of a long-established commercial presence at this site. As early as the 1920's, the site has accommodated retail uses, most notably Bence's Pharmacy. In more recent years, the site has housed a food establishment (Three Aces Pizza), a dry cleaner (Crimson Cleaners), an apparel store (Looks), and a barbershop (Central Barbershop). Since 2008, the existing building has been vacant to facilitate an extensive environmental remediation effort. The Residence C-2A zoning district does not permit retail uses, and the pre-existing nonconforming retail uses have been abandoned for more than two years. Therefore, the re-establishment of retail use on the site is not permitted as-of-right. A literal enforcement of the zoning provisions would disallow retail use on the ground floor, and would result in the ground floor being used for another use, likely additional institutional educational use, which may not provide the type and level of street activity that is desired by the community.

Front Yard Setback on Everett Street

The design intent of the project is to create a building that appropriately transitions between the scale and character of the institutional academic buildings and the mixed use commercial corridor to the north on Massachusetts Avenue. The project site abuts a one-story commercial building with a barbershop to the north, residential condominium buildings to the north and east, and HLS's Wasserstein Hall to the south across Everett Street. The existing building on the site, a one-story retail structure, has existed at the corner of Everett Street since its construction in 1913. As with the vast majority of retail space along this section of Massachusetts Avenue, the building is built to the property line. This development pattern allowed the building to maximize the retail square footage on this small site while creating a service driveway to the rear.

While originally the project studied maintaining the building line along Massachusetts Avenue, the design has been adjusted to meet the 5' setback from the property line in consideration of the recent rezoning of the Massachusetts Avenue Overlay District that seeks to increase sidewalk widths along Mass. Ave. The project proposes to maintain the current building line along Everett Street to permit the creation of a viable retail space and a well-marked building entrance for the upper floors facing Mass. Ave. Given the constraints of the small site and the need to create a workable floor plate, the proposed footprint also allows the rear of the property to have a service driveway. While this siting will meet the CZO formula front yard setback requirements as measured to the centerline, it will require a variance from the required minimum 5' front yard setback to the property line. A literal enforcement of the zoning provisions would require that the building be set back 5' from the property line at Everett Street, diminishing the viability and efficiency of the proposed retail space and impacting building circulation.

Side Yard Setback - North

On the north side of the lot, the side yard directly abuts the one-story commercial building at 1619 Massachusetts Avenue. The CZO (CZO 5.31.3.c) allows the new building to be constructed flush with the length and height of abutting buildings built to the property line. A variance is requested for the side yard setback for the height of floors 2-4 that will exceed the 11' height of the abutting building, which is an existing non-conforming condition.

The proposed building has been designed to bridge the scale between the academic institutional buildings to the south, including the 75' Wasserstein Hall directly to the south, the neighboring three- and four-story residential buildings, and the abutting one-story commercial building. To do this, the proposed building has been designed to align with the fourth floor of Wasserstein Hall, which is 51' in height. The abutting one-story commercial building is an atypical building in this area with its very small footprint and 11' height, built to the side property line. The

proposed project seeks to connect to this party wall, as allowed under the zoning code, and the proposal to extend the building height in this location is intended to provide a more appropriate urban design character. A literal enforcement of the zoning provisions would require a one story wing at this part of the site, resulting in a very awkward and out-of-scale appearance, and would not be read as a single volume at odds with the character of the streetscape. Furthermore, the proposed building's first floor would need to step down from a 15' ceiling height to 11', resulting in a non-consistent retail space. The requested variance will allow the northern wing of the building to achieve four floors, creating a stronger street wall and providing much needed space for the law clinic programs. Shadow studies show a minimal impact on the abutters for the majority of the year, and the open space will be landscaped in coordination with the abutters.

Side Yard Setback - East

The abutting property to the east is a three-story residential condominium building built to the property line with a blank wall in one section. A literal enforcement of the zoning provisions would allow Harvard to build flush with this wall, creating an irregularly shaped building footprint not suitable for a retail use, and creating a discontinuous rear yard with landlocked open space. The proposed building will encroach 3½ feet into the setback to allow a better landscape layout, an efficient retail floor plate, and provide a partially landscaped buffer to the abutting property.

- B) The hardship is owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located for the following reasons:**

Retail use

The location of the proposed retail use, on Massachusetts Avenue between Harvard Square and Porter Square is characterized by a mix of uses. This portion of Massachusetts Avenue is a major commercial and transportation corridor that has long accommodated a variety of uses, including retail, commercial, institutional, and residential. The project site directly abuts an existing retail use. Prior existing retail uses were abandoned in order to undertake environmental remediation of the site. Due to the length of time required to adequately clean up the site, the building has not been used for a period of more than two years, and therefore the retail uses cannot be re-established. These factors specifically relate to soil conditions on the site, affect the project development site specifically, and do not generally affect other property in the zoning district. A literal enforcement of the zoning provisions would involve a substantial hardship, by not permitting the re-establishment of retail uses on the site that are desired by both Harvard and the community.

Setbacks

The development lot is located at the corner of Massachusetts Avenue and Everett Street and for zoning purposes is considered to have two front yards. On its north and east borders, the site has abutters built to the property line creating unique setback requirements. Due to the location and small size of the lot and the location of the abutting structures, the provision of the required two front yard setbacks has a significant impact on the ability to provide for new retail use at the ground floor while also providing for HLS programmatic needs.

- C) Desirable relief may be granted without either:**

- 1) Substantial detriment to the public good for the following reasons:**

This project directly responds to the goals of the community and is compatible with existing uses and neighborhood context. Rather than create a detriment to the public good, the proposed project will increase retail activity on Massachusetts Avenue, increase pedestrian activity and contribute to the retail environment, and replace a vacant building with re-activated and attractive new building. The project is responding to a community desire for ground floor retail space. The upper floors will provide space for Harvard Law School public service law clinic programs. Therefore, the granting of the variances will facilitate this activation and improvement to the neighborhood and therefore will not be detrimental to the public good. On the contrary, the granting of the variance provide public benefit as the retail use of the ground floor space will activate the sidewalk and street at this location, and enhance the public's enjoyment of this part of Massachusetts Avenue.

2) Relief may be granted without nullifying or substantially derogating from the intent or purpose of this Ordinance for the following reasons:

The project will allow the redevelopment of an important site along Massachusetts Avenue, the City's most major commercial thoroughfare, and will maintain the longstanding retail use of this site. The project is consistent with the stated purpose of the CZO, namely "the encouragement of economic development" and "to preserve and increase the amenities of the City". Thus, granting the requested variance will not nullify or substantially derogate from the intent or purpose of the Ordinance. Granting the requested variance will support the intent and purpose of the Ordinance.

BZA APPLICATION FORM
SUPPORTING STATEMENT FOR A SPECIAL PERMIT

Please describe in complete detail how you meet each of the following criteria referring to the property and proposed changes or uses which are requested in your application. Attach sheets with additional information for special permits which have additional criteria, e.g.; fast food permits, comprehensive permits, etc., which must be met.

Granting the Special Permit requested for 1607-1615 Massachusetts Avenue would not be a detriment to the public interest because:

A) Requirements of the Ordinance can or will be met for the following reasons:

The project requests a waiver from the required number on parking spaces for the retail or restaurant use. The incorporation of retail at this location is an important feature for the community. At this time, the building does not have a specific retail tenant identified, and Harvard is making assumptions on the type of retail (retail store or restaurant) and its capacity (1,875 sq. ft with up to 74 seats). The building will be located in a dense, urban environment where most trips are expected to be walking, biking and transit. The project will include new bike parking facilities and is located within 600 feet from MBTA bus stops, 450 feet from the Harvard shuttle stop, 2,500 feet from the Harvard MBTA subway stop, and along a pedestrian friendly retail corridor. Like many small lots in Cambridge, this lot does not have sufficient space for a building and on-site parking.

The project seeks relief for 3 - 7 parking spaces required for the following retail / restaurant uses according to the CZO formula.

- Retail (other retail establishments) with 1,875 sq. ft. 1 space for 700 sq. ft. = 3 spaces. (per CZO 6.36.5.a.2)
- Restaurant with 74 seats. 1 space for each 15 seats = 5 parking spaces (per CZO 6.36.5.e)
- Restaurant (serving alcohol) with 74 seats. 1 space for each 10 seats = 7 parking spaces (per CZO 6.36.5.f.1)

It is expected that the retail use will be frequented primarily by people walking, biking, and taking the bus to the site. The project will include 10 short-term bike spaces and 3 long-term bike spaces. In addition there are metered parking spaces in front of the building and all along on Massachusetts Avenue, which have capacity at most times. The site has high volumes of pedestrian traffic with people traveling to and from uses in Porter Square, Harvard Square, on the Harvard University campus and other uses on Massachusetts Avenue. The site is located at a signalized intersection with crosswalks.

The size of the lot is a limiting factor in the addition of parking for retail uses. The project includes a modification to the existing curb cut to allow short-term loading for the retail use at the back of the building. The provision of bicycle parking will be accommodated in this area. This area of the site will be landscaped.

B) Traffic generated or patterns of access or egress would not cause congestion hazard, or substantial change in established neighborhood character for the following reasons:

Transportation consultants, VHB, have assessed the proposed mixed use development and determined that the project is not expected to result in a significant number of new destination trips to the area. The office component will be occupied largely by faculty, staff, students and visitors who currently arrive and depart Wasserstein Hall. It is expected that the street-level use will not be destination retail/restaurant in nature, but rather will attract most of its trips from existing users in the area or pass-by trips. It is expected, however, that the project will result in an increase in pedestrian activity in the vicinity of the site, as a result of both the revival of street level retail and the HLS public service programs on the upper office floors.

As a result, no new off-street parking is proposed for the project, and a special permit is requested for the waiver of parking requirements for the retail use. HLS related vehicle trips will continue to be

accommodated in the existing Wasserstein Hall below-grade parking garage and will be allocated for the purposes of zoning in the University's pool. For the retail/restaurant use, any customer parking demand is expected to be satisfied by the existing large number of on-street metered parking spaces. There are approximately 153 on-street parking meter spaces within a 5-minute walk of the site. No parking is proposed for the retail employees in order to encourage commuting by alternative modes of transportation, particularly in light of the proximity of MBTA Red Line service and bus services along Massachusetts Avenue. Wasserstein Hall is also well served by Harvard University shuttle bus service, with a shuttle stop located on its Massachusetts Avenue frontage.

C) The continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use for the following reasons:

The project will not adversely affect the surrounding retail, residential and institutional uses. The retail component of the project will be very similar to how the site has been used in past decades, with most customers arriving via walking, biking, or transit.

D) Nuisance or hazard would not 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 for the following reasons:

The project will not create any nuisances or hazards to the detriment of the health, safety or welfare of the abutters or the community. It will not cause excessive congestion as the vehicle trip generation is expected to be very low. It will not endanger public safety in any way. It will not substantially reduce parking availability for other uses as most retail customers will arrive via walking, biking, or transit.

E) For other reasons, the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of this ordinance for the following reasons:

The proposed waiver of retail parking is consistent with the stated purpose of the CZO Article 6.000, namely "to meet the reasonable needs of all building and land users without establishing regulations which unnecessarily encourage automobile usage." Waiving the retail parking will meet the reasonable needs of this building and its users given the many non-auto transportation options available to this site (walking, biking, transit, shuttle), and the many on-street metered parking spaces available in the close proximity. Thus, granting the requested variance will not nullify or substantially derogate from the intent or purpose of the Ordinance. Granting the requested special permit will support the intent and purpose of the Ordinance.

(ATTACHMENT B - PAGE 6)