Perez, Lori

Please add as a late communication

From: Nolan, Patricia <pnolan@cambridgema.gov>
Sent: Monday, February 8, 2021 11:20 AM
To: Wilson, Anthony <awilson@cambridgema.gov>
Subject: late communication

Clerk Wilson:
Below is some background information I am submitting as a late communication for tonight's meeting.

If I need to do anything further, please advise.

Patty

From: Nolan, Patricia
Sent: Friday, February 5, 2021 10:59 AM
To: Glowa, Nancy <nglowa@cambridgema.gov>
Cc: DePasquale, Louie <ldepasquale@cambridgema.gov>; Siddiqui, Sumbul <ssiddiqui@Cambridgema.gov>
Subject: follow up on charter right

Nancy (copy to Louie):

I am writing to follow up on my charter right related to 605 Concord Avenue, since I didn't fully articulate why. I appreciate the reply to the PO requesting an opinion. Below is the PO and why I believe the main question was not addressed:

In Response to PO #265 (2020)

ORDERED: That the Council go on record as stating that all projects seeking a permit extension should be reminded of the need to follow all regulations in place at the time of the request for an extension; and be it further

ORDERED: That the City Manager be and hereby is requested to review the granting of an extension for the 605 Concord Avenue project which appears counter to the City's zoning code and confer with the relevant departments on how many projects that had a permit prior to these changes could request an extension; and be it further

City Manager Agenda item #14, which stated that the 7 affordable units in the proposal (15% affordable) stem from Article 11, section 11.203 of the ordinance, does not directly answer the question from PO #265; namely, shouldn't all developments and requests for special permits be required to follow all zoning at the time of the extension? The order states that projects seeking extensions should be required to follow standards - inclusionary, environmental, and any others - in place at the time of the extension. In the response it is asserted that it is legal to NOT ask for additional

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affordable units. The question the council asked is different: how can we ask for adherence to existing zoning?   I would have expected an answer to how we can require adherence – otherwise the permit is set in 2016 terms, which is more than 4 years ago, and much has changed, including the fact that subsequent development in the area likely affects all studies done of the impact.

There is also the question of whether granting three separate one year extensions is legal. The zoning code states that permits expire except if construction doesn't start for good cause, how is it possible that extensionS are granted? And if granted for longer than the initial two years of any permit, wouldn't it make sense that multiple extensions are counter to the intent of the our special permit ordinance guidelines which require construction to start within two years?

Could you point to the requirements for granting an extension? The citation to Cambridge zoning, as you noted, Article 10 on special permits (10.46) makes no mention of "extensions", which may well mean that they should not be allowed at all. In addition, the other citation you include is to MGL Ch. 40A Section 9 which is completely silent on the matter of extensions. Chapter 9 references that special permits may be granted and explicitly limits them to three years, although it does mention "good cause". Good cause is not defined. And does the state code require granting extension for good cause, and it certainly doesn't seem that an extension would have to be granted under obsolete zoning regulations. The concept of an "extension" as such doesn't exist anywhere in state law; it is assumed that all permits are to be acted upon as expeditiously as possible.

It would be good to have both these questions answered. How can we legally require adherence to existing zoning as of the time of the request? And what is the basis of granting multiple extensions?

Thanks,

Patty