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Subject: Docket 3625 - Protecting the Public Interest and Welfare

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To: Arlington Redevelopment Board

I wish to call the Board's attention to the situation existing at 882-892 Mass Ave. As you will recall, the Board granted a Special Permit for the redevelopment of this property a few months ago. Among the conditions of this Special Permit was that the Board would maintain "*continuing jurisdiction over this permit*" including taking such actions "*...as it deems appropriate in order to protect the public interest and welfare.*"

This is not the first time that the Board has been in such a position. In 2009, a previous Redevelopment Board granted a Special Permit to redevelop the auto dealership adjacent to the High School as a CVS store. The historic Atwood House, which was part of the parcel, was to be preserved. As stated as a special condition of the permit,

"The Atwood House shall remain at its present location on the site, and diligent efforts shall be used to maintain its present condition to prevent any damage from the elements or otherwise, until it is redeveloped."

There were also the usual stipulations regarding obeying town bylaws and snow removal from the adjacent public sidewalk.

For the next decade all of this was forgotten. The Atwood House was neglected, frequently broken into, and badly vandalized. It became not just an eyesore, but a public safety concern due to its use as a drug den. And for that decade, the sidewalk remained uncleared every winter. Pedestrians trying to reach the CVS store, bus stop passengers, and high school students often had to step out onto Mass Ave to get by.

It only came to the Redevelopment Board's attention a little over a year when CVS applied for a change of signage. Awakened to the fact that it still held jurisdiction over the property, the Board summoned the absentee owner of the Atwood House to explain the situation. There was a lot of hand-wringing, voiced regrets, but no consequences for the negligence.

The Board felt powerless to do anything at this late date. But now history is repeating itself, just two blocks away, right across from the High School. In Docket 3625, the Board granted a Special Permit for the redevelopment of the Toraya Block. It was presented to the Board that the site had suffered toxic contamination due to negligent behavior on the part of a past tenant and needed to be entirely demolished for remediation.

The proper course of action would have been for the developer to present a plan to the Arlington Health Department for the safe demolition of the building, taking into consideration not only the toxic contamination of the building and the soil, but also the asbestos present in the structure, and the likelihood of lead paint. Taken into account would be the adjacent residential properties and the high pedestrian traffic including school children. Once the Health Dept signed off on the plan it would go to Inspectional Services for the necessary permits. The Good Neighbor Agreement package would be sent to all abutters within 200 feet, at least a week before any demolition began, according to our bylaws.

None of that happened, and a public safety hazard was created instead. On October 26, the developer filed a notification with the State Department of Environmental Protection of its intention to remove asbestos from the interior of the building. It began this work the first week of November. The work went far beyond asbestos removal. It included significant exterior demolition of the roof top and gutting of interior walls. The debris from this demolition was simply piled up in the rear parking lot in several very large mounds and left unsecured. Much of this work occurred in the dark of night, well after legal working hours. No local permits were sought, nor was the Health Dept advised that it was taking place.



Piles of Debris



A Third Pile of Debris

Something went wrong with the demolition and parts of the front facade of the building began collapsing onto the front sidewalk by the bus stop. Town employees moved in quickly to secure the area with fencing.



Fenced Off Collapsing Facade

For the next month there was no observed activity on the site. The piles of unsecured debris were left in the parking lot, free to blow around. Inspectional Services was not very responsive to inquiries. Because no permits have been applied for, they redirected questions to the State DEP. The Health Dept was completely unaware of the situation until notified by residents in early December. Their response was to drive by the site and observe from the street. They did not contact the developer and have advised residents to redirect any questions to either ISD or the State DEP.

As a result of resident complaints about the situation, the Town Manager did task the acting assistant Town Manager with determining what was going on. The developer did eventually cart away at least three large dumpsters of debris. Several large steel drums with mystery contents remain. It is not known what was in the debris, nor when work will resume and the required demolition permits will be applied for. The neighbors remain in the dark and are still awaiting the required Good Neighbor Agreement notice.

Since early November the emergency fencing has remained up on the Mass Ave sidewalk with no indication of when the developer intends to make the building or sidewalk safe again. It took several years for the Atwood House to become a blighted eyesore and public safety hazard. The Toraya Block managed to reach that infamous status in just a few weeks.

And after each snow storm this year, the remaining sidewalk along the block has been left uncleared, forcing pedestrians, bus passengers, and students to once again step out onto Mass Ave to get by.



Three Days after the Storm

The Redevelopment Board retains jurisdiction over the site through the recent Special Permit and this time it has the leverage to do something about the problem. The developer appears before the Board this Monday evening (January 4) asking for another Special Permit. It is the Board's obligation to use this opportunity to question the developer and get some real answers as to what is happening at the Toraya Block site, the plans to correct it, and why town bylaws are being ignored. It is the Board's chance to redeem itself and not repeat the lapse of responsibility of a previous Board a decade ago.

The Board has the legal authority to impose additional conditions to "*protect the public interest and welfare*".

Don Seltzer