



Joseph A. Curtatone  
Mayor

George J. Proakis  
OSPCD Executive Director

# CITY OF SOMERVILLE

Office of Strategic Planning & Community Development

**TO:** Zoning Board of Appeals  
**FROM:** Planning & Zoning Division  
**DATE:** March 24, 2020  
**RE:** ZBA 2018-10-R1-6/19, 10 Oak Street

This memo summarizes the revision submitted for 10 Oak Street, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on March 4, 2020 and is scheduled for a public hearing on March 11, 2020.

## SUMMARY OF PROPOSAL

10 Oak Street, LLC is proposing to revise their Special Permit previously approved in 2018. The Applicant is in violation of Condition #1 because the house has been demolished. The original approval maintained portions of the house. This application is to remedy this issue. If the Board chooses to act, it is recommended they do so with the following conditions which are the same as original approval but with an updated Condition #1).

## SUPPLEMENTAL MATERIAL REQUESTED AT 3/11/20 HEARING

Below you'll find a summary of permits/documents relevant to the subject matter of this case.

93 Highland Avenue  
Somerville, MA 02143  
(617)-625-6600 ext.2500  
TTY: (617) 666-0001  
[www.somervillema.gov](http://www.somervillema.gov)  
[www.somervillezoning.com](http://www.somervillezoning.com)

Date	CitizenServe Number/Type of Correspondence	Description	Notes/Outcome	Attachment? Y/N
11-5-18	B18-002138	Interior "gut"	Approved with condition for interior work only	N
3-28-19	B18-002123	ZBA 2018-10 Addition and Total Renovation Change from 2 to 3 family		N
5-10-19	19-008266	Exceeding Scope of Permit	Stop Work Order	Y
5-13-19	Email	Directions to applicant		Y
8-5-19	19-014367	Site not secure and being used as transfer station	Stop Work Order	Y
9-16-19	Affidavit	Summary of process w/photos		Y
3-20-20	Email	Letter from attorney claiming act of god		Y

Please see attached material for reference.

The original scope of the permit has the project maintaining the front, right walls, and foundation.

The affidavit states and also shows photos that the project was already in violation of their approvals (maintaining significant portions of the building). The photos in the affidavit also show how the walls that were remaining were likely secured, Planning Staff has no additional photos. The notes on the May 10, 2019 stop work order state that workers claimed the walls fell down. Now, the owner is claiming high winds.

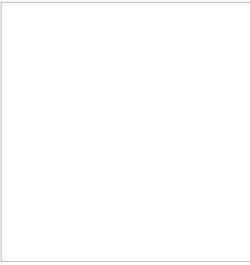
When and why the foundation was demolished is unclear. The intent of the permit is stated above. There is no documentation as to why the foundation was removed except in the affidavit. It states that Hans Jensen ordered the foundation removed. However, he does not have the authority to order demolition, that authority lies with the building inspectors. The only record we do have is of Hans Jensen's email from May 13, 2019 directing the applicant to finish and backfill the site and make it secure. He refers to other inspectors, that do have authority, in this email.

The original approval used Section 4.4.1 and relies on the nonconformity of the existing structure to modify. If the entire wood frame structure and foundation was demolished, there is no nonconformity on which this project can rely.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is to add more than 25% of GFA, demo the building, change the structure from a gable roof to a Mansard roof, provide compact parking spaces and allow for an upward extension of the non-conforming right side yard setback.</p> <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>January 11, 2018</td><td>Initial application submitted to city clerk's office</td></tr><tr><td>March 3, 2020</td><td>Revised DrawingsT-1, 1, Z.1, EX1.1, EX2.2, D1.1, D1.2, A0.1, A1.1, A1.3, A1.2, A2.1, &amp; A2.2</td></tr></table> <p>ANY changes to the approved plans, other than those changes made specifically to conform with the conditions below, must first be submitted to the Planning Division to determine whether or not they are de minimis in nature or whether they require review by the SPGA.</p>	Date (Stamp Date)	Submission	January 11, 2018	Initial application submitted to city clerk's office	March 3, 2020	Revised DrawingsT-1, 1, Z.1, EX1.1, EX2.2, D1.1, D1.2, A0.1, A1.1, A1.3, A1.2, A2.1, & A2.2	BP/CO	ISD/ Plng.	
Date (Stamp Date)	Submission									
January 11, 2018	Initial application submitted to city clerk's office									
March 3, 2020	Revised DrawingsT-1, 1, Z.1, EX1.1, EX2.2, D1.1, D1.2, A0.1, A1.1, A1.3, A1.2, A2.1, & A2.2									
2	<p>The Applicant shall be required to demonstrate that the project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans <u>must be submitted to the Engineering Department for review and approval</u> before a building permit will be issued.</p>	BP	Eng/ISD							
3	<p>The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. <u>There is a moratorium on opening streets from November 1<sup>st</sup> to April 1<sup>st</sup> and there is a list of streets that have additional opening restrictions.</u></p>	BP	Eng/ISD							
4	<p>The Applicant shall present their electrical plan to lights and lines/wiring for their review and approval prior to the issuance of a Building Permit.</p>	BP	Wiring/ ISD							
5	<p>The Applicant shall provide the Traffic &amp; Parking Division with a plan for construction traffic management for that division's review and approval prior to the issuance of a building permit. This plan will include delivery windows for construction equipment</p>	BP	T&P / ISD							
6	<p>The Applicant shall present their demolition plan to ISD for their review and approval prior to the issuance of a building permit.</p>	BP	ISD							
Construction Impacts										
7	<p>The Applicant shall post the name and phone number of the general contractor and all sub-contractors at the site entrance <u>where it is easily visible to people passing by.</u></p>	During Construction	ISD							

8	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to <u>7:30am and shall finish no later than 5pm</u> Monday through Friday. <u>There shall be no construction or construction-related work performed on weekends or holidays.</u>	During Construction	ISD	
9	Deliveries to the construction site shall be limited to 9am to 3pm so as not to interfere with the comings and goings of neighborhood residents during peak commute times.	During Construction	ISD/T&P	
10	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont./perpetual	Plng.	Deed submitted & application formed signed
11	The Applicant shall, at their expense, replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc.) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW/ISD	
12	All construction materials and equipment shall be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Division must be obtained.	During Construction	T&P	
Design				
13	The entire property is being overhauled inside and out, including the grounds. Therefore, the building shall be re-sided in a wood clapboard or cementitious-based material.			
14	The Applicant shall provide material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction and prior to the issuance of a building permit. Planning Staff shall have final determination and approval over all materials used on the exterior of 51 Cross Street. Lighting styles, location and design, along with roofing/gutter, façade, samples shall also be provided for Staff approval.	CO	ISD/Plng	
15	No vinyl material shall be used for exterior trim, siding, railings, or the like.	CO	ISD/Plng	
16	Any vents or pipes exiting the house shall be either wrapped or painted to match the color of the house portion from which they protrude. <u>Under no circumstances shall any pipes or vents evacuate onto the public way.</u>	CO	ISD/Plng	
17	All exterior lighting on the site shall be downcast and shall not, in any way, spill onto abutting properties.	Final sign off / Perpetual	Wiring Inspector	
Site				

18	All trash and recycle areas shall be screened with cedar wood lattice, similar screening or year-round plant material. Planning Staff shall approve such screening. No dumpsters shall be permitted on site after the construction period is complete.	CO/Perpetual	ISD/Planning	
19	All asphalt/bituminous material shall be removed from the site and pervious pavers shall be used in its stead.	CO	ISD/Plng	
20	All mechanical equipment shall be screened. A/C condensers shall not be located within a setback and shall not be placed in the front yard of the property. Planning staff shall review and approve all screening material.	CO	ISD/Plng	
Public Safety				
21	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
22	Per City of Somerville regulations, no barbecues, grills, chimineas or the like shall be permitted on decks at any time. These requirements shall be clearly stated in any rental agreements or condo documents.	CO	FP/ISD	
23	All fire/smoke detectors shall be hard-wired.	CO/Perpetual	ISD	
Final Sign-Off				
25	<u>The Applicant shall contact Planning Staff at least five (5) working days in advance of a request for a final inspection</u> by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	ISD/Plng.	



**CITY OF SOMERVILLE  
INSPECTIONAL SERVICES - BUILDING DIVISION**

1 Franey Road Somerville, MA 02145  
(617) 625-6600 Ext. 5600

**VIOLATION NOTICE**

10 OAK STREET LLC  
68 BONAIR STREET APT 3  
SOMERVILLE, MA 02145

Date: May 13, 2019  
Subject: Violations  
Site Address: 10 OAK ST  
File #: 19-008266

To Whom It May Concern:

On 05/08/2019, acting under the authority of Massachusetts General Laws Chapter 143 section 3A and Chapter 1 of the Massachusetts State Building Code, the Somerville Zoning Ordinance, and/or the Somerville Code of Ordinances, the Building Inspector has caused an inspection to be conducted at 10 OAK ST.

According to the records of the municipal assessor's office, this property is owned by you.

The Inspection revealed the following violation(s) of the International Building Code (IBC), International Residential Code (IRC), State Building Code (780 CMR), Somerville Zoning Ordinance (SZO), and/or Somerville Code of Ordinances (SCO):

**780 CMR 105.1 Permit Required.** It shall be unlawful to construct, reconstruct, alter, repair, remove or demolish a building or structure; or to change the use or occupancy of a building or structure; or to install or alter any equipment for which provision is made or the installation of which is regulated by 780 CMR without first filing an application with the building official and obtaining the required permit.

**780 CMR 107.4 Amended Construction Documents.** Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

1) EXCEEDING SCOPE OF PERMITS ISSUED BY COMPLETELY DEMOLISHING EXISTING STRUCTURE. PERMITS THAT WERE ISSUED WERE FOR INTERIOR GUT AND ADDITION, NOT THE COMPLETE DEMOLITION OF THE STRUCTURE. PERMIT B18-002123 ISSUED 3/28/19 FOR ADDITION AND TOTAL RENOVATION AND B18-002138 ISSUED 11/05/18 FOR INTERIOR GUT. SPECIFICALLY, THE EXISTING FRONT EXTERIOR WALL AND RIGHT SIDE EXTERIOR WALL WERE TO REMAIN.

**NOTE: AT THE TIME OF INSPECTION THE WORKERS AT THE SITE CLAIMED THE WALLS THAT WERE TO REMAIN FELL DOWN.**

**SZO Sec. 5.3.8. Revision of Special Permit.** Subsequent to a special permit, special permit with design review, or special permit with site plan review being granted by the SPGA, revisions in the plan may be made prior to the granting of the Certificate of Occupancy, in accordance with the following procedures and applicable law, ordinances, and regulations.

1. Only revisions deemed de minimis (i.e., minor details, final touches) by the Planning Director (or designee) may be approved without a public hearing. Approval of such changes shall be documented in the case file and Planning Director approval or disapproval

of such changes may be appealed to the SPGA in accordance with Article 3.1.9.

a. Revisions may only be considered de minimis upon the Planning Director's making the following findings:

- i. Changes would not contravene the legal notice, any finding, or condition of the SPGA in the original approval;
- ii. Changes would not detrimentally impact matters of substance identified in meeting minutes of original hearings;
- iii. Changes would not alter the character of the development; and
- iv. Changes would be so insignificant as not to be noticeable to persons generally familiar with the original approval.

b. The Planning Director shall memorialize any de minimis findings and approvals in memoranda to the SPGA, affected City departments, and the Applicant.

c. Approved revised plans shall be marked by Planning Staff as substantially conforming to prior SPGA approval.

2. Revisions that are not de minimis shall be subject to the full notice and hearing provisions of § 5.3.2 of this Ordinance, but shall not be subject to review by additional boards, departments, city agencies or commissions except as requested by the SPGA or upon the recommendation of the Planning Director. Applicable findings shall be made in accordance with the type of permit(s) being revised.

3. The use or development as originally approved shall otherwise be in accordance with the originally approved plans and conditions of approval.

4. Additional rules may be set forth in the Rules and Regulations of the Permit Granting Authorities.

5. Upon the issuance of a Certificate of Occupancy for a development, revision rights shall lapse, and further development or use changes shall be subject to the zoning applicable at that time.

1) SPECIAL PERMIT ZBA 2018-10 GRANTED 5/16/18 DID NOT CALL FOR DEMOLITION OF THE ENTIRE STRUCTURE. ANY REVISIONS MUST BE APPROVED PURSUANT TO THE ABOVE METHODS.

**IEBC Sec. 1501.6 Protection of Pedestrians.** Pedestrians shall be protected during construction and demolition activities.

1) SITE NOT PROPERLY SECURED.

**780 CMR 115.1 Authority for Stop Work Order.** Whenever the building official finds any work regulated by 780 CMR being performed in a manner either contrary to the provisions of 780 CMR or dangerous or unsafe, the building official is authorized to issue a stop work order.

NOTE:

A STOP WORK ORDER HAS BEEN POSTED ON THE PREMISES AS THT WORK EXCEEDED THE SCOPE OF THE PERMITS ISSUED. THE WORK TO REPLACE THE FOUNDATION ON THE RIGHT SIDE OF THE PROPOSED BUILDING MAY CONTINUE SO LONG AS A PROPER ELECTRICAL PERMIT IS PULLED TO INSTALL PROPER GROUNDING. THE FOUNDATION ON THE RIGHT SIDE IS ONLY ALLOWED TO CONTINUE DUE TO THE SAFETY IMPLICATIONS OF IT BEING IN CLOSE PROXIMITY TO THE PROPERTY LINE. ALL OTHER WORK EXCEPT CLEANING AND MAKING THE CITE SAFE SHALL CEASE. ANY PERSON WHO SHALL CONTINUE ANY WORK AFTER HAVING BEEN SERVED WITH A STOP WORK ORDER, SHALL BE SUBJECT TO PENALTIES AS PRESCRIBED BY LAW PURSUANT TO 780 CMR 115.3 AND M.G.L. C. 143 S. 94(A).

You are hereby ordered to abate these violations immediately. The Building Inspector will re-inspect as needed.

If you fail to comply with this violation notice, the Building Inspector may invoke the following procedures to compel you to correct the violations: 1) the issuance of tickets for each day the violation continues to exist; 2) an application for criminal complaint; 3) a complaint for injunction from a Court of competent jurisdiction; and/or 4) any other remedy allowed by law.

If you are aggrieved by this Order relative to the State Building Code, you have the right to appeal within 45 days to the State Building Code Appeals Board pursuant to Massachusetts General Laws Chapter 143, Section 100.

If you are aggrieved by this Order relative to the Somerville Zoning Ordinance, you have the right to appeal within 30 days to the Zoning Board of Appeals pursuant to Somerville Zoning Ordinance, Section 3.1.9 and 3.2.3.

With respect to zoning violations, Somerville Zoning Ordinance, Section 3.1.8 provides that any person who violates any provision of this Ordinance or who fails to perform any act required hereunder or does any prohibited act, shall upon conviction thereof, be punished by a fine of not more than \$500 for each offense and every day that a violation continues to exist shall constitute a separate offense and shall be punishable thereas.

With respect to the State Building Code, General Laws Chapter 143, Section 94(a) provides that “[w]hoever violates any provision of the state building code ... shall be punishable by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both, for each such violation. Each day that a violation exists shall constitute a separate offense.”

Please feel free to contact me at 617-625-6600 x5621 to discuss this matter.

**Respectfully,**  
**John Driscoll**  
**Local Building Inspector**  
**617-625-6600 x5621**



**RE: 10 Oak street -Stop work order****Hans Jensen** <hjensen@somervillema.gov>

Mon 5/13/2019 9:13 AM

**To:** Max Alves ; Diogenes Petrolini**Cc:** Sarah White <swhite@somervillema.gov>; Peter Lew <plew@somervillema.gov>; Paul Nonni <PNonni@somervillema.gov>; Floyd Richardson <frichardson@somervillema.gov> 1 attachments (59 KB)

ApplicationInfo\_11-4-15 (1).pdf;

Good morning,

After speaking with the inspectors it has been decided that the foundation shall be finished and backfilled, and a stable construction fence erected to protect the pit. After that the work shall cease until the case is heard by the ZBA again. I am attaching an application for the revision to the special permit. Note – no work shall be done to the site until re-approval has been granted. Let me know if you have any questions.

-Hans

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**From:** Max Alves []**Sent:** Friday, May 10, 2019 5:29 PM**To:** Hans Jensen; Diogenes Petrolini**Cc:** Sarah White; Peter Lew**Subject:** Re: 10 Oak street -Stop work order

Hello all,

We are working on the application as you requested. Thank you for your time.

Best Regards,

Kelly Max Alves

p.s. I included Mr. Petrolini from Petrolini Home Improvements in this email.

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**From:** Hans Jensen <hjensen@somervillema.gov>**Sent:** Thursday, May 9, 2019 2:39:47 PM**To:** Max Alves**Cc:** Sarah White; Peter Lew**Subject:** RE: 10 Oak street -Stop work order

Good afternoon,

As you may already be aware the project at 10 Oak has been issued a stop work order. The wholesale demolition of the structure is in direct violation of the zoning approvals, additionally a demolition permit is needed to raze a structure – this was not done. Copied below is a list of issues found on site. It is expected that the project will need re-approval from the ZBA as the original approval did not include demolition, rather substantial rehabilitation. The stop work order shall remain until successful re-approval from the ZBA. I am attaching an application and information sheet for convenience. Please read through the entire info pack as it details each step of the special permit process. The earliest possible ZBA hearing date for this project would be in late-June. Please let me know if you have any questions.

- 1) No permits posted
- 2) Entire existing structure & foundation have been removed
- 3) Construction toilet was partially (3/5) blocking the sidewalk
- 4) No safety barrier @ lot line /edge of excavation.
- 5) ZBA Conditions violated #1, #6, #7 and #8. ( possibly more?)
- 6) HPC Comments: “the entire structure will not be razed, only the portions necessary to accomplish the widening of the house and creation of the Mansard roof”.

-Hans

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**From:** Max Alves []

**Sent:** Thursday, April 18, 2019 2:08 PM

**To:** Hans Jensen

**Subject:** 10 Oak street

Hello,

I just want to check on the minims application that I did last week for the project located on 10 Oak Street. Thank you

Kelly Max Alves



**CITY OF SOMERVILLE**  
**INSPECTIONAL SERVICES - BUILDING DIVISION**

1 Franey Road Somerville, MA 02145  
(617) 625-6600 Ext. 5600

**VIOLATION NOTICE**

10 OAK STREET LLC  
68 BONAIR STREET APT 3  
SOMERVILLE, MA 02145

ALFREDO CORREIA  
PETROLINI HOME IMPROVEMENT  
8 CHESTER AVE  
SOMERVILLE, MA 02143

Date: August 22, 2019  
Subject: Debris on Site  
Site Address: 10 OAK ST  
File #: 19-014367

**To Whom It May Concern:**

On 08/06/2019, acting under the authority of Massachusetts General Laws Chapter 143 section 3A and Chapter 1 of the Massachusetts State Building Code, the Somerville Zoning Ordinance, and/or the Somerville Code of Ordinances, the Building Inspector has caused an inspection to be conducted at 10 OAK ST.

According to the records of the municipal assessor's office, this property is owned by 10 Oak Street, LLC. According to the records of this office, the Licensed Construction Supervisor for the ongoing work under permit B18-002123 is Mr. Correia.

The Inspection revealed the following violation(s) of the 2015 editions of the International Building Code (IBC), International Residential Code (IRC), and/or International Existing Building Code (IEBC) as adopted by the 9th edition of the Massachusetts State Building Code (780 CMR) with amendments, as well as the Somerville Zoning Ordinance (SZO), and/or Somerville Code of Ordinances (SCO):

**IEBC Sec. 1501.2 Storage and placement.** Construction equipment and materials shall be stored and placed so as not to endanger the public, the workers or adjoining property for the duration of the construction project.

1) CONSTRUCTION WASTE AND DEBRIS IN REAR OF THE PROPERTY WAS NOT PROPERLY OR SAFELY DISPOSED.

**780 CMR 115.1 Authority for Stop Work Order.** Whenever the building official finds any work regulated by 780 CMR being performed in a manner either contrary to the provisions of 780 CMR or dangerous or unsafe, the building official is authorized to issue a stop work order.

**NOTE:** A STOP WORK ORDER WAS POSTED ON THE SITE REGARDING THE DEBRIS THAT WAS NOT PROPERLY DISPOSED. ANY WORK SHALL CEASE UNTIL THE DEBRIS IS PROPERLY DISPOSED OF. ANY PERSON WHO SHALL CONTINUE ANY WORK AFTER HAVING BEEN SERVED WITH A STOP WORK ORDER, SHALL BE SUBJECT TO PENALTIES AS PRESCRIBED BY LAW PURSUANT TO 780 CMR 115.3 AND M.G.L. C. 143 S. 94(A).

**You are hereby ordered to correct these violations within 24 hours. A re-inspection of this property will be scheduled on or soon after August 28, 2019 to confirm compliance with this order.**

If this violation is resolved prior to the above date, please contact the Inspectional Services Department at 617-625-5600 x5600 to schedule an inspection to verify the conditions. Please reference the address and above file number when calling. If any work to comply with this order requires a building permit as set forth by 780 CMR, you must apply for and obtain such permit from Inspectional Services prior to work commencing.

A violation is not deemed resolved until the condition is verified by a Somerville Building Inspector.

If you fail to comply with this violation notice, the Building Inspector may invoke the following procedures to compel you to correct the violations: 1) the issuance of tickets for each day the violation continues to exist; 2) an application for criminal complaint; 3) a complaint for injunction from a Court of competent jurisdiction; and/or 4) any other remedy allowed by law.

The scheduled assessments of a violation to 780 CMR by ticket are \$100 for a first offense, \$500 for a second offense, and \$1,000 for a third or subsequent offense. Every day that a violation continues to exist constitutes a separate and distinct violation.

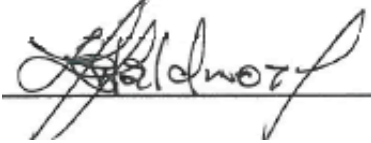
If you are aggrieved by this Order relative to the State Building Code, you have the right to appeal within 45 days of service of this notice to the State Building Code Appeals Board pursuant to Massachusetts General Laws Chapter 143, Section 100 and 780 CMR 113.1.

If you file a timely valid appeal with the Building Code Appeals Board, please provide a copy of your appeal and notify Inspectional Services as soon as possible. Failure to do so shall make you subject to additional code compliance enforcement action while your appeal is pending.

With respect to the State Building Code, General Laws Chapter 143, Section 94(a) provides that “[w]hoever violates any provision of the state building code ... shall be punishable by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both, for each such violation. Each day that a violation exists shall constitute a separate offense.”

Please feel free to contact me at 617-625-6600 x5609 to discuss this matter.

**Respectfully,**

A handwritten signature in black ink, appearing to read "Luis Waldron", written over a horizontal line.

**Luis Waldron**  
**Local Building Inspector**  
**617-625-6600 x5609**





AFFIDAVIT OF ALFREDO CORREIA

I, Alfredo Correia of Petrolini Home Improvement, Inc., under the pains and penalties of perjury hereby state the following:

1. I am an employee of Petrolini Home Improvement, Inc., a Massachusetts corporate entity with a principle place of business at 8 CHESTER Avenue, APT 1, SOMERVILLE, MA 02143.
2. Petrolini Home Improvement, Inc. is the General Contractor for the project located at 10 Oak Street, Somerville, Massachusetts, on behalf of the developer 10 Oak LLC, a Massachusetts Limited Liability Company with an address of 22 McGrath Highway, Somerville, Massachusetts.
3. I am the Project Supervisor for the development project at 10 Oak Street, Somerville, Massachusetts.
4. On or about May 16, 2018, the City of Somerville Zoning Board of Appeals granted Special Permits under § 4.4.1 to allow for the renovation and partial demolition of the structure located at 10 Oak Street, Somerville, Massachusetts.
5. As work progressed, by error and/or omission, Petrolini Home Improvement, Inc. performed substantially more demolition than what was permitted under the Special Permit and/or Building Permit.
6. As of early April 2019, only the front and right exterior wall, as well as part of the foundation remained of the existing building.
7. On or about April 19, 2019, strong winds caused the front exterior wall to collapse.
8. Shortly thereafter, Floyd Richardson of City of Somerville Inspectional Services Division inspected the site and condemned the remaining wall and directed Petrolini Home Inspections, Inc. to demolish the remaining wall, but to keep the foundation.
9. On or about April 23, 2019, Petrolini Home Inspections, Inc. demoed the condemned wall and shored up the remaining foundation for safety.
10. Despite Petrolini Home Improvement, Inc.'s efforts to preserve the foundation, the excessive rain eroded the ground underneath the foundation, causing it to deteriorate and collapse.
11. On or about May 9, 2019, the remaining foundation had deteriorated entirely.

12. On or about May 15, 2019, Hans Jensen, the Zoning Enforcement Officer for the City of Somerville, ordered Petrolini Home Improvement, Inc. to demo the existing foundation and rebuild a new foundation, for safety reasons.
13. Hans Jensen did not allow Petrolini Home Improvement, Inc. to build beyond the foundation as the project could no longer be categorized as a renovation, but now was considered "new construction."

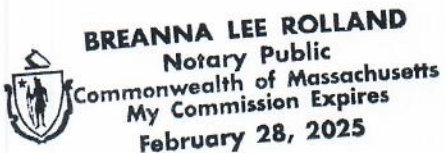
SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 16<sup>th</sup> DAY OF SEPTEMBER 2019

  
Alfredo Correia

Middlesex County, SS

September 16, 2019

On this day, before me, the undersigned notary public, personally appeared Alfredo Correia, proved to me through satisfactory evidence of identification, which was a Mass. State ID, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



  
Notary Public: Breanna Rolland  
My Commission Expires: February 28, 2025

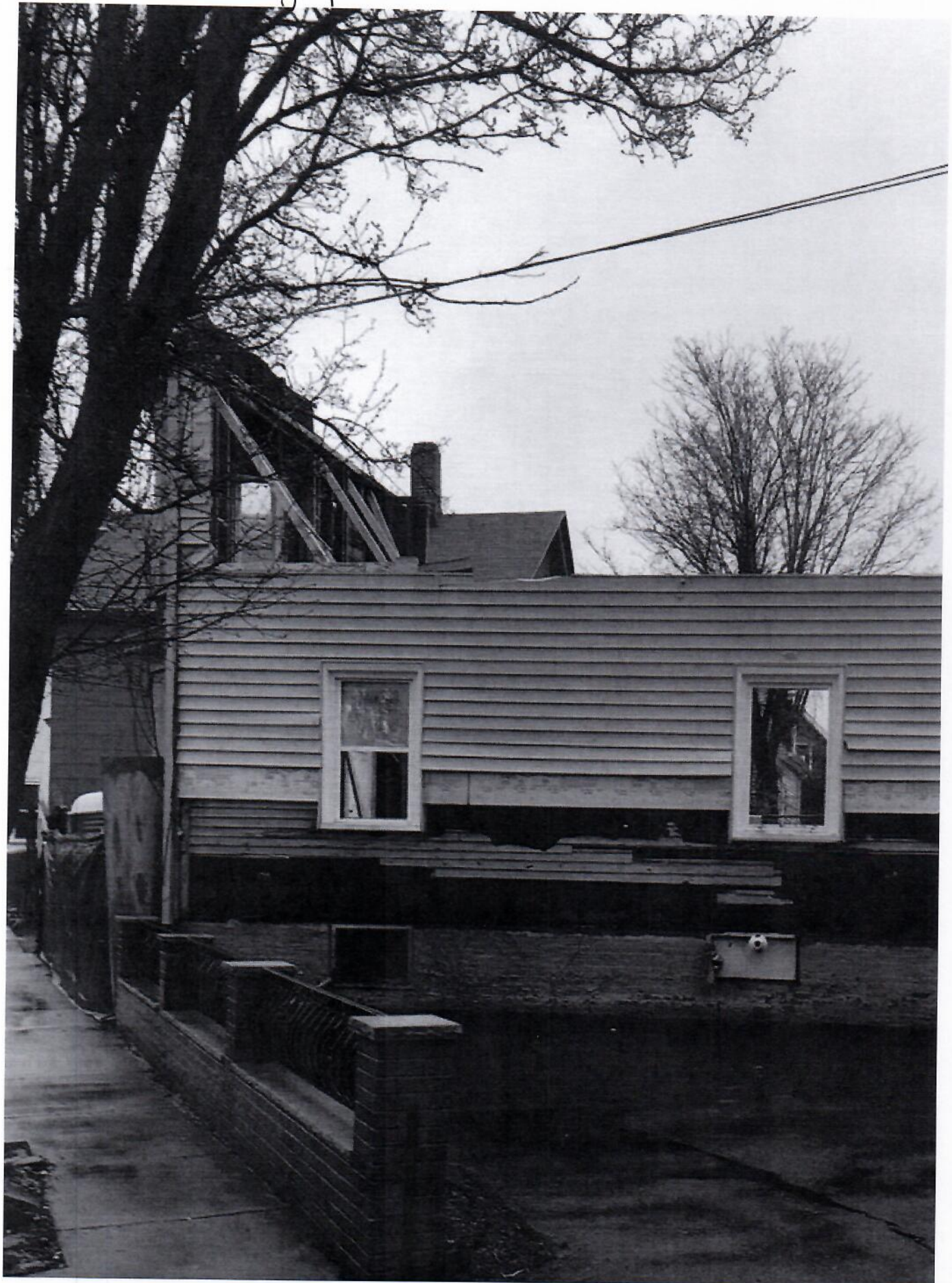
**EXHIBITS TO THE AFFIDAVIT OF ALFREDO CORREIA**







# Paragraph 6



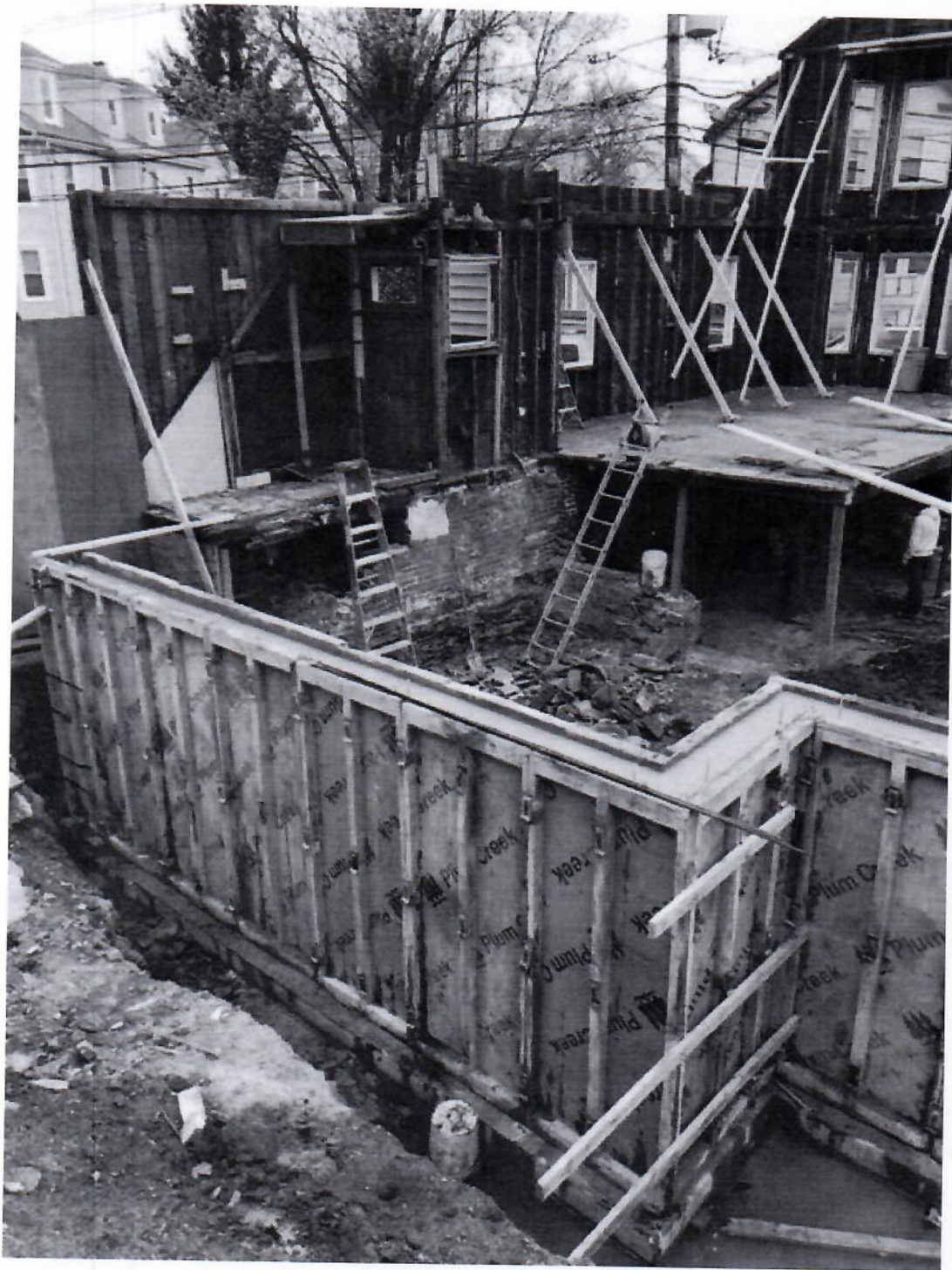


Paragraph 6



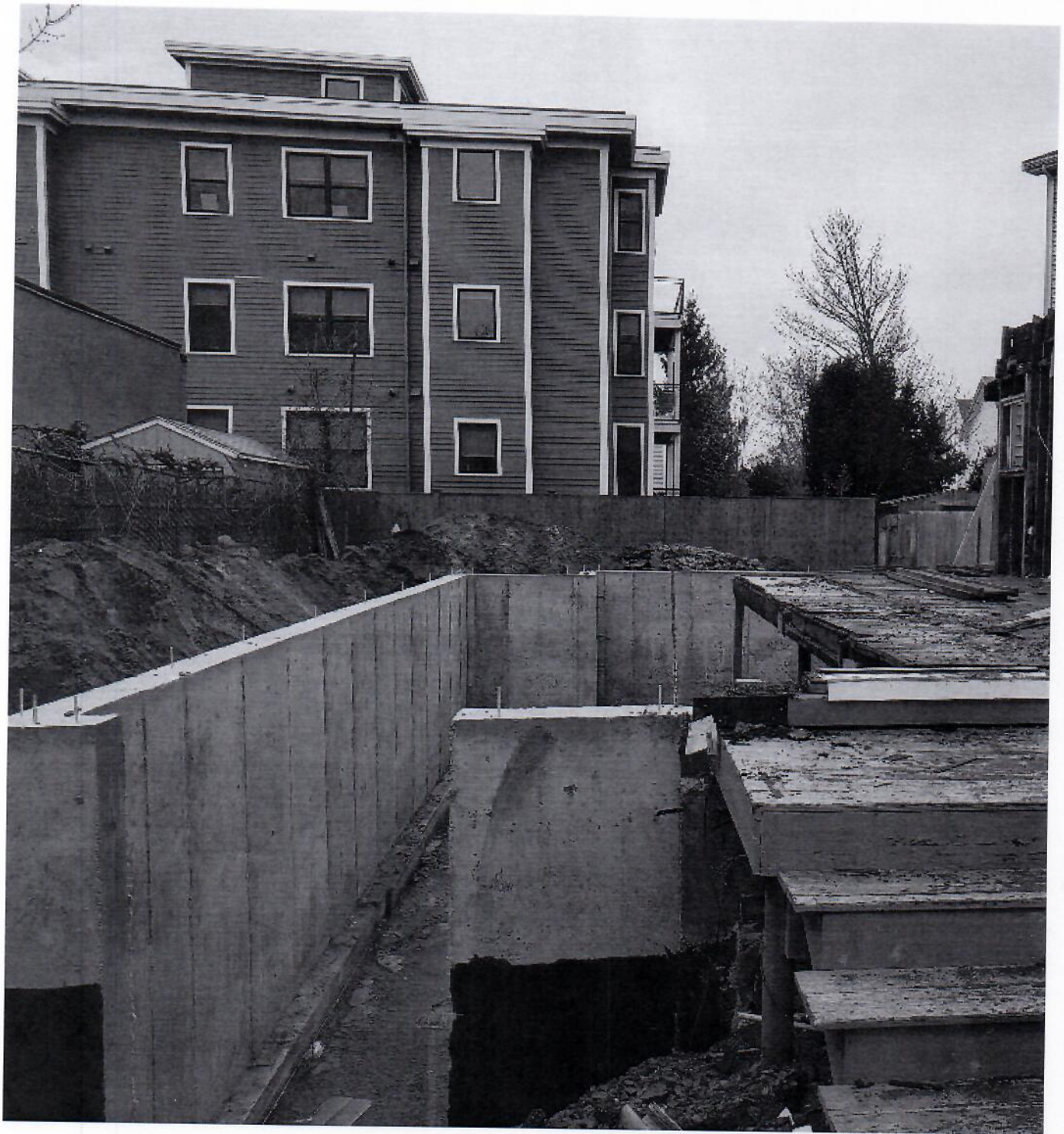


# Paragraph 6





P. 7







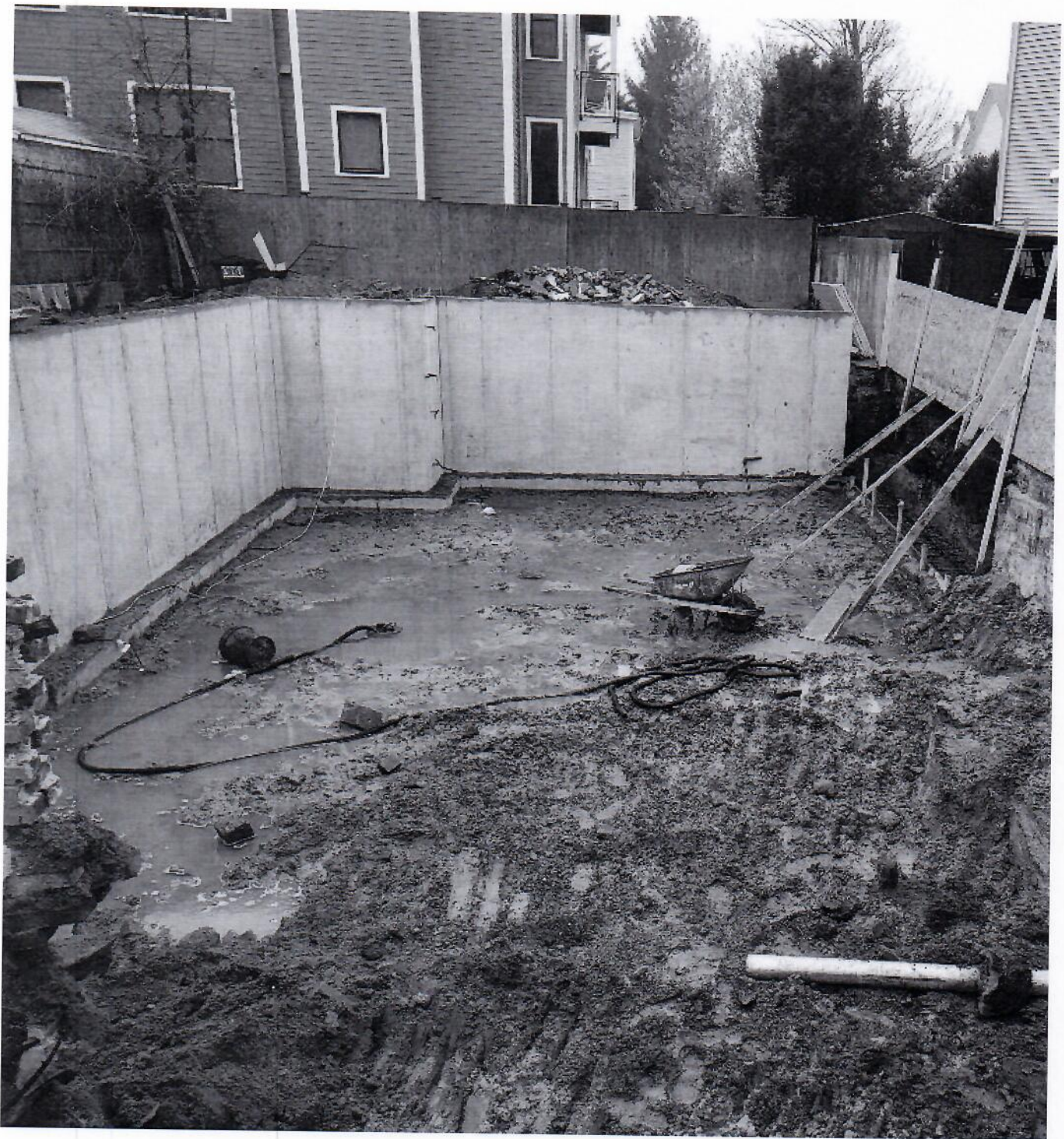




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# Paragraph 10





**Re: 10 Oak Street****Richard Di Girolamo <>**

Fri 3/20/2020 6:44 PM

**To:** Melissa Woods <mwoods@somervillema.gov>**Cc:** Sarah Lewis <slewis@somervillema.gov>; pquinn@pqarch.com <>; rebeccafeldman@comcast.net <>

Hi Melissa,

I hope you are staying healthy. I have consulted with the client in an effort to try and obtain answers to some of the questions raised at the ZBA meeting on March 11. I was provided a copy of the demolition permit by the contractor. It issued on November 5, 2018. I am enclosing a copy herewith. I am told that interior demo occurred from approximately November 6, 2018 through approximately November 16, 2018. Thereafter, the contractor awaited the issuance of the full Building permit which issued on March 28, 2019. A copy of said permit is also herewith enclosed. Construction resumed shortly thereafter. The demolition that erroneously occurred took place during the first two weeks of April, 2019. The strong winds which caused the remaining front exterior wall to collapse occurred on or about April 19, 2019. After ISD ordered the demolition of the remaining damaged wall, it was removed on April 23, 2019. As for the foundation it had entirely eroded, due to torrential rains, by May 9, 2019. On May 15th, Hans Jensen ordered the demolition of the severely eroded foundation for safety reasons.

Insofar as I did not represent the client when this project was originally permitted in 2018, I cannot represent when the neighborhood meetings occurred. Peter Quinn, the project architect, is checking his records on the date of the neighborhood meeting, which Peter did confirm occurred

As for your comment, Melissa, that any new development would have to comply with the new code, I respectfully disagree. Let us not forget that Hans ordered the removal of the entire foundation. I would ask you to consider what happens when a major fire occurs and the underlying structure is damaged and subsequently the building department orders the structure demolished. In such a scenario, the owner has two years to rebuild the structure, albeit non conforming in nature. I think what happened at 10 Oak is tantamount to this. It defies logic that if the owner disregarded Hans' order to remove the foundation, he could amend his original zoning permit, because the non conformity would still be in existence, but because he complied he lost his non conformity and therefore his right to amend. Please consider this and bring this position to the attention of the Law Department which I am told has been asked to weigh in. Many thanks.

Law Office of Richard Di Girolamo  
424 Broadway  
Somerville, MA 02145  
Tel: (617) 666-8200  
Fax: (617) 776-5435

-----Original Message-----

From: Melissa Woods &lt;mwoods@somervillema.gov&gt;

To: Richard Di Girolamo &lt;&gt;

Cc: Sarah Lewis &lt;slewis@somervillema.gov&gt;

Sent: Wed, Mar 18, 2020 3:07 pm

Subject: Re: 10 Oak Street

10 Oak was continued to the 25th and could be heard. What is your plan?

I am gathering the timeline information the board requested but we believe that if the building and foundation were demo'd, the site lost its nonconformity so the previous permit approval

cannot be acted upon.  
Any development on this site needs to be under the new code.  
Melissa

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**From:** Richard Di Girolamo <>  
**Sent:** Wednesday, March 18, 2020 3:01 PM  
**To:** Melissa Woods <mwoods@somervillema.gov>  
**Subject:** Re: 10 Oak Street

I pressed 'Send' too fast. I meant to say: "Please advise\* if 10 Oak Street will be heard via teleconference."

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-----Original Message-----

From: Richard Di Girolamo <>  
To: mwoods <mwoods@somervillema.gov>  
Sent: Wed, Mar 18, 2020 3:00 pm  
Subject: re: 10 Oak Street

Hello Ms. Woods,

May I ask why 10 Oak Street is not on the agenda for the hearing on 3/25? When do you think 10 Oak St. will get heard. Also, please if 10 Oak Street will be heard via teleconference.

I appreciate your attention to the matter and look forward to hearing from you.

Thank you,

Leah Tolvstad  
*Legal Assistant*

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