date: 09 April 2014

to: Cambridge Planning Board, City Council and City Solicitor

re: The Sullivan Courthouse is not a “pre-existing nonconforming” structure.

Dear Board and Council Members, and Ms. Glowa:

Per our note (31 March), attached is an opinion from our attorney, Mark Bobrowski, offering clarification on this matter — namely, that the Sullivan Courthouse is not currently a “pre-existing nonconforming” structure, and it does not convert into one upon sale to a private developer. The Developer’s application for special permits on that basis is erroneous. Mr. Bobrowski is an authority in land use law; we hope his findings will be helpful for all concerned. Feel free to consult him directly if you wish.

We would add a point of obvious logic here. Presently, the Commonwealth remains the owner of record on this property. Once that changes, the property loses its governmental immunity from local laws. As an example, many do not realize that, for a state-owned building, even the Fire Code does not apply:

http://www.mass.gov/ago/government-resources/ags-opinions/opinion-no-0001-1.html

As soon as a state-owned building is sold to a private owner, it must be brought into compliance with the Fire Code. That is equally true with respect to all City building ordinances. Once sold privately, the Sullivan Building will be in gross violation of zoning. Hence the conclusion: Developer (and State) erred in assuming this property converts to a legal nonconforming status. And it would be erroneous for the Planning Board to rule as if it does. The Developer’s proposal for the Sullivan Courthouse is not eligible for a Special Permit, and the application (SP#288) should be dismissed.

Sincerely,

Michael Hawley

on behalf of concerned abutters
and the James Green Association