

BOARD OF ZONING APPEAL FOR THE  
CITY OF CAMBRIDGE GENERAL HEARING

AUGUST 25, 2011 7:00 P.M.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Timothy Hughes, Acting Chairman

Tad Heuer, Member

Douglas Myers, Member

Thomas Scott, Member

Mahmood Firouzbakht, Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:00 p.m.)

(Sitting Members: Timothy Hughes, Tad Heuer, Thomas Scott, Douglas Myers.)

TIMOTHY HUGHES: The Acting Chair will call the Board of Zoning Appeals to order. The first case we're going to here is case No. 10118, 459 Broadway. Is there anyone hear that wants to be heard on that?

(No Response.)

TIMOTHY HUGHES: Seeing no one, I will reference a letter in the file. It is from Rich Rossi, Assistant City Manager. "It is my understanding that members have heard the case for new signage at CLRS are not available on August 25th. Therefore, please reschedule this until September 8, 2011."

The Chair will make a motion to continue this case to September 8, 2011 at seven o'clock provided that the time and the place of the new hearing is changed on the signage.

You'll get in touch with them about that,  
Sean.

SEAN O'GRADY: Yes.

DOUGLAS MYERS: Would you repeat the  
date and time again?

SEAN O'GRADY: 9/8/11. Not heard.

TIMOTHY HUGHES: No, it's heard.  
September 8th, at seven o'clock.

DOUGLAS MYERS: Not heard.

TIMOTHY HUGHES: No, it's heard.  
You're not on it.

All those in favor of the continuance?

(Show of hands).

TIMOTHY HUGHES: Four in favor.

(Hughes, Heuer, Scott, Myers.)

(7:00 p.m.)

(Sitting Members: Timothy Hughes, Tad Heuer, Thomas Scott, Douglas Myers.)

TIMOTHY HUGHES: The Chair will call case No. 10106, 7-9 Crescent Street. Anyone here wanting to be heard on that?

(No Response.)

TIMOTHY HUGHES: No one. I will reference a letter in the file in connection with the BZA case 10106, 7-9 Crescent. "We write that the Board continue the case to its first hearing in January of 2012."

Okay. The Chair moves that we continue this case to the first meeting in January.

SEAN O'GRADY: We're actually going to have to do it the last meeting in December and if we need to continue, we just don't have schedule commitments yet.

TIMOTHY HUGHES: I see, okay.

So we're going to send it off until, what's the date?

SEAN O'GRADY: To 12/15.

TIMOTHY HUGHES: The Chair moves that the case be continued to 12/15 on the contingent that they change the sign to reflect the new time and date of the hearing.

All those in favor of continuance?

DOUGLAS MYERS: Not heard?

SEAN O'GRADY: Not heard.

(Show of hands).

TIMOTHY HUGHES: That's a case not heard.

(Hughes, Heuer, Scott, Myers.)

(7:10 p.m.)

(Sitting Members: Timothy Hughes, Tad Heuer, Thomas Scott, Douglas Myers, Mahmood Firouzbakht.)

TIMOTHY HUGHES: All right, the Chair will call case No. 10097, 535-545 Cambridge Street. Anybody here to be heard on that matter?

MARC RESNICK: Yes.

TIMOTHY HUGHES: Identify yourself for the stenographer and spell your name.

MARC RESNICK: My name is Marc Resnick, M-a-r-c R-e-s-n-i-c-k.

NAVIN PATEL: Navin Patel, N-a-v-i-n P-a-t-e-l.

TIMOTHY HUGHES: Okay, before we get started, I know you must be aware that there's a great deal of opposition to this proposal?

MARC RESNICK: Yes.

TIMOTHY HUGHES: But you want to proceed?

MARC RESNICK: We wanted to at least be heard on what we thought was a -- shouldn't it be heard?

TIMOTHY HUGHES: No, no, you can be heard. I'm just wondering if you've taken every avenue in terms of communicating with some of these people that are opposed to this.

MARC RESNICK: We talked to every -- you know, to the Board and the groups and we, you know, and we went and saw the City Councillor, whose office is across the street. You know, Councillor Toomey.

And what we found was that the people that are in the community -- active community activists are against the Subway, but that when we went in front of the building, that hundreds of people that came by were for it. And I brought approximately 150 to 200 signatures, all original signatures. I think 15 to 20 of those people actually live on Cambridge Street. I would say at least

100, 150 of them live in Cambridge. The signatures were all acquired in a three-hour time period. We came by once during the lunch hour for one and a half hours. And then we came back during the evening hour -- like two or three hours later, and we found that the community had an incredibly positive response. Only one person that came by -- I personally spent an hour outside in front of the building myself. And only one person, a couple, a husband and a wife, who were against it. And people just signed up, people that came by, they're all local people, every single person that signed that walked by. Not one single car or bicycle would stop or even notice us at all. We really believe that most of the activists' concerns are, and the community and the business planning, you know, board communities, have really misplaced what the Subway really is. Which is an owner operated, small operation. That

it does have a name. I mean, obviously it's named Subway. But other than that it's really just a community owned, you know, it's owned by Navin. It's his store. He's going to work there each and every day.

And honestly, when we first started to deal with Navin, it had never crossed my mind that there would be any opposition. I just thought that it seemed like a really nice store. That's why I prepared -- this is the kind of renovation work that Subway will be performing on the unit. I also have it on a board so people can see it a little better up there. Attached to the back of that is also the written letter that we prepared, that we gave to the, I think it's called the C -- the Planning Board. The East Cambridge Planning Team -- that we felt addressed every single one of their concerns.

Do you need one, Sean?

I have a couple extras if anyone else

wants to take a look.

So, we realize that the people that are in the business community, I don't know if they think that the Subway will be too attractive to the neighbors, and that it will affect their own businesses or other, you know, neighborly businesses. But we really think that Subway is a neighborly business, and that they're all owner operated. It's only a franchise -- it's a franchise in name, and that really each store is owner operated by its own individual owner operator. And honestly the store has been vacant for, I don't know, probably five years. It's been vacant since I owned it, since I owned it. That was approximately two years ago. I've tried marketing the property to everybody. I haven't been able to rent any of the other retail spaces. I have now found a new tenant for the other front retail space, so we do have -- and I think we're coming before the

Board in another, you know, two or three weeks or something. So it took me two years to find -- at least a year and a half to find anybody who wanted to rent here.

I went through the neighborhood just today to confirm. I drove through there, and up and down Cambridge Street, there are many companies that are known like, just like a Subway. I started on -- from Columbia Street and I drove down the street and started with a Shell gas station with a Dunkin' Donuts in it. Across the street there's a Family Dollar Store. There must be about 5,000 of those in the United States. Then a Metro PCS store. And then as I drove further down the block, I came to East Cambridge Savings Bank and Citizens Bank. They're owned by the Royal Bank of Scotland.

In other words, the Cambridge Street community is mixed with mom and pop shops as well as larger known entities. And so I'm

very sur -- we're surprised basically of the negative community response of the people that are the most active. We found that the people that actually live in the neighborhood thought it was a great idea. Hundreds of people -- they -- people were so -- they told us stories about how they -- now they had to go to a Subway like two or three miles away. They were so excited to have it in their neighborhood. I mean, some people weren't all excited but were glad to sign the petition. Other people just walked on by, too. You know, not everybody stopped on in. But all those people walked on by. So we got over 100 signatures in an hour and a half in the evening all by just walkers. And if you look at the addresses on there, they're all Seventh Street. I just tried to count them, I think there were 19 people that lived on Cambridge Street and listed it as their address.

The Traffic Department, a city employee signed it. He just -- when he put his address down, he put Traffic Department. So, we don't -- I mean if you don't want me to have the Subway, you know, let Navin open his store, then I guess we won't be able to. But, I don't have anybody else who is interested in the space.

The idea when I came here the first time to do the Special Permit that we did before, we created four residential condominiums upstairs. We've sold three of those now. We're attempting to still sell the fourth. And, you know, it said -- I read one of the other letters in our file, it said that the people were -- just expected us to do retail. So, it's not that desirable a location that we can't find anybody. We -- I worked with Jason Alvese (phonetic) to try to find people. I met a neighborhood business group, you know, the man who owns the poultry

store and the fish store, and they all said they would give me recommendations. Jason said that he gave me at least 15 leads. I received zero phone calls. Just zero. Not even anyone interested. I mean, I have received interest -- you know, I've been doing this for a year and a half now, but there really just isn't anybody. And we worked really hard to address all the concerns of the neighborhood, about the trash, the deliveries, and it was -- the delivery company is still the same delivery company who delivers as Sysco. They deliver up and down Cambridge Street right now, they deliver right now to our local neighbors. They're not going to make special trips. We offered to have them come whatever time of day, even three a.m., they could make night drops right in the middle of the night and go right in the store so there's no double parking. We offered to have the dumpster company come at

any time and pick them up at any time they wanted. They're already doing the work in the area now at the other neighborhood businesses. They won't need to send a special truck out to do, to service us.

Navin has offered to patrol the neighborhood for debris trash like wrappers, three times per day. All these were put down in writing specifically responding to the letter that we received from the East Cambridge Planning Board. I know that the first time that they made a -- planning team. The first time they made contact with me they stressed or expressed that they were disappointed that I hadn't contacted them before I had really made my application. And honestly, it's just my own slip up. I didn't think that -- I was just so excited to have a store, I thought it was going to be a great idea. And it didn't really cross my mind that this was going to be such a neg -- seen

negatively by this many people.

So I just don't know what else I'm suppose to do. Honestly I have signed a contract, you know, a lease agreement which means I'm basically obligated to come here and Navin be heard by the Board. So, you know, and I think he deserves the right to be heard and to have an opportunity to become a local business member in the community.

TIMOTHY HUGHES: You want to make a statement?

NAVIN PATEL: I have written statement, you know, which you already have copy of, and it addresses every item that the neighborhood have a concern. And I tried to resolve those. Any other things that is written in there that is not desirable by the neighborhood, I will try to make aware or suggest to do that. Basically I am the store owner. I will be running the store. The Subway is a national franchise, but they are

in the name of franchise, you know. They have a support system which I like, and I am successful with the other locations that I have which is in the Boston downtown. So I would like to open here and serve the community.

TIMOTHY HUGHES: Questions from the Board members?

THOMAS SCOTT: Has this been shared with the East Cambridge Planning Committee?

MARC RESNICK: Yes.

THOMAS SCOTT: Okay, it has. And have they given you feedback?

MARC RESNICK: The main feedback was that they were still dissatisfied with the idea. That they feel that -- one of the biggest issues was double parking.

That -- the community it seems to think that a lot of people will come by car. But we experienced the exact opposite, that people buzzed right by there and it's the foot

traffic that gonna get you. You know, there is no -- if there was a parking lot for 25 cars, maybe more people might come by car. I don't think that people like get the family together and go to a Subway. You go to Subway because you're hungry for lunch. You know, you're walking right by. You don't hop in your car and drive two or three miles. I think that more of the local -- in other words, I like to eat at the East Coast Grill a lot. I've never gone there just walking by. We go there. They have a nice parking lot actually. That's one of the things that's nice about that.

But if they, you know, would open up a store in our location, we would be thrilled. And if any other local establishments or independent business people would open up a store in there, I would be thrilled. But there aren't any, not even a single one. I don't have anybody at all.

My next best opportunity is a man who calls himself Mr. Scratch who would like to do some kind of performing arts in there for several months. That is my next best lead. And he says that he works with a lot of neighborhood groups in the musical, you know, he's already said that he had good connections to get that approved. And I was like, I have no idea of something like that. And he only wants to do it for a couple of months. So -- and he wants to do performances in there which means that, like, they would have tons of people coming like in cars, like 50 people at a time. I didn't understand exactly what he wanted. So, that's all we have. And this is the only guy who wants to open up a store. You know, the renovations are fantastic. When I drove down the street again today, most of the storefronts look rather tired. None look worse than ours because there's nothing.

There's no signage. There's no -- it's just like soapy, you know, the white wash.

There's nothing in them at all.

DOUGLAS MYERS: What's your basis for saying that the allocation between drop by and eat in clientele will be 80 percent as opposed to 20 percent? 80 percent eating in and 20 percent dropping in?

NAVIN PATEL: 80 percent picking up. Pick up and takeout.

DOUGLAS MYERS: Oh, pick up and takeout would be 80 percent. I'm sorry, I misread.

And what's your basis you're saying that 80 percent will arrive on foot?

NAVIN PATEL: For by the experience that we spend a few hours in the lunchtime and the evening dinnertime, and all the people who stop by and, you know, take an interest and signed the petition from that. You know, and the Subway, they have done a study for us

which I'm not privy to the results. But they said go ahead, you know, and they approved the location. Only then I can go ahead and start the lease negotiation and acquiring the space.

TIMOTHY HUGHES: Any questions, Tad?

TAD HEUER: No.

TIMOTHY HUGHES: I'm going to open it up to public testimony for anybody who wants to be heard on this matter. Just come forward and identify yourself for the stenographer.

CARL FANTASIA: I'm Carl Fantasia, President of the East Cambridge Business Association and President of New Deal Fish Market on 622 Cambridge Street.

I first want to say I'm speaking on behalf of my constituents at the East Cambridge Business Association which is a Board comprised of maybe seven people right

now. And based on the overwhelming public feedback as it pertains to the proposed establishment; namely, Subway Sandwich Shop, let me start by saying I have nothing personal or we have nothing personal against Mr. Resnick. He's actually quite a nice guy. We've spoken to him a couple of times and had a couple of chuckles. But as it pertains to the Zoning Code 11.30 for fast food -- I'm sorry, fast order food establishments, we believe that the operation of the establishment will create traffic problems.

Will reduce available parking, which could be a problem for the existing businesses that have been there. Some are struggling and some are doing well, but we feel it will have a negative impact for the available parking.

We do believe that it would threaten the public safety in the streets and sidewalks.

And it would encourage and produce double parking on the adjacent public streets. And I'd like to just expand on each one of those items as to why we feel that way.

Before that -- I go into that I want to preface by saying our family's had a business on that street since 1928. I have been there full time and taken the business over; namely, the fish market, almost ten years now. I have made many friends and had many relationships with a number of the sandwich shops that are already there. And there's one important point we need to recognize, is the majority of them deliver. Why? Because they have to. I've got some statistics from two businesses in that area that I've had in about the last year and a half, that over 60 to 70 percent of their total revenues are from delivery. Also because they're open later. And in order to succeed as a business, they have to deliver. So when we met with

Mr. Resnick, we're like, this type of business, how's it going to succeed without delivery? So that was one point.

As a business association, we don't want to see a business fail. Our job is to improve the business district there. But more importantly to improve the business district based on what the neighborhood really wants. And one of the elements of our mission statement is to protect the historical integrity of the neighborhood as well. And that's very important to us. But let me get to creating traffic problems.

Subway is a very successful business because they can put together something very quickly and get it out very quickly. I think a person that's driving a car may be more apt to double park knowing that they can get in there and get out within three or four minutes. You figure that five, ten people at one time want to come to that business, what

are they gonna do? They're gonna double park. We have a bike lane in that area. That's going to obstruct the passageways for bikes and people riding the bikes as well as pedestrians that are crossing the streets. I indicated it would reduce available parking. As we know on Cambridge Street already, we have a problem with parking. In my business I have to rely on some people to pull into a parking spot and to come in. And if we don't have additional or available parking spots, that's gonna affect the existing businesses over there.

I already talked about threatening the public safety, and encouraging the double parking on the street.

We at the association have been working with Mr. Resnick as he indicated. Once we met with him knowing that there was a proposed Subway, we said, well, look, how can we help you to get a potential tenant in here? One

of the first things we did was we went to the Economic Development Department within the City of Cambridge. They were delighted, because this is one of the things that they do. If there's a spot that needs to be rented, they like for -- or they can help and assist in getting businesses in there. Now, we feel we've done our part in telling the City of Cambridge, and we confirmed with them that a number of interested parties were interested in contacting him. Now, what happened after that, I don't know.

TAD HEUER: He said that 15, tried 15 and then they -- do you doubt what he says that he contacted the 15 leads that he was given and nobody called him back?

CARL FANTASIA: I can't say -- I'm not going to say that I doubt or support. I don't know. We're trying to get somebody in there for him. I don't know the arrangement he has with Subway. Maybe he feels it's

going to be more lucrative and he doesn't want to deal with anybody else. I don't know. But we're interested in helping him through this.

NAVIN PATEL: (Inaudible).

CARL FANTASIA: And we want to make sure as a business association that we work with the community.

Now, we're not standing alone on our own two feet saying we don't want a Subway there. The neighborhood's asking us why are we allowing this? So we have to stand behind our neighborhood, that's why we have businesses there. Without the neighborhood we wouldn't have a business district. And, you know, I kind of question how they were able to get support, the way they got the petition signed. I mean clearly you give a piece of food to somebody and it tastes delicious, and say hey listen, we want to put a business here, would you sign on the dotted

line. If they told them that they have to overcome various obstacles as I indicated according to the Zoning Code, I'm not so sure all of them would have signed.

So, you know, we're all -- these are the reasons why we're concerned about this. And it's nothing personal. It really is nothing personal. But we're listening to our neighborhood. And that's all I have to say.

TAD HEUER: Can I ask you what kind of business you think would not generate traffic but would be a viable commercial entity for that space? I guess I'm having difficulty when you say that it would take parking away from other businesses, wouldn't anything that goes in there that is commercially viable require some parking?

CARL FANTASIA: It would have to require some parking naturally. But we would hope that it would be a business that the majority of the neighborhood would want

to patronize.

TAD HEUER: That's a slightly different question, though. I mean, one thing that I think I would say, and discussion for anyone else that wants to speak, is that one thing that the Zoning Code doesn't allow us to do is to say that because this is a national franchise or because this is a non-mom and pop or anything else, that's something that we simply cannot consider. So if that was one of the things that anyone was planning on saying, that we wish someone who is from the neighborhood started their own small business here, I may wish that, too, but that's absolutely not within our jurisdiction to pass upon.

CARL FANTASIA: We recognize that.

TAD HEUER: The fact that it's a Subway is no different from us than it's someone's, you know, Brand New Sub Shop, Inc.

So that aside, I think going back to the

question of yes, maybe some people would like to patronize it or not, but wouldn't any successful business require patrons? And if so, wouldn't they require parking? I mean I guess I'm -- when you say that, when you say we require -- take up parking and then you claim they double park, that seems to be kind of two different things. It doesn't both require parking and create double parking.

CARL FANTASIA: So I'd like to expand on that a little bit.

TAD HEUER: Yes.

CARL FANTASIA: It's by nature of the Subway business that you can get in and get out, it's more of the psychology of the patron that's driving and saying you know what, let me double park my car, let me go in and get my sandwich. Within three, four minutes I'm out. Whereas, if you know you have to wait 10, 15 minutes, you might not park and may say forget it. For a sandwich

for lunch I'm just not gonna do this.

THOMAS SCOTT: I mean, the meter maids are pretty aggressive up and down Cambridge Street. I can't believe anybody would take that chance and double park and go in and get a sandwich. I mean --

MARC RESNICK: We think that because they will be in and out so fast, if they do come by car, the places will keep opening up. And we even requested to the city or offered to the neighborhood that we put 30 minute parking or 15 minute. They told us we couldn't do the 15 minute, that 30 was the minimum. We think that -- I mean, obviously some people will come, you know, in a car, but that if -- Navin, how long does it take to get a customer in and out of your store right now?

NAVIN PATEL: Two and a half to three minutes.

TIMOTHY HUGHES: You're going to have a chance to rebut his comments later.

MARC RESNICK: Oh, I'm sorry.

TIMOTHY HUGHES: The other point I want to make is that you're both saying the same thing and trying to get it to say opposite things. He's saying two and a half to three minutes works against you in terms of the double parking, making it more attractive. And you're saying the two and a half, three minutes is not going to be a problem because it's going to turn over the parking faster. You know, it's like you're using the same statistic to say opposite things, but you know.

MARC RESNICK: Well, if they stayed for 20 minutes, they would block --

TIMOTHY HUGHES: You'll get a chance to rebut all of the public testimony.

Do you have anything further to add? I mean, you can answer questions from the Board members. But I don't want you to enter into a dialogue. We're trying to get this to move

ahead here.

MARC RESNICK: Yes, I understand.

CARL FANTASIA: Let me just double check here. I've said basically what I've had to say, but I just want to further emphasize the type of business, a sandwich shop, I mean you go up and down Cambridge Street. Aaron's No. 2, Cafe DeLaura, The Snack Bar, Anatolia. They all deliver. Our concern is if you don't deliver, you're not going to succeed because these places put on a good show. They have good food over there. And if they can survive on just solely walk-in traffic, they wouldn't do delivery because it's a pain in the neck.

Thank you.

DOUGLAS MYERS: Does the Scamper deliver?

CARL FANTASIA: Yes, they do. I got their sandwich today, roast beef, it was excellent.

DOUGLAS MYERS: Also, can you say anything else particularly about the stop-by, drop-in double parking in this location on Cambridge Street? Anything of a factual nature based on your experience, anything additional that would lend support to your position with regard to that particular issue?

CARL FANTASIA: Yes, sir.

I can speak on behalf of my business and maybe some other businesses that I see in the area. There are times when my customers that come from outside the neighborhood will double park because they can't get a spot. Well, they get a ticket. They come back and they do it again. And I ask them, are you crazy? I mean, this is just not -- I have a business where you don't come in and out in two minutes. Sometimes when you have a line out the door, you may need 10 minutes, you may need 12, 15, half hour, depending on the time

of year. What we like to encourage our customers to do, sir, is not do that. Carpool. Drop somebody off and, you know, drive around the neighborhood until you do your shopping. Because it is causing congestion and it is a safety concern. It does cause problems. We see people getting nearly hit everyday. There are a lot of bikes on that street right now. I mean, if you spend even just a few hours, you'll see these bikes come by. And they're not all, how do we say, cognizant bike riders, but just about every year a couple people get hit by cars. And that's our concern. We really want to approve the safety of our neighborhood.

DOUGLAS MYERS: And what about the general speed, volume of traffic on Cambridge Street?

CARL FANTASIA: Cambridge Street's a major thoroughfare --

DOUGLAS MYERS: In this area particularly.

CARL FANTASIA: In this area. Cambridge Street is a major thoroughfare. I consider it an artery almost. You have people coming from Boston passing the Museum of Science. Monsignor McGrath Highway or going from Cambridge Street maybe to get to Harvard Square. It is gridlock traffic right there.

DOUGLAS MYERS: What about traffic controls? There's a traffic light at Sixth Street. Where else are the nearest traffic lights?

CARL FANTASIA: Heading west, the nearest traffic light is going to be right at the railroad tracks. This is after you pass another problem area which is Lambert Street coming onto Cambridge Street.

DOUGLAS MYERS: And on the east side?

CARL FANTASIA: On the east side from Sixth, it could be Third.

DOUGLAS MYERS: So if the light on Sixth Street is green, cars coming -- going west on Cambridge Street, that is the side that the establishment will be located on, would have a stretch of six or seven blocks, if the traffic --

CARL FANTASIA: No, not six or seven. Because I'm at Fulkerson and that's three blocks away. And I mean the tracks are, you know.

DOUGLAS MYERS: From Third Street.

CARL FANTASIA: No -- yes, from Third Street, correct. Not from Sixth Street.

DOUGLAS MYERS: And if the light on Sixth Street is green, there will be a stretch of five, six or seven blocks at which cars could develop a be considerable amount of speed; isn't that true?

CARL FANTASIA: That is true, but during rush hour it is clear, and even in the morning, it's clearly gridlock traffic there. I'm not making this up. I've been on that street for many years. It's a detriment, I think, you know, having so many cars go through that area quite frankly. I mean, as it stands right now, it's dangerous for people to be riding their bikes in that bike lane. So I mean as it stands now.

DOUGLAS MYERS: That's it.

TIMOTHY HUGHES: That's it. Thank you.

CARL FANTASIA: Thank you.

TIMOTHY HUGHES: Anyone else wants to be heard on this matter?

CHARLES MARQUARDT: Hi.

TIMOTHY HUGHES: I would like to remind people doing the public speaking not reiterate the same things over and over again.

CHARLES MARQUARDT: I will not.

TIMOTHY HUGHES: If you can avoid --

CHARLES MARQUARDT: I will be far  
briefer.

TIMOTHY HUGHES: Thank you. Avoid  
it.

CHARLES MARQUARDT: I will. I'll  
just say a couple of quick things.

I met with Mr. Resnick and his attorney  
who is not here tonight after the last  
meeting, and suggested a few things --

TAD HEUER: I this is Charlie  
Marquardt.

CHARLES MARQUARDT: I'm sorry.  
Charlie Marquardt.

And one was a parking and traffic study  
working with Sue Clippinger and her folks.  
So, what does it look like in terms of this  
turn over? Is there something they can do  
with the parking meters or not. And they  
came back and told us about that.

Another thing was to share the Subway study. How do we get to that? I think Mr. Myers mentioned it, how do you get to 80 percent versus 20 percent? You're comparing it to your other restaurant which is in downtown crossing where there is no traffic. Unless you have commercial plates, you're not getting on that street during the day. So that means you have nothing but foot traffic, and that's a difficult thing to do there.

And then, you know, we're seeing these nice photos here. Those would have been nice to have seen in the community meeting as opposed to seeing them here tonight for the first time. It seems as though we're just moving along. We offered up some suggestions. We offered up one other one. Another person who's a real big concern with this is the funeral home. Mr. Rogers is concerned about what this will do to traffic and traffic flow particularly with regard to

funeral processions. And recommended that they setup a meeting with Mr. Rogers and get him comfortable as well. Because his comfort holds some sway in the neighborhood. So, we've not heard back from him since that day. His attorney said she knew how to get in touch with me no matter what, and it's been two months. So I'm a little concerned that there's been no outreach back after some what I thought were helpful suggestions, that meeting with Traffic and Parking, how could that work out so we wouldn't have the double parking, wouldn't have the traffic issues. As you mentioned, I don't know who said it, but there will be cars regardless of who goes there. We need to control it. The bike lane, I think as Mr. Fantasia mentioned, is very, very crowded already. And we're only putting in bike sharing facilities right up the street there. They're going to be a Lechmere, they're going to be Gallerias who

are going to be adding bikes there.

And the last thing I'll mention is I was at another new restaurant that opened that you would think would be all pedestrians, the Red Bones facility down at Kendall Square. People were double parking on that little street to jump out and wait in line to get Red Bones. There was ten cars lined up on, I don't know if it's West Kendall or whatever street that happens to be. It's gonna happen. I just think we need to work with the traffic and parking people to walk through with what that means to the neighborhood. That was a suggestion made and I'm not sure if it was followed up on because there was no response to the group. And I'm done.

TIMOTHY HUGHES: Thank you.

Anyone else? Please identify yourself for the stenographer.

BARBARA BROUSSARD: Barbara Broussard. This week I'm a President of the

East Cambridge Planning Team. It's a very long, established neighborhood. And I think that Billy Santanni (phonetic) who is 90 years old, would not like to be called an activist. They're not activists. They're just concerned about the neighborhood. Some are long term residents, others are short term and have not been there that long. But they have all major concerns. And their concerns are still the ones they have for everyone who comes. Traffic and parking is very difficult. The noise. The hours of the establishment, especially with food, the smells. These are things for people who live there.

And, you know, Mr. Resnick, you gave me cookies. I tell you I like Subway. I've eaten at Subway, but that has nothing to do with putting another sandwich shop on Cambridge Street. All of the businesses are on Cambridge Street, most of the people

patronize them by walking. A lot of the food establishments deliver. So, I don't know, I don't see that we have a need for another sandwich shop. There are other businesses that could go in there. I believe one of the perspective tenants is a dog grooming. So there's a business if someone's out walking their dog, they may or may not have a car, it might be short term to drop the dog off and go, I don't know. There are a lot of dogs in the neighborhood, and there are a lot of establishments that groom dogs. Therefore, it's usually the local patronage that help. If you're not going to deliver, it's going to be difficult for food. Every restaurant along the mall and they do delivery.

Thank you.

TIMOTHY HUGHES: Anyone else?

HEATHER HOFFMAN: My name is Heather Hoffman. I live at 213 Hurley Street which is just a few blocks away from this building.

And as Barbara said, I don't believe any of you guys live in East Cambridge and yet we're able to name five sandwich shops that are already there. One of the criteria for the Special Permit is need. I'm not convinced that we need yet another one.

In addition, one of the things that people have not mentioned is the conduct so far of the building owner in being a good neighbor. Things like piling all of the snow on the sidewalk so that it was impassable. I know that that was called in to DPW more than once over the course of the winter and nothing changed. That doesn't give me a very good feeling about how things are gonna be handled in the future, because clearing the snow is a legal obligation. A lot of these things are not necessarily legal obligations, they're -- they might be moral obligations, you know, being a decent neighbor and all of that stuff. But if you can't even fulfill

your legal obligations, why should we expect you're going to fulfill anything else.

Thank you.

TIMOTHY HUGHES: Thank you.

COUNCILLOR TOOMEY: Good evening.

Timothy Toomey, 88 Sixth Street. I also have a district office at 550 Cambridge Street which is directly across the street from the proposed location of the Subway.

I am here tonight to oppose that. I appreciate the fact that the Connors have gone in. There is an application I believe for a dog grooming store at that location. So it's good to see that use being taken. I do not think that the use that's being proposed really shows a public need for it, and really question whether we want a fast food establishment in East Cambridge. Cambridge Street has seen a really upbeat in terms of commercial or activity. There is a very active and vibrant Cambridge business

association, and they are trying to attract all types of businesses to Cambridge Street. But really, we don't think that this is the most appropriate use. Sit down restaurant, is more appropriate. I think that traffic that would be generated. I think Mr. Marquardt talked about the double parking. There is a bus stop there. It's a very active street, and a lot of children that cross to go to the Kennedy-Longfellow School from the street, that area there. So I just don't feel that having a Subway franchise in that location is really appropriate for the neighborhood.

But as I said, they're really trying to have a -- the business association working very actively to revitalize that part of the city for commercial, and so we would rather see another use in that location. We just feel that, as I said, fast food just does not -- might open the door to other fast food

establishments and that is not what the neighborhood is really looking for.

So I would ask the Board to take all those considerations in. I know there was a petition that was generated and handed out, same as sandwiches and cookies and all that. That's fine. I have to be honest with you, you know, as I said, I'm right across the street from that location. I see the activity back and forth, how congested the street can be, and I honestly can say not one individual, whether they signed the petition or not, has come up to me and said, Tim, we support the Subway there. Every single comment that has been given to me has been in opposition to the Subway. But they certainly would like to see another use there in that location. But not one resident has come up to me and said that they support that.

So I would hope the Board would take those comments into consideration and not

grant this application.

I thank you for your time.

TIMOTHY HUGHES: Thank you.

ALFRED FANTINI: Hi. Alfred Fantini (inaudible) in East Cambridge. I've been a life long resident of Cambridge. I'm not going to repeat what most of the neighbors have indicated, but I opposed to the project. I actually am a single guy. And most of the time when I eat, I eat sometimes at Subway. But most of them seem to come with parking on the property. This one does not have that. And, you know, and I often stop at places like Scamper a lot. And when I do, I'm finding as a resident, I have to go over to two streets and walk to it. So those are my experiences. And no neighbor has indicated to me that they're in favor of this.

Thank you.

TIMOTHY HUGHES: Is there anyone else?

PATRICK MAGEE: Patrick Magee

M-a-g-e-e. I'm the treasurer of the East Cambridge Business Association. I wanted to quickly comment on your question earlier.

I think there is a difference with -- I own Atwoods Tavern, I'm sorry, for five years down farther on Cambridge Street and I've spent a lot of time in front of my establishment. I notice a lot of cars driving through Cambridge Street. I would just say that brand recognition from a national chain is something that if people are hungry, and they're not sure where they are, there's plenty of people who drive through Cambridge Street that don't know where they are and what the different shops are. And because there are a lot of mom and pop shops, seeing that brand name recognition allows them to stop and say oh, I do know this. And those are the people that would be less likely to know where viable legal parking

spaces are. And those would probably be people more willing to double park with a fire hydrant or along the bus line. Just my five years on Cambridge Street. So I guess that's -- just to get back to your point about the difference between the national chain versus the, you know, the smaller Scamper or, you know, that sort of thing. So that's my point.

And then I know there was some question as to whether or not there was help trying to find additional spaces or uses for that space. I believe your contractually obligated, as you said, to have this conversation even before you can even go out and look and negotiate other potential leases for this space. So that definitely tied up our ability to help you find a viable option other than Subway which might have more neighborhood support.

That's all, thank you.

TIMOTHY HUGHES: Is there anyone else that wants to be heard on this matter?

(No Response.)

TIMOTHY HUGHES: Seeing none, I'll close public testimony.

I'll give you a chance for rebuttal.

MARC RESNICK: All right. Well, there are a couple of issues I'd like to address. I think that mostly the people that are speaking out against this Subway have mischaracterized the type of business that it really is. That if you notice, they all say that they need to do delivery. But this business is not delivery. They're not gonna deliver. This is the exact opposite. This is going to be the one location where people are really gonna walk in. There's only walk-in or by car. There are no delivery. And we think that, I think that that really does serve the public need. That these people don't have a place where they're

walking in. That these other businesses are based on a 50 percent or more delivery. And so that I think that the Subway will create less traffic problems. What people do come by car, will be in and out much more quickly. If we had a sit down restaurant like East Coast Grill, every person that comes there is going to sit down for over an hour. So if we have 20 seats, I've got 20 full-time parking spaces wiped out. We'll never have 10 or 20 cars there at a Subway. I don't think we'll have even one or two. I find that I come there only during the daytime hours because of the construction on the building, I've never had to go more than to the next block and found a legal parking space with a meter that I can pay for. Never. And I know maybe 70 times now.

I would like to apologize for doing the poor job on the snow shovelling this winter. Because the building was vacant, there was

not a regular -- in other words, we were relying on the contractor to do the shovelling and he did not, I guess, always do it. And the one time I guess he terribly piled up all the snow and blocked the entire passageway. We were only contacted by Cambridge, you know, parking or whatever you call it, once. And we immediately came over and had all the snow removed. So, I'm sorry I was not aware that that snow had been done poorly and multiple times I guess. But, when the building is operational and now that people live there, it's a condominium association. The problem with vacant buildings is that all bad things happen. That's when there are vagrants. That's when there's floods. That's when there's vermin. All bad. So, poor services. There's no one to serve there. Now the units are occupied upstairs. It's a condo. I don't own the whole building. I just own a condo. It will

all be no longer managing the property in any way whatsoever shortly because we always turn these properties over to the homeowners, you know, to run their own condo association. I will own the business location unless the other gentleman has actually made a lease with an option to purchase. So he may buy his condo if he's successful. I think he's probably waiting to see.

So I'd like to also go through what the fast food order establishment says, and it says it should not create traffic problems. We really are gearing, Navin, not me, is really gearing the whole business to foot, walk-in traffic. No cars, no delivery, no parking. If you do put in a lot, you will attract more cars. So if you go to a suburban Subway, you know, people driving down a big highway somewhere or off the highway, then you'll attract cars. Cambridge Street, and as all the people spoke today, there are so

many bicycles, soon to become bike sharing locations. We've requested a bike stand in front of our location. We have a bike rack, you know, behind the building for the residents that live there. When we stood at the building, people just walked by. Hundreds of people all walking by. We couldn't -- we were actually, like they said, and I didn't mean -- I had a whole little speech and then we started off backwards. We did give out free cookies and like cut-up Subway as a sample to show the people what kind of product we had. Not one person stopped in their car for free food. Not one person stopped on a bicycle for free food. Free food.

Now, I mean if they won't stop their car -- and we also had five people on the street waving down. Like, my whole office came over. And then Navin was there. And we were all there. Must have had five or seven

people there. And we gave away the food from inside because you're not allowed to give away on the sidewalk. And they came in, into the door and only walkers, hundreds of walkers. So, I think that this business really will not create parking, and almost any -- even if it wasn't a restaurant business, in other words, if you come to sit down for an hour, then you're gonna spend much, much more time there and block up all the paid meter spaces. These people are not gonna do that. And I think if you were just driving by, you might stop at a Subway, but probably if you saw a space. I think that the possibility of making an illegal U-turn is more likely than you'll double park because I think it costs like \$40 to double park. It's a lot easier to drive up another half a block and just pay for the meter.

So reduce available parking. We think it will have almost minimal or no impact on

the available parking. And if he's really getting the people in and out in three or four minutes, there's almost no establishment that could use less parking for people that actually came by car. The gentleman that owns the fish market says his customers come for 10 or 15 minutes. There's nobody who would wait at a Subway for 15 minutes. In other words, you're in and you're out. And if you want to go, it's pretty much an impulse buy. You walk right by, you're hungry, you grab a sandwich on your way home from work.

And we're finding like what the neighborhood group said, the people here, is that people are not getting walk-in traffic. These people are getting mostly takeout. And this business is gonna be based almost solely on walk in. We don't think it will be a threat to the public safety. Again, bicycles and foot traffic is all we're encouraging. We're -- we applied for a bike

rack. We contacted the transportation traffic about having the meters turned to short-term meters to encourage faster turn over.

So, I mean double parking, I don't know if you -- if you want me to hire a police detail to, you know, scare the people off for a while, you know, to make sure that they don't double park. There is several parking spaces in front of the building, and all between Seventh and Sixth and Fifth, the building is located at the corner of Seventh and Cambridge, so that there's meters up and down those streets. We come there, most of the parking spaces are usually taken, I find at least when I'm there, by the contractors that we have. Maybe a plumbing truck is there for an hour or two. Maybe the electrical trucks. Now all those people are gone because there's more people working there and plenty of parking. I've never had

a problem during the daytime.

The design and color we've offered to use only like a sign that, you know, it's not necessarily the standard Subway package. That if the community had any issues with the lighting, no outside lighting, no neon lighting. All that's been gone over so that we wouldn't do anything. The Subway only cooks bread. They don't have any other --

NAVIN PATEL: Bake.

MARC RESNICK: Bake. What do I know? I'm not a restaurateur.

The only scent would be baked bread. No meat cooking. No grills. No ventilation. None of that. Any other restaurant would probably have those sort of things. And even another business would have more traffic, more issues, more parking, more cars.

We really think that the -- I think at least that the neighborhood -- in other

words, Navin is going to invest hundreds of thousands of dollars into this location and Subway is pretty big business that's a pretty smart operator and they believe that this business with walk-in foot traffic will be successful. And they have no parking lot. They have -- it's an incredibly dense area. They've researched it. They do not -- we asked if we could get it, I heard Charlie's question, Subway will not reveal their analysis to any of the owner operators. I think because maybe then either somehow they get bypassed. So they don't supply it so we couldn't get it. We did reach out and Alyssa an my attorney, who is on vacation today, did contact the owner of the funeral home and spoke to him. We asked if he would rent us parking spaces. He said that he could not do that. That, he needed all of his spaces. He also explained how he lines up and double parks all the cars in front of his street when

he has a funeral. Which certainly we're not interested in stopping, but I just thought that was interesting that his business was based on and double parks. Obviously, you know, it's sort of a sad, you know, special kind of occasion. We don't have any of those special occasions in this kind of a store where we're gonna have -- we're not doing catered parties of 100 people. Because that could be a problem if you invite 50 people all to come in at one time. You could have a lot of cars. Subway doesn't do anything like that. It's just quick two minute walk in, walk out.

TIMOTHY HUGHES: Are you finished?

MARC RESNICK: Sorry. I just was trying to address all the issues.

We will make the building handicap accessible. I know that's one of the things. All right.

TIMOTHY HUGHES: Tad, any comments?

TAD HEUER: Yes. I understand the neighbors' desire for a different business type in that storefront. And certainly I think if it were me in the neighbor's use, I would want something that was, you know, locally independent and everything else for the reasons that were put forth to avoid the homogenization and commercialization of these storefronts. I think the fact that this is a Special Permit is different from a Variance. So Special Permits are presumed that the applicant is entitled to them as long as they've met certain conditions. It's not a Variance where they're presumed not to be entitled. So I think the defaults that we approach this with is that the petitioner is entitled to receive it as long as those conditions are met, and not the other way around. And I'm also persuaded by the fact that the storefront's been vacant for 18 months, and I understand that you have an

agreement with Subway that you probably have something in your lease that requires you to make all efforts on their behalf, but I don't think this was 18 months old. It sounds from my understanding and having read the record that you've attempted on, you know, for a long period of time to try to get a tenant in there. We can debate how successfully or how tenuously you've attempted to do it, but I see no reason not to believe that as an owner of a vacant storefront, you would have every economic interest to have it filled by somebody. And the fact that there hasn't been something that has been able to go in there for 18 months does trouble me because I think we do need to balance what we might desire to be in there versus an owner's inability to make his own property economically viable. I don't think waiting for the perfect establishment to arise and go in there is something that we can necessarily

do, and the store owner has a storefront that's been vacant for almost two years.

In terms of the parking issue, I tend to believe that Subway as the national entity made a cold, hard economic rationally-based calculation that there is no reason for them to go in here unless they think foot traffic alone will drive this location. They have a formula, they have metrics. If it doesn't meet their metrics, they'll just tell the franchisee to go somewhere else. So I think knowing full well that this site doesn't have its own dedicated parking, that it's on this separate thoroughfare, they made a calculation that it will be able to sustainable by walk-in traffic, and for that reason I'm not as convinced that parking is going to be the end. That it would not be able to meet the requirement Special Permit parking, not be overly congested or create unnecessarily parking. There would always

be someone who wants to double park to get a sandwich. I double parked at the dry cleaner last week. I probably shouldn't have, but I did. We all do it. I just don't think that it's going to be to the extent that some of the neighbors are concerned about. And I certainly could be proved wrong. I think in the last six months or so we have had a trend here for granting Special Permits for a limited periods. It might be something that the Board might consider here, essentially giving it a trial period for a number of years and then requiring the franchisee to come back and ask so we can essentially check on whether some of these things did or did not pass.

But overall I think restricting ourselves as we must with Special Permit conditions, I'm satisfied that they meet them. I would be in favor.

TIMOTHY HUGHES: Are you ready?

DOUGLAS MYERS: May I speak?

TIMOTHY HUGHES: Certainly.

DOUGLAS MYERS: I will be brief.

I listened carefully to Mr. Heuer, and I regret that I can't agree with him on one issue which I think is decisive for me and that is, and that is the likelihood of traffic problems and the risks that they pose. I think that we're dealing here with a business that in its nature will have a high volume turn over, and is also -- as a fast food institution is going to be fronting directly on a major thoroughfare street, that's a busy hard driving street. And I think that that increases the risk that would arise from a degree of double parking, which I certainly agree is hard to quantify at this point. But I think it's -- listening to what I've heard in the testimony, I think it's a real risk. I think it's foreseeable, and I think it entails dangers that would be very much

regrettable if they occurred especially on this street and on a storefront that if it were a high volume, this directly fronts this type of street uncommon in many fast food establishments located in a densely populated area like Cambridge. So, I don't believe it's speculative entirely. I think there's a real risk there which to me is decisive in laying the parking issue, and for that reason I can't support the application.

TIMOTHY HUGHES: Mahmood, any comments?

MAHMOOD FIROUZBAKHT: You know, this is certainly a balancing act. I can certainly appreciate, you know, a property owner and a business owner wanting to make this space work, but I'm not convinced that the Special Permit conditions, particularly with respect to parking, traffic congestion, the tendency to double parking have been met here. That for me is the critical criteria.

And the fact that we don't have a traffic study to then be able to say okay, we have some, you know, verifiable consultants, specialist consultant's opinion that this is, these conditions have been met so that we can rely on that to come to a reasonable conclusion. We don't have that. And I'm sure Subway has done their studies, and for certain business reasons believe this site will work, but I'm not convinced that that means that they've considered the traffic ramifications and whether they really would care about that. Quite frankly whether they're going to be conditions there that, you know, might be hazardous that won't necessarily hurt their business model, but won't necessarily be good for the street and for the city. So, for those reasons I couldn't support this application because I do think that this particular type of business does have the tendency to generate

these traffic concerns more so than another type of business.

It sounds like there's some conditions to your ability, to the landlord's ability to explore other options, but I'm not going to get into that but that's where I stand.

TIMOTHY HUGHES: Tom, comments?

THOMAS SCOTT: There's a similar establishment to this in Waltham near where I work, and it really kind of confirms what Tad was saying is that, you know, the majority of the business is really foot traffic business. It's not generated by people stopping in. And this business that I'm speaking of in Waltham sits among a neighborhood of probably 10 or 15 other restaurants, and it's surviving quite nicely.

I think the variety in the neighborhood has certainly something to be considered. I certainly enjoy the opportunity to be able to

go there once in a while and just for the variety. But I think, I think this type of business can survive on foot traffic alone. And I think the fare that they offer can be quite healthy if you choose properly from the menu. I don't see it as being detrimental from a traffic standpoint. I would support this.

TIMOTHY HUGHES: So you've heard what four of the five members of the Board have had to say. You know, it takes four votes to prevail. Would you like to withdraw your petition? I'd hate to have to draw a whole motion to have it turned down. So I'll give you an opportunity to withdraw your petition.

MARC RESNICK: I think this would be the time I suppose to withdraw.

TAD HEUER: Can I make one point to Mr. Myers' point about this type of establishment and this type of street. Just

in the last few minutes I'm thinking there's a McDonald's on Mass. Ave. just a few blocks up from us. There's a Chipotle at Brattle and Mount Auburn. There's a Domino's on Mass. Ave. There is a Subway near the garage on JFK Street. There's a Starbucks that we ourselves permitted in the dead center of Harvard Square which is the epitome of the rush in and rush out. And we ourselves granted a use variance three months ago to Harvard House of Pizza which is on Mass. Ave. I don't think in any of those situations there is substantial double parking. I think they're all in areas where people are predominantly walk-in, and I'm just not convinced that this location on Broadway is Cambridge Street is substantially different from those locations in the way that it matters in terms of the amount of double parking and parking that's being considered or necessary. I think we have numerous

examples within the city within several blocks of here as to why that's not the case.

TIMOTHY HUGHES: I think you might make a case for the Harvard Square locations, but Mass. Ave. is substantially different from Cambridge Street in terms of its traffic flow because it has two lanes of traffic in each direction and still accommodates a bike lane. Cambridge Street is a single lane of traffic going in each direction with defined bike lanes on both sides. I mean, I live in this neighborhood and well, I live Wellington-Harrington neighborhood, all right? I don't live in East Cambridge. The no man's land. Area three we like to call it. All right? And I know that, you know, that any, any double parking that goes on in Cambridge Street, which has become a thoroughfare and a gridlock thoroughfare during both of the rush hour times of day, any double parking is gonna create a problem.

Having said that, the fact that people are using the same statistics to justify the place as easing the parking problem and exacerbated the parking problem says to me that you can obviously make a case one way or the other, you know. I mean, for using the same set of statistics about whether or not this would exacerbate the parking problem on Cambridge Street. Any business may have the same effect, not just fast order food. My biggest problem with this is that it doesn't necessarily fulfill a need. And, you know, it's like there are sandwich shops within walking distance of this place that sell virtually the same product. So, I'm not convinced that -- well, I can't support this petition.

So I'll go back to my original statement which is that, I can frame this in the form of a motion and go and spend another five minutes reading this out or you can ask to

have this withdrawn. And I am -- we can vote on the withdrawal.

MARC RESNICK: Well, I guess we'll withdraw the petition.

TIMOTHY HUGHES: Basically there's no difference in terms of the legality of it. You can't bring the same petition forward for two years whether you're turned down or whether you're withdrawing except in the case of a withdrawal there is no negative --

TAD HEUER: Well, I would point out if we make a motion and we deny it, you do have a right to appeal that to the Court that we denied it improperly. It is a Special Permit and not a Variance. So I think there is a substantial legal difference between a withdrawal because a concession by the petitioner that the application not go forward.

TIMOTHY HUGHES: I'll make a motion.

MAHMOOD FIROUZBAKHT: You can

continue it and have them --

TIMOTHY HUGHES: Mull it over?

MAHMOOD FIROUZBAKHT: -- mull it over and decide whether they want to come back.

TIMOTHY HUGHES: They would have to seek the same Board to listen to it again.

DOUGLAS MYERS: And ask the public to come back.

TIMOTHY HUGHES: Exactly. Then I'll frame this in the form of a motion.

The Board would move that since the prerequisites of a Special Permit for a fast order food establishment have been met by the petitioner with regards to the operation of the establishment not creating traffic problems, not reducing parking, not a threat to public safety, not encouraging or producing double parking.

That the establishment fulfills a need.

That the physical design, including the

color and use of materials of the establishment will be compatible with and sensitive to the visual and physical characteristics of the other buildings and public spaces in the neighborhood.

That the establishment will attract patrons primarily from walk-in trade.

The establishment shall be to the greatest extent feasible utilized by the biodegradable materials. There was something in your company statement. I'll say that out loud for the record, but there was something about recycling in your written statement that was a matter of -- it will be in the file.

That the establishment will provide convenient, suitable, well marked waste receptacles.

The establishment complies with all state and local requirements.

The Board would move that the

petitioner be granted the Special Permit to operate a fast order food establishment at the address of 535-545 Cambridge Street.

All those in favor of the motion?

(Show of hands.)

TIMOTHY HUGHES: That's two in favor.

(Heuer, Scott.)

TIMOTHY HUGHES: Three opposed.  
Motion doesn't carry.

(Hughes, Myers, Firouzbakht.)

MARC RESNICK: Thank you for your time.

(8:15 p.m.)

(Sitting Members: Timothy Hughes, Tad Heuer, Thomas Scott, Douglas Myers, Mahmood Firouzbakht.)

TIMOTHY HUGHES: The Board will hear case No. 10143, 228 Broadway.

Anybody here on that matter?

NADER MICHAEL: Good evening.

TIMOTHY HUGHES: How you doing?

NADER MICHAEL: How are you?

TIMOTHY HUGHES: Good.

My understanding is that this is just a renewal of a Special Permit we granted two years ago with a time limit on it?

NADER MICHAEL: Yes.

TIMOTHY HUGHES: Identify yourself for the record.

NADER MICHAEL: My name is Nader Michael. I'm one of the owners of Beauty's Pizza at 228 Broadway.

NACHATT MICHAEL: Nachatt N-a-c-h-a-t-t. Last name Michael.

TIMOTHY HUGHES: Okay. Do you want to present something to us? Tell me what's going on.

NADER MICHAEL: Yeah. We turn three years ago, we turn -- we had only takeout and we had a lot of the customer, walk-in customer and we've been asking if there's any place to sit down to eat the sandwich or to have a slice really quick. So we did for them, like, couple tables in the front of the store and wasn't convenient for them in the summertime. So we got a place from the landlord that he has a space in the back of the store. We rent it from him. We moved the kitchen to the back, and we did a small dining room in the front with a counter. And the people been like really appreciate it. They like it very much. We don't have any problem with the walk in because that's the business, and Dunkin' Donut, us and the Chinese restaurant, we've been having no problem with the parking at all. We have a small parking lot, but it's been working for us.

TIMOTHY HUGHES: So nothing has changed since we granted the permit two years ago?

NADER MICHAEL: No, nothing.

TIMOTHY HUGHES: This is just a renewal --

NADER MICHAEL: Yes.

TIMOTHY HUGHES: -- and an extension on the Special Permit?

NADER MICHAEL: Yes.

And we have pictures here for the dining room after we turn it, and really -- everybody been happy, the customer happy.

TIMOTHY HUGHES: Everybody's happy.

NADER MICHAEL: And we like you to be happy, too.

TIMOTHY HUGHES: There are no complaints in this file so everybody must be happy.

Questions from the Board?

Well, okay. Open this up to public

testimony.

Is there anyone who wants to be heard on this petition?

(No Response.)

TIMOTHY HUGHES: Seeing no one, I'll close public testimony.

Any comments from the Board? I have one question. That since this was granted for a two-year period initially, would we grant this for a period of time again or would we just make this, you know, after this trial period seems to have been completed successfully, do we just grant a Special Permit?

MAHMOOD FIROUZBAKHT: I guess unlike the petition that we just heard, I think the circumstances here are different enough for me personally. That it's not Cambridge Street. It is Broadway. This business is set back from the street. That kind of same recognition that, you know, a

franchise would get from oncoming traffic, I don't think it's a problem. And it hasn't been obviously --

NADER MICHAEL: We have a parking lot.

MAHMOOD FIROUZBAKHT: And you've been in that location for two years. I've frequented this location plenty of times and they run a very -- a sound operation. So I would certainly -- I would be in favor of granting the Special Permit and doing so unconditionally.

TIMOTHY HUGHES: Any other comments?

TAD HEUER: That was my question. I had the same question.

DOUGLAS MYERS: Yes, it seems to me these people are off probation.

TIMOTHY HUGHES: Okay.

NADER MICHAEL: Thank you.

TIMOTHY HUGHES: All right. The

Chair will make a motion to grant the Special Permit with no reservations.

Beauty's Pizza having an entirely subscribed to what the Special Permit was for a period of two years that was granted under case No. 9654, and all the conditions and findings remain the same from the prior case.

All those in favor?

(Show of hands).

TIMOTHY HUGHES: That's five in favor.

(Hughes, Heuer, Scott, Myers, Firouzbakht.)

NADER MICHAEL: Thank you. We're happy to be in Cambridge. Such nice neighborhood. Thank you.

(8:25 p.m.)

(Sitting Members: Timothy Hughes, Tad

Heuer, Thomas Scott, Douglas Myers, Mahmood Firouzbakht.)

TIMOTHY HUGHES: The Board will hear case No. 10144, 169 Western Avenue.

TAD HEUER: Mr. Chairman, before we get into the merits of the petition, I have --

TIMOTHY HUGHES: I'm sorry, are you here for a different case?

UNIDENTIFIED MALE: Yes.

TIMOTHY HUGHES: We're on 169 Western Ave. Well come back.

Could you please identify yourself for the record.

ATTORNEY ISAAC MACHADO: Sure.  
Good evening, Mr. Chair, my name is Isaac Machado M-a-c-h-a-d-o. I represent Ms. Kathleen Walcott who is the applicant and the property owner at 169 Western Ave. Ms. Walcott is sitting to my left. I also have Mr. Antonio Gomes who is the architect

on the project. And Mr. William Bethume who is Ms. Walcott's nephew and is also going to be overseeing construction on the project.

TIMOTHY HUGHES: All right, before you get into that we have to raise a procedural issue.

Tad.

TAD HEUER: Before we get into the merits of the petition on procedural points, I have several concerns just numerically with the way that this was presented. And I'm of the opinion that this petition may not be able to proceed this evening.

My first concern is that in reviewing the petition, it appears that it was presented in the Planning Board in the 5.28 petition as a property that had 5,850 square feet and the Planning Board granted on that basis. It's my understanding that the reason we are here this evening is because the petitioner does not have 5,850 square feet

that they are by right, but instead they have 3900 square feet up there by right and they're here asking for an additional 1950. And the reason they're here asking for an additional 1950 is because they were under the mistaken impression that the basement of the subject property was indeed of appropriate height for a unit. And that was, I believe the, or at least my reading of the petition that was granted by the Planning Board, the basis on which the Planning Board granted that petition. I'm not of the opinion that they granted for three units regardless where those units were. I believe they're of the opinion that they granted three units given the state of the building as it was presented to them, which was three floors, each with a floor plate of 1950.

So, my first concern is that we are sitting on a -- hearing a petition that the Planning Board itself did not fully

comprehend in the manner as being presented to us this evening.

I have some numerical concerns about the petition. First of all, that it appears on some of the elevations that there are actually four floors of appropriately heighted FAR here which is contrary to what's being advertised. I think the elevations are insufficient to go forward.

And I also believe that there's an additional variance that is necessary that has not been advertised here, and that would be a variance permitting a reduction in the lot area per dwelling unit. Petitioners on their own application form indicated that that number drops to 733, which I believe is the calculation of 5,134 square feet of lot area divided by the seven units that are being requested for four existing units and the three units in the rear building.

Currently on that lot are four units,

that same 5,134 square foot lot and four units, which means that the lot area per dwelling unit on that lot currently is 1,280 some odd. A reduction from that to 733 in a district where the minimum lot area per dwelling unit by ordinance is 1500, would in my opinion require an additional variance, because the addition of units in the rear lot in the rear of the structure, even though it may be authorized by 5.28, still requires to count those additional three units into the number of lots -- units on the lot which become seven that reduces the lot area of dwelling units to 733 which itself require a variance and that variance is not be sought this evening.

TIMOTHY HUGHES: Well, I would add to what Tad said that there are certain kind of arithmetic mistakes on your dimensional form where I see in the ratio of gross floor area to lot area, the same number in existing

conditions to requested conditions even though the gross floor area is being increased. And I would also add that there is a substantial amount of opposition to this petition in the file.

I have a petition with at least 38 signatures on it from abutters and abutters to abutters. And at least one letter. So it's at least 39 people are opposed to this. And given all of that stuff, I think you might want to take a continuance to get your dimensional stuff in order and maybe speak with your neighbors before you proceed.

ATTORNEY ISAAC MACHADO: Yes. With all due respect to the Board, if I could have that conversation with my clients in about two minutes after I just explain myself.

TAD HEUER: Yes, and we can kind of put this on hold and hear another case and then you can have a conversation with her and then come back.

ATTORNEY ISAAC MACHADO: Yeah, I just wanted to just maybe wanted to address, not in full detail, because I'm hearing this for the first time tonight. Just to give you a little background on where we've been and where --

DOUGLAS MYERS: Very brief interruption, you have the floor, but is there a point at which this will turn from a case not heard into a case heard?

TIMOTHY HUGHES: I would not like to get into the merits of the case.

ATTORNEY ISAAC MACHADO: No, I don't want to either. I just want to give you a little bit of background of where we have been. As you know, we have been --

TIMOTHY HUGHES: Well, background is okay with me.

TAD HEUER: We know you've been to the Planning Board and now you're now here.

ATTORNEY ISAAC MACHADO: Yeah,

we've been there twice. We've been multiple times to the Inspectional Services. We've met with Mr. O'Grady and we've met with the Commissioner on multiple occasions. This dimensional fact sheet that you're referring to has been reviewed by not only myself, the architect, also presented to the Commissioner.

TIMOTHY HUGHES: Well, maybe you have a different one than the one I have in the file.

TAD HEUER: I find it difficult that the Commissioner would allow -- knowing the Commissioner, I'm sure it's an innocent mistake and everyone's point, it's difficult to imagine the form that is requesting additional FAR but notes that the FAR is the same.

ANTONIO GOMES: Excuse me.

TIMOTHY HUGHES: You'll have to identify yourself, please.

ANTONIO GOMES: My name's Antonio Gomes. I'm the architect on the project. Originally when we got the Special Permit, the requirement under 5.28.21 says that additional gross floor area is without limits within the physical limits of the existing structure and that's what we're going for when we went for that Special Permit.

TAD HEUER: And that's not what you're asking for now, right?

TIMOTHY HUGHES: No, you're asking for something different.

TAD HEUER: It means that what the Planning Board granted you is not what we have before us which I think is an even greater defect.

ANTONIO GOMES: It's not now in force you're saying?

TAD HEUER: I would say that Special Permit has serious defects if you are requesting before this Board something that

you did not request before the Planning Board, i.e. --

ANTONIO GOMES: No. We requested this in front of the Planning Board.

TAD HEUER: You requested additional space on top of the roof in front of the Planning Board?

ANTONIO GOMES: No, no.

TAD HEUER: Then it's a different Special Permit. I think you -- I am strongly of the opinion, even though I'm not the Planning Board, that I would like the Planning Board Special Permit to match with what's being requested in terms of zoning relief. And I do not believe on review of their permit and what you asked for tonight that those things coincide.

ANTONIO GOMES: I mean --

ATTORNEY ISAAC MACHADO: Let me just have -- if I could just give you a little bit more of the history.

There was an issue back last fall about three versus two units. When we came out of that Special Permit, we had a conversation again, multiple conversations, with the Commissioner. I have an e-mail to the Commissioner saying, you know, we talked about this, we're in agreement that we can build three units on the Special Permit. And there was no response back. I take it that that Special Permit was to build the three units on the site.

TIMOTHY HUGHES: That's correct.

TAD HEUER: Three units within the envelope of the building.

ATTORNEY ISAAC MACHADO: Correct.

TIMOTHY HUGHES: Right. Which would have been a unit in the basement.

ATTORNEY ISAAC MACHADO: Correct.

TIMOTHY HUGHES: Which I point out that the letters of opposition in the petition that I read weren't opposed to

working within the footprint but they were opposed to the extra floor on the building. And that's what you're dealing with.

ATTORNEY ISAAC MACHADO: And that's why -- and that's why we thought we were here tonight, to deal with the extra six and a half feet of additional --

TIMOTHY HUGHES: You can deal with us, but that doesn't -- you haven't had any contact with the neighbors who are opposed to this, have you?

ATTORNEY ISAAC MACHADO: We have. And we held a special meeting. From that special meeting we did a shadow study. We contacted the abutter who was requesting that shadow study, he never came to see that. We have the shadow study tonight.

So we did have a meeting on the 11th of June before we went back to the Planning Board the second time to make sure that all the neighbors were buying into this, because we

obviously know that it's very important to get neighbor buy-in.

TIMOTHY HUGHES: Right.

ATTORNEY ISAAC MACHADO: And that's what we did.

TAD HEUER: You were in front of the Planning Board with something that requested additional height to 35 feet?

ANTONIO GOMES: We presented this to the Planning Board. The second time this is what we presented.

ATTORNEY ISAAC MACHADO: And the Planning Board -- I think you have it in your packet. If I may.

TAD HEUER: Yes. You're referring to something that says, and I will quote, "Planning Board reviewed BZA case 10144, 169 Western Avenue that has been previously been granted a Planning Board Special Permit for conversion of a non-residential building for three units. The Planning Board supports

the Zoning Board of Appeal modest variance for additional height for this non-conforming building. The request for additional height is still within the 35 height limit of the Residential C-1 District."

I would point out that the Planning Board seems to fundamentally misunderstood the request for a variance, because there is variance being requested for height. The height is allowed to 35 feet within this district by right. The request is for additional FAR. It appears to me on the face of this letter --

ANTONIO GOMES: Well --

TAD HEUER: Excuse me.

ANTONIO GOMES: Sorry.

TAD HEUER: It appears to me from the face of this letter, that the Planning Board did not fully apprehend that the type of variance that was being requested and

therefore I'm not sure I agree that this letter says what it intends to say or the petitioner believes it says.

ANTONIO GOMES: May I say something?

My understanding is that we are not requesting additional FAR. We are using --

TAD HEUER: You are certainly requesting additional FAR. That's what your petition says.

ANTONIO GOMES: We are using FAR that was approved by the Planning Board.

TAD HEUER: They cannot approve FAR. We approve FAR. That's why you're here.

ANTONIO GOMES: That was my understanding, is that we approve -- the FAR was approved for three floors. We are not using now the ground level --

TAD HEUER: That's correct.

ANTONIO GOMES: -- with this option.

TAD HEUER: Correct. That's why you're here.

ANTONIO GOMES: So, we still have the three floors and we're just moving the FAR elsewhere.

TAD HEUER: No.

ANTONIO GOMES: But the FAR would still be the same.

TAD HEUER: No.

KATHLEEN WALCOTT: So what do we do from here?

TAD HEUER: Continue this case.

ATTORNEY ISAAC MACHADO: I think, Mr. Chairman --

TAD HEUER: I think what you do --

ATTORNEY ISAAC MACHADO: If I may, and I don't -- I'm not placing blame on anybody. But there's a sense of frustration on my client and on this end. This is a two-year process. She's owned the building since '89. The family has owned it since 1950. We have followed what we think is every ordinance procedure, 5.28. We went to

the ISD multiple times. I certainly am not an expert in Zoning. I asked those people for advice and what they can point and not point me to. We did everything that was required. We're here tonight seeking some relief. And if we have to go back and do something different, I mean, if that's the position -- but there's a fairness argument that we think we've done everything that we were supposed to do. Then when we come here tonight, we're told that, no, we think the Planning Board got it wrong. Well, then two occasions the Planning Board tells us they didn't get it wrong.

TAD HEUER: But if I were the Planning Board, I'd also say maybe perhaps that I didn't get it wrong. I would have a self-interest in doing that. Looking solely on the zoning perspective they're in the same ordinance but we're two different Boards and we're two different Boards for a reason.

ATTORNEY ISAAC MACHADO: I totally understand that.

TAD HEUER: I believe that at minimum I would like to see, before I would be comfortable voting on this, a revision if not a further Special Permit from the Planning Board that acknowledges that it is not or confirms their intent. But I don't see anything in the record that does do that to my satisfaction. This is, first of all, not a request for a variance for height, because there is no height variance being requested. That's the only subject of that letter which means it's insufficient for that purpose. I would like to see the Planning Board further acknowledge that they intended that three units be granted, even if it required additional FAR in additional floor plate, and that they supported a variance for the addition of 1,950 square feet of FAR included in additional height which is a

different request from a height variance. What I believe the Planning Board or the Special Permit that the Planning Board granted, in my view, grants three units of that square footage provided that three units can be placed within that square footage and within the envelope of the existing building. I don't believe, unless the Planning Board comes back and confirms to the contrary, that they were granting three units on this site as long as it filled any envelope up to a by-right height. I simply don't believe that's what that Special Permit grants, nor do I believe that's what it intended. I need something from the Planning Board that clarifies that confusion.

I also believe that you still need an additional variance, because you're reducing the lot area per dwelling unit on this lot by a virtue of the fact that you're adding three units. Right now you have four units on a

lot. Minimum lot area per dwelling unit in this district is 1500 square feet. You're grandfathered at about 1284 feet. That's the lot area divided by four units. You're adding three units. Even though you're adding three units under a 5.28 procedure, which allows you to do so by dividing the floor to area ratio by 900, once you've been allotted those units, those units in my opinion in the reading of 5.28 must be added back in because they become dwelling units. And dwelling units is a defined term in the ordinance. And once they become dwelling units, regardless of how they become dwelling units, they must be calculated into that lot area per dwelling unit calculation. So you now have seven units on that lot. When the intent and purpose of the ordinance is to avoid the overburdening of the land in Cambridge, and I believe that while there will be no -- the neighbors don't think of

suggested that seven units is difficult or problematic per se, they do believe that it's difficult and problematic if it includes an increase in the height which will bulk and overburden the land in that matter.

So I would like to see, and I believe it's necessary, a variance not because of the Special Permit that was granted, but because you've reduced the lot area per dwelling unit and you've, therefore, burdened that the front four units by reducing their lot area per dwelling unit further below what is already grandfathered by the ordinance, again, from 1284 to 733. And any reduction below what's already allowed by the ordinance, by definition requires a variance.

ATTORNEY ISAAC MACHADO: I'm going to have to rely on when the transcript comes out to write that down. So, again, I appreciate that. Again, I don't mean to be

difficult, but there's a sense of frustration on our side.

TAD HEUER: I can understand.

ATTORNEY ISAAC MACHADO: That we've gotten here, the expectations are so. And tonight we've been told that there are issues. We found out yesterday that there might have been issues with abutters. Which that basically was a little surprising, but it is what it is.

KATHLEEN WALCOTT: No one spoke to me in opposition.

TAD HEUER: Well, so this is stamped in to Zoning, the City of Cambridge Inspectional Services, the petition is stamped on August 22nd at ten a.m. So at least, is that Monday; is that correct?

THOMAS SCOTT: Yes, Monday.

TAD HEUER: So, at least as of Monday, there was significant abutter opposition in the file. I understand that

you wish you would have, you know, potentially heard about this months ago. So I'm entirely with you there. But the fact is that it is there, and it is timely there. Our rules require that anything be in the file by five p.m. on the Monday before the hearing. So this was. And I think not, you know, solely as a legal matter, given the fact that almost all, if not all of these abutters, have a presumptive right of appeal as egregious parties should we grant a variance, but also as a practical matter that behooves you and your client to engage in a conversation with them to find out what their concerns are. I think what you will hear is that their concern isn't necessarily seven units, it's the additional height, and you know, whether there are solutions that you can go forward with that would allay the neighbors' concerns, and as well as allaying some of the preliminary concerns that you've heard from

the Board this evening.

ATTORNEY ISAAC MACHADO: Again, the property has been in the family since the fifties. So it's a good 60-year run of being a good neighbor. Certainly my client intends to continue that. That, again, we could go into the shadow study and why it was put together. But we understand that.

TAD HEUER: Yes, I would hope that would mean that these conversations can be cordial.

ATTORNEY ISAAC MACHADO: Yeah, right.

TAD HEUER: I mean, we frequently see, you know, people come in and they hate their neighbors. We're just kind of the venue for that. It sounds like that shouldn't be the case here.

ATTORNEY ISAAC MACHADO: I think it's my client's intent to increase the living capacity in that area, make it nicer.

It's a warehouse. It's been sitting there for a long time. I think it's, you know, obviously I'm a little bias, but I think it's a win/win for that neighborhood. But that's beside the point. If we can get a continuance so that we can address these issues.

TIMOTHY HUGHES: Absolutely.

ATTORNEY ISAAC MACHADO: Without prejudice. I don't want to have any procedural --

TAD HEUER: No, not at all.

DOUGLAS MYERS: Case heard?

TIMOTHY HUGHES: No.

SEAN O'GRADY: October 13th.

TAD HEUER: Is that amenable?

SEAN O'GRADY: Is that too soon?

ATTORNEY ISAAC MACHADO: No, that's fine. That gives us a little bit over a month?

TAD HEUER: Over a month?

ATTORNEY ISAAC MACHADO: I guess we'll have some conversations with the Planning Board to see what people's intent was.

TAD HEUER: Right.

ATTORNEY ISAAC MACHADO: And we'll go from there. Okay, thank you for your time.

TIMOTHY HUGHES: The Chair will make a motion to continue this case until October 13th at seven p.m. on the condition that the petitioner sign a waiver, and that they change the sign to reflect the new time and date.

All those in favor?

(Show of hands.)

TIMOTHY HUGHES: Five in favor.

(Hughes, Heuer, Scott, Myers, Firouzbakht.)

TIMOTHY HUGHES: This is a case not heard.

(8:45 p.m.)

(Sitting Members: Timothy Hughes, Tad Heuer, Thomas Scott, Douglas Myers, Mahmood Firouzbakht.)

TIMOTHY HUGHES: Okay, the Board will hear case No. 10145, 309 Pearl Street. Please identify yourself for the stenographer and spell your name if it's difficult.

SAM BATCHELOR: My name is Sam Batchelor and I currently live in and I'm the architect for the project at 309 Pearl Street.

CLARA BATCHELOR: Clara Batchelor B-a-t-c-h-e-l-o-r.

TAD HEUER: And you are in fact an architect?

SAM BATCHELOR: Yes.

TAD HEUER: I had a brief question before we start this one. It's only about the -- there's no certified plot plan that I

saw and it's marked in the commission sheet that there wasn't. Is there a reason there isn't?

SAM BATCHELOR: Only because we're not changing or modified anything.

TAD HEUER: I guess -- so the plot plan indicates both the plot, but it also indicates the position of the structure on the plot?

SAM BATCHELOR: Right.

TAD HEUER: And since you're asking for a dormer, the one thing that we usually want to see is that the dormer either is or is not invading a setback given a lot of these properties are up against your setback lines. Is there anything in the file that we'd be able to -- that's my primary concern, not necessarily about the project per se, but that you're granted all the relief that you actually need which could include if you need a variance for a building setback. You may

be able to tell me, you know, whether you would be or not. But I see you have 75 -- 7.5 right side setback and you're currently two feet from your lot line, right?

SAM BATCHELOR: Yeah.

TAD HEUER: Is where the dormer physically is going to be on the house within that remaining five and a half feet to your by-right line?

SAM BATCHELOR: No. Because I'll show you. The dormer, there's this significant portion of house between the lot line --

TAD HEUER: Yes. And about how long is -- I'm sorry, how wide is that?

SAM BATCHELOR: These are not to scale, but those are -- it's about five feet.

TAD HEUER: Five feet?

SAM BATCHELOR: Yeah.

TAD HEUER: And your dormer isn't against your wall?

SAM BATCHELOR: It's set back.

TAD HEUER: It's set back.

SAM BATCHELOR: Twelve inches or so from that wall.

TAD HEUER: At least six, right?

CLARA BATCHELOR: Well, it's in line with the current dormer.

TIMOTHY HUGHES: Yes. Their dormer guidelines so it's not going to sit over the top of the wall.

TAD HEUER: Right.

SAM BATCHELOR: Yeah, it's gonna be at least the width of the wall.

TIMOTHY HUGHES: If it's the wall. It's got to be six inches.

TAD HEUER: That's fine. Yes, I'm fine to proceed with the case. I would say that the application is nominally deficient in that respect, but I don't believe given the petitioner's representation that what we have use that certified plot plan for in this

instance needs is dispositive.

TIMOTHY HUGHES: Okay.

SAM BATCHELOR: Appreciate that.

TIMOTHY HUGHES: Tell us what you want to do.

SAM BATCHELOR: So, I -- as I said, I live in the house now. My parents owned the house for almost 35 years. It's actually the house that they brought me home to after I was born. And what we would like to do, my wife and I and our almost two-year-old son currently live there. We are expecting twins in December. It's currently a three-bedroom, one bathroom unit on the second floor. And we would like to expand the existing dormer to provide the necessary headroom to add another bathroom on the third floor or another -- it's the only bathroom on the third floor. It would be a second bathroom.

TAD HEUER: And how wide is the

dormer now and how wide will it be? Is that indicated on the plan?

SAM BATCHELOR: I don't believe it's dimensioned, but it's included -- it's on the square footage increase. It's on the -- the existing dormer is about five feet. It's about -- it's approximately doubled about ten feet.

TAD HEUER: Less than 15 feet.

SAM BATCHELOR: Certainly. Well within the 15.

TAD HEUER: And you don't go to the ridge on this existing dormer?

SAM BATCHELOR: No.

TAD HEUER: And you won't go into the side wall and you won't?

SAM BATCHELOR: Correct.

TIMOTHY HUGHES: He actually subscribes to the dormer guidelines. This is probably the first one since I've been sitting on the Board in seven years.

TAD HEUER: So you're asking for a dormer guideline-compliant dormer?

SAM BATCHELOR: Yes.

TAD HEUER: That's really unusual.

SAM BATCHELOR: If I had known, I would have made it more difficult.

TIMOTHY HUGHES: And so the relief is for 20 additional square feet of FAR?

SAM BATCHELOR: Yes.

TIMOTHY HUGHES: Is your presentation done?

SAM BATCHELOR: Yeah. And then I have a letter from the neighbors who is the abutter on both sides. And actually abut at Seven Tufts and 307. They own both sides of the corner and are in support of it.

TIMOTHY HUGHES: And is there anyone here that wants to be heard on this matter?

(No Response.)

TIMOTHY HUGHES: Seeing no one, I will close public testimony.

I will point out there is a letter. "To Whom It May Concern:" That would be us. "As the owner of the only two properties that abut 309 Pearl Street, I have no objections to their elongating the dormer on the top floor to accommodate a new bathroom. I approve of a positive decision by the Board of Zoning Appeals." And it's signed Richard van Dell; is that correct?

SAM BATCHELOR: That's correct.

TIMOTHY HUGHES: And that will be entered into the file.

Are there any questions from Board members? No?

Ready for a vote?

The Chair would move that a variance be granted to 309 Pearl Street for the addition -- on the expansion of a dormer adding approximately 20 square feet.

A literal enforcement of the provisions of this Ordinance would involve a substantial

hardship to the petitioner. Without a bathroom on the third floor, a growing family -- the growing family, not ours, I'm sorry, a growing family will not be able to remain in this house which the family's owned for 35 years. The addition of the bathroom is not possible without the expansion of the dormer.

The hardship is owing to the following circumstances: The small size of the existing non-conforming lot renders the existing house, though quite modest, well over the allowable FAR. Therefore, the increase of the existing dormer, as modest as it is, still requires a variance.

Desirable relief may be granted without either substantial detriment to the public good, because the proposed change deviates minimally from the existing conditions and is on the side least visible from the public view. And the proposed change would be

clearly in keeping with the size and scale of the houses in the area.

Based on that, the Board would move to grant the variance.

All in favor?

(Show of hands).

TIMOTHY HUGHES: Five in favor.

(Hughes, Heuer, Scott, Myers,  
Firouzbakht.)

(8:50 p.m.)

(Sitting Members: Timothy Hughes, Tad Heuer, Thomas Scott, Douglas Myers, Mahmood Firouzbakht.)

TIMOTHY HUGHES: The Board will hear case No. 10146, One Matignon Road, a/k/a 45 Matignon Road. Anyone here on that?

I'm actually very familiar with this building and with the case. I sat on the prior case where you wanted to go from 400 to 455 and we gave you five and a quarter I think, isn't it? And I actually worked on the classroom renovation. But tell the rest of my Board members what's going on.

ATTORNEY RYAN PACE: My name is Ryan pace. I'm a real estate attorney with Anderson and Kreiger. I represent the International School of Boston. I was here last time when we asked for the enrollment

increase last time. International School of Boston has been in Cambridge for a long time. It's a good relationship for the school, and we think it's been a good relationship for the neighborhood on the whole. The school has been growing, which is a nice thing. And the school is doing some planning for their long-term needs and they'd like to continue to grow and facilitate the increases here on their Cambridge campus.

They have students at other campuses now, including a campus in Arlington, where the future is uncertain. So they would like to sort take more control in the future of the school by giving themselves an enrollment increase and some room to breathe and grow on their Cambridge campus.

In planning for this enrollment increase request, the school has had two meetings with the neighborhood. A meeting in the beginning of May and a meeting earlier

this week where we heard from neighbors about -- met with neighbors and explained to them what the plan was, and talked to them a little bit about what's happening at the school and what the enrollment increase would mean. The school also commissioned a traffic study. And I've got Howard Muise here who is from VHB. They're the ones that did the traffic study. We anticipated that if there were questions about the enrollment increase, that they might be related to the traffic even though there's a short distance that we're going on Matignon Road for most people and Howard can talk about that.

So the school commissioned this traffic study. Howard presented it to the neighborhood this week at the community meeting, and then we're here to ask for your approval of the amendment to the Special Permit for the enrollment that we're requesting.

TAD HEUER: So your increased number of students, where -- is that going to be from potentially closing Arlington and moving everyone onto the same site? Where are the additional students coming from and I guess additionally what grades are those students coming from, and that may go to the traffic engineer of I presume younger students get driven more often than younger students.

ATTORNEY RYAN PACE: I can speak a little bit to that, and I'll introduce some of the representatives from the school who can talk about it.

TAD HEUER: Okay.

ATTORNEY RYAN PACE: But the school itself and the enrollment at the school is a middle school and high school. And that, that enrollment has been doing well. The main reason that we're asking for the increase is we don't know what's going on with Arlington. And there's a facility there

that's been leased by the school. It's owned by the city. And there's a threat of losing that lease. We don't know if that will come to fruition. But if it does come to fruition, the plan would be to move the students from that school. I'll introduce Normand Saucier who is the chief financial officer. And Dick Mahoney who's the director of facilities, and one who can talk to you about who is at that school in Arlington who may be coming.

NORMAND SAUCIER: There are about 120 kids --

TAD HEUER: Just introduce yourself and spell your name for the stenographer.

NORMAND SAUCIER: Normand Saucier S-a-u-c-i-e-r chief financial officer for the International School of Boston.

There are about 120 kids at the Fentanyl School in Arlington right now. There's very little room for growth there as well.

Physical constraints. We share the building with another school, the Arlington's Children's Center. So that if we do grow -- I have a slight problem so you have to bear with me. If we do grow as we like, we could easily grow out of the Arlington facility. And as Ryan already mentioned, we have a lease that will expire in two years. We've had several renewals of this lease. We've been looking for other sites, other opportunities for several years, and I think the time is eminent now in the context of growth plan and a strategic plan that calls for what we hope to be more than the 525 kids that we're authorized to have on-site right now.

TAD HEUER: And how many, is it 800 that the facility could hold roughly now?

ATTORNEY RYAN PACE: I know that in the past there were 800 or more students there. We included a -- some analysis from

the architect for the school, and she went through and calculated whether or not this enrollment increase that we're requesting could be comfortably accommodated, and her conclusion was yes. She didn't calculate the maximum capacity for the school building, so I can't answer that specific question. It's -- I guess that it's less than 800 because I don't think we'd cram as many students that they did 40, 50 years ago.

THOMAS SCOTT: Have you reached the 525 role?

ATTORNEY RYAN PACE: No.

THOMAS SCOTT: What's your enrollment now?

NORMAND SAUCIER: Today 430 on the Cambridge campus. It fluctuates everyday by a little bit, but it will be that order of magnitude for the remainder of the year. We pick up five or ten kids during the course of the year typically.

TIMOTHY HUGHES: And how many students are there in Arlington?

NORMAND SAUCIER: 120.

MAHMOOD FIROUZBAKHT: And what grades are they again?

NORMAND SAUCIER: Kindergarten in Arlington, three, four and five year olds.

TAD HEUER: So I guess my question goes to the traffic engineer. So, I read your study with interest. When was the last time you heard someone say that?

HOWARD MUISE: I haven't heard that very often about traffic studies.

TAD HEUER: Land use attorneys.

If you could walk us through that, that would be great. The preliminary question I have did you take into account the types of students that would be potentially added as opposed to just that there will be additional students, i.e. if it were a situation if Arlington were closed, and you have

kindergartners, those would be people who if I were driving my child, or if I send my child to school, I would want to drive my younger ones and let the older ones bike or take public transportation. Is there enough play in your analysis to factor in who the students might be in addition to just that there would be more?

HOWARD MUISE: My name is Howard Muise. I'm with NHB, Inc. and we're located in Watertown, Massachusetts.

What we did is conduct some counts while school was obviously while school was in session. Perhaps I should explain a little bit about how the drop-off and pick-up works.

There are actually two locations for drop-off and pick-up. This is Matignon Road here. And this is Alewife Brook Parkway. And there's actually a signal here for pedestrian crosswalk. The drop-off and pick-up for the lower school, grades one

through five, it takes place in this area. And basically people enter the parking lot, drop off along the curb, and then can go back out and exit.

For the middle and upper school, the drop-off and pick-up takes place in this loop here. And there is -- it's not a strict division, because one of the things that we've factored into our analysis is that there are a number of families that have more than one child at the school. So, into that regard it reduces the number of cars that would be coming here. And in fact, the new students also may very well have siblings in the school, but they're located on a different campus.

So we have that division. And most of the traffic we did account on Matignon Street over the course of the day, but in terms of turning in and out of the parking lot, about two thirds of the traffic is coming from

Alewife Brook Parkway. The other half is going Matignon to Church. In terms of what you were talking about there are a couple of things that we took into consideration. One is what the existing number of cars are for the students that are there. And we also factored in that not only are there siblings, but there are also other people that carpool with the children that aren't siblings. We did not specifically break it out by age group, but most of the students coming here are coming here by car. So we think that even though they're lower grade students, we think that basically it's going to be the same type of ratio. So, we used the existing, what we would call trip generation, based on the existing enrollment and the number of cars that we counted coming in and out and extrapolated that to the higher number.

TAD HEUER: And you have like 110 new morning trips and 187 new afternoon trips; is

that right?

HOWARD MUISE: Yeah, we have two different numbers in the report.

TAD HEUER: Okay.

HOWARD MUISE: We did one calculation based on the increase in the enrollment cap, which is 125 students. And so we got about 60 vehicles in the morning and about 50 in the afternoon. The afternoon tends to be a little lower than the morning.

If we did the difference between the current enrollment and going to the max, then yes, we have about 110 in the morning. And I think it was -- I'm trying to remember. I think it was around 70 in the afternoon.

TAD HEUER: So that number is the upper limit at which if you brought the school to capacity, you estimate would be less than the conservative high end number so to speak?

HOWARD MUISE: Yes.

TAD HEUER: Conservative and high

end put together?

HOWARD MUISE: Right.

TAD HEUER: Was it, and I didn't see one in the file, but there may have been done. Were traffic studies done on the previous enrollment increases?

ATTORNEY RYAN PACE: No.

TAD HEUER: And I know you had some concerns from neighbors then who said we think this is going to increase, you know, congestion, neighborhood traffic and other things. And the neighbors have seen this traffic study now?

ATTORNEY RYAN PACE: They have.

TAD HEUER: And what was the reaction from the neighbors in your meetings?

ATTORNEY RYAN PACE: Well, to be honest, one thing that the neighbors raised as a concern is that this street is apparently used as a cut-through to Mass. Ave. from Alewife Brook Parkway. And so, a lot of the

concern that we heard actually was about people who are speeding through to go out onto Mass. Ave. and to avoid the light at Mass. Ave. and Alewife Brook Parkway. And your numbers speak to that in the morning. I'm not sure if it's morning or afternoon, but people are cutting that light and obviously going to Alewife Brook Parkway. So, that was a concern.

In terms of the school traffic, there was less concern. There was some mention of a little bit of queuing, and Howard can talk about where that occurs in the morning and the afternoon. But it's from a short period of time. And the drop-off and pick-up times are staggered on purpose, and it only occurs for a short period of time so it's not something that happens all day long.

Howard, you can probably talk more intelligently about sort of the queuing.

HOWARD MUISE: One of the things

that I did not mention is the times for these two drop-offs and pick-ups are staggered about 15 minutes. So traffic is not all coming at one time. In addition, Matignon High School is right next-door, and their drop-off and pick-up times are, I think, in the morning they're about a half hour earlier, and in the afternoon they're closer to an hour before. So, again, high school traffic is coming and going at a staggered time from the school. And then within the school the two groups within the supertime.

There is some queuing here as people are trying to get out on Alewife Brook Parkway. In the morning there's extensive queuing on the parkway heading towards Mass. Ave. So, it makes it difficult -- well, in some ways it makes it difficult for a left turners. In some ways it makes it easier because the traffic is stopped. Sometimes it's easier to get into the queue when traffic is stopped

than when cars are moving along at 30 or 40 miles an hour. But our observations for the -- generally there are only a couple cars queued here. Sometimes it went back a little bit further to say four to six cars, but that was very occasional.

TAD HEUER: So you don't have any problems -- I'm just eyeballing this, but you don't have any problems with kind of cannibalization, so that you have parents who are in the lot, in the lower lot who are trying to come back out and onto Alewife Brook and who are running into jams because of people are trying to get into that lot?

HOWARD MUISE: That could occasionally happen, but again, most of the parents are actually turning and going in that direction.

TAD HEUER: Okay.

HOWARD MUISE: So, the queue would actually then perhaps go back into the

parking lot.

TAD HEUER: Okay.

HOWARD MUISE: But one of the things about -- the other thing I didn't mention about drop-off and pick-up, is it's attended by staff of the school. So they're there to take the children and get them in the building. So it helps move the vehicles through fairly quickly. They -- the parents are not allowed to stop and get out with the children. Certainly not in the drop-off area.

DOUGLAS MYERS: What is the public safety experience at each of these different critical points? For example, what is the public safety experience in terms of exit onto or entrance from the Alewife Brook Parkway?

HOWARD MUISE: We, we did not look at the accidents at that location so I can't really answer that question. The traffic

light there can be triggered when someone walks across the street. Also it's helpful for the cars trying to get out particularly if they're turning left towards Massachusetts Avenue. But, again, we did not look at actually the accident situation. I think people obviously were very careful getting out of there, and I suspect that because of the traffic volume and speed on Alewife Brook Parkway, that they would be pretty careful getting out of there, but I don't know all the circumstances with that.

DOUGLAS MYERS: Similarly you would not have information regarding the accident history in the pick-up and drop-off zones?

HOWARD MUISE: No, there would probably be no records of that at all. I don't know whether the school could anecdotally tell us. I think from what I've seen of the oper -- what we've seen of the operation and certainly compared to a lot of

other schools, this is a very good arrangement here. Because the students are dropped off on the school side of the building, they're not getting out of the car and going around. They're getting out onto the sidewalk. There's somebody there to escort them towards the door of the school. So that the children are already on the sidewalk and heading in the school building.

DOUGLAS MYERS: Do you have any opinion or thoughts about whether increased volume in and of itself would affect safety at either Alewife Brook Parkway or in the pick-up or drop-off zones?

HOWARD MUISE: I don't think that the volume would increase safety concerns. Obviously it would make the situation a little busier than it is right now. And to that extent things may be moving a little slower than they do now which I think would actually reduce potential accidents. Some

of the neighbors complained about the speed of people going through here, but that would be at other times of the day, they wouldn't be able to speed through here in the morning or in the mid-afternoon when all this activity is going on.

DOUGLAS MYERS: I'm always a little -- I take note of arguments that are premised on the basis the worse things are the better. The more students, the safer.

HOWARD MUISE: Yeah. I'm not necessarily trying to make that argument, but I think -- plus my experience around schools is that people who are coming and going to the school are very aware that there are children there because their children are there and that they, I think exercise more caution than they might in other places. In terms of the cut-through traffic, I don't know whether that would be so true. But again, all of the activity is taking place off the street on the

school property so that the children aren't interacting with the traffic on the street.

TAD HEUER: How much, if any, double parking or double slowing do you see from parents who say I don't want to go into that lot and get into the loop, I just want to drop the kid off say if I'm coming from Alewife Brook on the right on the southern side of the street, and I'll just keeping head down towards Mass. Ave. because I work in Boston and the kid runs across the street. Any of that?

HOWARD MUISE: We didn't observe any of that going on.

TAD HEUER: Okay.

HOWARD MUISE: There is a little more parking in the afternoon when people might stop and go into the school to get a child. The pick-up in the afternoon is a little more disbursed because particularly in the upper school. The middle school

students may stay later in the day for activities and so forth and things like that. And that's why we get a lower volume of cars. And but the process moves a little slower.

ATTORNEY RYAN PACE: To answer your question, Dick Mahoney is here, he's the director of facilities. He's familiar with the process so he maybe can answer that question.

DICK MAHONEY: I'm Dick Mahoney, director of facilities at the International School of Boston. The question in terms -- I've been there for four years. Basically what I'm going to say is anecdotal. And in terms of what I've seen in four years for people dropping off, no one drops off at Alewife at all. They all make the turn in here. And the City of Cambridge allows people -- this is from the police department, they allow parents dropping children off to park briefly, 20 minutes or so, on the street.

And that usually does happen. So there is occasionally -- well, I probably say, you know, upwards of maybe 20 cars that will stop on this side of Matignon Road and these are the older kids. These are the middle school and upper school kids. But the lower school kids all ride in and this is the loop that they follow. They're in this entrance and they exit at this end, and this is the drop-off line right here, along the side of the school.

TAD HEUER: And in your experience all, if not -- most if not all parents of lower school students avail themselves of that option to go right up to the front on the side of the doors?

DICK MAHONEY: Yes, the other option they have in the morning is to park here and walk their child over themselves. And some of them do that. But for the majority of them, they're on their way to work, so they're -- the child is out of the car and

they're off.

Also anecdotally if I may address the safety issue. In four years I've seen one accident here in the morning. And that accident happened when the pedestrian light changed and a car was rear ended on Alewife. So the pedestrian light will change like that. Somebody stopped like that and there was a rear end accident. I haven't seen any accidents in this traffic pattern in or out of Matignon Road in four years.

MAHMOOD FIROUZBAKHT: I have a question. To the extent that the kids from Arlington are moved to this facility, and where would they physically be and where would their pick-up/drop-off activity happen?

DICK MAHONEY: Where they would physically be located, we're not sure. Initially we were talking about maybe some kind of addition into this end, which is way

down the road. As you know, some kinds of addition into this end to take care of them in that area. So their drop-off and pick-up will still be in inside this parking lot. All those younger kids will be in here.

Interestingly enough in Arlington right now, they're dropped off on the street. The parents stop and walk them in obviously. It's a one way side street in Arlington. But there's no, there's no way for them to clear the street in order to get the kids into school.

TAD HEUER: I have a separate non-parking related facilities question. In one of the previous applications there was concern from an abutter that the increase in the number of children meant that they were essentially overcrowding the outside and exterior play space that's available. Do you have thought -- and this is a single abutter who had a concern. I'm not sure

whether it remains. There's nothing in our file this year, or in this application about it. If you do have an increase in students, what's the thought about how your outdoor space would be used? In other words, to ensure that it does meet the needs of the additional third in terms of the number of students?

DICK MAHONEY: Good point. One of the things that we have talked about is this space -- yeah, here's our property line here. Our property line comes through here. So there's this section of green space that is behind the church, that is owned -- that's part of the condominium property because it is a condominium. And we've had some preliminary discussions with the church in developing this as more play space for the benefit of both.

TAD HEUER: Okay.

DICK MAHONEY: So the plan would be

to do something -- and they've been pretty amendable again. Everything is pretty very early days in any kind of discussions with that.

TAD HEUER: I just wanted to make sure there was some consideration of that. It sounds like there is. If you're going to increase by --

DICK MAHONEY: I think our biggest resistance of doing something in here is that we're eliminating an unofficial dog park. You know, that's it. It gets an incredible amount of use by a lot of people who walk their dogs.

So we have, we have thought of that, because if we take a chunk out of this play space, which we don't know how much we would have to take because the ideas have really ranged how we're going to do this if we ever get to that point.

TAD HEUER: Right, okay.

TIMOTHY HUGHES: Anything else in your presentation?

ATTORNEY RYAN PACE: I don't think so. Unless you have any other questions for us.

TIMOTHY HUGHES: Any more questions from the Board?

I open it up to public testimony. Is there anybody who wants to be heard?

DORON GAN: I would like to be heard.

TIMOTHY HUGHES: Come forward and identify yourself.

DORON GAN: My first time ever. My name is Doron Gan.

TIMOTHY HUGHES: Spell that, please.

DORON GAN: D-o-r-o-n. Last name G-a-n. And I'm a neighbor. I live at 14 Matignon which is on the right side of that picture. The main concern I have is the traffic as everybody is concerned about that.

Right now it's very, very difficult in the mornings to get out of the Matignon Road onto 16 because what happens is the cars queue up coming out of the school. And also going into the school, they queue up on Matignon so it takes a long time to get out of that street. And increasing that by 25 percent makes me a little nervous. I think the cars would back up even further than that, and also onto Route 16 which I think might be dangerous.

Now, you mentioned the light at Route 16 which is -- which some people take advantage of to make the left turn.

HOWARD MUISE: Yes.

DORON GAN: Which is completely illegal because the light is actually red at that time so pedestrians can cross. So I think that situation should definitely be fixed so that the school has a safer exit strategy onto Route 16 and the neighbors would as well.

So, that's my main concern is the traffic. You know, if the school did add a playground for younger kids, I think my kids would appreciate that if it was open to the public. So, we'll --

DICK MAHONEY: We'll get you a key.

DORON GAN: Exactly, there you go. A key would help there.

So I think, you know, I'm not a structural engineer or anything like that. I'm a computer engineer so I think about things, trying to solve problems, but I think you need additional capacity for the people in the parking lot for the increase the amount of people there. And I have two young kids and I know as a parent, I would never, you know, leave them until they were securely in a classroom. So I can see all those people parking in the lot which would overflow quickly unless you had a different solution to that. So that's all I have to say.

TIMOTHY HUGHES: Thank you. I'm going to go with there's no one else here for public testimony. I'm going to close public testimony.

Any response to concerns from the neighbor?

ATTORNEY RYAN PACE: I think that, Dick, you might want to talk or be a little bit more clear about the drop off at the lower school. And you were talking about, you know, people parking. Can you just explain how many people are parking in that parking lot in the morning and what's the number? And explain a little bit more about that flying drop off?

DICK MAHONEY: What I refer to as the flying drop off?

ATTORNEY RYAN PACE: Yes.

DICK MAHONEY: We don't allow the parents to stop. We have them slow down and open the door.

ATTORNEY RYAN PACE: And could that be expanded with this added?

DICK MAHONEY: The issue -- well, not the issue, but to answer the question about how many people park, I can't give you a fixed number. But this parking lot is usually maybe three-quarters full during that drop-off period. Now, about half of those cars are staff cars that are going to be there for the day. So I'd say there's probably about 25 to 30 people that will park, and that actually becomes almost a social period for them. But for the majority of parents that are dropping off, as I said, are more interested in getting in getting on and getting to the job. So the traffic pattern is they come up Matignon Road, take a left in here. In this line here we actually put cones all along here. So if they're going to stop and walk their child in, they don't go through this run right here. This is just

for people drop off, and there are usually a minimum of three staff people literally opening the doors, helping the children out of the car, closing the doors and letting people head out. Occasionally what will happen is if this car gets here and the child drops their books as they're trying to get out of the car, it causes a problem for people trying to exit from that row. But we try to keep it moving as smoothly as we can.

And at the same time there are people up at the front that are not allowing parents to park in the circle. That they keep this traffic going all the way through the circle, also. So that we keep -- we don't get, again, if somebody parks in the circle and people can't get off Matignon Road, then the queue in here starts backing up on Matignon Road. So, we staff both locations with the senior staff, including the head of school at times is out there.

So, you know, the whole goal is to keep it moving, keep traffic moving. Get people on to the business of their day.

TAD HEUER: How long, just remind me, is the drop-off period for each of the schools? When are parents supposed to be arriving? What's the window?

HOWARD MUISE: The period begins at 7:45.

DICK MAHONEY: 7:45 is drop off for upper school and middle school. And in that time we'll probably get about 12 to 15 lower school children who will come in with their siblings. And they wait in the cafeteria until the lower school drop-off starts. And the lower school drop-off starts at eight o'clock. So they're allowed to go to the -- they either go to the gymnasium or out to the playground.

So, upper middle school starts at 7:45, and they have to be in class by eight o'clock.

The lower school, drop-off starts at eight o'clock and they have to be in class by 8:15.

TAD HEUER: So by 8:15 you're back to a normal traffic pattern?

HOWARD MUISE: Pretty much so.

DICK MAHONEY: Yes.

HOWARD MUISE: There are two charts in the report that we actually counted cars by five minute periods. And you can see in the morning that 20, 25 minute period rises and settles back down and then drops off. Obviously there are late arrivers after starting time, but it drops off quite a bit.

In the afternoon it tends to be a little flatter.

DICK MAHONEY: In the afternoon just -- there are afternoon clubs. There's also what we call the Guttery, which is basically an after school daycare essentially. And that, parents can have their children there up until 6:00. So any

time from 3:30 to 6:00 children are doing sports. Doing sports, doing clubs. That spreads out the afternoon quite a bit.

ATTORNEY RYAN PACE: The other thing that we should just mention to you is that with all the snow this winter, the road was getting very full with snow. And, Dick, you can explain that one of the things that -- the school's always trying to be a good neighbor to the neighbors on Cambridge, the Cambridge side. And so, and the goal has always been don't sort of negatively impact the neighborhood and try to facilitate the flow of traffic, as Dick was explaining. One of the things the school has done and continues to plan to do, is let the city take the snow off the road and the snowbanks to ease the traffic and to allow people to pass.

And, Dick, you can show them where the city put the snow this year.

DICK MAHONEY: We actually during

the worst of the snow, we actually hired police details in the morning and in the afternoon just to keep the traffic flowing as much as we could. Because actually I was out there one day and two school buses, two Cambridge school buses were nose to nose on Matignon Road with cars backing up behind them. One was running a little late or maybe they were both running a little late, but I don't know. But anyway, I was surprised to see two school buses on Matignon Road at one time. But we allow them -- we told them they could clear the road, and they got there as soon as they could once they got all the squares cleaned up I would imagine, and the other schools. And we allow them to drop the snow back in this area. And we also have some other areas that they can access if necessary.

Another thing that we do, if we have a large event, like a holiday concert or any

kind of large event, a play, theatre program where we're expecting a large influx of parents, we will hire a police detail. And that is mainly to keep Matignon Road clear. Usually the officer that arrives gets permission to park vehicles on this side of Matignon Road on the sidewalk, but their job is -- we're very specific with them. Keep the traffic moving and make sure none of our people park in such a way that they block the neighbor's driveway. And we do that for every large event that we have which is probably about half a dozen maybe eight times a year.

TIMOTHY HUGHES: Any other questions? Any comments?

Disposition on this? Are we ready for a vote? Do the numbers make sense to you?

The Chair would make a motion to grant a Special Permit to International School of Boston at One Matignon also known as 45

Matignon Road for increase to accommodate the use and increase of students cap of 650 from its present 525.

Requirements of the Ordinance can be met with the Special Permit.

The request enrollment increase will not be a detriment to the public interest or materially change the impact of the current use on the neighborhood.

Traffic generated or patterns of access and egress would not cause congestion, hazard or substantial change in the established neighborhood character for the following reasons:

As determined in the traffic report, material adversely impacts on traffic operations of safety are not anticipated as a result of the requested increase in the school's enrollment cap. And as a result, changes in neighborhood character are not expected.

The continued operation of and the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected.

It should be noted that it's primarily a residential neighborhood, but there is another school in the area, the Matignon High School.

And as mentioned above, the primary impact, if any, on the neighborhood and adjacent uses is related to the requested enrollment concerns traffic issues and unacceptable or adverse impacts on traffic operations or patterns of safety are not anticipated.

No nuisance or hazard will be created by the detriment to the health and safety or the welfare of the occupants of the proposed use. Anecdotally there have been no accidents as a result of this drop-off scheme. In fact, it seems that the drop-off

scheme at the school has been well thought out.

And the proposed use would not impair the integrity of the district or adjoining district as the school has already been in operation there and increase of students has been anticipated and can be accommodated.

All those in favor of granting the Special Permit?

(Show of hands.)

TIMOTHY HUGHES: Five in favor.  
Granted.

(Hughes, Heuer, Scott, Myers,  
Firouzbakht.)

(Whereupon, at 9:30 p.m., the  
Board of Zoning Appeal  
Adjourned.)

## C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skill and ability.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 7th day of September 2011.

---

Catherine L. Zelinski  
Notary Public  
Certified Shorthand Reporter  
License No. 147703

My Commission Expires:  
April 23, 2015

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