

8/10/2015

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

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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

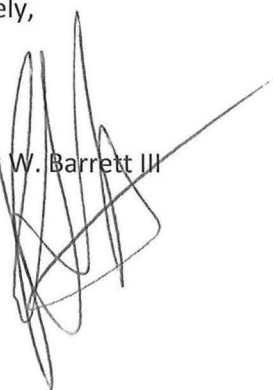
Part B redefines "basement" and "cellar" space in Article 2 in the following ways:

- 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 scoop 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) 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><i>Article 2.000: Definitions</i> <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 <u>a single family</u> detached dwelling and designed for the occupancy of a single family.</p>	<p><i>Article 2.000: Definitions</i> <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 <u>a single or two-family</u> detached dwelling and designed for the occupancy of a single family.</p>	<ul style="list-style-type: none"> • 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.
<p>4.22 Accessory Apartments. The purpose of this Subsection 4.22 is to allow for the creation of accessory apartments <u>in Residence A districts. These districts contain a number of large single family homes that</u> 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 <u>such residential districts.</u> This Subsection 4.22 gives the Board of Zoning appeal authority to relax such requirements in certain instances as enumerated below.</p>	<p>4.22 Accessory Apartments. The purpose of this Subsection 4.22 is to allow for the creation of accessory apartments <u>in all districts. Many large single and two-family homes</u> 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 <u>their surrounding neighborhoods.</u> This Subsection 4.22 gives the Board of Zoning appeal authority to relax such requirements in certain instances as enumerated below.</p>	<ul style="list-style-type: none"> • 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. • Expands the criteria to include two-family homes.
<p>4.22.1 In a Residence A District the Board of Zoning Appeal may grant a special permit for alteration of a <u>single family</u>, detached dwelling <u>legally in existence as of the effective date of this Subsection 4.22, (6/29/81)</u> to provide one accessory apartment if the following conditions are met:</p>	<p>4.22.1 In all districts the Board of Zoning Appeal may grant a special permit for alteration of a <u>single family or two-family</u>, detached dwelling to provide one accessory apartment if the following conditions are met:</p>	<ul style="list-style-type: none"> • Expands the criteria to include homes in all districts • Expands the criteria to include two-family homes • 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.
<p>1. <u>The dwelling was constructed prior to June 1, 1940, and has not been substantially enlarged since that date.</u> 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. <u>The dwelling has not been substantially enlarged since built.</u> 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"> • Expands the criteria to include homes regardless of when they were built

<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"> • Reduces the required dwelling size to better reflect the median size of a typical Cambridge one- or two-family home (1871 square feet)
<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"> • Changes the criteria from lot area per dwelling unit to lot area in order to make the requirements easier to follow. • 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).
<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"> • 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. • Sets no minimum size for accessory units, beyond those already established by the State Building Code. • Expands the criteria to include homes regardless of when they were built
<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><i><Bullet point deleted></i></p>	<ul style="list-style-type: none"> • 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.
<p><i><New requirement></i></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"> • This new requirement ensures that accessory apartments are managed directly by onsite owners rather than by remote and unavailable landlords.

<p><New requirement></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"> • This new requirement simplifies what was previously a needlessly complicated process that in some cases required a Special Permit.
<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>	<ul style="list-style-type: none"> • <No change>
<p>4.22.2 The requirement for an off street parking space specified in Article 6.000 <u>shall apply</u> for the addition of one accessory apartment in a <u>single family</u>, 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 <u>shall not apply</u> for the addition of one accessory apartment in a <u>single family or two-family</u>, detached dwelling in all districts.</p>	<ul style="list-style-type: none"> • 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. • Expands the criteria to include two-family homes

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:




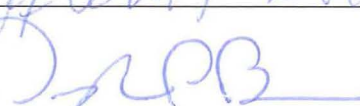


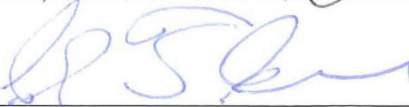
"(f) basement and cellar areas not excluded in (1), (3), and (9) below;"

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


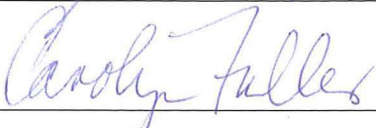

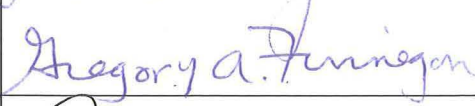

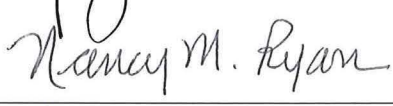
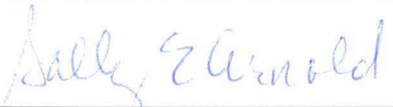
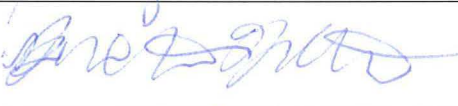

Add the following line items:

"(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 Rancatore 18 AMORY 02139
X 3	Patty chen	85 Windsor ST. Cambridge MA 02139
✓ 4		7 Brookline ST. AP #16
✓ 5	Paul P. Bourdon	39 PLEASANT ST. CAMB.
✓ 6		DOUG BROWN 35 STANDISH ST., CAMBRIDGE
✓ 7	Amy Munsat	Amy Munsat 71 Standish St. Camb. 02138.
✓ 8	C Nic	CHRISTOPHER NICHOLSON 205 WALDEN ST 02140 CAMBRIDGE MA 02140
✓ 9		JAN DEVEREUX 255 LAKEVIEW AVE CAMBRIDGE MA 02138
✓ 10		1 WATERMAN ROAD CAMERON CAMBRIDGE MA 02138 WM
✓ 11	HARRY FLAMMI	HARRY FLAMMI 71 STANDISH 02138
X 12	sefery	SAKA FERRY 897 MAIN ST #11 02139
✓ 13	Brian Esposito	Brian Esposito 897 Main St #11 02139
✓ 14	Alexander W	Alexander Hayman 897 Main St #11 02139
15		Saul Iannettoni 16 Cottage St. 02139

NUMBER	SIGNATURE	PRINTED NAME & ADDRESS
16	<i>John Brown</i>	JON. 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>Arnold A. Sater</i>	171 Auburn St Cambridge MA 02139
20	<i>George Sater</i>	101 Brookline St, Cambridge MA 02139
21	<i>George Sater</i>	101 Brookline St Unit A, Cambridge MA 02139
22	<i>Samie 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>Maria</i>	MORRIS GREEN 164 AUBURN ST RT 12
26	<i>Allen Burt</i>	125 Concord Ave Cambridge MASS 02138
27	<i>Marionna Hughes</i>	27 Magnolia Ave 02138
28	<i>James</i>	114 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 02134

NUMBER	SIGNATURE	NAME (PRINTED) & ADDRESS
21		Alec Papozian 105 Norfolk St. #3 Cambridge, MA 02139
22		CAROLYN Fuller 12 Douglas St CAMBRIDGE, MA 02139
23		31 Hubbard Ave Robin Finnegan
24		31 31 Hubbard Ave GREGORY A. FINNEGAN
25		George R. Metzger 90 Antrim St Camb. MA 02139
26		Nancy M. Ryan 4 Asburton Pl. Cambridge 02139
27		63 Russell St Sally E Arnold Cambridge 02140
28		127 Amory Street Cambridge 02139
29		18 Centre St Unit 204 Cambridge, MA 02139
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