

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JANUARY 7, 2016

7:00 p.m.

in

Citywide Senior Center
806 Massachusetts Avenue, First Floor
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Thomas Scott, Member

Janet Green, Member

Douglas Myers, Associate Member

Slater W. Anderson, Associate Member

Sean O'Grady, Zoning Specialist

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(7:00 p.m.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. At the outset let me make a statement:

After notifying the Chair, any person may make a video or audio recording of our open sessions or may transmit the meeting through any medium subject to reasonable requirements that the Chair may impose as to the number placement and operation of equipment used so as to not interfere with the conduct of the meeting.

At the beginning of the meeting the Chair will inform other attendees at that meeting that a recording is being made. And I will advise the meeting that there is going to be a video recording and an audio recording or actually two:

One audio recording by a guest of the meeting, someone attending the meeting. The other is our

stenographer. We keep a transcript of our proceedings. To help her doing the transcript she also records to fill in the blanks as needed.

And on that subject I'm going to ask that if those of you in the audience want to speak with one another or make a bit of noise, please get out of the -- move out of the room, because she -- it interferes with her ability to hear and that affects our transcript. So I would just ask either sit way in the back and whisper in a low voices so as there's no disruption if you could.

Thank you.

Okay. First order of business on our agenda is the election for a new chairman and vice chairman for the coming year.

Start with the Chairman. I'll open the matter up for nominations.

Any nominations?

BRENDAN SULLIVAN: I would nominate Constance

Alexander to be Chair of the Zoning Board for the ensuing year or until such time that another election is held.

JANET GREEN: I second that.

CONSTANTINE ALEXANDER: Any other?

(No Response.)

CONSTANTINE ALEXANDER: I will make a statement as I've made in the past, if anyone on the Board wants to take this job, I would gladly withdraw my name as Chair. But if -- no? We don't have any takers.

Okay, thank you for the nomination.

Nominations are closed.

All those in favor of electing Constantine Alexander as Chair for the coming year as Mr. Sullivan moves say "Aye."

(Aye.)

(Sullivan, Scott, Green, Anderson.)

CONSTANTINE ALEXANDER: I'm elected Chair Thank you, I think.

Now the Vice Chair.

Do I have a nominations for the Vice Chair? I, as Chairman, I don't think I can make nominations so that's why I'm not going to make --

THOMAS SCOTT: I nominate Brendan Sullivan as Vice Chair.

JANET GREEN: I second that.

BRENDAN SULLIVAN: And, again, I will piggyback on Gus's comments, if anybody would like to be Vice Chair, then I will accede to that.

CONSTANTINE ALEXANDER: It didn't work for me, I don't think it's going to work for you either.

Okay, nominations are closed.

All those in favor of electing Brendan as Vice Chair, please say "Aye."

(Aye.)

(Green and Scott.)

CONSTANTINE ALEXANDER: I don't vote as Chair.

Brendan's elected. Congratulations.

SEAN O'GRADY: I wonder if we need a third vote?

CONSTANTINE ALEXANDER: Why do we need a third vote? We have a quorum.

SEAN O'GRADY: We have a majority of people who are here?

CONSTANTINE ALEXANDER: Yes. I just don't vote because as Chairman typically doesn't vote. But we have a quorum, and I think it's a majority of the quorum.

BRENDAN SULLIVAN: Should I vote for myself then to have three votes?

CONSTANTINE ALEXANDER: You can record that Brendan voted for himself just to be careful about it.

Okay, now we can move on to the fun part.

* * * * *

(7:05 p.m.)

(Sitting Members Case BZA-008218-2015: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 008218, 22 Chatham Street, No. 22/2.

Is there anyone here wishing to be heard on this matter?

Our procedure is to give your name to the stenographer.

TRISHA MONTALBO: I'm Tricia Montalbo. And address is 22 Chatham Street, No. 2 in Cambridge.

JUSTIN MAZZOLA PALUSKA: And I'm Justin Mazzola Paluska, M-A-Z-Z-O-L-A P-A-L-U-S-K-A.

TRISHA MONTALBO: Same address.

CONSTANTINE ALEXANDER: Okay.

You want a Special Permit to move a window?

TRISHA MONTALBO: Yeah. So we'd like to make the

window larger, but it's the side of the house per the zoning regulations is within the setback.

CONSTANTINE ALEXANDER: Right. Right.

And I see in the file that you have the approval of your condominium association?

TRISHA MONTALBO: Yes.

JUSTIN MAZZOLA PALUSKA: We do.

CONSTANTINE ALEXANDER: Any other neighbors express any approval or disapproval for what you want to do?

TRISHA MONTALBO: We haven't heard.

Yeah, and I'd also like to note that the window overlooks a parking lot of the next-door of the association.

CONSTANTINE ALEXANDER: Oh, good thank you. I was going to ask that question next.

So the privacy issues are negligible from the relocation of the window.

TRISHA MONTALBO: Yeah.

CONSTANTINE ALEXANDER: Questions from Members of

the Board?

THOMAS SCOTT: It's just increasing the size of the window?

JUSTIN MAZZOLA PALUSKA: It's -- actually it's -- if you look at the elevation change, what we're doing is we're rotating the window essentially, so we're putting -- we're changing the kitchen, which we're redoing because of ice dams and we want to put a countertop where the window is. So we're trying to keep about the same area of window, just changing it, and it's considered to be a larger window because we're changing it.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there

is no one wishing to be heard.

The Chair would report that there appears to be no correspondence, pro or con, in the file.

Wait a minute. No, that's the old continuance request.

There is in the file a written statement about the condominium association approving what you want to do, which is required under your condo documents.

I'm going to close public testimony. We ask discuss it or go right to a vote.

JANET GREEN: I'm ready for a vote.

SLATER ANDERSON: Vote.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we make the following findings with regard to the Special Permit being sought:

That to the requirements of the Ordinance can be satisfied if we grant the Special Permit but otherwise cannot, that traffic generated or patterns of access or

egress will not -- will result from this, will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses will not be adversely affected by what is proposed.

And you pointed out the relocated window will overlook a parking lot.

No nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the City.

And for other reasons the -- what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of our Ordinance.

So on the basis of these findings the Chair moves that we grant the Special Permit requested on the condition that the work proceed in accordance with the plans that you

submitted, which I've initialled, the elevation and the floor plan.

And the point just being here that if you along the way, if you decide to change your mind or modify this, you'll have to come back before the Board. So this should be your final thoughts on it.

TRISHA MONTALBO: Yes.

CONSTANTINE ALEXANDER: Okay?

All those in favor of granting the Special Permit on these conditions please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

Congratulations.

(Alexander, Sullivan, Scott, Green, Anderson.)

* * * * *

(7:05 p.m.)

(Sitting Members Case BZA-008475-2015: Constantine

Alexander, Brendan Sullivan, Thomas Scott, Janet Green,
Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will next call
case No. 008475, 136-138 Cushing Street.

Is there anyone here wishing to be heard on this
matter?

(No Response.)

CONSTANTINE ALEXANDER: No one in the audience
wishing to be heard.

And we do have an e-mail from Robert Linn or the
Inspectional Services Department has an e-mail from Robert
Linn L-I-N-N, addressed to Maria Pacheco.

(Reading) Attached is our letter to formerly
withdraw the application for a Variance at 136-138 curbing.

And then there is an attached letter on the
letterhead of MacArthur Construction Company. Saying -- I
won't read it. It just says, again, we are writing to
withdraw our application.

So, in the past we have taken a vote to accept the request for withdrawal. I've never been satisfied that that's really required. So I'm going to just say for the record that this application has been withdrawn, and I trust the petitioners are aware that under Section 10.51 they cannot come back with the same plan for two years. It's got to be a modified plan.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay, end of that case.

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(7:10 p.m.)

(Sitting Members Case BZA-008377-2015: Constantine

Alexander, Brendan Sullivan, Thomas Scott, Janet Green,

Slater W. Anderson.)

CONSTANTINE ALEXANDER: We're going to call
008377, 299-301 Columbia Street.

Is there anyone here wishing to be heard on this
matter?

ATTORNEY JAMES RAFFERTY: Thank you. Good
evening, Mr. Chair, Members of the Board. For the record,
James Rafferty, 675 Mass. Ave. on behalf of the applicant.

We are submitting a request seeking a continuance
until March 10th. It's a negotiated date that was
acceptable to the abutters. We're in the midst or the early
steps of trying to look at revisions and share them. So
that date works and we would be appreciative if the Board
would continue. It's a case not heard. So we would hope we
could get that date.

CONSTANTINE ALEXANDER: Okay.

I have -- I see no reason not to continue the case
until March 10th, particularly if it will facilitate a

neighborhood agreement with regard to the matter in question. So I will make a motion.

The Chair moves that this case be further continued --

ATTORNEY JAMES RAFFERTY: I don't know if there's anyone here that might want to be heard.

CONSTANTINE ALEXANDER: Oh, yes. Thank you. I should ask.

Is there anyone here wishing to be heard on this matter?

UNIDENTIFIED AUDIENCE MEMBER: We're the abutters.

CONSTANTINE ALEXANDER: Do you want to speak at all --

UNIDENTIFIED AUDIENCE MEMBER: I think Mr. Rafferty has been very collegial towards us in working with a date that serves all parties.

CONSTANTINE ALEXANDER: So basically you're in support of the motion for a continuance to March 10th?

UNIDENTIFIED AUDIENCE MEMBER: Yes.

CONSTANTINE ALEXANDER: Thank you.

The Chair moves that this case be further continued as a case not heard on the following conditions:

One, that the petitioner sign a waiver of filing for decision. He's already done that.

Two, that the posting sign, which is not up right now and doesn't have to be up right now, but there must be a posting sign for the 14 days prior to March 10th -- anyway, continued to seven p.m. on March 10th on the condition that a waiver of time for a decision. That's already been done.

Two, that the new posting sign be put up for the 14 days before March 10th, disclosing the new date, March 10th, and the new time, seven p.m., and that's when we'll hear the case or approximately when we'll hear the case.

And lastly, to the extent that new plans are going to result from the continuance, those new plans must be in our files no later than five p.m. on the Monday before March

10th. Which means, you'll see them any way in your discussions, but otherwise it's open to the public to find out what's going to be discussed on March 10th. If you go to the office any time after five p.m. -- the Zoning office any time after five p.m. on the Monday before. And a revised dimensional plan, too, Mr. Rafferty --

ATTORNEY JAMES RAFFERTY: Of course.

CONSTANTINE ALEXANDER: -- if the plans require that.

ATTORNEY JAMES RAFFERTY: I suspect they will.

CONSTANTINE ALEXANDER: I suspect you're right.

Okay. All those in favor of continuing the case on this basis, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

Thank you very much.

(Alexander, Sullivan, Scott, Green, Anderson.)

ATTORNEY JAMES RAFFERTY: Thank you very much.

(7:15 p.m.)

(Sitting Members Case BZA-007664-2015: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 007664, 14 Arrow Street.

Is there anyone here wishing to be heard in this matter?

ATTORNEY RICARDO SOUSA: Yes.

CONSTANTINE ALEXANDER: Mr. Sousa.

ATTORNEY RICARDO SOUSA: Good evening, Mr. Chair, members of the Board.

CONSTANTINE ALEXANDER: You must have a cold?

ATTORNEY RICARDO SOUSA: I do. I'll stay at a decent distance.

CONSTANTINE ALEXANDER: Before you do your presentation, let me, for the benefit of the board members,

put some context into what we're going to be doing on this case tonight, because I've been on numerous discussions with the City's Legal Department about this and I don't think the members have had the benefit of all that.

Back in December, I guess it was December 7th; is that right?

ATTORNEY RICARDO SOUSA: November 19th I believe.

CONSTANTINE ALEXANDER: That early?

ATTORNEY RICARDO SOUSA: Yes.

CONSTANTINE ALEXANDER: November 19th we had two applications before us with regard to 14 Arrow Street:

One was an application for a Special Permit under our Ordinance applying a Section 6409 of The Spectrum Act.

And a second one was relief, direct relief, if you will, under 6409 of The Spectrum Act. And so one or the other I guess you would say. At that meeting Mr. Sousa requested that we withdraw the application for the Special Permit under our Zoning Ordinance and we voted to accept

that. Then we then proceeded to discuss and decide the other case on -- the one that's directly, if you will, under 6409. Subsequent to that action, the City's Legal Department advised the Board and Mr. Sousa that the only way they can get relief for his client, can obtain relief for the additional antenna would be to file a Special Permit application under our Ordinance, our Zoning Ordinance. Of course that has been -- he had done that and it had been withdrawn. And under Section 10.51 of our Ordinance, a withdrawal is treated as a denial of an application and no new applications can come before us for two years unless there's a substantial modification to what was originally proposed. So that left everybody in sort of a limbo.

Mr. Sousa could take the city to court and pursue on the grounds that we -- it's wrong that we have to have a Special Permit under our Ordinance, that 6409 permits direct Special Permits or he's got to wait two years -- his client has got to wait two years.

It was determined that the decision we made to accept his request for withdrawal of his Special Permit application under the Ordinance was not final. It was not become final because the written decision had not been filed with the City Clerk's office.

So tonight Mr. Sousa is before us asking us to reconsider, which our Legal Department has advised us that we have a right to do. To reconsider his request to withdrawal his application under our Zoning Ordinance.

Should we grant that -- should we agree to reconsider, then I take it you will withdraw your request for the withdrawal of that application? And then therefore we'll consider the Special Permit under our Ordinance directly?

ATTORNEY RICARDO SOUSA: I believe that's the motion, is to essentially open up that Special Permit application.

CONSTANTINE ALEXANDER: Okay. Yes, we've got

to -- we get rid of the withdrawal first and that's what the reconsideration's about.

ATTORNEY RICARDO SOUSA: That's right, exactly.

And reconsider the Special Permit application.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY RICARDO SOUSA: And I didn't mean to cut you off, Mr. Alexander --

CONSTANTINE ALEXANDER: No, no.

ATTORNEY RICARDO SOUSA: -- Mr. Chairman. And I agree with the way that you've stated the facts and the position of the Law Department, that's been consistent with my discussions with attorney Quaoie (phonetic) in the Law Department. I would say that Section 6409 is fairly new legislation, and it was fairly thin when it was passed. It was further expounded on by the FCC order which was fairly lengthy, included some additional details as to how municipalities should treat 6409 eligible facilities requests. And it's a little bit unclear as to whether or

not a municipality is required or whether or not a petitioner is required to obtain a Special Permit or simply a Building Permit. Many municipalities in Massachusetts have actually simply receive the eligible facilities request, approve them, and issued Building Permits. A number of them have done so and not required a petitioner to get yet a Special Permit on top of that. Getting a Special Permit further defeats or potentially defeats the timing associated with eligible facilities requests which have had a 60-daytime clock. That being said, to a certain extent I think this is a procedural difference of opinion between the Law Department and City of Cambridge and ourselves. We think it's prudent to ask if the City is asking for us to obtain a Special Permit, then we would request that that application be reopened because the City Law Department feels that under Chapter 40-A of the Mass. General Laws, this Board is only empowered to grant three forms of relief:

A Special Permit, a Variance, or a reversal of a

Building Inspector's decision. And so those are the only forms of relief they feel that you're empowered to grant and that you're not empowered specifically under Chapter 40-A to grant an eligible facilities request.

In order for you to be empowered to do that there would have to be a zone change to give you power to do so. So they feel, the Law Department feels, that the decision that you granted on 11/19 is -- cannot be codified in a written decision by the Law Department and that's been the stumbling block.

They feel that that same grant of power for us to make these modifications on this existing wireless installation could be granted by a Special Permit under the limitations of 6409, which is the way we drafted our Special Permit. And there have been other petitioners since November 19th who have been before this Board who have received relief under 6409 but under the guise of a Special Permit.

And so that's what we're requesting, is essentially to clarify this procedural issue. It was like I could have chosen behind door A or door B and I chose the wrong door perhaps.

CONSTANTINE ALEXANDER: Well, perhaps. But I think the door you chose was a door that other communities would have -- would have had you choose. Cambridge believes its Zoning structure is such that the other communities are not appropriate -- their approach is not appropriate for Cambridge.

ATTORNEY RICARDO SOUSA: Sure.

CONSTANTINE ALEXANDER: And that's their decision.

ATTORNEY RICARDO SOUSA: Yes. And we're here respecting that and respectfully requesting that that Special Permit application be reopened since it was not a final decision in the form of no written decision and, therefore, under case law Dennis v. Manchester which is a case that comes from the Law Department that you are

empowered to reopen that matter and revote for that Special Permit but in the context of 6409.

CONSTANTINE ALEXANDER: Okay.

Is there any discussion on whether we should reopen the case?

BRENDAN SULLIVAN: I have no doubt that we should open it. I think my own feeling is that if we had been properly advised prior to that hearing that night, we might have proceeded differently than we did in the absence of counsel.

ATTORNEY RICARDO SOUSA: Sure.

CONSTANTINE ALEXANDER: Guidance.

ATTORNEY RICARDO SOUSA: I understand that, Mr. Sullivan.

BRENDAN SULLIVAN: Then we were flying blind if you will.

CONSTANTINE ALEXANDER: I think we were all flying blind. You were flying

blind --

ATTORNEY RICARDO SOUSA: Yes.

CONSTANTINE ALEXANDER: -- and we were flying blind, and that's why we're talking tonight --

ATTORNEY RICARDO SOUSA: Right.

CONSTANTINE ALEXANDER: -- to see if we can reverse that.

ATTORNEY RICARDO SOUSA: Right.

And it was my understanding that you had been advised and that you had consultations with the Law Department. That was clearly not the case.

BRENDAN SULLIVAN: Clearly not the case.

ATTORNEY RICARDO SOUSA: Right.

CONSTANTINE ALEXANDER: I move that we reconsider the decision we reached in November?

ATTORNEY RICARDO SOUSA: November 19th, correct.

CONSTANTINE ALEXANDER: On this case with regard to the request to withdraw an application for 14 Arrow

Street under our Zoning Ordinance.

All those in favor of reconsidering?

THOMAS SCOTT: Just one question.

CONSTANTINE ALEXANDER: Sure.

THOMAS SCOTT: Was it these five members?

CONSTANTINE ALEXANDER: It doesn't make a difference.

THOMAS SCOTT: It doesn't make a difference?

CONSTANTINE ALEXANDER: No, this is not like a case heard, no. Any five can do that.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: All those favor?

(Show of hands.)

CONSTANTINE ALEXANDER: Okay, so five in favor.

Okay, so we're reopening the application for a Special Permit under our Zoning Ordinance. The standards essentially being that of 6409 of The Spectrum Act.

ATTORNEY RICARDO SOUSA: Correct.

CONSTANTINE ALEXANDER: Now the floor is yours.

ATTORNEY RICARDO SOUSA: So, Mr. Chairman, Members of the Board, as I stated on November 19th, this is an application by T-Mobile to modify its existing wireless installation at 14 Arrow Street by adding three panel antennas on the existing smokestack together with three remote radio heads.

We have worked with both the Harvard Square Advisory Commission, received their consent. And in fact, a waiver that was now required to get a Certificate of Appropriateness.

In addition to that we worked with the Planning Board on a number of design changes that really streamlined the placement of these new antennas and made them consistent all throughout. Initially the antennas were different sizes. We modified that.

We made sure that they were as flush mount as possible and they were painted to match.

And it was their recommendation that we utilize the final design that's before you. And I have copy of the photo sims that were also submitted to the Board on November 19th.

CONSTANTINE ALEXANDER: These are the same we saw back in November?

ATTORNEY RICARDO SOUSA: Yes, they're the same ones that were there the two weeks prior to the public hearing on November 19th and nothing has changed since then. And the same thing with the plans that were also in the file.

CONSTANTINE ALEXANDER: Do you have a set of the plans, too?

ATTORNEY RICARDO SOUSA: Yes, the plans are right here, yes.

CONSTANTINE ALEXANDER: Okay, thank you.

ATTORNEY RICARDO SOUSA: And so there had been some discussion as to whether or not we would place a

stealth enclosure around the top of the smokestack. It was very consistent with both from the Planning Board and the Harvard Square Advisory Commission that we not do that. And it's also our opinion that that would add much too much mass to the top of that smokestack, and I think with the tract from the architectural features and potentially degrade the appearance of the smokestack.

CONSTANTINE ALEXANDER: I just have to point out, think I'm right, that what you're proposing tonight is exactly the same thing that we granted you mistakenly, a Special Permit under 6409 directly in November.

ATTORNEY RICARDO SOUSA: That you granted an eligible facilities request?

CONSTANTINE ALEXANDER: Correct.

ATTORNEY RICARDO SOUSA: Tonight we're asking for the same design, no design changes.

CONSTANTINE ALEXANDER: Right.

ATTORNEY RICARDO SOUSA: The same approval.

You went through the six prongs under 6409 that night. I'm happy to go through them again tonight, but they are consistent tonight.

CONSTANTINE ALEXANDER: Why don't you briefly go through them.

ATTORNEY RICARDO SOUSA: I surely can.

The six prongs is that we are not:

No. 1, that we are not increasing the height of the structure, the base station, by more than ten percent or ten feet. In fact, we're not increasing the height at all of the smokestack.

Secondly, that the antennas will not protrude more than six feet from the outer edge of the smokestack. And that's clearly not the case. As you can see in the plans, the antennas themselves will protrude no more than two feet along -- from the side of the smokestack.

Third, that it will not involve more than four equipment cabinets at the site. And the plans clearly

indicate it will not involve more than four equipment cabinets. It will involve three. And they're all inside the building. They're not visible to the public, the equipment cabinets themselves.

Fourth, that the -- that the modification does not entail any excavation on the ground and it does not. This is simply installing antennas on the structure itself, no excavation to the structure or to the building -- excuse me, or to the ground.

And that fifth, that the modification does not defeat the existing decision for the original decision or the existing concealed or stealth design of the installation.

We feel that consistent with our meetings with the Planning Board and the Harvard Square Advisory Commission, that this is the best design that's consistent with the original design of facade mounting the antennas in the same fashion as the original antennas that are there now.

And sixth prong is that the modifications comply with the prior conditions of approval by the Zoning Board.

So we feel we meet all six prongs of the eligible facilities request guidelines under Section 6409.

CONSTANTINE ALEXANDER: Thank you.

Questions from members of the Board?

JANET GREEN: I just have one question, Mr. Sousa.

ATTORNEY RICARDO SOUSA: Sure.

JANET GREEN: What's going to happen now? Has it changed at all because of your appearance before the Zoning Board in the past of putting it up there?

ATTORNEY RICARDO SOUSA: You mean has our --

JANET GREEN: Do you think it's a better design as far as the visibility to the public and consistent with the nature of Cambridge because you came to the Zoning Board originally or you think it --

ATTORNEY RICARDO SOUSA: So I do think, I do know that the design improved from our original filing in our

meetings with both the Advisory Committee and the Planning Board that the design did improve.

JANET GREEN: Did improve?

ATTORNEY RICARDO SOUSA: Yes, it did.

JANET GREEN: All right.

ATTORNEY RICARDO SOUSA: In fact, it was their request that we make all the antennas conform. We reoriented some of the remote radio heads as well and we encapsulated them in a stealth enclosure. So I do think that the Planning Board process and the Harvard Square Advisory Commission process improved it. I'm not taking away credit from the Zoning Board, but nothing changed with the Zoning Board, but the process of getting to the Zoning Board I think with respect to this application it did improve.

JANET GREEN: Yes.

ATTORNEY RICARDO SOUSA: Yes.

JANET GREEN: Okay.

CONSTANTINE ALEXANDER: Further questions?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter involving 14 Arrow Street?

(No Response.)

CONSTANTINE ALEXANDER: No, apparently no one wishes to be heard. I'm not aware of any correspondence or any communications in our files, so I will close public testimony.

Any final comments?

ATTORNEY RICARDO SOUSA: None, Mr. Chairman.

CONSTANTINE ALEXANDER: Okay.

SLATER ANDERSON: I just had a board question.

CONSTANTINE ALEXANDER: Go ahead.

SLATER ANDERSON: What was -- so when we approved it on November 19th, what was it advertised as at that time?

CONSTANTINE ALEXANDER: It was advertised as an application for a Special Permit under -- or a Special Permit of The Spectrum Act that is cited as our Zoning Ordinance. So it implicated our Zoning Ordinance.

SLATER ANDERSON: Okay.

CONSTANTINE ALEXANDER: Although it was clear that the substance of the petition was going to be whether it met 6409 of The Spectrum Act.

SLATER ANDERSON: Okay.

ATTORNEY RICARDO SOUSA: And if I could add to that, Mr. Alexander, Mr. Chairman.

CONSTANTINE ALEXANDER: Sure.

RICARDO SOUSA: That we notify the notice board to include the fact that we were asking for a Special Permit or a 6409 eligible facilities request.

CONSTANTINE ALEXANDER: That's correct.

ATTORNEY RICARDO SOUSA: So both were advertised.

SLATER ANDERSON: Okay.

You're saying the error on our case on the 19th was we were approving it and what did you call it the special --

ATTORNEY RICARDO SOUSA: Just an eligible facility request.

SLATER ANDERSON: We were approving that, which we don't have the authority to do.

CONSTANTINE ALEXANDER: Which the Legal Department told us subsequently we don't have the authority to do. And what we do have the authority to do was withdrawn because -- and not knowing that we had to do that. Errors all around or should we -- errors may be too strong in my opinion. But discussion for another day.

ATTORNEY RICARDO SOUSA: Yes, I agree.

CONSTANTINE ALEXANDER: Ready for a vote?

SLATER ANDERSON: Yes.

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that with regard to the Special Permit being sought that we make the following findings:

That it appears that the requirements of this Ordinance cannot or will not be met unless we grant the relief. And we know from the Legal Department that is the case.

That traffic generated or patterns of access or egress resulting from this work will not cause congestion, hazard, or substantial change in established neighborhood character.

And that continued operation or development of adjacent uses as permitted in our Ordinance will not be adversely affected by what is being proposed by the petitioner.

That no nuisance or hazard will be created to the detriment of the health, safety, or welfare of the occupant or the citizens of the city.

And what is being proposed will not impair the

integrity of the district or adjoining district or otherwise derogate from the intent and purpose of our Ordinance.

In this regard as Mr. Sousa has pointed out, what is being proposed has been favorably passed upon by the Harvard Square Advisory Commission and the Planning Board.

ATTORNEY RICARDO SOUSA: Correct.

CONSTANTINE ALEXANDER: And that what is being proposed, and I'll get to that in a second, will satisfy the requirements of The Spectrum Act -- 6409 of The Spectrum Act.

So on the basis of these findings, the Chair moves that we grant the -- we adopt the following motion:

That the modification to its existing telecommunication facility at 14 Arrow Street proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base station at such facility within the meaning of Section 6409(a) of The Middle Class Tax Relief and Job Creation Act of 2012 also

known as The Spectrum Act.

And, therefore, the petitioner is entitled to the Special Permit it is seeking under our Zoning Ordinance provided that the petitioner complies with the following conditions:

One, that the work proceed in accordance with the plans submitted by the petitioner and initialed by the Chair. And these are those plans.

Two, that upon completion of the work, the physical appearance and impact of the proposed work will be consistent with the photo simulations submitted by the petitioner and initialled by the Chair. It's here.

Three, that the petitioner shall at all times maintain the proposed work so that its physical appearance and impact will remain consistent with the photo simulations previously referred to.

Four, that should the petitioner cease to maintain or utilize the equipment approved tonight for a continuous

period of six months or more, it shall remove promptly thereafter such equipment and return the building on which it is located to its prior condition and appearance to the extent reasonably practicable.

And I believe there should be one more. And five, that what is being erected must match the color of the facade of the building with regard to the other antenna.

That's it.

Anybody else have any questions modifications?

All those in favor of granting the Special Permit on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

ATTORNEY RICARDO SOUSA: Thank you. Thank you for your patience on this one. Appreciate it.

CONSTANTINE ALEXANDER: Patience all around.

ATTORNEY RICARDO SOUSA: Yes.

* * * * *

(7:30 p.m.)

(Sitting Members Case BZA-008968-2015: Brendan Sullivan,

Thomas Scott, Janet Green, Douglas Myers, Slater W.

Anderson.)

CONSTANTINE ALEXANDER: We're going to go to our regular agenda.

The Chair will call case No. 008968, 2 Arrow Street.

Is there anyone here wishing to be heard on this matter?

I am not going to be sitting on this case. I'm recusing myself so Mr. Myers is going to sit in my place and Mr. Sullivan will be the Chair.

BRENDAN SULLIVAN: Introduce yourself for the record and present the case.

DIANE GRAY: Good evening. My name is Diane Gray, D-I-A-N-E G-R-A-Y from Harvard University. With me....

ANNETTE DUCLOS: Annette Duclos, A-N-N-E-T-T-E D-U-C-L-O-S.

DIANE GRAY: Harvard University is seeking a Variance to operate a retail establishment Looks in Office 3 district which is in the Harvard Square Overlay district.

The area they request is a ground floor space of approximately 1,071 square feet located at 2 Arrow Street.

This board shows the space. This is -- can everyone see this?

2 Arrow Street. This is Mass. Ave. And this is the space we're talking about tonight, which have four floor-to-ceiling windows and it's located in a retail area of Massachusetts Avenue and Harvard Square.

The relocation of Looks, which is a locally owned clothing boutique moving from Holyoke Street to Arrow Street will enliven the space, the sidewalk, and the street adding to the vibrant retail area of Harvard Square.

I have a Board which shows the many retail uses in the area of the location in question.

Looks has been in Harvard Square for 40 years and is currently located in the Smith Campus Center which is about to undergo a renovation.

The project has been reviewed by the Harvard

Square Advisory Committee and the Planning Board which both positively endorsed the proposal, and there should be letters in the file. And I have extra copies if you don't have the letters.

Also there are 20 letters of support on file.

We're seeking this Variance under BZA Section 20.54.3 for the Harvard Square Overlay District related to retail -- retail establishments in office districts allowed by Special Permit. These regulations offer flexibility in districts where retail uses are not permitted. They allow by Special Permit the use of a structure for retail if certain conditions are met. This building was constructed in 2003, but the requirements relate to buildings constructed prior to 1985. So we don't meet that condition.

So while we meet nearly all of the -- nearly all of the criteria for Special Permit, we're not eligible due to the age of the building.

A literal enforcement of the Zoning Code does not

allow the retail in the Office 3 District, but the space is within the bustling Mass. Ave. retail corridor, and this use would support the goals of the overlay district.

In 2003 the Special Permit decision noted that the ground floor had the potential to accommodate a wide range of uses, and it noted that there was institutional, office, retail, and residential uses in the facility.

When it was built -- I'll go back to the space. This is the space in question here. This is the space in question. There's a theatre on the ground floor. And this space was meant to be office support space for the offices above, but it was never really used and so it's basically been unused for ten years.

The granting of the Variance would allow Looks to remain in Harvard Square and fill this ground space with a vibrant business that serves a wide range and demographic in Cambridge.

And the floor-to-ceiling windows work very well

for a retail store.

At this point I'm going to pass it off to Annette who is the owner of Looks.

ANNETTE DUCLOS: Hi. So I am here to petition for the right to release the Variance that does not allow retail. And the reason I love this space is because it is in an area that is -- has more independently-owned stores and I am being forced out of the space that I'm in now because of the renovation of the Holyoke Center. I've been there for eight years, and in two other locations in Harvard Square, for a total of -- I have owned the store for eight years, but I've worked for the previous owner for ten years. And the store itself has been in Harvard Square for 33 years. It's one of the only independently-owned stores that is in -- as close to Harvard Square as you can get, because you can't -- I tried to find space in Harvard Square, and it's impossible with the rents. The rents now just don't allow any independently-owned businesses to exist. The big

box stores, Urban Outfitters, banks, credit cards, you know, institutions, are all able to pay the rents, but it's changing the environment of Harvard Square so drastically that I think pretty soon it won't attract tourism. So I need to find a space, and Harvard has offered me the space. And the only way that I can get the space is if the Zoning for office is removed. The space that exists there now is empty and not being used for any reason. So I feel as though vital retail space in that office area would add to the location, and I have letters from customers, loyal customers. I have more than 20 letters that have been written between December 22nd and today that support the decision to move to this space, and I hope that you agree that it's the right decision.

BRENDAN SULLIVAN: What are your hours, days of operation?

ANNETTE DUCLOS: Open every day ten until six, Thursday until seven, and Sunday twelve to five.

BRENDAN SULLIVAN: Okay.

Anything else that you want to -- you'll get a chance at the end to comment if you wish.

DIANE GRAY: Just happy to answer questions if you have any.

BRENDAN SULLIVAN: Any questions from Members of the Board at this time?

THOMAS SCOTT: This is exactly the type of use that should be in this space. Ground floor, retail space that's sat vacant for ten years. This is a perfect use I think for this space in this particular area with so many other retail businesses within literally a one block radius.

BRENDAN SULLIVAN: You know, it's a lovely building. It was a well-intentioned building, but there's one void in it which I guess you want to fill.

ANNETTE DUCLOS: Right.

BRENDAN SULLIVAN: All right, let me open it to public comment.

Is there anybody who would like to speak on the matter?

Councillor.

COUNCILOR DENNIS CARLONE: Thank you. Dennis Carlone, Nine Washington Avenue.

I was a consultant to the City for 30 years in urban design and architectural issues to the Planning Board and I was thrilled to hear what both of you had to say, because that's exactly right; the building is just slightly off Mass. Avenue, but actually it's visual as you all know from Mass. Avenue. My family lived on Remington Street which is on the other side of Mass. Avenue. So we've known this site intimately and remember it as a parking lot, and it almost -- it appears that the building was designed to have retail. If you look at the facade, a grand or important purpose was meant to be at the first floor and not what is in there now. And as was alluded to by Annette, the dedicated clientele she has will follow her to this location

and actually take what's a dark corner now and begin to animate it very well. It just -- as you know the Zoning better than I do, the Zoning on the other side of Arrow Street allows retail and retail up the block on Mass. Avenue, it's just this little corner, and this corner actually forms a square. This building helps form a square at Arrow and Mass. Ave. So this building is very, very visible and clearly I don't have to convince you of the rationale and the likelihood that this will actually help even the theatre's presence having an animated use there in many hours of the day. So I encourage you to proceed favorably.

Thank you.

BRENDAN SULLIVAN: Thank you.

Anybody else wish to speak on the matter?

Yes, Ma'am.

MARY CANNING: My name is Mary Canning and I own Follow the Honey at 1132 Mass. Avenue and I'm here to speak

on my behalf and as well as Mary Taylor who owns Salt and Olive right around the corner on Mass. Ave. And we're delighted to learn, fingers crossed, that Annette will be joining us. I'm also a homeowner that lives right around the corner at Hancock Street. My daughter was born 30 years ago at Mt. Auburn Hospital. I've been in Boston, you know, going through school and working since 1979, and I've walked thousands of times up and down this Avenue and watched the character of Harvard Square change. As someone who is making a go of it at a retail space right next-door to where Looks will conceivably be, we've been kind of a little anchor retail establishment now for four years. We just won Best Business in Cambridge. So we're sort of, you know, we're revitalizing that little area there which has been kind of in the shadows. And then with Mary Taylor coming on a year and a half ago, another woman-owned business, and all of us working in concert with each other as small businesses to, you know, not only create profitability but to create

sort of a really community-based retail space that gets to what the heart of Harvard Square was when I came here in '79.

So, anyway, I'm just here to vote in favor.

BRENDAN SULLIVAN: All right, thank you.

Denise.

DENISE JILLSON: Thank you. Good evening. Denise Jillson, D-E-N-I-S-E J-I-L-L-S-O-N, the executive director for Harvard Square Business Association. And Looks is a long-time member of the association and we're here tonight to give our overwhelming support. You know, this is an exciting time for us because as Mary said, we've been working with Salt and Olive and Follow the Honey and Finnegan's and BerryLine as well as Boston Burger and Zoe's in that area to really create what we're calling the bow and arrow district of the Harvard Square Business Association, because you know sometimes it's difficult to get people down that street. And, you know, they're trying so hard as

independent businesses to really create a vibrant and robust community there. So we think with the addition of Looks it will give people one more reason to come down. And, you know, we're working really hard to create events to bring people into that area. So we hope that the Board approves this. We think it's a fabulous use of that space and look forward to working with Annette. And we call them Mary Squared, Mary Taylor and Mary Canning. But it's been terrific the past year since Salt and Olive opened we've seen this really -- you know, Mary has been holding the fort basically with all of her little bees down there, and this is just a great addition. So we're excited and we hope that you'll approve it.

Thank you.

BRENDAN SULLIVAN: All right, thank you.

Anyone else wish to comment?

(No Response.)

BRENDAN SULLIVAN: I see nobody else. I will, for

the record, there are some 20 plus letters in support. I will read one as a -- to represent the rest.

From a Kate Williams, (Reading) I would like to offer my support for the Looks Clothing Store and their continued presence in Harvard Square. I'm a local resident and fully encourage the independent stores that are located in the Harvard Square and surrounding area. With the addition of more chain stores and big banks, the feel and energy of Harvard Square is changing. I've been a customer of Looks 15 years and have always found well-made quality clothes that are the backbone of my wardrobe. Looks will continue to attract new and old customers from all over the state and beyond and add a beautiful shopping environment to Harvard Square.

And that is typical of the other letters in support.

The Board also notes correspondence from the Planning Board.

(Reading) The Planning Board reviewed the Use Variance application for the relocation of an existing and long-established clothing shop within Harvard Square. This building was granted a Planning Board Special Permit for the Harvard Square Overlay District in 2003. The Planning Board reviewed Looks plans and overwhelmingly supports a ground floor retail use at this location along Arrow Street which has active retail uses. The ground floor space has been vacant for many years and has never been used as an office or any other active use. If the building had been constructed before 1985, the Planning Board could have granted a Special Permit for the retail use. No new construction is anticipated and the facade will remain the same.

Correspondence from the Harvard Square Advisory Committee. The summary: Diane Gray from Harvard Planning presented the application materials in support of a Use Variance for a woman's clothing store. This retailer Looks

has been in Harvard Square a Harvard University tenant for 40 years and is currently located in the Smith Campus Center which is about to undergo extensive renovation. Many letters were submitted in support of the Variance. No letters of opposition were submitted. Arrow Street contains a mixture of uses, office as well as retail. A motion was made and seconded to support the application for the Use Variance to allow the relocation of a long-term retail establishment to the ground floor of the theatre building. The committee suggested that appropriate level energy efficient lighting be utilized to animate the storefront during the evening. The windows should be used for display and kept into the store to preserve an active line of sight -- should be kept open into the store to preserve an active line of sight. The proposal meets the intents of the guidelines of the Harvard Square Overlay District. There was a need for preserving long-term retailers in Harvard Square. There will be no change to the building facade

other than a signage as allowed under Section 7.000. This particular area contains a mixture of uses, including stores and restaurants and other customer service establishment. All members in attendance supported the motion.

And there was also correspondence from Mary, founder and CEO Follow the Honey.

Sum substance of correspondence. I'll close public comment.

Anything else that you would like to add?

DIANE GRAY: Nothing to add.

BRENDAN SULLIVAN: What else can I say that will -- okay.

I will close the presentation part.

Is there any comment by the Members of the Board?

THOMAS SCOTT: Good.

JANET GREEN: I just would say it's a tremendous business that people have followed through four changes of location that I've known for not their choice but just one

thing after another, and it always has customers. I know you'll be good for that corner.

ANNETTE DUCLOS: Thank you.

SLATER ANDERSON: I fully agree. I think it's the right use and I commend you for being an independently owned business in Harvard Square. It's not easy.

ANNETTE DUCLOS: Right.

DOUGLAS MYERS: I just say I think you should have the space and I hope the space is right for you and beneficial for you.

BRENDAN SULLIVAN: Let me make a motion, then, to grant the relief requested which would be a Variance to convert an empty office meeting space to a retail establishment at the location:

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner because it would severely limit the property owner's ability to fully utilize the space in a

manner desirable and compatible to the surrounding area which is a mixed use neighborhood with a majority of buildings having a mix of retail and/or consumer service uses on the ground floor.

The proposal before the Board, although not permitted in Office 3 District, would not be incongruous to the district and in fact would add to the variety of retail uses in the adjoining property.

The Board finds that the hardship is owing to the fact that the building, which was built in 2003, was carefully designed to respond to the existing pedestrian and urban environment, contains a 300-seat theatre, a gym at this end of Harvard Square, being part of the ART, and approximately 24,000 square feet of office space. This 1100 square foot of office space is distinct from and separated from the main part of the office, but well intentioned, the space has no relationship or easily communicating with either the theatre or the upper floors of the office space

and as such, results in a grossly underutilized and vacant space for approximately ten years.

The granting of the relief from the Ordinance would relieve the burden of this dark space in an otherwise very attractive building.

The Board finds that desirable relief may be granted without substantial detriment to the public good.

The Board notes that the proposal is compatible with and compliments existing uses in the area, adds to the variety of retail establishments, and as the many correspondence, 21-plus letters of support submitted, support from the Planning Board and support from the Harvard Square Advisory Committee, the proposed establishment is an existing valued member of the Harvard Square community for over 40 years. It serves the public interest to fill in this current longstanding void with an active and attractive retail business.

The Board finds that relief may be granted without

nullifying or substantially derogating from the intent and purpose of the order of the Ordinance.

The Board notes that the locus is within the Harvard Square Overlay District. The district has a set of goals that encourage active ground floor uses, a pedestrian-orientated environment, and support of a diversity of uses serving the needs of surrounding neighborhoods, students, and visitors. As noticed in the Zoning Ordinance 20.52, it is the purpose of the overlay district to augment existing zoning regulations to respond to unique problems and pressures for change particular to the Harvard Square area, including enhancing the unique functional environment and visual character of Harvard Square. The additional flexibility in the zoning is intended to facilitate the protection and character of Harvard Square while not unreasonably limiting the opportunities for appropriate contemporary changes to the in-place environment of Harvard Square area. The regulation

of the Harvard Square Overlay District offers flexibility for retail uses in districts where retail uses are not permitted. The Zoning Ordinance 20.54.3 allows by Special Permit the retail use of a structure in the Harvard Square Overlay District if certain conditions are met. As testimony has shown, one area that this particular locus does not meet is the age of the building built after 1985.

And the Board finds that in 2003 the Planning Board granted the Special Permit to the project with conditions and alluded to its potential future use as a more active street level use.

As noted in the 2003 findings, the theatre was built within a heterogeneous environment of buildings and uses. The decision at that time noted, page 6, particularly on its Arrow Street side, the design introduces an engaging and accessible ground floor that has the potential to accommodate a wide range of pedestrian-friendly activities in the years ahead. The decision also noted on page 14 that

the site is surrounded by a range of institutional, office, retail, and residential uses. Numerous retail stores, small and moderately sized restaurants and upper story offices and residential uses, occur in the immediate vicinity of the site.

Hence, the Board finds that in light of aforementioned facts the granting of this Variance is a fair and reasonable relief from the Ordinance.

All those in favor of accepting those findings?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Scott, Green, Myers, Anderson.)

ANNETTE DUCLOS: Thank you. Thank you.

* * * * *

(7:55 p.m.)

(Sitting Members Case BZA-008879-2015: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will next call case No. 008879, 57 J.F.K. Street.

Is there anyone here wishing to be heard on this matter?

ATTORNEY ANDREW UPTON: Good evening, Mr. Chairman, Members of the Board. Andrew Upton, Andrew, U-P-T-O-N. Along with Austin Collier, C-O-L-L-I-E-R, and Rosamond Lu, R-O-S-A-M-O-N-D L-U.

I'm a lawyer. They are from a company called Bao Bao.

I want to briefly review why we think we comply with the requirements for a Special Permit and then I'll turn things over to Austin and give you some background on the company and the product and our proposed operation in Harvard Square.

First, I'm happy to report that we have met with and earned the support of the Harvard Square Business Association and the Harvard Square Advisory Committee.

We've also gathered over 2,000 -- 200 signatures on a petition supporting a Harvard Square location for Bao Bao.

And we have a graphic representation of the on-line petition to submit for the record.

We hope you will find that this use will not be a detriment to the public interest because it will not create additional traffic.

The nature of the use is compatible with other building tenants and businesses.

This is a unique and appealing food choice for customers.

There will be no adverse or negative effects due to the healthy nature of the product and the style of its preparation.

The previous occupant of the space was a fast order yogurt place and it didn't seem to cause any detrimental effects.

We hope you will find that this use will comply with the fast order food requirements as it does not create traffic or parking problems or threaten pedestrian safety.

The design fits in with the area, and the establishment fulfills a need for a popular ethnic cuisine that is not yet available in an authentic, fresh, fast order format.

Our mostly walk-in customers will be served on biodegradable materials and have convenient, well-marked waste receptacles in which to dispose them. And the design

will comply with applicable access codes.

Finally, we think this use will support the citywide urban design objectives as a visually compatible use in the district with many food service options, that is pedestrian and bicycle friendly with minimal environmental impact and no increase currently on the city infrastructure.

With that, I'll turn this over to Austin for some detail on the actual concept.

AUSTIN COLLIER: If the Board would like, I could hand out some copies of the presentation.

CONSTANTINE ALEXANDER: I'll pass it down.

AUSTIN COLLIER: All right. Thanks.

This just to give a short background on the concept and the company. We realize that this is a new concept to Cambridge, and in fact the United States, so just to enlighten you quickly and to go into specifics.

CONSTANTINE ALEXANDER: Is the goal to have many other Bao Baos in this country?

AUSTIN COLLIER: Eventually, maybe, yeah.

ROSAMOND LU: But not many.

AUSTIN COLLIER: Yes.

CONSTANTINE ALEXANDER: Others?

AUSTIN COLLIER: It's not out of the question, but
yes.

ATTORNEY ANDREW UPTON: This one has to work
first.

AUSTIN COLLIER: Our concept comes from a concept
of a Chinese company called, Ganqishi, G-A-N-Q-I-S-H-I.
That's been operating in Hung Jo and Shanghai successfully
for the last seven years. The founder of that company, if
you go to page 3, that's a picture of him, is Tom Tong, he
is also the founder and majority stakeholder in Tom's Bao
Bao.

Of course our concept focuses around the product
of the bao and making it of the highest quality version of
that possible. In China this is a household product. It

would be like saying sandwich. Everyone knows what it is, however, it's not a mass market product in most cases. He changed that in China and now he wants to change that in U.S. through this store and company.

A little bit about our product. Bao goes by a few names. Bao is the official name. Bao Bao as well. It's 1200-year-old recipe. It's a lot of different iterations. It's a very pure design. We make it by hand, in store, and in front of our customers.

We have many different flavors. It can create both very healthy meal because it's all water-based dough, steamed, uses very low fat content in it, and it is a product that's very portable as well. So we think that it --

CONSTANTINE ALEXANDER: So no frying?

AUSTIN COLLIER: No frying.

CONSTANTINE ALEXANDER: No odors?

AUSTIN COLLIER: No. In fact, the only cooking

element in the store is a water steamer. So we're just cooking with hot water.

Yes, so in addition to the process, the customers see the end product. We think we have a process that sets us apart as well. As I said, they're made in front of customers in a store. We have a glass front to our kitchen, and customers get to see these finally-tuned skills that our employees get which is far beyond what a normal fast casual restaurant employee would get to attain this level of skill and almost a specialty bakery-type environment. So we want to engage customers, engage the community in learning about this product and what we do and appreciating it as our -- in a creative process as well as the convenient and healthy food item.

Often we've seen order times well under 60 seconds, and that's when the customer gets to the counter until the food is given to them fully prepared and ready to go. Again, like a bakery, it's prepared beforehand based on

projected demand, but it's served fresh out of the steamer.

CONSTANTINE ALEXANDER: What are the contemplated hours of operation and days of operation?

ATTORNEY ANDREW UPTON: Initially we contemplated a sort of later morning to a mid-evening. But after meeting with the Harvard Square Advisory Group, they suggested that we be open both the very early and late. In Asia this is typically a food that people would eat at breakfast and at lunch, but we think there's also a sort of a late night snack market here.

CONSTANTINE ALEXANDER: Students.

JANET GREEN: Yes.

ATTORNEY ANDREW UPTON: They've encouraged us, both the business association and advisory committee, encouraged us to stay open late. So at this point we're thinking we could open at seven in the morning and close at one at night.

AUSTIN COLLIER: Yeah, we're definitely an all day

product. Again, it's very portable, very quick. We want to take advantage of the great foot traffic and liveliness of the area, but we don't feel like we're going to be any cause of congestion either in the larger building we're in or in the neighborhood at large.

A little bit more about our training process. Again, we like to hire local. We like to hire with the idea of we keep our people and create more human capital in the area. Employment begins with weeks of training outside of the store and then moves into a long almost internship-type process.

CONSTANTINE ALEXANDER: How many employees will you have on the premises?

ROSAMOND LU: Around five.

AUSTIN COLLIER: Yeah, at a shift. Yeah.

CONSTANTINE ALEXANDER: Yeah, shifts, I know, but five at any one time roughly?

ROSAMOND LU: Yes.

AUSTIN COLLIER: Yes, it's 12 -- as you probably know, it's 1200 square feet. So we feel that's adequate without creating too much of a crush.

CONSTANTINE ALEXANDER: You're not going to offer hamburgers, are you?

AUSTIN COLLIER: No, we will not.

JANET GREEN: Thank you.

AUSTIN COLLIER: Bao is our core competency. It's something that we believe we do better than anyone else, not only certainly in the U.S. but actually in the world. As a parent company, as a process that we're trying to continue. And we believe that as much as it's convenient to order -- offer some other things, we want to create that quality and keep that brand of the highest possible level of reputableness that we can support.

Anyways, we are looking to obviously build in Harvard Square in Cambridge this coming year, we want to continue that process and that product very closely, but we

realize we in the United States is necessary and also very wise. We contracted Douglas Holt, a former Harvard professor to work with us on cultural strategy.

We contacted and contracted different design groups, including Red Construction and Guts and Glory Design to make sure that this really works for where we are and what we're doing, and not just with the product that we're using.

Going into how we fit into Harvard Square, we believe that this is going to be a very good match. We're aiming at audiences of young urban professionals and students. We believe this is a great business market. This is a place that has a good infrastructure where people care about being very deliberate about who they let in to this environment and the brand of not only the stores but the neighborhoods themselves.

To that end we've been working on redesigning our store to make sure that it fits in the larger building we're

in as well as possible. So if you'll -- actually, I can hand these out now. We have some layouts of the store as it is right now.

CONSTANTINE ALEXANDER: The layout of the store from our zoning point of view is not all that relevant.

AUSTIN COLLIER: Okay.

CONSTANTINE ALEXANDER: You can hand it out anyway. I just wanted to point it out.

AUSTIN COLLIER: Sure, sure.

CONSTANTINE ALEXANDER: It's really the nature of the business --

AUSTIN COLLIER: Okay.

CONSTANTINE ALEXANDER: -- that's being conducted that's before us.

AUSTIN COLLIER: Our customers will enter through Winthrop Street which is mainly a pedestrian passageway. Of course the Crimson Galleria faces J.F.K. Street, but we believe that because of our location in the store, while we

don't have that worry of, you know, people trying to park right in front of us, things like that. We are facing a park and we realize that zone challenges, we will have people will be doing takeout, we have 13 seats in the store, plus room for standing. It's very portable. It's conceivable that people will eat inside the store if it was cold or something.

But going outside, we've measured the bins in the surrounding park. The square garbage compactors are 14 inches by 18 inches. And the round bins are three feet in diameter. So any box we might use for takeout or anything like that, would of course be able to be disposed.

CONSTANTINE ALEXANDER: Will you have your own waste receptacles out by the front door?

AUSTIN COLLIER: Of course, yes. But of course if people were to venture further --

CONSTANTINE ALEXANDER: No, understood. But there will be that plus what's in the park?

AUSTIN COLLIER: Yes, because, you know, we have a little bit of supply waste receptacles for those customers.

And in addition to that we are committed to using bins to move the trash from the store to the dumpster next to the larger building to reduce the chance that any, you know, drippage or spillage of garbage will happen in the surrounding area, and make a very deliberate effort to educate our employees that any trash regardless it has our logo our branding on it in the surrounding park needs to be cleaned immediately.

CONSTANTINE ALEXANDER: What about the delivery of food that you're going to use in the preparation of your products? How often do you get deliveries? Because you're talking about fresh vegetables most of the time and where does it come?

ROSAMOND LU: All the fillings are prepared ahead because --

CONSTANTINE ALEXANDER: On the premises?

ROSAMOND LU: No.

CONSTANTINE ALEXANDER: Off premises?

ROSAMOND LU: Off premises.

CONSTANTINE ALEXANDER: And they're delivered?

ROSAMOND LU: Yes. And then delivery will follow the rules of Winthrop Street. It's open for delivery at certain times of the day.

CONSTANTINE ALEXANDER: Yes, I noticed that.

ATTORNEY ANDREW UPTON: So we wouldn't have pork, beef, chicken, bok choy, vegetables all coming separately. It all comes --

CONSTANTINE ALEXANDER: Got it.

ATTORNEY ANDREW UPTON: -- pre-made from the commissary.

AUSTIN COLLIER: Right.

A little bit more of our efforts to keep the space clean and green. We have biodegradable packaging that we're going to use as much as possible.

This food does not require utensils. It doesn't require a whole lot of anything other than the actual product.

There's no sauces, packets, things like that to dispose of. So we can minimize potential impact that way.

In terms of our operation, we believe that it is compatible with the historical uses certainly of that space. It used to be Yogurt Land, but also of the surrounding area as a market of eclectic and interesting, often very unique brands of food and companies. So that is I would say my presentation in a nutshell.

CONSTANTINE ALEXANDER: And the products you're going to be selling in the restaurant are just baos? You're not going to do hot and sour soup or --

ROSAMOND LU: No.

CONSTANTINE ALEXANDER: -- or things like that?

Okay.

JANET GREEN: Drinks?

ATTORNEY ANDREW UPTON: There will be drinks, coffee, tea.

ROSAMOND LU: Coffee, tea.

ATTORNEY ANDREW UPTON: Asian-themed drinks.

CONSTANTINE ALEXANDER: But from a food matter, it's basically it's the buns?

ROSAMOND LU: Right.

SLATER ANDERSON: How many varieties? How many flavors?

AUSTIN COLLIER: So we have about five or six core flavors, and of course we're doing R&D to make sure that those will be relevant to our customers, something that attracts them. And also whatever ingredients are done in a way that preserves that pace. We're getting that this week, that process.

In addition, we'll have a rotating menu of different specialty items that we make hopefully on a monthly basis. So while we'll have those things that

someone may be going into Dunkin' Donuts and like getting a corn muffin every morning, well if you like your apple barbecue pork bao for lunch, you could have that everyday but also maybe we'll have a lobster bao in July or something.

CONSTANTINE ALEXANDER: I should point out to you, that it's very customary for people when asking the relief you want to bring samples of the food with you.

JANET GREEN: I was going to say where are the bao?

AUSTIN COLLIER: It's not possible. We still need to bring a lot of ingredients --

JANET GREEN: I love bao.

ROSAMOND LU: We sent our chefs to China on a three-months' training trip. And they'll be back on Tuesday. And in fact Austin went through the training himself as well.

AUSTIN COLLIER: But you would not want my bao.

SLATER ANDERSON: Well, we're going to have to continue this.

CONSTANTINE ALEXANDER: I guess so.

ROSAMOND LU: We'll be sure to send some samples.

AUSTIN COLLIER: Yes, absolutely.

CONSTANTINE ALEXANDER: That's it?

ATTORNEY ANDREW UPTON: That's it. Glad to answer any questions.

CONSTANTINE ALEXANDER: We'll get to that.

Any questions from Members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

Ms. Jillson. Busy night for you.

DENISE JILLSON: Good evening, Denise Jillson,

D-E-N-I-S-E J-I-L-L-S-O-N, executive director for Harvard Square Business Association.

And I'm delighted to be here tonight to support Tom's Bao Bao. I haven't tasted one yet either, but I'm looking forward to it. But they have joined the association and are getting involved already and planning where we have some events coming up and they're hoping to participate in these events. So, even though they are not a locally-owned independent -- which by the way, 70 percent of the businesses in Harvard Square are in fact locally-owned, independent.

CONSTANTINE ALEXANDER: Are they really?

DENISE JILLSON: They are, yes.

This is an international company, but we welcome them as we welcome all commerce in Harvard Square and think that this would be a terrific addition to Winthrop Street.

You know, yogurt Land was lovely, but we had a lot of frozen yogurt in Harvard Square.

JANET GREEN: We remember Yogurt Land.

DENISE JILLSON: And we don't have any Bao Baos. So this will be our first. We are honored that they chose Harvard Square to be their first location in the United States, and we're hoping you will approve this and thank you for your consideration.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishing to be heard? Oh, yes, sir.

Mr. Kelley.

COUNCILLOR CRAIG KELLEY: Thank you very much. My name is Craig Kelley, K-E-L-L-E-Y.

I think this would be a wonderful addition to Harvard Square. Harvard Square, especially this area, is a stunningly international place. It's got the English Institute inside the garage. It's got the Kennedy School, it's a place where people from all over the world come. And there's plenty of falafel, and there are plenty of, you know, other types of food, but there's nothing like this.

And I think the availability for people to share their native food while they're in the square, students, visitors, or whatever will be a wonderful opportunity so I hope you approve it.

Thank you.

CONSTANTINE ALEXANDER: I just to characterize -- no, no -- your comments and Ms. Jillson's comments as going -- which is important, going to one of the requirements that we have to find for fast order food establishments; namely, that the establishment fulfills a need for such a service in the neighborhood or in the city. And the point being is that we don't have, I'm going to call it a bun facility in the city, so it is one more element of the international cuisine that's offered in Harvard Square that's unique at least right now, it will be unique to Harvard Square.

Anyone else wishing to be heard?

Sir.

GERRY TRACY: Good evening. My name is Gerry Tracy T-R-A-C-Y, 75 Winthrop Street.

I am very excited to see bao coming into Harvard Square and wanted to lend my support.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

The only correspondence I see in the file is a memo from the Harvard Square Advisory Committee reporting on their meeting with Ms. Lu and Austin Collier and Mr. Upton. It goes through what they talked to you about which is what you covered by your presentation today. And the comments they offer: A motion was made and seconded to support the application for the fast order food establishment.

That the proposal meets the guidelines of the Harvard Square Overlay District.

There is a need for fast order food in Harvard

Square for visitors, employees in the square, as well as the student population. These people have been to Harvard Square lately, but there's plenty of fast order food in Harvard Square, maybe not bao.

There will be no changes to the building facade other than signage as allowed in Section 7.000.

Let me stop and point that out. Signage is a separate matter. I mean, when you're going to -- when you're ready to open, you'll either, you're going to need a special sign permit. And if you don't meet the requirements, you have to come back for a Variance in that case. So, just to point out that you don't have a free reign in what kind of signage you're going to put on this in the future.

ROSAMOND LU: Thank you.

CONSTANTINE ALEXANDER: Okay.

(Reading) This particular location has been a mixture of restaurants as well as other customer service

establishments.

There are four conditions suggested by the committee if the Board of Zoning Appeal grants a Special Permit:

One, is that trash be handled in such a way as to provide receptacles inside and outside of the restaurant and they be monitored to prevent overflow.

And you've addressed that in your comments. You're going to have outside the door and checking the park. And I think it goes without saying, you'll regularly empty the barrels.

Two, is that trash -- trash is moved to the alley for storage in such a way as to not leak and/or spill along Winthrop Street or in the alley. A solid container, not just a plastic bag, is suggested. Policing the trash in front of the restaurant as well as along Winthrop Street is very important.

You've addressed that as well, I think, so far in

your commentary.

Three, the applicant reconsider the design of the entrance to increase the level of activity along the street.

And I'm going to say that's not really a matter for our Board. That's for you to decide.

ATTORNEY ANDREW UPTON: That being said, we have taken that advice.

CONSTANTINE ALEXANDER: Oh, okay, good.

ATTORNEY ANDREW UPTON: And we have eliminated what we were calling a vestibule, a little bit of an entry area that they felt was not effective.

CONSTANTINE ALEXANDER: Do you know if your redesign satisfies the Harvard Square Advisory Committee? Have you shown it to them? Just out of curiosity. Not that you had to.

ATTORNEY ANDREW UPTON: We showed them the original plan, and they said get rid of this and we did.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY ANDREW UPTON: And basically they said they wanted that and a trash can out by the entrance.

CONSTANTINE ALEXANDER: Right.

ATTORNEY ANDREW UPTON: Both of which we have put in and we can submit this updated plan to the Board if you need a copy.

CONSTANTINE ALEXANDER: Just for your representation that you just made about where the location will be and the fact that you've redesigned in response to the suggestion or request of the Harvard Square Advisory Committee is sufficient.

ATTORNEY ANDREW UPTON: Perfect.

CONSTANTINE ALEXANDER: And lastly, four, the applicant should consider expanding the hours of the restaurant to appeal to customers later than ten p.m., especially on weekends.

And you've addressed that as well. You haven't decided, I gather, the actual, yet, the actual hours of

operation; is that correct?

ROSAMOND LU: Yes, we will request seven to one a.m. and then we will decide.

CONSTANTINE ALEXANDER: Well, we won't decide ourselves.

ATTORNEY ANDREW UTPON: We probably apply for that on the CV license.

ROSAMOND LU: Yes, we will apply for that.

ATTORNEY ANDREW UPTON: We've taken their advice and that's where we are. Assuming that --

CONSTANTINE ALEXANDER: You're planning to have late hours of operation, that's part of your business nature. We're not going to get into it tonight trying to establish the exact hours.

ATTORNEY ANDREW UPTON: Right, we have taken that advice and we're in agreement.

CONSTANTINE ALEXANDER: And your memo concludes by saying all members in attendance but one supported the

motion.

So you have the support, as you've told us already, of the Harvard Square Advisory Committee.

And that appears to be it in terms of written communications, and we've heard from those in the audience who want to be heard. So I'm going to close public testimony.

Any Members of the Board want to discuss this or ready for a vote?

JANET GREEN: Ready for a vote.

THOMAS SCOTT: Ready.

CONSTANTINE ALEXANDER: Looks like everybody is ready.

Okay, this Board makes the following findings with regard to the application of the petitioner:

That the requirements of the Ordinance are such that it can only be met with the granting of a Special Permit because our Ordinance provides that a fast order food

establishment, which is a defined term under our Ordinance, and you fall within it. It's not intended to be specific to any type of business, it's just a general nature of your business, and you are a fast order food establishment.

That traffic generated or patterns of access or egress resulting will not cause congestion, hazard or substantial change in established neighborhood character.

In this regard, there is other -- there are other even fast food -- cannot, exactly fast food establishments, there's very similar establishments right in the immediate neighborhood, and does not cause congestion or any hazard.

As you pointed out, you will be basically facing Winthrop Street and the park across -- Winthrop Square Park. And that provides areas for people to enjoy the food that they're buying at your premises.

That the continued operation or development of adjacent uses as permitted in the Ordinance will not be adversely affected by what is proposed. What you're doing

is what's been there, been there for a long time in a different nature; namely, frozen food operation -- yogurt, froze yogurt operation.

And that the continued operation of development of adjacent uses will not be adversely affected by the nature of the proposed use.

I guess I want to make, that it's such a wonderful business, you're going to take away business from others. So you will adversely affect them, but other than that, you're not going to adversely affect other people to continue to run their businesses in the neighborhood as they have so far.

No nuisance or hazard will be created to the detriment of the health, safety, and welfare of the occupant or the citizens of the City.

And that the proposed use will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

In this regard the Chair would note that the proposed establishment has a support of the Harvard Square Advisory Committee. Apparently the support of interested citizens. We've heard no negative comments, and we've heard several positive comments. And so -- and it is consistent with the nature of Harvard Square in terms of offering various means of international cuisine.

So on the basis of all of these findings, the Chair moves that we grant the Special Permit being requested by the petitioner.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

Good luck.

(Alexander, Sullivan, Scott, Green, Anderson.)

ATTORNEY ANDREW UPTON: Thank you very much.

* * * * *

(8:25 p.m.)

(Sitting Members Case BZA-008886-2015: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will next call case No. 008886, 54 Washburn Avenue.

Is there anyone interested in this matter? He says innocently.

BRENDAN SULLIVAN: Is there anybody here interested in Brookline Street?

CONSTANTINE ALEXANDER: That's a good point. Don't go.

* * * * *

CONSTANTINE ALEXANDER: We have some cases later in our agenda that we're going to continue. If you're here for those, you can leave or wait for the continuance.

There were three cases that we're not going to be hearing tonight that have been advertised for one reason or another.

One is 008898, 201 Brookline Street, No. 6.

A second is 008899, 201 Brookline Street, No. 5.

And the third one is 008957, 146 Mount Auburn Street.

So any of those cases, if you're here interested in those, we're not going to be hearing them tonight.

Thank you, Brendan.

The floor is yours.

ATTORNEY DENISE CHICOINE: Good evening. My name is Denise Chicoine. I'm an attorney for the North Charles Mental Health Research and Training Foundation Corporate.

North Charles is here applying for a Special

Permit.

North Charles was founded as a behavioral healthcare services provider in 1971 and has always provided behavioral healthcare services in Cambridge since that time for over 40 years.

. North Charles is a well-known teaching facility affiliated with Harvard Medical School and the Cambridge City Hospital.

The majority of the services that North Charles provides at the Washburn Avenue location are therapy sessions for individuals in recovery. This is conducted by licensed social workers and the triggers of opiate addiction are discussed and individuals are helped with how to manage their addiction.

We are seeking a Special Permit --

CONSTANTINE ALEXANDER: Just to -- you said the majority of what you do. What else do you do?

JANET GREEN: Can people hear back there?

CONSTANTINE ALEXANDER: Yes. That's a good question.

JANET GREEN: Can you hear?

CONSTANTINE ALEXANDER: We'll do the best we can. This is a bad room. If you want to move to the sides, feel free to move a chair or stand up or stand behind us.

JANET GREEN: Or just speak a little louder, too.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY DENISE CHICOINE: So the vast majority of services provided are by licensed social workers and other clinicians in regard to therapy. There is ancillary medical use where individuals -- there's a medical director and there are some assessments done because the program affiliated with the Methadone dosing that is done only at Cambridge City Hospital. No medications are kept on-site at the Washburn Avenue location.

This site is a pre-existing non-conforming commercial use. And I'll just show you the layout.

The first is to show you a Google map --

CONSTANTINE ALEXANDER: I'm pretty familiar with the property anyway.

ATTORNEY DENISE CHICOINE: And that's to show you that Washburn Ave. basically runs between Massachusetts Avenue in Cambridge and turns into Newbury Street in Somerville. So -- and it runs perpendicular to Broadway.

The building itself, as I said, is -- has now been renovated to meet the needs of North Charles's clientele.

CONSTANTINE ALEXANDER: Anybody else occupy the building, will occupy the building should we grant you relief? Any other organization, other business?

ATTORNEY DENISE CHICOINE: No, this is the only tenant in this building.

CONSTANTINE ALEXANDER: You'll be the only tenant, the sole tenant?

ATTORNEY DENISE CHICOINE: Yes.

CONSTANTINE ALEXANDER: Right.

GARY HOULE: Just to clarify, too --

THE STENOGRAPHER: I'm sorry, and your name,
please?

GARY HOULE: Gary Houle, the executive director.

THE STENOGRAPHER: Gary?

GARY HOULE: Houle, H-O-U-L-E. Of North Charles.

Just to clarify, there are administrative and
accounting services and things and general administrative
stuff that goes on.

CONSTANTINE ALEXANDER: I assume that.

GARY HOULE: Right.

ATTORNEY DENISE CHICOINE: And just one more of
the building. The build outs.

CONSTANTINE ALEXANDER: Is this the front door, if
you will?

GARY HOULE: Yes.

CONSTANTINE ALEXANDER: And that is on the side
of -- okay. It's not on Washburn?

GARY HOULE: In the parking lot.

ATTORNEY DENISE CHICOINE: In the parking lot.

CONSTANTINE ALEXANDER: In the parking lot.

GARY HOULE: Halfway down the building.

ATTORNEY DENISE CHICOINE: North Charles is seeking a Special Permit to be a non-profit educational use, alternatively as a social service center, or an other healthcare facility.

CONSTANTINE ALEXANDER: Can I just interrupt you right there? I'm sorry, I've been interrupting you anyway. I'm a little confused and just help me.

You said it could be one of three things --

ATTORNEY DENISE CHICOINE: Yes.

CONSTANTINE ALEXANDER: -- you've identify them. Non-profit educational institutional use, healthcare facility or social service center.

ATTORNEY DENISE CHICOINE: Yes.

CONSTANTINE ALEXANDER: If I look at the Zoning

Ordinance, what is it? 4.56, it talks about a Special Permit for a healthcare facility. It talks about a Special Permit as a right approach for a social service center. I could not find anything that deals with non-profit educational or other institutional use. Where does that come from in terms of our Ordinance?

ATTORNEY DENISE CHICOINE: I have that. Sorry, just a moment.

CONSTANTINE ALEXANDER: This question is not --

ATTORNEY DENISE CHICOINE: I believe it was generally taken from within Section 4.50.

CONSTANTINE ALEXANDER: And then there's a table, a table in 4.56 and it's in the in the table.

ATTORNEY DENISE CHICOINE: Oh.

CONSTANTINE ALEXANDER: I guess what I'm trying to get at is I don't think that's relevant. You're either a social service -- a healthcare facility or a social service center. And if you are either or both of those, we can

grant you relief by means of a Special Permit, which is why you're here tonight. But under our Ordinance, any use that's not identified is not permitted.

ATTORNEY DENISE CHICOINE: Well, there is other institutional uses. I'm looking at letter (h)4. Institutional use not listed in any other category. I believe that was --

CONSTANTINE ALEXANDER: And Special Permit, is that the relief that's required? What does it say in the table? I can get there myself but save me the bother. I think we're going to -- I'm trying to -- we have to be very careful about how we proceed in this from a legal point of view.

ATTORNEY DENISE CHICOINE: Yes, so in a Business A2 District that require a Special Permit the way I'm reading this chart.

CONSTANTINE ALEXANDER: But you're not in a Business A2 District. You're in a residential district.

ATTORNEY DENISE CHICOINE: Well, in residential part of -- yes, so that definition.

CONSTANTINE ALEXANDER: I think you should forget about calling yourself an educational or other institutional use. You rise and fall, you're either a healthcare facility or a social service center. And you say you're both, which is fine. And if that's the case, if you're one or the other, we can grant you relief by means of a Special Permit should we choose. I also don't want to muddy the waters with a category that's not covered by our Ordinance, or at least -- or a Special Permit relief that's not covered by our Ordinance.

ATTORNEY DENISE CHICOINE: All right. I understand what you're saying. So we have that basis there. But we'll focus on the other points.

CONSTANTINE ALEXANDER: We'll focus on the other points. Okay, thank you.

ATTORNEY DENISE CHICOINE: So, North Charles meets

the criteria for a Special Permit because it is consistent with the requirements of the Ordinance. As everyone is aware, we're in the midst of an opiate addiction crisis and treatment facilities such as this are critical. There are no other facilities performing these types of services in the Cambridge/Somerville area.

Individuals in recovery do not create an inherent risk. These are functioning members of society who are Cambridge residents, who are Somerville residents, who come from other towns, who hold professional positions, and they come for treatment.

The Washburn Avenue location is particularly advantageous because many of the individuals rely on public transportation. So this is close to the Red Line. This is within walking distance of bus lines.

And the traffic generated, this is second criteria as you know, will not cause a congestion, hazard, or substantial change. And I know there was much prior

testimony about this in the fall, but I think it's important to note that the telecommunications company that previously occupied this building had 80 employees. North Charles has 30 employees.

CONSTANTINE ALEXANDER: You have 30? How about, do you have any consultants? Do you have other people? Just 30 employees.

GARY HOULE: Well, 39 employees but not all at this -- only 30 at this site.

CONSTANTINE ALEXANDER: We're talking only about this site?

GARY HOULE: Yes.

CONSTANTINE ALEXANDER: 30 employees. What's your plan a year from now, if we granted you relief and things went well, how many would you have? I mean, I want to get a sense of how many.

GARY HOULE: It's a pretty static business.

CONSTANTINE ALEXANDER: It's a static business?

GARY HOULE: We have restrictions at Cambridge Hospital as far as the amount of -- the number of patients we can see at Cambridge Hospital is restricted so frankly we can't increase the size of the business not more than probably five percent at most on the outside because of the restrictions because between the Line Street neighbors and Cambridge Hospital around our dosing site over there.

CONSTANTINE ALEXANDER: So you have a static number?

GARY HOULE: It's a static --

CONSTANTINE ALEXANDER: In the 30s.

GARY HOULE: It's a static -- right.

CONSTANTINE ALEXANDER: In a typical day how many -- do you call --

JANET GREEN: Clients?

CONSTANTINE ALEXANDER: Clients? Do you call them clients? Clients okay?

GARY HOULE: Yes.

CONSTANTINE ALEXANDER: How many clients visit your premises?

GARY HOULE: On a regular day I would say approximately 30, 35, maybe 40.

CONSTANTINE ALEXANDER: So --

GARY HOULE: On the upside.

CONSTANTINE ALEXANDER: Okay, let's say 35. So on any given day --

SLATER ANDERSON: I have a question on this. You can finish your question.

CONSTANTINE ALEXANDER: Okay.

On any given day and on a day I assume we're going to get to that in a little bit, the day being Monday to Friday.

GARY HOULE: Yes.

CONSTANTINE ALEXANDER: You have -- the premises at one time or another will be occupied by 75 people roughly coming in and going, maybe there all day.

GARY HOULE: No. Because the patients are not -- that number of patients that are clients that are there go from seven-thirty in the morning to seven-thirty at night. So it's a flow.

CONSTANTINE ALEXANDER: It's a flow. I understand that.

GARY HOULE: It's not at once. I didn't want you to think it's all at one time.

CONSTANTINE ALEXANDER: No, no. I didn't mean that.

One way or another at some point during the day --

GARY HOULE: Yeah.

CONSTANTINE ALEXANDER: 75, roughly 75 people --

GARY HOULE: Right.

CONSTANTINE ALEXANDER: -- are going to traipse in and out of the building.

GARY HOULE: Yes, yes, that's correct.

CONSTANTINE ALEXANDER: Okay, go ahead.

SLATER ANDERSON: My question to this is looking at the renovated floor plans in the file, I counted 25 group consult rooms that you've built in the facility.

GARY HOULE: Individual consult. Individual.

SLATER ANDERSON: Yes. 25 spaces which says to me you could accommodate 25 clients at any given time.

GARY HOULE: All at the same -- theoretically all at the same time.

SLATER ANDERSON: Now, how long does a session last?

GARY HOULE: No more than an hour.

SLATER ANDERSON: Okay. So the number of people could be significant travelling through during the day?

CONSTANTINE ALEXANDER: I'm trying to get at is the traffic, because the number of people translates to how many people traipsing in and out of the building.

GARY HOULE: Just so you know, we have approximately probably about 325 clients at any given time.

A lot of which are only seen once a month, are only seen monthly because as you know insurance only allows us -- you know, because of insurance restrictions, they're only allowed one visit a month. There are a number of, there are a number of patients that are seen quick weekly. There are a number of patients that are seen for a group once a week and an individual once a week. So it's very hard for me to -- because this is all has to do with treatment planning, it's very hard for me to estimate how many, how many -- you can say in a week, how many visits, how many -- I understand what you're asking is --

SLATER ANDERSON: The facility is designed to accommodate, the way it's laid out is up to 25 --

GARY HOULE: Absolutely.

SLATER ANDERSON: -- potential clients, patients at any given time.

GARY HOULE: Yes.

CONSTANTINE ALEXANDER: Yes.

SLATER ANDERSON: At one hour increments.

GARY HOULE: Right, I agree, yeah.

SLATER ANDERSON: It could be a significant amount of traffic generated.

GARY HOULE: I mean just -- what happens is our staff has, our staff is given a caseload, they see approximately -- they're assigned 28 patients and that's over a 40-hour week. So of those 20 -- if you know, you know, it's complicated to get into this, but if 25 staff people have -- each have 28 clients, they're not seeing them every week and over a 40-hour week, so the number of visits, I mean I'd have to -- I mean, I could get the numbers and we could actually run them and figure it out.

CONSTANTINE ALEXANDER: Well, I mean --

GARY HOULE: But I mean it's nowhere near -- I don't think it's as much as you think.

CONSTANTINE ALEXANDER: Well, you've told us 45 on any given day.

GARY HOULE: I know. But it's not constant coming and going. I think what ends up -- well, what ends up happening is most -- to be honest with you, most of the folks we're seeing are working adults, the vast, vast majority. So there's an active period between about seven-thirty in the morning until about ten o'clock and then another active -- very active period later in the afternoon four to six-thirty, seven o'clock.

CONSTANTINE ALEXANDER: See, that's one of the problems I have with --

GARY HOULE: And during the day there's frankly not a lot going on.

CONSTANTINE ALEXANDER: We're talking about a residential neighborhood. And what we have to deal with is balance.

GARY HOULE: Right.

CONSTANTINE ALEXANDER: What you want to do and the very good things you do for the community and for

society against the needs of the residential neighborhood.

And this is a purely residential neighborhood. It is a narrow street and there are children who live in many of the houses, they go to school in the morning, walk to school, drive to school. There are people who commute to work. So the busy time -- I mean I have a lot of problem, frankly, with you doing business in the hours that kids would be going to school or people would be driving to work. I can see at the end of the day staying open late, later, because by that time, if it's six, seven o'clock at night, kids are home from school hopefully and most people have returned from work. Or if not -- but it's the early morning hours, I find very troublesome frankly.

ATTORNEY DENISE CHICOINE: But there's nothing troublesome about these clients who are coming. These are individuals in treatment. They don't pose a threat to children in the neighborhood.

CONSTANTINE ALEXANDER: It's not a matter

of -- yeah, but it's just traffic. You've got a lot of people driving in, walking in, going up and down the street. It impacts the residential neighborhood and the kids going to school.

ATTORNEY DENISE CHICOINE: But a general office use could also with 80 individuals have traffic and pedestrian --

CONSTANTINE ALEXANDER: But you're not a general office use.

ATTORNEY DENISE CHICOINE: But that's what could be there as a matter of right.

CONSTANTINE ALEXANDER: That's right.

ATTORNEY DENISE CHICOINE: And then prior to the telecommunications company there was a light manufacturing use of this property in which there was loading and unloading of tractor trailer trucks there. So this use is not more intensive than what could be allowed as a matter of right on this property. That is the contention that we

have.

GARY HOULE: Remember, we're not the owners obviously. We lease -- I mean, there's a landlord.

JANET GREEN: I think it's important that you say that. But I also think it's important that you acknowledge that the room is full behind you and that people are concerned, and that in the plans it seems to me to be really important to have had a lot of ways of addressing these concerns rather than just trying to say that they're not -- it's not a problem.

GARY HOULE: Well, I think --

JANET GREEN: It's perceived as a problem by all these people behind you.

GARY HOULE: I understand. And the other thing to remember, too, there's a lot of our folks who take public transportation so there's walking that goes on. There's carpooling that goes on. I mean, I know The RIDE picks up a couple of folks. The MBTA RIDE drops off and picks up

people in the mornings, and multiple, not just a single person. And so I -- you know, I would have to say that I don't think the trips are excessive. I mean, I drive there every morning. I know, I drive there, I drive there every morning. The traffic that's generated frankly by the high school parents dropping off their kids is way more than anything that we do, and there's obviously no problem with that. I mean, I mean there's 20, 30 cars coming down that street at certain -- at drop-off time they're coming down from -- they drop off the kids at the high school.

CONSTANTINE ALEXANDER: What high school? I don't know the area that well. What high school, in Somerville?

GARY HOULE: Matignon.

CONSTANTINE ALEXANDER: Matignon? Got it, thank you.

GARY HOULE: And they're dropping off at the high school and driving, you know, and they drop off and drive down the street. And so it does admittedly create traffic

and it has nothing to do with us.

CONSTANTINE ALEXANDER: You said your hours of operation start seven-thirty in the morning?

GARY HOULE: Yes.

CONSTANTINE ALEXANDER: Your written materials you submitted say seven in the morning.

GARY HOULE: Well, there's -- I just wanted to say people -- our employees show up at seven to open the doors. So, you know, the secretary shows up at seven o'clock before the patients show up. But I didn't want to kid anyone about when a human is actually in the building.

ATTORNEY DENISE CHICOINE: The client services are from --

GARY HOULE: The client services.

ATTORNEY DENISE CHICOINE: -- seven-thirty to five and then hours until seven just three nights a week.

CONSTANTINE ALEXANDER: How many days are you open?

GARY HOULE: Five days a week.

CONSTANTINE ALEXANDER: So it's Monday through Friday?

GARY HOULE: Monday through Friday.

CONSTANTINE ALEXANDER: No weekend hours?

ATTORNEY DENISE CHICOINE: An additional criteria for a Special Permit is whether adjacent uses would be adversely affected. And as we've been discussing, there are many diversified uses in this area. On Mass. Ave. on the corner of Washburn there's a Valvoline oil change station, There's Bright Horizons Early Education and Preschool, there's a Norton's Liquor Store directly adjacent to Bright Horizons. In short, there a multitude of commercial businesses --

CONSTANTINE ALEXANDER: Not to be difficult, but any activities on Massachusetts Avenue are not relevant to what's going to go on on Washburn Avenue.

ATTORNEY DENISE CHICOINE: Well, I'm addressing

the point.

CONSTANTINE ALEXANDER: Massachusetts Avenue is a commercial area. There's no question about it.

ATTORNEY DENISE CHICOINE: Yes.

CONSTANTINE ALEXANDER: But then we're talking about a residential area. And --

ATTORNEY DENISE CHICOINE: And also a portion of Washburn Ave. I would say is zoned as Business A2.

CONSTANTINE ALEXANDER: All right. Then you can do it in the zoned area. But in the residential area where you want to locate your facility, there are no other activities other than residential.

ATTORNEY DENISE CHICOINE: Except that this is a pre-existing non-conforming commercial use.

CONSTANTINE ALEXANDER: Not for the use you want to put it to, though. We've had this case before. What you're doing is not a pre-existing non-conforming use. General office is. Not your healthcare facility. We're

not going to relitigate that case.

ATTORNEY DENISE CHICOINE: Right.

Another criteria is whether this proposed use will create a nuisance or a hazard or a detriment to the health, safety, and welfare of the citizens. And we submit that as a non-profit educational organization with the goals of improving and maintaining mental health stability in the community at large, that this is a net benefit to the area.

All of North Charles services are conducted within the building. They do not cause any disturbance to the surrounding residential citizens. There is a security that North Charles pays for five days a week and --

CONSTANTINE ALEXANDER: Where is this guard located, within the building or --

GARY HOULE: In the parking lot.

CONSTANTINE ALEXANDER: In the parking lot?

ATTORNEY DENISE CHICOINE: And that is just as an extra assurance to the neighbors that there will not be any

disturbances.

GARY HOULE: This is a request from the City Manager that we have someone that directs traffic and just -- I didn't want you to think that --

CONSTANTINE ALEXANDER: Okay.

JANET GREEN: That you have a problem.

GARY HOULE: That we have a problem.

CONSTANTINE ALEXANDER: What about external lighting on the building?

GARY HOULE: There's LED --

CONSTANTINE ALEXANDER: I mean, you're not going to have neon -- a sign, a lit sign at nine o'clock at night saying --

GARY HOULE: There's no signage.

CONSTANTINE ALEXANDER: None of that?

GARY HOULE: There's no independent signage.

CONSTANTINE ALEXANDER: On the building itself?

GARY HOULE: Just on the door, right.

And the lighting was changed by the landlord, and I -- whether they spoke to you folks or to somebody I do not know, but they install low voltage LED lighting, downlighting on the exterior of the building that we frankly don't control, they do.

CONSTANTINE ALEXANDER: One of the issues that have been raised in the numerous letters that we've received, and I expect we're going to hear orally, is waste disposal or littering of the streets or the neighborhood by your clients I think was the word we used. How do you propose to deal with that?

I mean, there are cigarette butts. There are coffee cups. There have been claims of even hyperdermic needles, but I don't want to go there.

GARY HOULE: Well, I don't think the hyperdermic needle issue is valid anyway. Let's not go there.

CONSTANTINE ALEXANDER: I think it's fair to say that many of your clients have addictive personalities,

they're likely to smoke, they're likely to come in with --

GARY HOULE: Absolutely.

CONSTANTINE ALEXANDER: And they're likely on the way out to throw it on the street. What steps are you going to take or will you take --

GARY HOULE: Since we've moved in, we've had -- and we reiterate this literally every two weeks at every group meeting that we have. Any group meeting that occurs, that we have, we have a cigarette butt disposal unit on -- in front of the building. We have a trash can in front of the building. We've told -- every time that there's a group meeting, we explain to the patients to be good neighbors, to please do not dispose of any items in the streets. We -- you know, we encourage them not to drink anywhere in the -- not drink coffee, iced tea, Coke, etc., anywhere in the neighborhood. When they leave, to leave immediately. To exit, to Mass. Ave. and beyond. Do not hang around. Do not loiter. Literally we've done that

every two weeks in every single group meeting. And I think, to be honest with you, the patient population is extremely, extremely concerned, to be honest, that they're being stigmatized and that they claim that they're doing everything that they can to basically keep treatment in their neighborhood. I mean, you know, between Arlington, Medford, Charlestown, Cambridge, Somerville is the vast, vast majority of all our -- is the vast majority, they're all from -- they're all from the neighborhood. And they really wanted to have their treatment in the neighborhood also. And so, and they're very concerned about being stigmatized. And, you know, you know, there's going to be five percent of people who are frankly disruptive. You know, and I'm not making excuses for them. We frankly discharge anyone who is extremely disruptive. We have no tolerance for that whatsoever. And, you know, you know, I would have to say that they really, really go out of their way to be cooperative. They really have been I think.

CONSTANTINE ALEXANDER: Is this your first location in Cambridge?

GARY HOULE: Oh, no. We've been in multiple locations: 625 Mass. Ave., 675 Mass. Ave., 955 Mass. Ave. We've been over --

CONSTANTINE ALEXANDER: None of those you've identified are residential districts.

GARY HOULE: We've been on Essex Street which was residential. We were in Saint Mary's parish building for years, 454 Essex Street. We've had -- we were at, let's see, we've had resident -- we have mental health residences throughout the city. Up until two years ago we had a number of residences in the city and all in residential areas doing basically group homes for mentally ill patients.

ATTORNEY DENISE CHICOINE: And some of those locations were previously zoned as general office use, the same services that are being offered here.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY DENISE CHICOINE: I want to also add in regard to your question about complaints, that a number of complaints were made to the Department of Public Health by abutters in this area and the Department of Health investigated and found that they were unable to substantiate any of the complaints against North Charles. And that information has been submitted in the pending litigation in court, and if it's relevant to you, I can also submit that to you.

So, in essence North Charles meets the criteria this use is not substantially more detrimental than the prior use that was there, and provides critical services that are not otherwise available in the community that will benefit the community. So we request the granting of a Special Permit.

Thank you.

CONSTANTINE ALEXANDER: Questions from Members of the Board before I go to public testimony?

I'm going to open the matter up to public testimony. We do have a number of letters, many of them are quite long. I will try, if I don't read them into the record, I will try to accurately summarize them and -- and if I don't, someone will correct me.

I ask if you want to speak, and I will give everyone an opportunity to speak, let me know if you've written a letter as well because I will not worry about reading your letter. Okay? . I'll go first row first.

Sir.

IVAN TOFT: Thank you. My name is Ivan Toft. I'm an abutter. I live 15 feet from facility at 62 Washburn Avenue. I just want to say I appreciate the case that these, that Mr. Houle and his attorney are making, but in my world I live there. I don't know how many people here in front of me actually live on my street. 15 feet from the facility, but almost every claim that was made and asserted by the attorney here is something that's just contradicted

by my experience from just sitting on my porch in the morning.

I can talk about the traffic. It's not the -- it's not how many people are in the facility, it's the pattern of traffic that's the big detriment. People come in a big rush and they leave in a big rush. And this happens, in my experience, and I was actually sitting across the street 15 feet from the facility, and my experience as an abutter this happens about three times a day. It does happen in the morning. First the staff come in, and there's a rush as the 30 staffers or some proportion of the 30 staffers come in. That's not too detrimental. That's happens at seven a.m. And there are people that honk and the school buses that turn and go down, and it's very narrow street. And that's one thing that I would say.

Then the first rush of patients comes in and this is about 30 cars coming barrelling up a very narrow street where you can only go one at a time. You have to pull over

and wait for somebody to go up and they go up.

CONSTANTINE ALEXANDER: Roughly what time in the morning?

IVAN TOFT: That's about nine or ten. Their security guard is only there for the first rush. And I just want to stipulate that they mentioned that they have a security guard there and he was told to be there. If you're looking for a difference in previous use from now, none of the other tenants ever needed a security guard to manage traffic there. Right? I get that. So this happens two or three times a day. And then they all leave in a rush. And it's again from Newbury Street, it's a hill, one way street down, people come barrelling down and then NCI's patients would come out.

I also want to stipulate right away and make this very clear, we deeply sympathize with the mission of the NCI and support it, but we passionately disagree that this residential neighborhood and this spot is an appropriate fit

for that facility and the services that are provided there.

I want to stipulate that right now. This is not against patients and it's not discrimination against people who are really victims in this case. We understand it's a disease.

I don't think any of my neighbors are going to get up and say oh, yeah, you know, nobody is going to do that. We sympathize. I lost two family members to addiction. One of them is dead and one of them is not. My sister has been a recovering addict since she was nine-years-old. So if you want to talk about how recovering addicts actually act, not that they're respectable, wonderful people but they fall off the wagon. When they are recovering sometimes they don't recover. My sister has never recovered. She's 52-years-old right now. She's never been able to hold a steady job.

She's been seven treatment programs. So beyond losing family members, I can say that this is a kind of a risky population. I just want to contradict the statement made here. You've got a concentrated population in terms of

density rolling up a street, who are suffering from a disease they can't control and sometimes they don't make it. Okay? We have seen with our own eyes impaired patients attempting to drive and navigate cars into the lot and almost hit somebody. They were stopped at the last second. We've seen people vomit on the sidewalk. We've seen all this. This is anecdotal, I get that. So are their claims. At the end of the day unfortunately you guys are going to make a decision on passion on both sides, because we're not going to be able to give you too much empirical data. We're not going to be able to give you too much data. Some of my colleagues -- colleagues, some of my neighbors will present other bits of this. I won't present it all.

But I will summarize and just end with this and say that there is no question, if it started with this Special Permit and admitted that this was actually a different use from what was already done, we'd all be in the same situation where we're speculating, and Mr. Houle here

would be saying we're going to mitigate all the negative externalities that could arise from our operation there.

I will stipulate, cigarette butts dropped dramatically. They've been policing that great. There's no problems with the lights. As far as we're concerned it's irrelevant anyway. The character of the neighborhood, the balance of the neighborhood that might be very real and up close detriments which we experience on a daily basis as abutters, okay? Which contradict almost all of the claims made by the attorney.

I'll just close with this last thing. In terms of need, benefit, you asked this of the previous, the previous case: Is there anyone else that serves that kind of food here? No, this is unique. This could bring a benefit to the neighborhood. Is there anyone else in Cambridge that treats recovering addicts? And I would say yes. And there are. Do they treat them the way that NCI does? That's a subject for the philosophers, right? I would just say in

terms of the services that they provide, there are other places in Cambridge that you can find equivalent services, and I even bet you that most of them are not in a residential neighborhood. I'll let my neighbors and colleagues pick up from there. But, yes, detriment outweighs any benefit. (Inaudible). Hazards as well. Just the volume of traffic, the way it's gone down. And I have severe doubts that this could be managed creatively.

Mr. Houle may be a really great manager, but some of these cannot be dealt with with that population in that particular neighborhood in that spot. However creative you are, you're still going to have a hazard, a detriment, and our communities changed. You know? I used to see little kids skating out there. I used to see little kids learning how to ride their bikes out there. Ours did. Old people are now nervous because of the traffic barreling up the road. Is that bigotry? I mean, I don't think so. And it's just evidence. In fact I have a video of what a typical in and

out looks like that I shot from my balcony the other day. I was having tea with my wife. And, you know, we couldn't believe it. We couldn't believe how concentrated this population is and how it all rushes in and all rushes out. If you'd like, you can enter it into evidence or I can do it some other way and I can show you how it contradicts. This isn't different from what was there before. When Gallagher was there. When Thinking Phones was there, all their employees trickled in and then trickled out. And everything was done inside the building. We didn't even know what Thinking Phones was. We just saw the sticker on the door. Oh, my gosh, this stuff is not contained in the building. It goes up and down on the street on foot. It goes up and down the street in the, you know, the rides, in ambulances, and in emergency personnel who are called to the scene when somebody has a problem. None of the other tenants had ambulances showing up two or three times a month. These guys do.

I'll stop.

CONSTANTINE ALEXANDER: Can I ask you because it's important to me, maybe not to other Members of the Board. You're talking about two or three times a day waves of traffic coming in and out.

IVAN TOFT: Yes.

CONSTANTINE ALEXANDER: Describe what time, in the morning you said when the employees show up seven, seven-thirty, that's one wave.

IVAN TOFT: Yeah.

CONSTANTINE ALEXANDER: And then I think you said, and I'm not putting words in --

IVAN TOFT: And Mr. Houle is completely right, at about ten-thirty on it's quiet, the patients are arriving and --

CONSTANTINE ALEXANDER: When does the second wave start, around nine?

IVAN TOFT: The second wave starts around

lunchtime. And then there's one in the evening and one in the afternoon right when everyone is trying to --

CONSTANTINE ALEXANDER: And is there a way, other than for the employees, before nine or ten in the morning -- in other words, when the clients show do they -- I think you said they start to show up around nine o'clock?

IVAN TOFT: Nine, ten. About ten o'clock things calm down, the security guard leaves, and everything is cool for a while. Once they leave, everything is quiet. And then there's another rush about midday, patients coming in. And then there's another rush as Mr. Houle said, right when everybody is trying to get the kids to and from school. You have little kids out near street. You've got Bright Horizons with their little carts of infants going back and forth. And at the same time you have got NCI's patients in their trucks, in their cars, and everything else. Again, these patients deserve care and deserve help. This is just

not a manageable situation, not a feasible situation.

Sorry, it's dangerous.

CONSTANTINE ALEXANDER: Thank you. You're eloquent in your comments I must say. You can put your hand down so I can recognize you.

ANTJE DANIELSON: My name is Antje Danielson,
A-N-T-J-E D-A-N-I-E-L-S-O-N.

CONSTANTINE ALEXANDER: And you submitted a letter which I'm not going to read.

ANTJE DANIELSON: I did submit a letter. I wanted to comment on a few points that the attorney made in addition to my letter.

The attorney made the point that Washburn Avenue is located between Mass. Avenue and Broadway, and that in most cases there are commercial activities in those areas. The point that I wanted to make was that both Broadway and Massachusetts Avenue have commercial overlays, and the commercial overlay of course extends a little bit I think

two houses or so into Washburn Avenue on each side or on the side of Newbury Street, but there is quite a ways up. I would say that NCIS is sort of kind of in the middle of the two roads and so traffic really has to penetrate the residential area.

Washburn Avenue as was mentioned before, is very narrow. Only one car can go one way or the other. From Somerville, from Newbury Street it's a one-way street down, and Washburn Avenue is back and forth. So you can only -- you can get in from both sides, but you can only get out on the end of Washburn towards Mass. Avenue.

The other point that I would like to make is there was some mention of Matignon and the high school and the traffic that goes up to Matignon. The point I wanted to make there is if you look at the zoning map, the school on top of the hill, Matignon, actually also has an educational overlay, so it's not situated in a residential area, it is in a properly zoned area. So, you know, I don't think

there's any comparison. Matignon is also not on Washburn Avenue. It is two streets over. So bringing that in is really, and the traffic that Matignon generates is really no, not relevant.

And in addition to -- you were interested in the pattern of the traffic, I would say there are two distinct traffic patterns. One is cars coming in, and they often -- I think, of course, this is my observations, I believe that most group sessions are frequented by people who come in by car. So when there's a group session, it seems to me as if there's 15 to 20 cars coming at the same time and leaving at the same time an hour later. During the day traffic is mostly by foot and it is a constant move through Washburn Avenue. And in fact, when I go to work using the T in Davis Square, I can even identify NCI patients on the bike paths from Davis Square going towards -- so it's very distinct.

So that is the last point that I would actually

like to make. And that is that the use of NCI is very different from the, from prior use. As Ivan already mentioned, there were -- I own the house, 55 Washburn Avenue since 1999. It's a two-family. I live -- my younger son and I live upstairs. My older son lives in the apartment downstairs with his partner. So I've been there for 17 years now. Two companies prior to NCI, one was Gallagher and the other one was Thinking Phones. It was mentioned that Gallagher was bringing in trucks. I don't know what the characterization of the trucks were. The trucks that came into Gallagher were mostly pickup trucks, small pickup trucks. And the entire time that Gallagher was there, I have witnessed once a truck that could actually be called a truck. Otherwise it was like -- I think they had something to do with electric, electrical supplies. Or so it was the typical electrician car coming in every once in a while. No comparison to the traffic that's on the road right now.

It was also mentioned that Thinking Phone had 80

employees. What I wanted to say is they started off with very few employees, then they grew, and when they reached the limit, they realized that they had outgrown the place and they moved. However, 80 people were never there at the same time. A lot of the employees of Thinking Phones were actually working remotely. It was a high tech company. People were coming in for short times, they were working remotely. There were never 80 people on the premises at one time. And related to that I want to make the point that, yes, they might only have 30 employees, but as you said, there's 28 treatment rooms in there, and if you have 30 employees times roughly 30 -- a caseload for people per employee or 30 rooms to treat, you can just imagine what the traffic is like. So I have not sat on my porch counting the people coming in, but I want to say that the traffic pattern is dramatically different and it really impacts the neighborhood. The neighborhood that where neighbors knew each other, my neighbors have watched my children when they

were growing up. We know each other by name, we talk to each other. It is a very close-knit neighborhood. And this, this company just changes the character of the neighborhood.

GARY HOULE: Can I address the parking issue just very briefly?

When we moved in, the landlord told us that -- well, actually what happened was they had the entire property covered in a black cloth all the way around the property including the -- they had the parking lot gated and locked at all times and they towed cars that parked on weekends and holidays out of the parking lot. We told them to eliminate all the coverings on the fencing. And they covered it with this black, this nasty black plastic cloth, and they had a locked gate. We had them remove all of that to open the property up for people to use on the -- since we don't use it on the weekends, you know, we don't tow. We've told anyone who's asked, we told them that they could park

overnight as long as they're out by seven in the morning. We have no issue with that. Every truck who delivers anything in that neighborhood turns around in our parking lot there because of the fact of the street dead ends, you know, about 50 feet up the street. You know, so I think actually we're trying to benefit the neighborhood by allowing folks more usage of the property than was ever offered before.

CONSTANTINE ALEXANDER: Sir, you've been wanting to speak.

JEFF MELNICK: Thank you.

My name is Jeff Melnick. I live at 107 Reed Street in North Cambridge. I've lived in Cambridge since 1988. I've lived in North Cambridge since 1977, I've raised two children there, and including one that's with me tonight.

Two previous speakers both used key phrases tonight and I just really want to support their use of the

phrases of the character of the neighborhood. North Cambridge takes care of its own. There are so many of us in North Cambridge who support North Charles. I'm here to speak strongly in support of North Charles so they could continue to do the good work they've been doing. I know you all know about the dimensions of the opiate crisis we're in right now. I just want to put one number on that that I learned from the Boston Globe tonight. In the last 15 years opiate-related deaths have increased by 360 percent in Middlesex County. That's our county. That's how many people are dying. That's the rate of increase.

The character of our neighborhood says we care more about that than we care about some traffic issues. I appreciate my neighbors' concerns about the quality of life on their block. I've walked up and down Washburn since I first learned about this issue to see what these, see how real these concerns are, and frankly I'm not seeing it. So, you know, Ivan can show you his creepy video as much as he

wants. That's a little weird to take video of a treatment center. I want to put that on the record. Obviously we all we want to be a little more concerned about confidentiality and the rights of people who are being treated at this facility.

North Cambridge is a wonderful and complicated place. I don't know if any of you live in North Cambridge. Councillor Kelley is here and he'll support me in everything I say about the wonderful diversity that characterizes our neighborhood. In some ways I think (inaudible) bound by two schools, one is the Peabody and one is Matignon on the other end. The Peabody, up until recently, I don't know if my numbers are right anymore, the Peabody was the most economically and racially diverse school in the state of Massachusetts. Not just in Cambridge but in the state of Massachusetts.

The Matignon School, serving its own community in very important ways whether -- a really, really difficult

opiate crisis of its own about 10, 15 years ago. And it came through not because of the community rallied around and tried to kick the Matignon out of the neighborhood but because everybody said there's a problem at the Matignon and we all have to participate and help it be a solution to the problem, making sure if we see anything going on in the neighborhood that doesn't -- like, it's on the up and up, that we try to help the kids, that we try to support the administration and the efforts they're making. Nobody in the neighborhood said let's get rid of Matignon because the kids there are facing addiction difficulties. So we stand here today -- I stand here today to say we feel the same way about the people who are being treated at North Charles and beseech you to think hard about the character of North Cambridge and the character of Cambridge more generally.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Yes.

JUDITH SMITH: I am -- my name is Judith Smith. I

live in the Central Square area. I've been a homeowner on Prospect Street for 43 years. I've raised three children there. And I just wanted to say that we've lived comfortably with the residential treatment centers with the various things that are situated in our neighborhood. It hasn't changed the character of the neighborhood. We felt safe, our children felt safe. It felt like we lived in a place where there was like caring communities trying to like make Cambridge a better place as part of the texture of that Central Square area. I wanted to speak to that as, like, not detrimental to the neighborhood character but enhancing the caring character of Cambridge by accepting these low -- these facilities within a few blocks in both directions and it not mattering that much. So my kids are 37 -- so anyway, lived there for a long time with these facilities.

CONSTANTINE ALEXANDER: Thank you.

Yes, Ma'am.

RACHEL RUBIN: Thank you. Hi, everyone, my name is Rachel Rubin, R-U-B-I-N, and I live on 107 Reed Street and I have been very struck lately by reading The Globe by the number of times that the Boston Police have said please take care of the opiate crisis on your own street. And we are disrespecting law enforcement if we say no, don't do what they say and they have a particular vision of it. They have a view of it that we don't have. And I'd like to quote Lieutenant Detective Patrick Lynn with the Quincy Police Department Special Investigations Narcotic Unit. He said: "These are people who belong to someone. They are someone's son or daughter or father or husband or wife."

And I grew up not in Cambridge in Baltimore down the street from a treatment center, and when I was little I asked my mother about it, and I have the world's most Jewish last name, but my mother said to me because she was Christian, "Whatsoever you do onto the least of my brethren you do onto me."

And I would like to point out also as a parent having read and wept over the story of little Bella Bond whose tiny body was found and took a long time to identify, that treatment centers affect us all, not just the people you see going in and out. Not just the people you have scorned for. We can't have any more Bella Bonds on our consciences. We need to stand on the right side of history. And I'm a historian, and I can say that is changing. History is changing. There was a time, I think, folks would have hated to have me live on their block because I had epilepsy, right? And now that they would have said I was possessed by the devil or something. We don't say that anymore, and we're not gonna be saying this about addiction anymore for much longer, right? That there's a -- we're at a turning point and I implore my fellow Cambridge residents to stand on the right side of history.

CONSTANTINE ALEXANDER: Thank you.

Ma'am, you've already spoken. I'm going to let

other people who haven't spoken.

Sir.

BILL BRATHWAITE, SR.: Yes. My name is Bill Brathwaite, Sr. (phonetic), and I live on Washburn Avenue. I've lived there all my life. And for the gentleman to indicate that the -- because of their benevolence that the trucks are allowed to use the driveway to turn around etcetera, etcetera, I beg to differ with you, sir. You did not invent that. Trucks have been going in and out of that driveway for over 40 years. So that you, you didn't start something that was beneficial as far as the area. The trucks have been turning around in there for over 40 years, 50 years for crying out loud.

CONSTANTINE ALEXANDER: Thank you, sir. There was -- Yes, Ma'am.

MONICA TOFT: My name is Monica Toft, 63 Washburn Avenue. And you have a letter and you don't have to read it. Ivan and I co-authored the letter. So we also

submitted a petition. I don't know if you received that petition, but I want to give a little bit of background.

This petition is opposing the issuance of the Special Permit. We went around to all of the direct abutters, there are 14 structures that surround. You have a map that was provided by the lawyer. Those are 14 residential structures. There are one -- three, three-families and four, two-families. Every person that we talked to only two people agreed not to sign our petition. So when you read that, we asked them to oppose it because it's detrimentally changed the character of neighborhood. We do not see the benefit. They've been there for six months.

With regard to Matignon, we appreciate there was a drug crisis there. The headmaster Tim Walsh written a letter the first time we came here. He's written another letter saying, please do not issue the Special Permit. The high school does not need drug addiction, drug addiction

behavior in the neighborhood. It's already gone over the crisis.

Matignon High School is 250 feet.

The international school, the K through 8 school is 500 feet.

Bright Horizons owns that property. They have a drug deal. We have a police record for that.

By the way, everything we've said as neighbors, we can document everything. We have all the police reports. It's 400 feet.

When I was doing research to find out if this was going to be a good neighbor, I went to the old location and I was told by a guy who came to my house to install gas, he said oh, they used to be on Beacon Street. So I went over, he said you really need to talk to the guy who owns P&K Deli. Because the patients used to go to P&K Deli and get their coffee. So I went in and had a conversation with the owner/manager and after about the end of it, I said, how are

you feeling? You're losing a lot of clients, right, these people -- 400 clients coming in on a regular basis buying a lot of coffee, a lot of cigarettes, and admittedly a lot of lottery tickets. Addictive behavior goes hand in hand. We see them all over the street. At the end of the conversation he said to me, you know what, my blood pressure's much better. I have so much less stress with them gone, gone. He said I liked some of the characters. I became friends with some of the patients, but I have to say -- and this is the businessman. I'm mother of two children, most of these people are mothers or senior citizens. You can go house by house and we are dominated by families. He was a businessman making money. He has lowered stress. This is a public health issue for our neighborhood. I really hope you respect that. I really hope the Board takes that into consideration because we are struggling to deal with this. When this started -- you have our original letter from the neighborhood, we tried to find

a new location for them and we did. This institution, this outfit decided to move into our neighborhood without the proper permitting. This is despite the fact that there were other areas that they could have moved into. 14 Concord Avenue is still available. The landlord is still willing to let them in. He doesn't want Methadone. He doesn't want that. They chose, for whatever reason, to save money and impose the costs on our neighborhood, on our community, on our public services, because they wanted to save money. And now he's telling us he's going to go bankrupt. I'm sorry, should we as a neighborhood, should we as a city have to pay that cost?

And with respect to my Reed Street neighbors, Reed Street is a half a mile away. You do not know what we are witnessing. My children are hearing the most vulgar language. I'm a veteran of the U.S. Army. I can take it, but I'm sorry, I'm trying to raise a family. The language is vulgar. Discussion of legal cases, probation, child

care, custody, screaming. I have -- we have this video. Do you know why we have this video? They were videotaping us. We could not believe it. And the paradox will show you the video. We'll put it into the evidence. Is one of the clients was trying to get in while somebody from the facility was videotaping me on my private property and a client yells at them with the most vulgar language, get the F'ing out of here what the F are you doing. My children are standing right there. I'm going to end with that.

CONSTANTINE ALEXANDER: Thank you. Before I take more comments -- are you operating on the premises right now?

GARY HOULE: Yes.

CONSTANTINE ALEXANDER: How long have you been doing that?

GARY HOULE: Since June 9th.

CONSTANTINE ALEXANDER: Since June 9th.

So six months.

GARY HOULE: Correct.

CONSTANTINE ALEXANDER: You've been in business for six months. Just out of curiosity on what basis since you didn't get any zoning permit are you able to do that?

ATTORNEY DENISE CHICOINE: That's absolutely incorrect. He was given a Building Permit and a Certificate of Occupancy as a general office use by the Commissioner.

CONSTANTINE ALEXANDER: Right.

ATTORNEY DENISE CHICOINE: And the information was fully disclosed to the Commissioner. They came applying as a medical facility and the Commissioner said no, you need to be general office use having reviewed the build out plans. North Charles invested \$300,000 in the property --

CONSTANTINE ALEXANDER: I don't want to go there.

ATTORNEY DENISE CHICOINE: -- they had --

CONSTANTINE ALEXANDER: I'm not going there.

ATTORNEY DENISE CHICOINE: You asked if they were properly zoned. They were given a Building Permit and a

Certificate of Occupancy. It's a non-profit that has invested tremendous funds in this site. They cannot just pick up and move somewhere else. This will be a death blow to the organization if they are not permitted to continue to operate.

UNIDENTIFIED AUDIENCE MEMBER: It's a death blow to our neighborhood.

UNIDENTIFIED AUDIENCE MEMBER: Can I have one last comment?

CONSTANTINE ALEXANDER: You've already spoken. I wouldn't let someone else speak, so....

UNIDENTIFIED AUDIENCE MEMBER: In Cambridge and others in Somerville you can Google them.

CONSTANTINE ALEXANDER: Thank you.

There are others. I saw their hands up, I'm not sure I remember where they are, though.

Sir, way in the bay.

BILL BRATHWAITE, JR.: Okay. I just --

CONSTANTINE ALEXANDER: Your name, sir.

BILL BRATHWAITE, JR.: My name is Bill Brathwaite, Jr., 37-39 Washburn Avenue. I've lived there my entire life.

The attorney stated that Washburn Avenue runs between Mass. Ave. and Broadway in Somerville and is perpendicular. That's incorrect. It runs between Mass. Ave. and Holland Street.

Mr. Houle stated that Matignon parents drop off their children on Washburn Avenue. It's two streets over and there is no direct way to get from Matignon High School to Washburn Avenue. The issue about the black plastic around the fence that they found so abhorrent that they asked the landlord to tear down, that was installed during the renovation process before these folks occupied. Okay?

Now, one of the criteria for approving or denying a Special Permit is safety and -- of the residents involved. One of the clients came out a couple days ago and parked his

belongings on the sidewalk in front of my parent's house and was not letting my mother get in and out of her gate. Okay?

I've been a city employee for 35 years. The vast majority of those 35 years, 20 and change were as a member of the rescue company on the fire department in Cambridge, and I've dealt with the addictive population for most of my professional career and there is -- my hat's off to them, all sympathies, I'm a very caring medical professional. On the emergent basis, I get to see these folks before they wind up in treatment and there is no more unpredictable demographic of people in this country or in the world. Yes, it's an addiction. Yes, it's a sickness. I bear no one any ill will, but having been punched, kicked, stabbed, spat on, abused, and thrown down stairs trying to extricate or take people back and forth from 240 Albany to Cambridge Hospital to Shattuck, back and forth to Cambridge Hospital, Mass. General, I think I know what I'm talking about when saying having this influx of folks in and out of Washburn Avenue

day by day by day by day by day is just a recipe for disaster. All it takes is for one person to have a bad day, have a bad session, or to be hungover and not want to listen to his or her counselor and when he lashes out, they throw him out of the building, the security guard -- we've never seen on Washburn. So they're turned loose on a very long, narrow, quiet street that's full of young families and oldsters. It's not fair to us to grant the Special Permit.

CONSTANTINE ALEXANDER: Thank you.

BILL BRATHWAITE, JR.: Thank you.

CONSTANTINE ALEXANDER: Yes, sir.

SHANE STEFENS: Shane Stefens, S-T-E-F-F-E-N-S and 81 Yorktown and I'm a direct abutter.

CONSTANTINE ALEXANDER: I'm sorry, what was your address, sir?

SHANE STEFENS: 81 Yorktown in Somerville. They're literally in my backyard. Most everything has been said, and we put a letter. It saddens me that this has

become a conversation about addiction and neighborhoods and things like that when so many people's points -- no one is trying to say that these facilities shouldn't exist and it's just sad that it was put in place sort of unknown to the neighborhood, really, and it seems like there's a lot of things that have happened almost to directly avoid the conflict to avoid the discussion. And, again, that's what zoning is all about, is to have the discussion first and foremost before you invest in terms of renovations and whatnot. So it's sad because it tears neighborhoods apart when that's not what the argument is. The argument is that it shouldn't be about whether people should receive care or not or support their neighbors, it should be about zoning, and there's lots of zoning for lots of facilities and different things.

Anyway, I wanted to say that.

CONSTANTINE ALEXANDER: Thank you.

Mr. Kelley.

COUNCILLOR CRAIG KELLEY: My name is Craig Kelley.

I live at 6 Saint Gerard Terrace. Can I follow up on the zoning issue? It's not a question of the need, it's definitely a need. It's a question of what the rules mean. And as a Councillor, I look at the Zoning Code, and it seems pretty clear that the IUR regulations were specifically designed to protect low density neighborhoods such as a Res B from this sort of institutional use. And then when you look at the Special Permit criteria, listening to the people that live closest to this use, it sounds incompatible. And if this is something that we want, then it's up to us as the Council to change the rules so that we can have this sort of thing in a Res B or a Res A. But it doesn't seem like from what the neighbors are saying, it meets the Special Permit criteria. And I'm sad, I think everyone is sad that we're here, but if the zoning is going to mean anything to anyone about anything, sometimes we have to step back and look at those rules. So to me this is, this is pure and simple

zoning question and I would argue that it doesn't meet those criteria.

Thank you.

CONSTANTINE ALEXANDER: Well, let me -- you can sit down if you like. I just want to address that.

It is a zoning question but the zoning question is not black and white. That's why we're here tonight. The criteria with the zoning says is yes, you can have a facility like theirs in a Res B District. However, you've got to get a Special Permit. And the Special Permit details various criteria, most of which are not black and white, like safety, hazard, traffic. And it's up to us to look at the facts the best we can and decide whether they satisfy those criteria. So, yes, it is a zoning issue, but the zoning issue is not one of measuring how many feet from a setback it is. It's more general, subjective decisions we have to make and we will make them tonight.

Or one last thing, since I had a dialogue with you

I'll let you respond.

COUNCILLOR CRAIG KELLEY: Okay, thank you.

And I would argue you are entirely correct. The people who are most directly impacted by this use --

CONSTANTINE ALEXANDER: I understood.

COUNCILLOR CRAIG KELLEY: -- seem uniform in saying this isn't working for us.

CONSTANTINE ALEXANDER: That's come across loud and clear.

COUNCILLOR CRAIG KELLEY: We want to change those rules and I would suggest that Council change that underlying criteria --

CONSTANTINE ALEXANDER: That you can do, but the last point and I want to move on, is that zoning is not a matter of majority vote. We make the decision, right or wrong, in applying the criteria, and we've listened very carefully to neighbors' comments because they're the ones, as you point out, the most directly affected. But it is not

just a matter of counting noses and saying well, if saying if more neighbors don't want this than want it, therefore we're going to turn it down. We've got to dig down a little deeper and we're going to try to do that and we are trying to do that, and just to respond to your comment. I want to move on now, though.

Anyone else wishes to be heard? You, sir?

UNIDENTIFIED AUDIENCE MEMBER: My letter is there.

CONSTANTINE ALEXANDER: Your name?

AARON BRATHWAITE: Aaron Brathwaite. Live at 61, 69 years, my community. I'm seeing rise and fall of a lot of people. I've seen the -- when the building first was when I was a kid, they were community people who actually lived in the area who worked in the building, and at that time they were making little acetate things, pin things, stuff like that. But I see what happens every day. You know, I don't have to be at work until twelve, so I see what comes in in the morning and on my day off I see what comes

in all day. And during the course of that timeframe we have these young kids, right now they're in their younger years. When they get to be like 13, 12, 13, 14-years-old and in the front yard, they can't not hear what's going on walking up and down the street. They can't. We used to play in the street when we were kids. Can't do that anymore. We used to be able to leave our doors open. Can't do that anymore. My car was broken into, but it could have been anybody. I witnessed numerous times when people would just go in and just sit on the houses next to them, big white house, it doesn't look like it's lived in, but there's someone living there and they'll just sit on the doorstep, right?

This is not a -- my past history, I've been a deputy sheriff down in Virginia and I lived in a very low income area they were trying to revitalize and I had individuals that were in my custody that had the same problems that North Charles has. I don't think it's a good fit for anybody. I think -- if it was on a main street, you

don't see people try to come up and down the street. I saw a lady one day walking in the middle of Washburn Avenue down the middle of the street not caring if any cars came by and she came right out of North Charles.

Yesterday I saw a lady dropping off somebody, North Charles person was doing their snowplowing, plowed a little mound of snow up against where the fire hydrant was. Well, there was a car coming down the street, she backed up over the snow pile and she almost hit the car that was in front of her. Then she drops her passenger off and she goes up Newbury Street. These are things I see every day.

You know, people who live on eight, nine streets away, they don't have to deal with it every day. You hear what's going on when they come out. You F, this and this, and blah, blah, blah. Little kids don't have to hear that. It was a quiet neighborhood before they moved in. They had perfectly good time to come to the Board, ask for a permit to open up at a board meeting like this, invite people from

the neighborhood. No, they put flyers in our mailbox. I think one person I know got a flyer to meet them in their parking lot. That was it. Not going -- not knowing this is -- there was a junior high school up at Clarendon Avenue. There is a daycare center at the street. There's Matignon High School is not too far away and you're putting in people.

I go to Dunkin' Donuts every day, I see everything that goes on with their clients. Everything. I observed everything. That was my job was to observe. So, a lot of stuff that's in length in my letter, but my thing is no.

CONSTANTINE ALEXANDER: Thank you. Thank you, sir. And thank you to everyone who has taken the time to come down to speak.

BRENDAN SULLIVAN: And Mr. Brandon.

CONSTANTINE ALEXANDER: I know. I know he's been waiting to be last so -- he's not ready yet, Mr. Brandon. You're off stage still.

Ma'am, I saw your hand.

JENNIFER BRILL: I'll be second to last. My name is Jennifer Brill. I live at 138 Western Ave. in Central Square and I also work at North Charles. There's a lot I could say, but the thing I feel I have to say most is there's just a lot of assumption and prejudice. The idea that people here know who our clients are is absurd. I guarantee that there are people walking down the street who you assume are not clients who are and others who you assume are clients who are not. They don't wear labels. That's all based on your assumption and prejudice of what you think you see. And frankly our clients have been harassed through this whole process. They know they're being videotaped. They know they're being talked about. I spend a good portion of our therapy sessions talking with clients about how it feels to be so hated by the neighbors.

CONSTANTINE ALEXANDER: Thank you.

JENNIFER BRILL: There's a lot of stuff I could

say, but I think that's the most essential.

CONSTANTINE ALEXANDER: Ma'am, you haven't spoken so go ahead.

GAYLE LEVY: Very briefly.

CONSTANTINE ALEXANDER: Name and address, please.

GAYLE LEVY: My name is Gayle Levy and I live at 2 Washburn Terrace. I'm sorry, but you know when I walk down the street with my 11-year-old granddaughter yesterday we saw, we observed three people talking about making a deal and who wanted a five dollar bag and some other words that were very familiar to her but still brought concern.

UNIDENTIFIED AUDIENCE MEMBER: That's the residents on the street, not our clients.

CONSTANTINE ALEXANDER: Now wait -- wait, wait, stop. We're not going to have a dialogue in the audience.

GAYLE LEVY: I'm sorry. I'm sorry. I'm a psychiatric clinical nurse specialist retired. I have worked with a number of people, many of whom were mentally

ill and many substance abusers. And I feel that after my 50 years of experience that I can understand someone saying, you know, I want to get fucking stoned or I want to buy a big five dollar bag. I understand that language. I don't think that people in our neighborhood doubt the importance of people with opiate and other addictions receiving proper human treatment, but if you think walking down Washburn Avenue with all the goings on there is human or confidential, I'm sorry, I argue with you about that.

UNIDENTIFIED AUDIENCE MEMBER: And breaking into cars.

UNIDENTIFIED AUDIENCE MEMBER: And passing out.

JENNIFER BRILL: And leaving an uncapped needle on the street. Maybe that was someone in my neighborhood with diabetes, but you know most diabetics keep their needles, don't they?

CONSTANTINE ALEXANDER: No, no, no, please, I don't want to have a dialogue.

JENNIFER BRILL: I'm sorry, I'm sorry, I don't mean to --

CONSTANTINE ALEXANDER: No, I know.

JENNIFER BRILL: -- syringe that I saw -- once again I'm a nurse, had no cap on it.

CONSTANTINE ALEXANDER: Thank you.

Sir, I think you had your hand up.

MAXWELL DANIELSON: My name is Maxwell Danielson, D-A-N-I-E-L-S-O-N. I live at 55 Washburn, apartment 1 and I think I'd like to reiterate what you said that there are a lot of opinions, and I think it really just comes down to experience and what we've experienced in change, not what we think happened, and there's a lot of subjective opinions about this could be attributed to that or it couldn't be, but just the things that are attributed to the changes that have happened since the company's moved in, our traffic increase and emergency personnel on the street. And I think simply based on those two, regardless of the other things

that people have experienced, those have changed the neighborhood. And regardless of any other things that have or haven't happened, those have definitely changed since the company's moved in. So I just want to say that I stand for not approving the Special Permit.

CONSTANTINE ALEXANDER: Thank you.

Anyone else before Mr. Brandon has his chance to speak?

Roll of drums, Mr. Brandon, you're on.

MICHAEL BRANDON: Thank you, Mr. Chairman. I'm Michael Brandon. I live at -- B-R-A-N-D-O-N. I live at 27 Seven Pines Avenue, about two blocks over from the site. I'm the clerk for the North Cambridge Stabilization Committee. We submitted a memo so I won't -- I'll allow -- or ask --

CONSTANTINE ALEXANDER: It would be better if you could summarize the memo for us and I won't have to read it into the record.

MICHAEL BRANDON: Well, you're welcome to summarize it if you like. Basically we support the -- and I would encourage any members who haven't seen it to scan it before you make your decision, but basically we support, basically on the evidence you've heard tonight, about the specific impacts and yes, they are somewhat subjective but you folks know what a hazard is. You know what changes in traffic are. You know what a residential zone is better than most people and you understand zoning. So we urge you to deny this Special Permit.

We're particularly disturbed that how this all evolved, and then once it became clear to NCI that they were in violation of the zoning and were ordered to stop by Ranjit Singanayagam, the Inspectional Services Commissioner, upheld by this Board telling them stop, their response was to go and sue the City and now we're paying to defend this Board.

CONSTANTINE ALEXANDER: Excuse me,

Mr. Brandon, I don't think a lawsuit has been filed. It says, I've been advised --

ATTORNEY DENISE CHICOINE: The City sought a preliminary injunction. They commenced litigation first against North Charles before Thanksgiving.

CONSTANTINE ALEXANDER: Who did? I'm sorry.

ATTORNEY DENISE CHICOINE: The City of Cambridge sued --

CONSTANTINE ALEXANDER: Oh, the City?

ATTORNEY DENISE CHICOINE: -- North Charles to force the cease and desist order. A judge has not yet ruled on that preliminary injunction.

CONSTANTINE ALEXANDER: Got it.

ATTORNEY DENISE CHICOINE: And there has been a counter lawsuit filed.

CONSTANTINE ALEXANDER: Oh, okay. The reason I mention that is I was advised -- I pursued this and I was advised by the Inspectional Services Department -- by the

City Clerk's office that there is no pending litigation involving this property. So I guess I was wrong.

MICHAEL BRANDON: Well, no. I sort of made the same mistake by checking with the City Clerk's office as to whether or not your decision had been appealed.

CONSTANTINE ALEXANDER: Right.

MICHAEL BRANDON: In fact, it was appealed in Middlesex Superior Court, and that case I believe is also still pending.

CONSTANTINE ALEXANDER: Okay.

MICHAEL BRANDON: But they failed to file it with the City Clerk as is required, and I have no doubt that based on that, that appeal of the cease and desist order will be dismissed. Unfortunately taxpayers and contributors to this non-profit are funding this litigation which is ultimately in my opinion going to fail.

CONSTANTINE ALEXANDER: Let's not -- okay.

MICHAEL BRANDON: Anyway, that's where that

stands.

I was going to go through my litany of points contradicting what was said in the application, and I think what you've heard tonight from a very eloquent group of neighbors on both sides makes your decision pretty clear if you apply those specific criteria, that, you know, I don't see how you can possibly, especially while they're in violation and have been for six months, accusing people -- in court of discrimination. And it's not that, you know, people, the opioid crisis affects all of us. I have it in my family.

The point is, this is just not the right location and I would hope that Mr. Houle will reconsider and use his resources in cooperation and with help from the City in trying to find ways for you to move. I think Mr. Rossi would be perhaps able to help with that, continue your work but just not here where it's not allowed.

Finally, I don't know if you received it in time,

a letter from, an e-mail from representative Dave Rogers.

CONSTANTINE ALEXANDER: I don't have the file.

Mr. Sullivan has the file.

BRENDAN SULLIVAN: It's here.

MICHAEL BRANDON: It is? I know there's a previous one. This one would be from this afternoon. I'll give it to you, and if it's not there, I think he would appreciate it if you just read it.

Thank you very much.

CONSTANTINE ALEXANDER: Thank you, Mr. Brandon.

Okay. I want to say one thing, just a personal observation, I think there has been a lot of eloquence here tonight, both pro and con, in terms of the relief being sought. And this is obviously a heartfelt issue for the neighborhood. And we're involved with something that provides a very valuable service to the community at large. It's a very difficult, for me it's a difficult case. But our job when it comes to Special Permits, is to basically

weigh the pros and the cons and come out with a decision, and we will -- that's what we're going to try to do at some point.

Anyway, I'm going to close public testimony. We do have an awful lot of letters. I feel an obligation to at least summarize them. And while Tom is looking at the file, I'm going to refer to the letter that was just -- the e-mail that was just handed to me by Mr. Brandon from Dave Rogers. And since it's not as long as some of the others, I'm going to read it in its entirety.

Mr. Rogers writes: (Reading) I am writing to oppose the Special Permit to the above-referenced case and respectfully request that the permit be denied. I am a State Representative for the 24th Middlesex District which includes North Cambridge and this neighborhood. But in many respects I am writing in my capacity as a resident of North Cambridge more so than in my official capacity. I live just a couple of blocks away. Our hearts go out to those who

suffer from addiction and are seeking treatment. In fact, in my work in the legislature I have been advocating to increase funding for addiction treatment and have supported other measures to help address this pressing public health challenge. But this location is not at all well suited as a facility for these purposes. In fact, it is my understanding that it is in part why the City Inspectional Services Department ordered a cease and desist letter and why that cease and desist action was upheld in a subsequent appeal. It was not zoned for this use for many good reasons. This is a small residential street wholly inappropriate for this facility. The problems arising from the kind of use for which this property is being put are too many to mention, but to say it has been disruptive, would be a significant understatement. It just does not work at all in this location, plain and simple. I wish the operator the best in finding a suitable location to carry out its important work, but I respectfully ask that you heed the

wishes of the neighbors, respect the residential character of the neighborhood, understand the innumerable problems this facility has caused and deny the Special Permit.

Let me just make one comment about the earlier case and this notion about what has happened here. Our earlier case was very narrow. The question was -- it's a residential district, but it's a legal non-conforming use because there's been a business there for a long time. That legal non-conforming use is restricted to general office. And the petitioner in this case, in the prior case challenged that saying we are general office use and therefore we fall within the legal non-conforming use.

Our Board found otherwise. We found the nature of the activities are -- do not fall in the rubric of an general business use, therefore, it's not permitted. So that was the issue before, and that issue I guess may be resolved in the courts.

Having decided that way, the petitioner has a

right to come back and say, okay, for purposes -- for this purpose I'll assume you're right, Mr. Zoning Board of Appeals, but we do have a right to do it if we get a Special Permit from you and please issue us a Special Permit and that's what the case is here tonight.

I guess I've been trying to avoid it, but I guess I have to dig into the letters and I'm going to try to summarize.

Mr. -- we have a memo from the North Cambridge Stabilization Committee prepared by Mr. Brandon, and I think you've summarized the points. I don't think I need to get into that.

We do have a letter from Dave Rogers. It was dated September 9, 2015, being superseded by the letter I just read. I don't have to get into that.

We have a letter from George Katis, K-A-T-I-S, Stone River Properties, LLC, 720 Massachusetts Avenue.

UNIDENTIFIED AUDIENCE MEMBER: He owns Bright

Horizons.

CONSTANTINE ALEXANDER: Say that again, please?

UNIDENTIFIED AUDIENCE MEMBER: He owns Bright
Horizons?

Oh, and he says: I strongly urge the
Board -- wait a minute this is going back to
the -- September 24th. This is the old case. This is not
relevant to where we are.

We have an e-mail from Macky Bucky, B-U-C-K. Very
short. (Reading) As a close neighbor to Washburn Avenue, I
am -- she doesn't give her address. Oh, yes, Gold Star
Road.

UNIDENTIFIED AUDIENCE MEMBER: Gold Star Road.

CONSTANTINE ALEXANDER: Gold Star Road. Thank
you.

(Reading) As a close neighbor to Washburn Avenue,
I am writing in support of the residents on Washburn who
feel strongly that this is not a typical or safe use of a

building in a residential area.

We have a letter from someone in Topsfield, Massachusetts, Jessica Stefens.

UNIDENTIFIED AUDIENCE MEMBER: In relation to 81 Yorktown, our house in Somerville.

CONSTANTINE ALEXANDER: I'm sorry?

UNIDENTIFIED AUDIENCE MEMBER: In relations to 81 Yorktown.

CONSTANTINE ALEXANDER: Okay.

And it summarizes some of the history of this and it gets into the notion about they open this premises up but made an investment and then got, and then got turned down by -- the Commissioner said no, you can't do it, and you had your appeal to us and we said the Commissioner was right. So, it doesn't go really to the specific issues we're talking about tonight, so I'm not going to deal with that letter.

We have a letter from Martha Older, O-L-D-E-R.

(Reading) I live on Cameron Avenue which is close to Washburn Avenue as a psychiatric social worker. I have had addicted clients and I am very concerned about the general lack of supports for recovering addicts. This is a very important issue, especially with the current opioid addiction and heroine overdose crisis. Unfortunately what I hear about the situation on Washburn due to the substance abuse clinics tenant is therefore doubly upsetting. The clients are acting up very inappropriately, upsetting the neighborhood and raising public resistance of such institutions. In fact, they're even jeopardizing public safety; needles on the street, a car broken into, and more.

Two, the clinic is being very irresponsible by neither supervising nor by getting clients to behave responsibly themselves. And, again, this raises a public resistance to providing much needed help for the addicted. The situation needs addressing and therefore there are many serious problems. I do hope the Board of Zoning Appeals

will take this very unfortunate situation as seriously as it deserves.

I'd like to think we are.

But the point basically this is a plea for substance abuse treatments, and I think we've heard testimony from Mr. Houle that they're doing everything that they possibly can to, at least I think they are, to try to minimize the impact of the neighborhood on the nature of the business, quote/unquote business being conducted there.

We have a letter from Doctor Danielson. And you've already spoken Ms. Danielson so I'm not going to get into that letter.

We have a Special Permit -- oh, no, we have a letter from Meghan Watt, W-A-T-T and William Harnois, H-A-R-N-O-I-S, 34 Washburn Avenue. It's not that long.

(Reading) We are writing as residents Washburn Avenue close neighbors of the North Charles drug rehabilitation center currently operating at 54. Washburn Avenue in Cambridge in

order to strongly oppose granting NCI a Special Permit to continue operating there.

I'm going to skip over parts of it. Again, it goes into, (reading) While NCI serves an important purpose, its location on Washburn Avenue, a densely populated residential street in close proximity to two schools and a major daycare facility is inappropriate for both the residents of Washburn Avenue and patients of NCI. The arrival of NCI has caused many negative changes to the neighborhood.

It goes on to talk about Washburn Avenue being a narrow street, only one car can pass at a time, and there's been ample testimony to that effect.

Talks about you employ a security guard -- NCI employs a security guard to help manage the incoming and outgoing patients which is a difference from previous tenants, and clear evidence that the facility needs assistance to manage the patients in traffic. (Reading)

Patients arriving on foot and by car have also arrived impaired and have been reported to police. They often trespass, smoke, litter, use foul language, and loiter, something the neighborhood previously did not experience. Residents, particularly children and elderly, no longer feel safe and comfortable in the neighborhood often avoiding the area because of unsafe drivers and impaired patients. Several residents of the street have moved to seek new housing as a result. A facility serving a population of recovering drug addicts is important, but locating it in a densely population residential neighborhood is not only destructive of a neighborhood but also compromises the patient treatment and privacy.

And it goes on to elaborate about that, but I think that sentence says it all.

We have a memo from Monica and Ivan Toft. And you've spoken tonight.

Same letter. More than one copy I guess.

We have a letter from William and Barbara Brathwaite. You've spoken. I don't need to read that.

Another letter from Aaron Brathwaite. And you've -- another one.

UNIDENTIFIED AUDIENCE MEMBER: There's three houses of the Brathwaites.

CONSTANTINE ALEXANDER: Say again?

UNIDENTIFIED AUDIENCE MEMBER: Three houses.

CONSTANTINE ALEXANDER: Oh, okay. I assume this gentleman has spoken for the whole family with three families. So in the interest of time.

UNIDENTIFIED AUDIENCE MEMBER: 61. I live at 61. It's directly across the street from my house.

CONSTANTINE ALEXANDER: Okay.

I think that's it in terms of letters. It's in the sense that much of what has been written to us has been said to us verbally which I appreciate. And again I compliment people for their involvement in this matter. We

don't often get neighbors who get as active, one way other another, with regard to a case that we have here.

UNIDENTIFIED AUDIENCE MEMBER: So can I give you a copy of the petition that was signed by all direct abutters?

CONSTANTINE ALEXANDER: Sure, sure, sure.

Thank you. And I was handed a petition signed by 22 individuals. It says: We, the undersigned, oppose the petition for a Special Permit by North Charles and request that the BZA not approve it. And it gets into, again, the deterioration of the neighborhood that has resulted from your moving into the neighborhood. And I think that's been well documented in the comments we've heard tonight, you know, documented in the sense that's what people believe. I'm not saying that they proved it. That's the nature of the comments.

And that's it for public testimony. I'll give you an opportunity for a final statement before we discuss it among ourselves. You've heard a lot of comments. You may

want to address them or not. It doesn't make a difference, it's up to you. And by the way, after this no more public -- we're going to deliberate among ourselves. We just can't go back and forth for the whole evening.

So go ahead, Ma'am.

ATTORNEY DENISE CHICOINE: I think the evidence of the services that North Charles provides shows that there is a clear benefit to the community at large. There is often resistance to these types of uses by those who are immediate abutters, and we're sympathetic to that. But North Charles does qualify as either a social service center or other healthcare facility and we have met the criteria to show that it is not more detrimental than the preexisting use. That is a preexisting non-conforming commercial lot. And many of the comments about traffic and about interactions in the neighborhood, neither party can attribute those directly to the NCI clientele. And so I think some of the comments are well taken, that there are assumptions being made and

that should not figure into the issuance of the Special Permit. It should be based just on the criteria under the Ordinance.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY DENISE CHICOINE: Thank you.

CONSTANTINE ALEXANDER: Thank you.

GARY HOULE: Thank you.

CONSTANTINE ALEXANDER: Well, I'm going to close public testimony. It's now time for a discussion by the board members.

Would anyone want to speak first? I would be happy to, but I would be happy to give the floor to someone else first.

BRENDAN SULLIVAN: Well, we can go this end maybe. I have a great deal of respect for what you do, and I applaud your mission in life, but my purpose here and my responsibility is obviously to take the Zoning Ordinance that the City Council adopts, hands us, and I look at the

very purpose of the Zoning Ordinance and the Preamble 1.30, the purpose of it is to lessen congestion in the streets, and there's a lot of other things that goes on, but the key phrase is the protection of residential neighborhoods from incompatible activities. And I think it's incumbent upon me, it's a responsibility of me to adhere to that. And from what I hear is that the use, the proposed use is incompatible with the neighborhood. And as much as I respect what you do, I also have to respect the neighbors, and they're asking us to enforce their protection that the Ordinance affords and so consequently I would not support the Special Permit.

CONSTANTINE ALEXANDER: Well, my comment would be, and it's along the same lines but I'll take a slightly different tact. The requirement for a Special Permit is very subjective. And many of the issues that we have to make an affirmative finding on have been spoken to by the neighbors that would tell us is a completely different

result.

It says, we have to find that the traffic generated by your business will not cause congestion, hazard, or substantial change in established neighborhood character. We've heard, I think, a lot of testimony to the contrary.

That the continued operation of or development of adjacent uses as permitted by the Ordinance will not be adversely affected by what you're proposing. And we've heard a lot of testimony and have not been rebutted that it will have an adverse affect on the neighborhood.

We have to find that there are no nuisance or hazard will be created to the detriment of the health, safety, and welfare of the citizens of the city. That's a little more broad. I mean, you are going to provide a -- as Brendan has said a very valuable ser -- and every member of the audience has said, a very valuable service, but there is an issue whether there may be resulting a nuisance or

hazard. That, to me that's a little bit of a fuzzy issue for me. I can get over that one. I have a lot of problems with the ones I said before.

And then what you're proposing will it impair the integrity of the district or adjoining district or otherwise derogate the intent and purpose of this Ordinance. And with regard to this, I think Brendan put his finger on it, the Ordinance in its purpose says is about protecting residential areas.

So I have to come out not in favor of granting the Special Permit. I, you know the trouble with -- the trouble, I mean, the sad consequence of operating a clinic like yours is you bump up against a NIMBE rules, not in my backyard. And sometimes those are not worthy of listening to, but I think this time they are worthy of listening to. We've had very heartfelt commentary from almost every neighborhood on Washburn Avenue. Many have been mistaken, but I think all the comments in support have been people not

living on Washburn Avenue, not suffering the day-to-day impact of what is proposed, what is being done here. And you come back to -- it's this may not be the place to run your clinic. Please keep your clinic going, but please find a place that doesn't have the impact that yours has on a densely populated residential district. So as I said, I'm not going to support the Special Permit.

JANET GREEN: I have to say that I think this is one of the hardest cases I've ever really sat on, and I think most of us would think that, too. And I felt that even for people in the neighborhood speaking, speaking out with the problems that they've had, that they didn't really lose sight of the work you're doing. They were concerned about their neighborhood. I was struck by the fact that people weren't -- this wasn't a neighborhood that was trying to stop you from moving in. This is a neighborhood that stood up and said that these problems do exist now and they're hazardous to our neighborhood. So they're not

guessing that it's going to be a problem, they really have experienced that it's a problem so I can't support it.

CONSTANTINE ALEXANDER: Other members want to comment or not? No one is obligated to.

SLATER ANDERSON: No, I think I would reiterate some of what's been said. I commend the mission. I commend your commitment to your staff to the work you do. I think there was missteps taken in how this led to where we are today all sitting here with lawsuits. This is not an appropriate location for this. It's unfortunate that it's, you know, gotten to where it is. This is a city that's got a diversity of zoning and locations where I think you probably could have found a better space that would have been more suitable than this island within a residential neighborhood. I know that street fairly well and, you know, right up against the Somerville line that adds a level of complexity in itself. You've got a one way street. You've got a two way street that meet. It's one of the few places

that, you know, that I know of in the city and it just -- on the traffic alone, it's problematic and, you know, obviously the overwhelming response. We've heard from the City and I should say a lot of the response are from people who, you know, we've heard from first responders, we've heard from medical professionals, people who have dealt and are familiar with these types of clients that you deal with and I think that, you know, they're thoughtful comments and these are people who are looking out for their neighborhood. And yes, there's a city-wide need but the zoning and the Special Permit criteria talks about a neighborhood. This is a neighborhood issue for this particular neighborhood, and it is just not an appropriate fit for this use.

CONSTANTINE ALEXANDER: Thank you, Slater.

Tom, do you want to comment or no?

THOMAS SCOTT: Yes, my issue is, you know, this can't be the first time that you've heard of these issues. I'm sure wherever you go you probably run into the same

thing. Why wouldn't you have done more, you know, groundwork in terms of meeting with the neighborhood groups and talking about what it is you do and what services you provide before you made a commitment to this site? You know, it seems like, you know, there was an opportunity there that you missed and you probably certainly would have gotten the message loud and clear and maybe not made the decision that you've made. So, you know, that's the one thing that I think sticks with me is that, you know, these types of issues are definitely not issues that you haven't heard before. And if you had at least opened up the conversation with the neighborhood and the neighbors that live here, you probably would have heard it loud and clear and you would have found that it wasn't a suitable site.

CONSTANTINE ALEXANDER: Thank you, Tom.

Well, I'm going to make a motion now and the way we have to do it is I'll make the motion in the affirmative, i.e., that we grant the relief citing the reasons why. And

then if we grant the relief, fine. But I think you've heard the relief will not be granted. There will be a second vote as to why we felt the criteria were not satisfied and why we didn't grant the Special Permit.

So the Chair moves that we make the following findings with regard to the Special Permit being sought.

That the requirements of the Ordinance can only be met by obtaining a Special Permit since this is a residentially zoned area.

That, what you're proposing will not cause, in terms of traffic generated and patterns of access or egress, will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses, as permitted by the Ordinance, will not be adversely affected by what you're proposing.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the

occupant of the proposed use or the citizens of the city.

And that the proposed use will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

So on the basis of these findings the Chair moves that we grant the Special Permit being sought.

All those in favor of granting the Special Permit, please say "Aye."

(No Response.)

CONSTANTINE ALEXANDER: All those opposed?

(Show of hands.)

CONSTANTINE ALEXANDER: Five opposed.

I'm going to make a further motion.

This Board moves -- and please help me if you want to modify it.

This Board has made the decision not to grant the Special Permit on the following basis:

That what you're -- the result of the nature of

the activities that will be conducted on these premises -- that are being conducted, it does create a substantial change in established neighborhood character. The neighborhood being a densely populated and entirely residential district, area.

And that, not only that, but what will result to the neighborhood will be congestion in terms of the amount of traffic coming in and out, both because of the staff of the North Charles and their clients.

That the continued operation of adjacent uses will be adversely affected by the nature of the proposed use, and we've heard that in many different ways and in very heartfelt ways as to what, what the impact is having on this neighborhood.

And I think it can be fair to say that nuisance and hazard will be created to the detriment of the health, safety, and welfare of the citizens of the city. Upsetting a longstanding densely occupied residential district does

hurt the citizens of the city regardless of the nature of the -- and the merits of the activities that you're conducting. Again, as you've heard both from the people who are opposed and from this Board, we applaud what you do and we just can't see it working in this neighborhood. It's just too much evidence to me that this doesn't work and you will be adversely affecting the neighborhood.

And that gets to the last thing that I would point out, that what you're proposing will derogate from the intent and purpose of the Ordinance. And as Brendan has cited, it is clearly in our Ordinance, one of the goals of this Board is to protect residential districts, residential areas. And that's in fact why there's a Special Permit process. It gives -- it allows our Board to review what you want to do and to make a judgment as to the impact on the city. And I think the judgment we've reached tonight is that the impact is adverse to the extent that we cannot grant relief.

So, all those in -- anyone want to modify or add to what I've just said?

(No Response.)

CONSTANTINE ALEXANDER: All those in favor of the motion I just said, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case is over.

(Alexander, Sullivan, Scott, Green, Anderson.)

* * * * *

(10:10 p.m.)

(Sitting Members Case BZA-008898-2015: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Slater W. Anderson.)

CONSTANTINE ALEXANDER: We have three cases that

are on our agenda that are going to be continued, that I've announced earlier. Let me just get rid of them right now and then we'll go on to the cases that we're really going to hear.

The Chair will call case No. 008898, 201 Brookline Street, No. 6.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

Do we have a letter?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay. We have a letter from the petitioners. (Reading) Attached please find the Board of Zoning Appeal waiver form requesting for a continuation until March 10, 2016. It would be great if we could present our plans on March 10, 2016, with our neighbors at 201 Brookline Street, unit 5 who have also

petitioned for a similar reason.

And I agree with that. We should do them both for the same.

For the benefit of those in the audience, the reason for the continuance, is that there were inadequate plans submitted with the application. In fact, there were no plans. Just concepts. And we sent them back to the drawing boards even though they're good architects.

Could we put these two cases to March 10th and we've got Jim's case.

SEAN O'GRADY: Yes, that will be the Trifecta for that night.

CONSTANTINE ALEXANDER: That's it. We're all filled up for March 10th.

SEAN O'GRADY: It's strange that everybody chose March 10th.

CONSTANTINE ALEXANDER: I'm sorry?

SEAN O'GRADY: I said it's strange everybody chose

two months out.

CONSTANTINE ALEXANDER: I know.

The Chair moves that we continue this case as a case not heard until March -- seven p.m. on March 10th on the following conditions:

That the petitioner sign a waiver for time of decision. And we have that.

That the petitioner must maintain for the 14 days before March 10th, the sign, or a new sign, as they did before, in notifying the new date, March 10th, and the time -- new time, seven p.m.

And lastly, that the petitioner must have adequate plans and a dimensional form in our files no later than five p.m. on the Monday before March 10th. That's why we're not hearing the case tonight and that's why we won't hear the case the next time if they don't do it. So they have to understand we need full plans so we can understand schematically what is being requested and if we grant relief

so Mr. O'Grady can match those plans up against what they finally build.

So all those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Scott, Green, Anderson.)

* * * * *

(10:10 p.m.)

(Sitting Members Case BZA-008899-2015: Constantine

Alexander, Brendan Sullivan, Thomas Scott, Janet Green,

Slater W. Anderson.)

CONSTANTINE ALEXANDER: The chair will now call case No. 008899, 201 Brookline Street, No. 5.

Similar story. We have inadequate plans in our files. We have a letter from the petitioner in this case.

(Reading) This letter is to request a continuance for the case, blah, blah, blah. In order to gather more detailed

drawings, we'd like to be scheduled no sooner than March

10th. Thank you for your consideration.

Do we have a waiver?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we continue this case as a case not heard until seven p.m. on March 10th on the following conditions:

One, that the petitioner sign a waiver of time for decision, and the petitioner has done that.

Two, that the posting sign as they have maintained before this hearing, must be maintained for the 14 days before March 10th with a new date, March 10th, and the new time, seven p.m.

And lastly, that drawings and a dimensional form that meet the requirements of our Board be in our files no later than five p.m. on the Monday before March 10th. If they don't do that, we don't do anything on March 10th with regard to their petition.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Motion carries.

(Alexander, Sullivan, Scott, Green, Anderson.)

* * * * *

(10:10 p.m.)

(Sitting Members Case BZA-008957-2015: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Slater W. Anderson.)

CONSTANTINE ALEXANDER: Lastly we have 008957, 146 Mount Auburn Street.

We have a letter in our possession from the petitioner seeking a request of a continuance. The problem in this case was inadequate posting of a sign so that they did not comply. The petitioner did not comply with the Ordinance with regard to public notice. And the letter is from Theodore Galante, G-A-L-A-N-T-E. (Reading) I am writing to request a continuance of this case from the January 7th hearing to the next available date. Please let me know when the case may be heard.

Sean?

SEAN O'GRADY: 1/28.

CONSTANTINE ALEXANDER: When?

SEAN O'GRADY: January 28th.

CONSTANTINE ALEXANDER: He'll have his 14 -- yeah, he'll have time.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued as a case not heard until seven p.m. on January 28th subject to the following conditions:

The petitioner sign a waiver of a time for decision. And he has done that I believe.

SEAN O'GRADY: Yes. It would be written on the corner.

CONSTANTINE ALEXANDER: I'll take your word for it. Yes, it is, it's right here.

SEAN O'GRADY: Is it? Okay.

CONSTANTINE ALEXANDER: That the petitioner post a sign that complies this time with requirements of our Ordinance. That sign must be maintained for the 14 days

before the hearing on the 28th of January.

The sign must disclose the new date, January 28th. The new time, seven p.m., and otherwise in accordance with the sign requirements of our Ordinance.

And lastly, that the petitioner should he -- it's a he. Decide to modify the plans that are already in our files, the new plans must be in our possession or must be filed with the ISD no later than five p.m. on the Monday before January 28th.

All those in favor of continuing the case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Sullivan, Scott, Green, Anderson.)

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(10:15 p.m.)

(Sitting Members Case BZA-008940-2015: Brendan Sullivan,

Thomas Scott, Janet Green, Douglas Myers, Slater W.

Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case

No. 008940, 20 Madison Street. And I am not going to sit on

this case but Mr. Myers will sit in my absence.

BRENDAN SULLIVAN: Mr. Ellsworth.

CAMPBELL ELLSWORTH: Good evening. My name is Campbell Ellsworth. I'm the architect for the owners for Todd Goulet and Konstantine Linnik. The owners were not able to be here tonight. One is -- had to be out of town for business and one had to be home with his kids. So I'm here on their behalf.

I'm here requesting a Special Permit for relief from the required five-foot buffer on a driveway for the construction -- for a new construction single-family home. The owners had bought this property. It had a single-family home. It was non-conforming. It always had a non-conforming driveway which was tight to the property line. And they have, they were granted permission by the Historic Commission to remove the house and to build a new as-of-right conforming in all aspects of the Zoning Code single-family home, and we are requesting that we be able to

retain the existing curb cut at the property line which is in fact tight to the property line, but then the driveway would angle off to ultimately create the five-foot buffer so that in the location, the final location of the vehicle, that it would in fact be in a conforming position to the property line. Being able to retain that existing curb cut simplifies the construction. Madison Street is a one way street. I don't know if any of you have the site plan in front of you. Madison Street is one way in this direction going from Concord Ave. to Garden Street. And leaving the existing curb cut at the street will simplify the backup. It will -- also allows that existing storm drain to stay where it is requiring less intervention from the city. And it is right across the street from Holly Avenue which goes out to Huron Avenue, and moving that curb cut would open up a set of requirements because then the, quote, new curb cut, even if it were just five feet away, would be within 25 feet of an intersection and that would probably require a

Variance to be allowed to do that as well as a new curb cut being -- would need to be voted on by the City Council. So we're just asking a very minor relief here to retain that existing curb cut and then bring the car in, into a conforming position.

BRENDAN SULLIVAN: Sean, how was the permit for the new house issued without the proper driveway being shown?

SEAN O'GRADY: That crossed my mind also.

CAMPBELL ELLSWORTH: Sure. We consulted with Sean and then with Ranjit. Ranjit told us -- we always knew that we had to come -- or we wanted to come for a Special Permit. For the purposes of the Building Permit itself, we had -- Ranjit required us to consult with a gentleman from Traffic and Parking who reviewed this and thought it was not unreasonable to allow this sort of odd configuration.

BRENDAN SULLIVAN: Right, but all of that basically says that we're going to go ahead with the

construction of the single-family and roll the dice that, you know, we're going to get this. In other words, could you have done a conforming driveway, as-of-right driveway and built a new house? Now, not the exact size of this house because it looks to me like you -- the house got put in and then all of a sudden well, we have this problem here.

CAMPBELL ELLSWORTH: No, no. The house is actually sitting on the footprint of what was effectively the old house.

BRENDAN SULLIVAN: But there was a -- all of that was all taken away. So you're basically starting with a blank piece of paper.

CAMPBELL ELLSWORTH: That's correct.

BRENDAN SULLIVAN: Whole new foundation and all of that?

CAMPBELL ELLSWORTH: That's correct, yeah.

BRENDAN SULLIVAN: So I guess my question is the new house exactly on the same footprint as the old house?

CAMPBELL ELLSWORTH: Exactly? No. No.

BRENDAN SULLIVAN: Larger than?

CAMPBELL ELLSWORTH: No. In fact, there was, there was a garage here that actually extended also as a preexisting nonconformity right to the property line.

BRENDAN SULLIVAN: Right. But the house without the garage, the new house, is its footprint exactly the same as the previous house?

CAMPBELL ELLSWORTH: No. It's not exactly the same.

BRENDAN SULLIVAN: It's larger?

CAMPBELL ELLSWORTH: It is -- it holds the front and the side. It extends a few feet on this side and maybe five or six feet in the back. It's quite similar.

DOUGLAS MYERS: Is it higher than the previous house?

CAMPBELL ELLSWORTH: Yes, it is.

SLATER ANDERSON: Are there some projections on,

like, bump outs above ground level or anything like that?

BRENDAN SULLIVAN: No. The old house was sort of a very nice cute bungalow I would describe it.

SLATER ANDERSON: I recall it.

CAMPBELL ELLSWORTH: Yeah.

The previous house actually had a cantilever on the front of the house.

BRENDAN SULLIVAN: Right.

CAMPBELL ELLSWORTH: Sort of like a Garrison colonial cantilever.

BRENDAN SULLIVAN: I mean, I only live right around the corner. And I guess my thought was, and I saw the old house go down and I said well, that's unfortunate, but we'll see what goes up. And then I see that Duncan is doing it, and I felt it's going to be this very contemporary Duncan MacArthur type of house and I'm wondering how they're going to squeeze it in there as of right.

CAMPBELL ELLSWORTH: Right.

BRENDAN SULLIVAN: And then I see the house going up and I'm saying, I still wonder how they're going to do this as of right. And then it's on our agenda, and I said oh, they can't do it as of right. Not all the compliance.

DOUGLAS MYERS: Well, following up exactly on that question, what happens if we deny the Special Permit? What does the owner do with regard to a driveway?

CAMPBELL ELLSWORTH: We would have to apply --

DOUGLAS MYERS: Considering that everything else is -- the lot is filled as of right.

CAMPBELL ELLSWORTH: Right.

Well, the short answer to that question is I don't know, but I would assume we would have to pursue a different tact.

DOUGLAS MYERS: On-street parking?

CAMPBELL ELLSWORTH: This isn't -- this is an odd site. In fact, it has a second curb cut.

SLATER ANDERSON: That was my question.

JANET GREEN: Yes, it does have the other curb cut. Is that really a curb cut or just where it's sort of been beaten down by people driving over it?

CAMPBELL ELLSWORTH: No, it's really a curb cut.

BRENDAN SULLIVAN: Community parking was in the front yard setback.

CAMPBELL ELLSWORTH: We -- well, that's correct in this case.

BRENDAN SULLIVAN: So you're between a rock and a hard place.

SLATER ANDERSON: Right, yeah. Right. I -- my concern when I saw this, and I know my kids go to Saint Peter's so I drive down that street regularly and I watched this evolve, is the two curb cuts. Obviously, you know, based on the plan, one isn't intended to be used. I would, I would like to see -- because it's the way it's posted right now it's don't park in front of either on -- because of the way it's, you know, it's a construction site right

now. And when people see a curb cut, they often choose not to park in front of it, which is, it is not -- you can park in front of the curb cut if it's your curb cut. I find it confusing that there's a second curb cut. And if we're going to grant some relief, I'd like to see the second one, the one that's not being used eliminated in some way so that people can understand they can park there on the street.

CAMPBELL ELLSWORTH: Absolutely. That second curb cut obviously because it would require parking, implied parking in the front setback, it's not, that's not important to the owners, it never was.

SLATER ANDERSON: Yes, I get that. I think a user of the street seeing a curb cut might think I can't park here.

CAMPBELL ELLSWORTH: Right. Correct.

I believe the City is requiring us also to redo the sidewalks in front so there's the opportunity to fix the curb cut.

BRENDAN SULLIVAN: All right. Let me open it up to public.

Is there anybody here who would like to speak on case No. 008940, 20 Madison Street?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

There is one letter in the file which is a return of the notice of public hearing. (Reading) This petition is fine with me. Signed by William L. Porter, 19 Madison Street. So Mr. Porter is not opposed.

Let me close public comment.

Anything else, Campbell, that you wish to add?

CAMPBELL ELLSWORTH: No. I think it's a modest and a reasonable request. There was enormous delay on the project for the owners. I think they wanted to push hard to try to get permitted. I'm hoping this is not too much of the cart before the horse, but we thought that it was a reasonable, as I said, and modest request.

BRENDAN SULLIVAN: Comments?

DOUGLAS MYERS: I'm going to vote against it. I think it is the cart before the horse and I think that there is a case to be made for a Special Permit under these circumstances, but I'm not inclined to support it.

JANET GREEN: I'm inclined to support it. I do think it's a modest -- I agree that it's annoying, but it's not annoying to the point, you know, in the way that yes, it does -- you've already planned it, you've already got the house there, and you're going to have to drive through a part that doesn't meet the criteria, but actually where the car is going to park is going to be five feet from -- according to what you described, and so I find that it's a small gain.

BRENDAN SULLIVAN: I would agree. I think that what we're being asked to give our imprimatur to is a continuation of what was the normal traffic pattern before. People used to come in and out of that particular area of

the lot anyhow and go in through it -- I haven't -- I don't think I ever saw that they used a garage for the car park. It was probably more of a shed type thing. It was more convenient for them to park there, but I think basically even though the old house is gone and a new one totally different, that the patterns of access and egress or what have you are going to be made the same, but that's --

SLATER ANDERSON: I am inclined to support it. I do think I'd like -- there's something to be said about the second curb cut being removed particularly if they're going to be redoing the sidewalk anyways. I would note that on that side of the property there is a large institutional parking lot, so, you know, there isn't a neighbor who is likely to be affected.

The cart before the horse? I see that. I think that, you know, and I don't know the -- how the permit got issued with this sort of unresolved, but that's, you know, I'm not going to torpedo the whole thing over what -- I

don't see as being a, you know, a detriment to the neighborhood. Getting the car off the street is actually, you know, an advantage.

BRENDAN SULLIVAN: Might have been a rush to judgment. A judgment call to get going?

SLATER ANDERSON: What's annoying I would say is that there are some --

BRENDAN SULLIVAN: No, I think generally.

SLATER ANDERSON: -- there are some knowledgeable actors in this project that, you know, should know the sequence.

BRENDAN SULLIVAN: Doug is correct that it's -- let me say it's quite disrespectful.

DOUGLAS MYERS: It's presumptuous. It's presumptuous on grounds to me that are inadequately justified. Nothing personal to you. But you gave an explanation. I found that explanation inadequate. Inadequate, unpersuasive. I certainly agree with my

colleagues. As I said, there's a case to be made for the Special Permit, but not under these circumstances.

BRENDAN SULLIVAN: And you're just the messenger.

And, Tom, you're the deciding vote.

THOMAS SCOTT: I agree, I think it's a modest request. It's too bad that it was done in this way. Can we impose a condition that the other curb cut be removed?

BRENDAN SULLIVAN: We will.

THOMAS SCOTT: Okay.

SEAN O'GRADY: I would just say remember the last time we went up against Traffic and Parking on closing and opening their curbs?

BRENDAN SULLIVAN: I think we have to throw language in there, whether they do it or don't do it, we can try I guess anyhow.

SLATER ANDERSON: They've been asked to rebuild the sidewalk.

SEAN O'GRADY: I would just say we had a case that

wasn't too long ago where we passed a curb cut -- I think it was your case.

CAMPBELL ELLSWORTH: It was my case.

SEAN O'GRADY: Okay.

CAMPBELL ELLSWORTH: Corporal Burns.

SEAN O'GRADY: Right. We said we'll allow it if they modify the curb in the following manner.

BRENDAN SULLIVAN: And they did a bump out.

SEAN O'GRADY: And Traffic and Parking told us to stick it and it was their curb and not ours to --

BRENDAN SULLIVAN: I think the actual words were and who are they to tell us what to do?

SEAN O'GRADY: That was the quote.

THOMAS SCOTT: I think the issue here is that that curb cut, somebody could drive into it and park in front of the house and on that type of parking is --

SEAN O'GRADY: I'm just saying we don't control it.

THOMAS SCOTT: But if it's there, someone will do it and that's my point.

SEAN O'GRADY: Not a question of whether or not it should be done. I agree it should be done. It's a question of the authority.

THOMAS SCOTT: Do we have the authority?

SEAN O'GRADY: Do we have the authority to close it and we've been told we haven't.

SLATER ANDERSON: The point I would want to make is the street parking is what I'm more concerned about, that somebody sees a curb cut and they won't park there and there's not a lot.

THOMAS SCOTT: Open up the parking for other neighbors.

SLATER ANDERSON: You've got the church and the school. Parking is difficult in that immediate area. So, the reason I want the curb cut removed is less to be concerned about some parking on the lot, because it's

probably going to be landscaped in the way you can't. Or if someone in the neighborhood or visiting seeing a curb cut and saying I can't park here where it should be public parking.

CAMPBELL ELLSWORTH: Right. And I'm not at liberty to spend the client's money, but as I said, they are redoing the sidewalk. That's a requirement. In fact, they're having to do -- they have been requested by the City to do a grind and overlay of the entire street from, you know -- which is not uncommon, you know, when you're cutting up the street a whole lot. So there's going to be a whole lot of work done here.

DOUGLAS MYERS: They should be in a good position to talk to the City about closing that second curb cut since they're going to be conferring on the City a considerable benefit, and there will be undoubtedly ongoing discussions concerning that, and it would be in their interest, it seems to me, in closing the second curb cut if that were part of

our design.

CAMPBELL ELLSWORTH: I can absolutely relate that.

BRENDAN SULLIVAN: We are giving them a tremendous benefit and not having them go down a very long tortious road by granting this. And I think they should grant the favor by encouraging that be blocked up.

All right, let me make a motion then to grant the request for relief in the required five-foot buffer on section of the driveway. And that this relief would allow the reuse of the existing curb cut.

The Board finds that the requirements of the Ordinance can be met.

The traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character.

The Board is merely granting a Special Permit to continue an existing use with the -- from the prior building.

Continued operation of or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use.

There would not be any nuisance or hazard created to the detriment of the health, safety, and/or welfare of the occupants of the proposed use.

And the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

The Board also notes in Section 10.4.4 conditions, C -- I'm sorry, E, requirement of the number design and location of access drives or other traffic features.

That the continuation of the existing second curb cut, not the subject of this relief, as a requirement of the granting of the Special Permit, that that curb cut to be closed up and not be maintained to potentially allow access to this property and would adversely affect the ability of

neighbors to park in front of the subject property.

All those -- anything else to add to it?

(No Response.)

BRENDAN SULLIVAN: All those in favor of granting
the Special Permit.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Scott, Green, Myers, Anderson.)

* * * * *

(10:35 p.m.)

(Sitting Members Case BZA-008941-2015: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 008941, 9 Brown Street.

Is there anyone here wishing to be heard on this matter?

TOBY RODES: Toby Rodes, joint owner of 9 Brown Street. Pleased to be joined by Mark Boyes-Watson. We bought 9 Brown Street in September of 2009 and have embarked on raising two kids there. We love the house we love the neighborhood. And after five years of deliberation that we've inflicted upon our neighbors, a lot of collaboration and working with the Mark in coming up with a design that we can speak to the neighborhood. And we're real excited about the project. And with that I'll hand it over to Mark.

MARK BOYES-WATSON: So Mark Boyes-Watson, 30 Bows Street Somerville.

So this is, this 9 Brown. It sits on Brown Street. It also has a kind of a private way here which has multiple accesses of it, so it's really regarded as a street by zoning.

There is a pair of houses that were built here that are distinct, so they're a pair, and they both front on this little side street. So we were --

JANET GREEN: That side street doesn't have a name, does it?

MARK BOYES-WATSON: It doesn't. It's a passageway. It's unnamed. So I don't know what the address is here.

JANET GREEN: That comes up Brown Street.

MARK BOYES-WATSON: Yeah, it's 11 Brown. That's right.

JANET GREEN: I was trying to figure out what that was.

MARK BOYES-WATSON: It's so strange.

So we were at the marsh district before the holidays, and you know, it's an odd -- it's an odd spot because actually it's a really great openness on the street and it's got this historic pairing of the structures. And my clients have looked at everything, like, tear did down. It's a strangely modest house. But of course this is a very historic area and everybody likes everything just the way it is. We tried to do the least we could and meet the needs of their family that's getting bigger every day. So physically bigger, not more numerous.

So I'll take you through what that is. So I'm just going to quickly show you that system.

So here's that sister house here. You're looking down the unnamed street. And there's just some context photos. So you can see the modesty of the house and it's quite straightforward.

So, and I'm going to actually show you what we're doing on this drawing and I could also show you this one

here which also summarizes.

So, the proposal is to maintain the front door of this which is equivalent to the sister house right where it was and to reduce the amount of driveway to a single driveway and control the kind of sense of this being a two car suburban garage and actually reduce it. We also then don't want to build on the front of this because it's really a pair. So we're not building. So the front yard setbacks are there. Could have built there but not building there. We're building a very small extension there. And a single-story extension here, and then this, a two-story extension here. This two-story extension actually touches the garage and thereby creates the requirement, both those two elements require the setback relief because they trigger setback relief because although this is an existing non-conforming side yard, we're actually increasing the length of it and touching the garage which is even closer.

So we're asking for setback relief to do that, but

as you can see in the next image, that although that is zoning --

SLATER ANDERSON: What's that width on the side yard?

MARK BOYES-WATSON: I think that is, it is about -- I'm going to tell you exactly.

SLATER ANDERSON: You probably have it right there.

MARK BOYES-WATSON: Does it say it right there?

CONSTANTINE ALEXANDER: It should be on your dimensional form.

MARK BOYES-WATSON: Yeah, it is.

CONSTANTINE ALEXANDER: Which one?

MARK BOYES-WATSON: The right side.

CONSTANTINE ALEXANDER: Right side. You're going to go two-tenths of a foot right on the lot line.

MARK BOYES-WATSON: It's seven-foot, seven now. The garage is on it. So that's why we posted. But we're of

course not moving that way. We're just lining up with it in this little extension.

So and I was just going to show you, you can see from these two little images, I've got some before and afters, too, so just to show you how that works. This is a before photo here and then an after image that matches it kind of thing. So say you can see the front. There is an element requirement relief here, which is this runs towards that a little bit. One of the things that's going on with this house is that it's a corner lot, so we don't have a backyard. So one of the things that we're trying to do and we talked a lot with the Marsh District about it, is establishing that front on the unnamed street and then we have a side. And so that element, it's obviously not essential to the project, but it's giving -- it's allowing the garden to still be a benefit to the public while it's creating a sense of privacy for the owners of the house. So that's what it's up to. But actually it's in the setback so

it requires relief.

And then as we come over -- down below, you can see these other elements, this element here does not require relief, and that's that two-story extension that simply extends the existing gable. It's about six feet or something and it touches the garage. So that's really the proposal.

The other element of relief, however, is that we do have an existing non-conforming facade so that any changes we make on that right-hand setback requires a Special Permit. So actually I'm just going to find it.

SLATER ANDERSON: The back side over here? The bottom right?

MARK BOYES-WATSON: Bottom right. You are good. Right, exactly. So here -- it's up and down. So here's the existing. Here's the two car garage. Here's that existing building. Here's that extension right there. And we add a door here and actually we add, it doesn't show on here, but

there's an area that where it goes right in here that's behind the fence.

CONSTANTINE ALEXANDER: What's the length of that dormer?

MARK BOYES-WATSON: This dormer is --

JANET GREEN: Eleven?

SLATER ANDERSON: Eleven, six.

MARK BOYES-WATSON: Yes. So that's really it.

SLATER ANDERSON: Is the dormer in the setback actually?

MARK BOYES-WATSON: Actually it probably -- its required setback is ten.

SLATER ANDERSON: What zone are we in?

MARK BOYES-WATSON: We're in -- we're in Res A.

SLATER ANDERSON: Okay.

MARK BOYES-WATSON: Res B or Res A-1.

SLATER ANDERSON: A-2.

JANET GREEN: A-2.

CONSTANTINE ALEXANDER: Yes, A-2.

SLATER ANDERSON: Got it.

MARK BOYES-WATSON: So it's pretty close to it.

TOBY RODES: And if I could finish by saying Mark presented this to the Conservation District. Very pleased -- that our neighbor is the Chair. That he spoke quite favorably about the project. From our neighbor.

MARK BOYES-WATSON: Not from the table.

TOBY RODES: From the floor. And all of this is reflected in a unanimous vote from the group that takes their job very seriously.

CONSTANTINE ALEXANDER: Yes, they do.

TOBY RODES: So --

CONSTANTINE ALEXANDER: Have you got a certificate? There's nothing in the file. I was going to ask you about that.

MARK BOYES-WATSON: Oh, they haven't issued it? No, we haven't seen it. If they haven't put it in yet.

CONSTANTINE ALEXANDER: It wasn't as of yesterday.

MARK BOYES-WATSON: Yeah, we got it.

CONSTANTINE ALEXANDER: It's your representation to us that it was approved?

MARK BOYES-WATSON: Approved unanimously.

CONSTANTINE ALEXANDER: Any conditions?

MARK BOYES-WATSON: No. Just that it be with the drawings.

JANET GREEN: What happens with the basement?

MARK BOYES-WATSON: The basement under the extension?

JANET GREEN: Yes.

MARK BOYES-WATSON: Right now it's --

JANET GREEN: It's a crawl space.

MARK BOYES-WATSON: This is interesting. Right now it's a small crawl space. And what we're doing actually with that extension, and this has been a subject of discussion amongst us and I'm interested in what the Board

actually thinks of this. But right now what we have is we've dropped that down, and I found it to be better technology to drop that right down on grade and do a slab on grade which is what the drawings will show. We've since had a discussion about whether we should be excavating a basement for ease of plumbing and what have you. I personally as an architect don't like crawl spaces. If you try to meet code, they're a menace. Ventilated and bad things happen all the time and it's hard to keep a thermal envelope. So what the drawings show what you have are slab on grade. I'm not sure if my clients might like the option to make a basement there.

Do you --

TOBY RODES: I don't think that that's the direction we're going. I think part of it is also the preservation of a majestic elm tree and excavation would peril that tree.

CONSTANTINE ALEXANDER: And the water table.

MARK BOYES-WATSON: Yes, that's what I'm worried about, because we are --

TOBY RODES: It's the marsh district.

MARK BOYES-WATSON: -- we have three steps further down and those were exactly. So to -- it's probably better to leave it. And you're not interested, fine. Good.

But that's the story behind it.

JANET GREEN: And then is there a second floor over the garage now? Is that new?

MARK BOYES-WATSON: There is not a floor. It never reaches the status of floor area because I think it's about five-foot -- five foot up there. It's just a place for Toby to store -- he is a carpenter.

TOBY RODES: My wife said no more old wooden boat magazines in the house.

MARK BOYES-WATSON: It's not a big attic because of the way it's configured and we reconfigured that roofing to sort of not have the and two car garage and that's why

you see it crushed down.

SLATER ANDERSON: Just a curiosity, the pergola is in the front yard but is it just because it's a structural thing even though it's -- you know.

CONSTANTINE ALEXANDER: I think -- if you take --

SLATER ANDERSON: What's the threshold of the pergola?

SEAN O'GRADY: It depends on the pergola itself. Is it a roof pergola?

MARK BOYES-WATSON: I don't know what the spacing is. And it's not intended to be roofed and --

SLATER ANDERSON: It doesn't look roofed. It looks like it's open.

MARK BOYES-WATSON: I always thought that if I -- if it was freestanding and I had the spacing four feet apart, it could, it could probably be, it wouldn't be a structure. But if it's a structure in the front yard, it's a Variance. It's attached to our building.

JANET GREEN: So it's attached to what you're calling a side yard.

MARK BOYES-WATSON: It's the front. I'm saying the front of the building is on the main street, but they're both front yard actually.

JANET GREEN: Right. But on the drawings you call it side. Yeah.

MARK BOYES-WATSON: Yeah, yeah.

SEAN O'GRADY: So it's an FAR pergola or --

MARK BOYES-WATSON: It is not FAR and we -- but we think it's a structure in the front yard setback.

SEAN O'GRADY: That's safe. Yeah.

SLATER ANDERSON: I don't have a problem with it. I'm just curious what that threshold is on something like that.

MARK BOYES-WATSON: Me too. It's moved around over the years.

SEAN O'GRADY: We'll just call it three.

CONSTANTINE ALEXANDER: Okay, I'm going to open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently none.

We do have one letter from Patricia Pratt. A very short -- (Reading) I want to go on record -- and she resides at -- it doesn't say where she resides at.

SACHIKO RODES: 11 Brown Street.

CONSTANTINE ALEXANDER: Well, it doesn't say where she resides at.

(Reading) to make the requested improvements of his house at 9 Brown Street.

She's at 11 Brown Street. She's the other one, the twin. The sister or whatever. Okay, and that's it.

I'm going to close public testimony.

Comments from members of the Board or are we ready

for a vote?

JANET GREEN: I'm good.

THOMAS SCOTT: Ready.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that the petitioner needs, with a growing family, growing upward family, an additional living space.

That the hardship is owing to the shape of the lot. It is a corner lot and a little bit unusual with its layout given one part of the lot faces an unnamed passageway.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

In this regard the relief being sought is rather modest, technical in nature. It is supported by the neighbor most affected by what is being proposed.

And that this project has the approval of the Marsh District -- Historical District or Historical Commission.

On the basis of all these findings, the Chair moves that we grant the Variance being requested on the condition that the work proceed accordance with plans prepared by Boyes-Watson Architects. They're dated 12/1/2015, the first page of which has been initialed by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Scott, Green, Anderson.)

CONSTANTINE ALEXANDER: This involves a non-conforming side that you addressed in your comments.

Unless people have questions.

JANET GREEN: No questions.

CONSTANTINE ALEXANDER: Okay, with regard to the Special Permit being sought the Chair moves that we make the following findings:

That the requirements of the Ordinance can only be met by granting the Special Permit given the setback issue.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character. Again, we're just talking about an intrusion on one setback.

That the continued operation of development of adjacent uses will not be adversely affected by what is proposed. And we do have a letter from Ms. Pratt to that effect. It will not be adversely affected that she's in support.

No nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the

occupant or the citizens of the City. And that what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

So on the basis of these findings the Chair moves that we grant the Special Permit being requested on the condition that the work proceed in accordance with the plans that we've identified in connection with the Variance that we just granted.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Now you can go.

(Alexander, Sullivan, Scott, Green, Anderson.)

* * * * *

(10:50 p.m.)

(Sitting Members Case BZA-009032-2015: Constantine

Alexander, Brendan Sullivan, Thomas Scott, Janet Green,
Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case
No. 009032, 678 Massachusetts Avenue.

Is there anyone here wishing to be heard on this
matter?

ATTORNEY DANIEL GLISSMAN: That would be me. Good
evening, Members of the Board. My name is Daniel Glissman.
I'm an attorney with Prince, Lobel, Tye. We are here
representing T-Mobile with the co-location of four
additional antennas at this existing wireless facility. You
may know the building. It's right down the street from
here, 678 Mass. Ave. This is a unique cell site wherein we
have four sectors. Currently each sector is served by two
antennas, making a total of eight. We will be adding one
antenna to each sector for a total of twelve.

Two of the new antennas will be facade mounted
adjacent to the existing facade mounts.

One will be roof mounted adjacent to the other existing roof mounts.

And one will be facade mounted on the penthouse facade also adjacent to our existing antennas and consistent with the design approved by the Board previously.

CONSTANTINE ALEXANDER: But this time you're seeking relief under 6409 of The Spectrum Act.

ATTORNEY DANIEL GLISSMAN: We're also seeking relief under 6409 of The Spectrum Act, yes, but we have applied as well for relief under a Special Permit.

CONSTANTINE ALEXANDER: Well, yes, that's right. But the criteria we would apply is 6409 criteria as we did earlier with Arrow Street.

So you should identify why you meet the 6409 criteria.

ATTORNEY DANIEL GLISSMAN: Sure.

So the 6409 criteria is a six-part test.

The first prong I believe is that it can't go

above -- ten feet above the existing installation or ten percent, whichever is greater. This installation will not change an existing height, it's maxed out at approximately 120 feet and we won't be changing the height of that.

The next step, the next prong in the 6409 criterion is that it doesn't extend beyond six feet outside of the existing base station. Again, we won't be extending it beyond the existing base station, and the facade mounts will only be extending approximately two feet so they'll be within that six-foot range.

The third prong I believe deals with existing equipment cabinets. We currently have four and we won't be adding any new equipment cabinets.

The fourth prong is with respect to any excavation at the site. This site needs no excavation. It's a roof mount.

The fifth prong is that we do not defeat any existing stealth, and we believe that because our site

is -- the proposed installation is consistent with the previously approved wireless installation and painted to match the existing facades and camouflaged the best way possible, that we're also meeting the fifth stealth.

CONSTANTINE ALEXANDER: I'm going to pause for a second. For some reason your photo simulations are black and white.

ATTORNEY DANIEL GLISSMAN: Oh, yes.

CONSTANTINE ALEXANDER: It's hard to tell how --

ATTORNEY DANIEL GLISSMAN: The copies that were made. I have photo sims.

CONSTANTINE ALEXANDER: New ones or different ones?

ATTORNEY DANIEL GLISSMAN: Same photo sims just in color.

CONSTANTINE ALEXANDER: Just in color? Good.

ATTORNEY DANIEL GLISSMAN: Yeah.

CONSTANTINE ALEXANDER: That will tell us whether

it's going to match.

ATTORNEY DANIEL GLISSMAN: Thank you.

JANET GREEN: The whole sky is blue.

CONSTANTINE ALEXANDER: Okay, I interrupted you.

You can go on to the rest of the six.

ATTORNEY DANIEL GLISSMAN: The final prong of 6409 is whether or not the installation would comply with any previous decision. And, again, we feel that it would with respect to all of the previous comments that I've just made.

CONSTANTINE ALEXANDER: I have a question whether this building is going to topple over with all these antennas up there. You keep adding them. It's not the most -- under 6409, I'm not sure we can get into that, but it's not the most desirable or attractive antenna installations. But be that as it may, we don't have authority -- well, I guess we could do a little bit in terms of our Ordinance.

But you are going to -- well, we'll condition it,

you are going to paint to match the existing antennas or the facade of the building I should say which is existing antennas?

ATTORNEY DANIEL GLISSMAN: Correct.

CONSTANTINE ALEXANDER: So it won't be as noticeable but it will be noticeable?

ATTORNEY DANIEL GLISSMAN: Right. That's the intent.

BRENDAN SULLIVAN: I'll be honest with you, I still am very much unclear as to really the proper application of 6409, and even after advice of counsel and reading and re-reading, I still have a hard time putting my head around exactly what that counsel is saying to us and how to proceed properly. And I really have this very, very uncomfortable feeling because I'm not really sure if all the players in this thing really know how to proceed. As far as -- I mean, I don't think this installation is very stealthy at all. I think it's actually fairly messy. I

think the other one is a bit messy and this is now adding to the messiness.

And on No. 6, and this is where I sort of hang my hat until I'm told not, is the proposal does not comply with conditions associated with the prior approval of the tower of the base station.

And when we approved the prior application, it was for the plans as submitted which encompasses number, location, method of installation, concealment, painting, yadda, yadda, on and on and on. And my thinking is that once we alter that previous decision by adding, by going a greater number, then it doesn't comply with the previous decision. And so I think that I don't see how -- I mean, I would be more comfortable just saying that 6409 is not applicable. That five out of --

CONSTANTINE ALEXANDER: I think not being satisfied is what you mean. They're not meeting --

BRENDAN SULLIVAN: Right.

SLATER ANDERSON: And then we go by the merits of the code?

CONSTANTINE ALEXANDER: And the code is -- talks about disguising the visual impact. And so you get back into -- that's what I was looking at while you were commenting. We could go there.

BRENDAN SULLIVAN: I think all we're doing is replicating a previous bad installation.

SLATER ANDERSON: Well, I have a couple -- I mean, my thinking has been similar. Five and six are the two criterion where it gets real grey to me, and so I see this sort of endless loop of what prevents somebody, and I don't mean you in particular, but an applicant coming back and saying, we want to apply 6409 again.

CONSTANTINE ALEXANDER: Well, they have the right to do that.

SLATER ANDERSON: To this, to this, you know, request we had last month. So we go from 12 to 14, you

know?

BRENDAN SULLIVAN: In other words, where's the yardstick?

SLATER ANDERSON: Yeah, yeah. And I look at this image right here.

BRENDAN SULLIVAN: And there really isn't.

SLATER ANDERSON: This one that's being added.

BRENDAN SULLIVAN: And the other one that I cannot really reconcile, and this might not be the night or the place, but I'm going to say it anyhow, is I don't know how we can say okay, we will accept this. We will proceed under 6409 and our Special Permit Ordinance. I think that 6409 was put in there so they wouldn't have to go through the Special Permit. And now the Law Department says well, you could go Special Permit under 6409. I don't think that they can be in bed together personally.

CONSTANTINE ALEXANDER: This is an issue that we talked --

BRENDAN SULLIVAN: And I cannot reconcile that in my -- I'm not a legal mind. But I cannot reconcile it.

CONSTANTINE ALEXANDER: I have a personal view about this and I conveyed that personal view to the Law Department vigorously. They will not change their mind. We can ignore --

BRENDAN SULLIVAN: Someone with a robe on will.

CONSTANTINE ALEXANDER: Well, that's exactly right. That's -- at the end of the day, if we were to --

BRENDAN SULLIVAN: And straighten this all out.

CONSTANTINE ALEXANDER: Yes, that would be the -- if we were to turn this down, for example, I'm going to assume this gentleman or his client will take the appeal to the courts and it will get decided.

Do we want to put the City through the expense? Do we want to -- because I'm sure legal will be brought --

BRENDAN SULLIVAN: Well, I think that day is coming.

CONSTANTINE ALEXANDER: Probably will be. To me this is not the case to bring it. That's my view.

If they were going to paint these new antennas silver, for example, that would defeat the prior one. All they're doing is -- they're adding more antennas, obviously, which The Spectrum Act says, basically -- presumes you should be able to do that as long as you don't make them garish or doing something that defeats the prior conditions. We will, they're not defeating the prior conditions. They're putting up the same kind of antennas in terms of external shape. Same color to match the facade of the building. I have trouble getting to the point where I can turn this down, not that I wouldn't mind doing it.

SLATER ANDERSON: This antenna troubles me.

CONSTANTINE ALEXANDER: What's that?

SLATER ANDERSON: This antenna right here.

CONSTANTINE ALEXANDER: Yes.

SLATER ANDERSON: It doesn't seem to achieve any

sort of stealth. There's no effort. I mean it matches the other antennas.

CONSTANTINE ALEXANDER: I know, but there's nothing -- the older decision, the condition was basically they have to paint the antennas to match the color of the building. And the new antennas are going to match the color of the building as the old ones do -- did. How do we get there?

SLATER ANDERSON: Yes.

CONSTANTINE ALEXANDER: I'm very sympathetic of what's been said. But I on the other hand, we do have to listen to our legal department, and I think with this case anyway --

SLATER ANDERSON: Sure.

CONSTANTINE ALEXANDER: -- to bring this whole thing to court. This is not the right case in my judgment.

SLATER ANDERSON: Right. But the last thing I'll say on this --

CONSTANTINE ALEXANDER: Go ahead.

SLATER ANDERSON: In my real state experience, what I see with this path that we're going down here is that it's the like overburdening the easement principle --

CONSTANTINE ALEXANDER: Yeah.

SLATER ANDERSON: -- where you're overburdening the stealth intent. If you just keep adding elements, no longer is it stealthy, it's defeating it by its density of element.

JANET GREEN: Right.

BRENDAN SULLIVAN: It's going to be like dandelions on your lawn.

JANET GREEN: I don't know how often you've appeared before this Board.

ATTORNEY DANIEL GLISSMAN: Only once.

JANET GREEN: Yes.

I mean this group of people has spent hours, hours, and hours and hours and hours trying to keep the city

looking good. You know? Trying to have it not look like many of the cities that we see around us where things are just stuck up by anybody when they come by and there's just no real attention to how they look or anything. And we've set something different in Cambridge. And we really feel that how the city looks is important. And that we want to have telecommunications, it's not that we don't want that. But when we've asked the telecommunications companies to go back and redesign and maybe even redesign again and give us some stealth pictures, they've been able to do it. But if we had said yes in the first go around, it wouldn't have happened. You know? Because it wasn't, it wasn't what they wanted. It wasn't what they needed for their business. They were very business centered. Well, we're very Cambridge centered and that's why when we look at this, we're not saying we don't want telecommunications or that we don't want them even on that building, but it, you know, left to their own devices, they've created messes that we've

seen even in our own city when they've gotten away with it before we -- as Brendan has said, I remember we went through a period where the best we could do was get faux chimneys put around them. But the faux chimneys really were more faux than they were chimney, so I can't believe we were even suggesting that. But I mean I think that's what you're hearing expressed by us now is the hours that we've spent on how our city looks.

BRENDAN SULLIVAN: I think with the road we're going down is that they're claiming protection under 6409 which is giving them carte blanche to do anything they want.

JANET GREEN: That's right.

BRENDAN SULLIVAN: And that we're just going to basically do it because they can't turn us down and dare they turn us down. And so consequentially it is really putting me into a very uncomfortable spot because everything that we have fought for over the years to get this --

JANET GREEN: Hours and hours.

BRENDAN SULLIVAN: -- to get these things looking somewhat acceptable, you know, they're necessary evils, but -- evil looking, not evils, but they're necessary evil looking things. And I ride around everywhere and see all of this stuff. You go through Belmont and Watertown and it's just -- they're awful. And I say, you know, at least we're trying to make them somewhat aesthetically pleasing. And now 6409 comes along and they're claiming protection under 6409 that basically, hey, we can just replicate everything we did before.

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Unfortunately I suspect that's the intent of 6409 is to further take away from the municipalities the ability to regulate these --

BRENDAN SULLIVAN: It's to pave the way for the industry.

CONSTANTINE ALEXANDER: It's for the industry. It's basically a lobbying thing.

But to go back to the specifics. If we wanted to turn this thing down, I mean one of the -- let's frame the issue.

One of the requirements they have to satisfy is a modification they're proposing do not defeat any existing concealed or stealth design. And I suppose we'd have to find that adding more antennas to the building do have the effect of defeating the -- it's now okay to conceal. Now we're adding more, all of a sudden more of what -- more is less and we've done it.

SLATER ANDERSON: You've overburdened the stealth.

CONSTANTINE ALEXANDER: And therefore there is no stealth. That could be the basis for a decision if we want to make that decision. That's how we would go legally.

SLATER ANDERSON: The other problem I have with 6409 is that it's clearly a large intent of it was to deal with towers. That, the kind of what we're grappling with, you know, facade mounted stuff is secondary to I think what

the intent of 6409 is. So we're trying to work, you know, 6409 drove a huge tractor trailer through a small issue that we deal with and created a giant hole, you know, for them to drive through. So I don't know, it's -- it is what it is.

JANET GREEN: You don't think this is a good case to --

CONSTANTINE ALEXANDER: Well, maybe you're not going to get a better one. You could get a better one theoretically. I don't know if we'll see it. Unless they paint silver antennas on that. But these people are not dumb, they're not going to do that. I mean, if you want to draw the line tonight, we can draw the line and we'll --

BRENDAN SULLIVAN: I just think that this colation of antennas could be done in a more acceptable way.

CONSTANTINE ALEXANDER: But the only way we can say it is the more or less the point that Slater's made is that -- because it's -- they can't do something that's going to impact the existing disguised elements. And here we'd

have to say just adding more antennas does -- more is less. I think there's a better case -- I mean, if I'm going to litigate, I'd rather have a stronger case than that. It's one we could do. I don't think we're going to see the kind of -- the strong case we want to see. It's not going to -- it's going to be the unlikely case. Most cases --

BRENDAN SULLIVAN: We're going to look back six, nine months from now and saying they're all the same, like this. We're looking for someplace that we can go to the mat on and yet it's going to be -- all of these, they're going to be all adding these similar to that and we're going to look back and say oh, back in January we probably should have put our stake in the ground then.

THOMAS SCOTT: I have a question. Why are the new antennas taller than the old antennas?

ATTORNEY DANIEL GLISSMAN: This is the part of -- I'm sorry.

THOMAS SCOTT: Well, because I certainly think

that doesn't make them any less stealth. They're bigger. They're taller. So -- and they're different than the ones that are on the building, so I think they stand out even more because of their size. And then it wasn't clear to me, but I think you said you were adding antennas. You didn't say you were relocating some of the antennas as well. Are you? Because the photo sims show that you're actually relocating a couple of the existing antennas.

ATTORNEY DANIEL GLISSMAN: Yes, we are. In fact -- so let me answer this question in two parts:

This is part of T-Mobile's L-700 upgrade. They're bringing in this newer L-700 antenna which is a bit longer and provides a lot more power and improves capacity for their customers and particularly necessary in an area such as this, what's heavily trafficked. And so it's my understanding that the intent of the rotation and the re-location of some of the antennas, they're all staying within the same facade or they're essentially in the same

locations, is that the newer, more powerful antennas are in the better, more optimal location to provide the strongest coverage.

THOMAS SCOTT: And they can't be the same size as the others?

BRENDAN SULLIVAN: But just as ugly.

THOMAS SCOTT: But just as ugly. They can't be the same size as the others?

ATTORNEY DANIEL GLISSMAN: It's my understanding that the -- that this is the size antenna that the L-700 is -- I don't know that they're -- that they're rolling out a smaller antenna with the same capability.

BRENDAN SULLIVAN: There's Cinderella and her ugly sisters. We're looking for Cinderella. And there's no incentive. Again, we're getting philosophical. There's no incentive for the industry to improve the design under 6409.

CONSTANTINE ALEXANDER: 6409 has that effect, you're right. Just a contrary, it gives them free reign to

a large extent.

BRENDAN SULLIVAN: To run a muck.

CONSTANTINE ALEXANDER: To do what they want to do.

SLATER ANDERSON: Well, I'm waiting for the day to get a 6409 on a previous 6409.

CONSTANTINE ALEXANDER: It's coming.

THOMAS SCOTT: Well, the next iteration of antenna could be even longer, you know, so now we could have three sizes of antennas.

SLATER ANDERSON: Well, that's where I think you can make the case. It's defeating the stealth.

THOMAS SCOTT: Yeah, it's definitely defeating the stealth issue.

JANET GREEN: Well, these aren't exactly our greatest -- some of the greatest examples of stealth that we've had along the way.

BRENDAN SULLIVAN: The examples of stealth is down

on Broadway. At One Broadway.

CONSTANTINE ALEXANDER: Yes, that was a stealth.

JANET GREEN: That was really good.

BRENDAN SULLIVAN: And I think that was only because they realized they were not going to get it by us unless they really did it. Mem Drives which was the other one, which was the first one we heard 6409 from Tim whatever his name is.

CONSTANTINE ALEXANDER: Twardowski.

BRENDAN SULLIVAN: And they had that on the front of the building, and that was God awful. And that iterations came back and now you can't even tell because it's on the penthouse. And, again, it's only through kicking and screaming and dragging them along and now there's --

THOMAS SCOTT: Sancta Maria Hospital. They did the same thing up on top.

JANET GREEN: I wondered how it impacted the

Holiday Inn on McGrath Highway, you know, it has the decoration in the middle.

BRENDAN SULLIVAN: Yes, anyhow.

CONSTANTINE ALEXANDER: Anyway. We can wait -- we can go to the mat now or we can wait for a stronger case. I guess I'm prepared to wait for a stronger case.

BRENDAN SULLIVAN: And I guess would approve this with holding my nose.

CONSTANTINE ALEXANDER: That's what it comes down to, yes.

BRENDAN SULLIVAN: But I think my feelings are on the record.

THOMAS SCOTT: That this is ugly?

BRENDAN SULLIVAN: That this is ugly. We're getting one of the ugly sisters.

SLATER ANDERSON: This might be a good one. They can see this one from City Hall.

CONSTANTINE ALEXANDER: Okay. I think we're ready

for a motion. We vented as much as we can.

JANET GREEN: Right.

CONSTANTINE ALEXANDER: The Chair moves that we make the following findings with regard to the Special Permit being sought:

That the requirements of the Ordinance cannot be met without the Special Permit. That what is being proposed will not cause congestion, hazard, or substantial change in established neighborhood character.

And that the continued operation of the adjacent uses will not be adversely affected by what is proposed, and no nuisance or hazard will be created to the detriment of the health, safety, and welfare of the occupant of the proposed use, this building, or the citizens of the city.

And that the proposed use will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

Further that with respect to 6409 standards that

we'll consider in the context of a special zoning permit, we find that the modification to the existing telecommunication facility at 678 Mass. Ave. proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base station at such facility within the meaning of 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, also known as The Spectrum Act.

And therefore the petitioner is entitled to the Special Permit it is seeking under our Zoning Ordinance provided the petitioner complies with the following conditions:

That the work proceed in accordance with the plans submitted by the petitioner and initialled by the Chair.

Two, that upon completion of the work the physical appearance and impact of the proposed work will be consistent with the photo simulations submitted by the petitioner and initialled by the Chair.

That the petitioner shall at all times maintain the proposed work so that its physical appearance and impact will remain consistent with the photo simulations previously referred to.

That should be the petitioner cease to maintain the equipment approved tonight for a continuous period of six months or more, it shall promptly thereafter remove such equipment and restore the building on which it is located to its prior condition and appearance to extent is practical.

And, lastly, that the new antennas be painted to match the color of the facade of the building as is the case with the prior antenna as required by the conditions to the -- or the approval for the prior antennas.

All those in favor of granting the Special Permit on this basis, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor?

(Alexander, Scott, Green, Anderson.)

CONSTANTINE ALEXANDER: Opposed?

BRENDAN SULLIVAN: I will abstain.

CONSTANTINE ALEXANDER: Motion granted.

ATTORNEY DANIEL GLISSMAN: Thank you.

And I may have only been in front of the Board once, and I hope to be in front of you again and I know our firm does a ton of work in Cambridge.

(Whereupon, at 11:20 p.m., the

Board of Zoning Appeal Adjourned.)

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