

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, APRIL 10, 2014

7:05 p.m.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Constantine Alexander, Chair  
Timothy Hughes, Vice Chair  
Brendan Sullivan, Member  
Thomas Scott, Member  
Janet Green, Member  
Arch Horst, Associate Member

Sean O'Grady, Zoning Specialist

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**PROCEEDINGS**

(7:05 p.m.)

(Sitting Members Case #BZA-002837-2013: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Janet Green, Arch Horst.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our custom, we are going to start with our continued cases.

And the first case I'm going to call is 107 Hampshire Street, case No. 002837.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one wishing to be --

UNIDENTIFIED AUDIENCE MEMBER:  
We're neighbors from --

CONSTANTINE ALEXANDER: Okay.  
You're neighbors. Plenty of time.

UNIDENTIFIED AUDIENCE MEMBER: Just  
tell me what to do.

CONSTANTINE ALEXANDER: The Chair is in receipt of a letter from the Petitioner addressed to this Board and it says:

(Reading) We respectfully request a continuance of our hearing for our Petition for a Variance. We did not have the plans at the Zoning office on time this Monday for the hearing on Thursday.

And that is exactly why the case has to be continued. The Petitioner plans to present revised plans, but those revised plans, in order to hear the case tonight, had to be in the office by five p.m. on Monday and they were not.

So we are going to continue the case on specific date that works for you as well as -- what's the next available date?

SEAN O'GRADY: May 8th.

CONSTANTINE ALEXANDER: May 8th.

Who sent on that case?

SEAN O'GRADY: Hampshire is  
Brendan, Tom, Gus, Janet, and Tim.

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Excuse me  
for my confusion here. We don't know about  
Tom.

SEAN O'GRADY: Okay, we don't know  
about Tom.

CONSTANTINE ALEXANDER: We're going  
to recess this case.

Just so you know what's going on, we are  
going to continue the case. It has to be the  
same five members that were here originally.  
One of those five, Tom Scott, is not here  
right now. He's on his way in. And I don't  
know what his availability is for May 8th.  
So I'm going to wait, continue it until he  
comes, and then we'll hear the case. And if

he can do it on May 8th, that's when it will be. If not, it will be a date that will work for all five of us. You can wait. He could come in the next five minutes or a half hour from now. I just don't know.

SEAN O'GRADY: You can always call the office tomorrow also.

CONSTANTINE ALEXANDER: The only thing is they couldn't weigh in on the continued date. That's what concerns me.

Okay, so we're going to recess this case.

SEAN O'GRADY: Did you not understand that? I'm sorry, I shouldn't speak.

CONSTANTINE ALEXANDER: No, no. We have to pick a date when we know all five of us are going to be present. One of the five -- Mr. Horst is not sitting on the case.

He cannot sit on the case. We don't know what his schedule is until he comes. He'll be coming soon. And so when he comes and we find out whether he can sit on the 8th, then we'll continue the case until the 8th. If not, what's a date that works for you. The possibility, though, he could come in and say I can't make it the 8th and we'll pick another date. And it may not be a date that will work for you. So if you want to be here and weigh in on a date that works for you --

UNIDENTIFIED AUDIENCE MEMBER:

Anything that works for you works for us.

CONSTANTINE ALEXANDER: Okay, you don't have to say anything else then. Bye.

Okay, the Chair moves that this case be continued as a case heard, there being a -- the case to be continued as a case heard until seven p.m. on May 8th on the conditions

that the Petitioner modify the sign to reflect the new date and the new time, at seven p.m. on May 8th.

And on the further condition as the Petitioner is now aware, that the Petitioner is going to submit revised plans than that that was submitted originally, they must be in our possession, must be in our office no later than five p.m. on the Monday before Thursday, May 8th.

All those in favor of continuing this case on this basis?

BRENDAN SULLIVAN: If Tom cannot make it on the 8th?

SEAN O'GRADY: We'll have to deal with it then.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: We'll just revisit the case and we'll call it back.

We're not taking a vote now. Let's just wait. We're just going to recess -- the motion is on the table. We're going to recess it until Tom comes.

(Case recessed.)

\* \* \* \* \*

(7:10 p.m.)

(Sitting Members Case #10503: Constantine Alexander, Timothy Hughes, Brendan Sullivan,

Janet Green, Arch Horst.)

CONSTANTINE ALEXANDER: Next the Board will call case No. 10503, 23 Sidney Street.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one wishing to be heard.

The Chair is in possession of a letter from Robin Lapidus, L-a-p-i-d-u-s.

(Reading) I am writing to withdraw our Zoning Petition for 23 Sidney Street, case No. 10503, and apologize for any confusion that arose regarding our Petition.

Unfortunately the original farmer's market operator for this Petition moved in a different business direction and left the CSBA earnestly seeking another qualified

farmer's market operator to proceed forward. We've had several meetings with market operators that have not been able to secure a market operator/organization at this time. For that reason we think it is best to withdraw and we thank you very much for your time and consideration.

I understand if they withdraw, whoever they find, they can't come back before us for two years.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Unless they pick a different location.

SEAN O'GRADY: Right. My sense is that they pulled the trigger on that just on a whim. Just on let's go look at this.

CONSTANTINE ALEXANDER: Okay.

SEAN O'GRADY: Yes. They got the talk to and went back and forth.

CONSTANTINE ALEXANDER: Okay. The location is out for two years for a farmer's market.

SEAN O'GRADY: Right.

CONSTANTINE ALEXANDER: Okay.

I move that we accept this request for withdrawal.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Green, Horst.)

(A short recess was taken.)

(7:35 p.m.)

(Sitting Members Case #BZA-003320-2014:

Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Janet Green.)

CONSTANTINE ALEXANDER: Okay, the  
floor is yours, Mr. Crane.

ATTORNEY KEVIN CRANE:

Mr. Chairman, members of the Board, my name  
is Kevin Crane. I'm an attorney. My office  
is at 104 Mount Auburn Street in Cambridge and  
I represent the Petitioner in this particular  
matter. To my right I have Michael Kaplan  
who is the owner of the proposed restaurant  
site.

CONSTANTINE ALEXANDER: Fast order  
food establishment.

ATTORNEY KEVIN CRANE: Fast order  
food establishment according to the  
definition under the Cambridge Zoning  
Ordinance.

CONSTANTINE ALEXANDER: Right.

ATTORNEY KEVIN CRANE: The location of this site is a little awkward in that it's in Five Cambridge Center, but it's not right on the street. It's -- on Main Street there is Clover Restaurant which received a fast order food establishment Special Permit a number of months ago. It's right on the street. My understanding is that the lot -- the connection between Three and Five Cambridge Center was added. They connected the buildings at some point in time in the last couple of months and there's a new lobby area there. And you go in front Main Street into this large lobby area that didn't exist previously, and to the left, first of all, just beyond Clover is the new lobby for Five Cambridge Center, and our location is just beyond the lobby which you'd have entrance way from the new lobby into this space. The

portion of this space is newly created. You go in the back of the lobby, there's an alleyway that's in the back of the building and the parking garage which is located there. And there's an alleyway that goes out to -- as you take a left, you would go out to Ames Street. If you went and took a right, you'd go into the old food court space.

CONSTANTINE ALEXANDER: Talk to us about the nature of the operation, the kind of food you're going to serve, the seating arrangements or take out arrangements, stuff like that. Just give us a background.

ATTORNEY KEVIN CRANE: Okay, I have floor plans here.

CONSTANTINE ALEXANDER: We have floor plans in the file, but there's nothing about the kind of food you're going to offer or hours of operation and things like that.

ATTORNEY KEVIN CRANE: Okay. On the food -- the type of food. I have a rough menu from their existing establishment, which is located at 103 State Street in Boston. I'll let Michael talk to it, the type of food and also the proposed hours of operation.

CONSTANTINE ALEXANDER: Certainly. Before you do that, Michael, the name of your business or the restaurant if we give you the Special Permit, not the restaurant, the fast order food establishment is what?

MICHAEL KAPLAN: Bailey & Sage.

CONSTANTINE ALEXANDER: It is Bailey & Sage?

MICHAEL KAPLAN: Yes.

CONSTANTINE ALEXANDER: And that is the name of your operation?

MICHAEL KAPLAN: That is the name of

my operation.

CONSTANTINE ALEXANDER: Okay, go ahead.

ATTORNEY KEVIN CRANE:  
Mr. Chairman, do you want the menus?

CONSTANTINE ALEXANDER: Yes, if you don't mind. We can hand things out and listen to you at the same time.

MICHAEL KAPLAN: So Bailey & Sage is an artisan sandwich and chopped salad establishment. We specialize in fresh produce, all natural ingredients. We have no fryers. Nothing of that sort. We have all of our produce is delivered every day. All our meats are all natural. We believe in fresh. We don't, you know, as some of the people do now, scoop cold chicken out of a pan onto a salad. Everything we do comes from a grill or baked fresh. From our cookies -- we

bake our own breads fresh. We chop all our salads to order fresh.

CONSTANTINE ALEXANDER: You mentioned fresh produce every day.

MICHAEL KAPLAN: Yes, we do.

CONSTANTINE ALEXANDER: How are you going to deal with the delivery issues? That's a very busy area.

MICHAEL KAPLAN: Yes, it's actually worked out to our favor being on the interior space. The back of our -- in this actual space the back of it leads out to the loading dock on that building. I actually -- Clover who exists there have to actually take their deliveries through the front door. We actually can take them right through the back into our kitchen.

CONSTANTINE ALEXANDER: You won't have delivery trucks double parked?

MICHAEL KAPLAN: No, we will not.  
We will be right at the loading dock.

TIMOTHY HUGHES: And that's the  
loading dock that's accessed through Main  
Street?

MICHAEL KAPLAN: It does.

JANET GREEN: And what do you do with  
leftover food at the end of the day?

MICHAEL KAPLAN: Well, we try to get  
it down to a science so we don't have as much.

JANET GREEN: Yes, sure.

MICHAEL KAPLAN: It was a big  
learning curve in the beginning.

JANET GREEN: Sure.

MICHAEL KAPLAN: Leftover food, you  
know, typically, you know, we do do things  
with it within the store. You know, we make  
certain pasta salads or, you know,  
that -- because we do daily specials and we

like to have stuff made every day and that it's used to that, for that. But, yeah, and we're -- we do -- we're going to have a juicing bar, fresh juices. We're going to have a smoothy bar. We do frozen yogurt which we have right now in our establishment, we're going to bring over there as well. You know, the main point we like to get across when we apply for these permits and they say fast food, you know, it's almost like well, we don't want you to think we're fast food. We like to -- we coined the term fast casual. Because, you know, we're not McDonald's, we're not Burger King. We like to raise the bar on quality. We believe very much so on quality.

CONSTANTINE ALEXANDER: Let me make it clear the notion fast order food establishment is a definition titled that the

City Council proposed. Not suggesting that what you do is fast order.

MICHAEL KAPLAN: No, I understand. We were just -- we like to play around with it.

JANET GREEN: Right.

MICHAEL KAPLAN: But, yeah, everything we -- our whole motto and our whole reason for coming into business was where can we go to -- I mean, they were doing it in other states. Where can we go to get a fresh salad like something that they're gonna show us and they're gonna chop up in front of us. The chopped salad we serve them in these pretty cool containers that are almost like Chinese food boxes.

(Inaudible). If you go on You Tube, you can see it. Where can we get a good sandwich with fresh baked bread and like all natural meats

and like the stuff you make if you had at your disposal in your kitchen. I mean that really was the heart about why we started the operation.

Hours of operation at this location. Right now we're going to be seven days a week. Right now we're probably looking at breakfast, lunch, and dinner, seven to seven. Those hours are probably going to adjust once we understand the neighborhood better. You know, if it calls for us to be open at six a.m., we'll be open at six a.m. If it calls for us on Sunday to be done and three o'clock because nobody wants to be out at three o'clock in the neighborhood there, then we're going to adjust accordingly. But other than that, you know, we're very excited to become part of the Cambridge neighborhood in that area.

CONSTANTINE ALEXANDER: Any guesstimate in terms of your customer base, what percentage will be people coming in and sit there and eat and what percentage will be taking the food out?

MICHAEL KAPLAN: Not -- I don't have an exact number. But, you know, primarily people, you know, we're in an office building, so I have to say a large portion of people will probably be taking and going, but we do -- we are putting the seats in in the store, in the arcade, and actually on that back alleyway patio, they're giving us permission to put seats out there. So we're welcoming if people want to stay and, you know, hang out and each lunch, they're more than welcome to do that.

CONSTANTINE ALEXANDER: Thank you.

MICHAEL KAPLAN: You're welcome.

CONSTANTINE ALEXANDER: There's a number of things we have to touch on, some of these things, Mr. Crane, I'm sure you're aware. I'm going to touch on and ask one of you to answer.

We've already talked about because of the -- at least with respect to product deliveries, you'll not cause any traffic problems or reduce available parking because people are coming in from the back. The loading dock should be little double parking.

Also on the question about your traffic, you expecting people to be in the neighborhood, in the office building itself?

MICHAEL KAPLAN: Yeah. And there's apartment buildings in the area. And MIT is right there. So we really want to become part of the neighborhood rather than just be Google's lunch place because Google is in

that building. We really want to be part of the community there and part of the space, that's why we're staying open Saturdays and Sundays.

CONSTANTINE ALEXANDER: I didn't see anything, and maybe I just missed it, in the file about the signage, particularly -- not interior signage but what is visible to people in the street? Can you talk to us about that?

MICHAEL KAPLAN: Boston Property has gotten approved for a designated signage. I don't have the actual plan on me. I'm sorry about that. And that's really where we'll be putting our signage.

CONSTANTINE ALEXANDER: Okay, you have to be aware that we have -- our Zoning Ordinance controls signage as well. So you'll have to either comply or you're going

to be back before us.

MICHAEL KAPLAN: 100 percent.

We're complying with -- we're only complying with that. Boston Properties --

CONSTANTINE ALEXANDER: Oh, I see what you're saying.

MICHAEL KAPLAN: Boston Properties already went through that approval process and they're telling us where we can put our signs and where we can't. And they're basically designating ok, this is where you're allowed to put it.

CONSTANTINE ALEXANDER: Do they regulate you as to the design of the sign, the colors and the like? Because we've had concerns with some other fast order food establishments who put up signs and we're not very happy with them after the fact.

MICHAEL KAPLAN: They haven't gone

into that detail, but I can tell you right now if you saw our logo and our sign from our menu, we do it very -- we don't want any neon lights or anything like that. We're very more subdued. It's more of a very nice, classy type of thing. We're not really going for the bright lights and we want you to see it so you come in. It's more like on that page.

CONSTANTINE ALEXANDER: Okay.

We have to make a finding that the establishment fulfills a need for such a service in the neighborhood and I take it your position is there's a big need both because of the office use and apartment use in the area?

MICHAEL KAPLAN: Yes.

CONSTANTINE ALEXANDER: And there's not the number of stores, fast order food establishments in that area as there is say

for example in Harvard Square.

MICHAEL KAPLAN: Yeah, and if you ever see the lines that build during that time of day in Kendall Square, it's needed. I mean, people are waiting, you know, 20, 30 minutes just to get something, you know.

CONSTANTINE ALEXANDER: Okay.

You've already addressed the fact that you believe you will attract patrons primarily from walk-in trade as opposed to drive or automobile related trade?

MICHAEL KAPLAN: Right.

CONSTANTINE ALEXANDER: You're not going to have a window like McDonald's?

MICHAEL KAPLAN: We can't we're inside.

CONSTANTINE ALEXANDER: We have to make a finding for your establishment, yours, to the greatest extent feasible will use

biodegradable materials in packaging the food and the utensils and other items provided?

MICHAEL KAPLAN: We don't have any Styrofoam or anything like that. Me, myself, are very green and eco-friendly. So everything we use is biodegradable.

CONSTANTINE ALEXANDER: The establishment shall provide convenient, suitable, and well-marked waste receptacles to encourage people to throw the stuff away. What's your plans for that?

MICHAEL KAPLAN: You know, we're like I said, there's waste receptacles, trash, within the arcade there now. And we will be positioning them by the entrance and the exits, in the lines. We like to keep a very neat shop as well. So that's -- we'll do your best to -- and we do recycle 100

percent.

CONSTANTINE ALEXANDER: And lastly, will you comply with all state and local requirements applicable to handicap and disabled persons?

MICHAEL KAPLAN: Yes.

CONSTANTINE ALEXANDER: There's no stairs to climb?

MICHAEL KAPLAN: No stairs, no.

CONSTANTINE ALEXANDER: And the doorway is wide enough for a wheelchair to go through?

MICHAEL KAPLAN: Yes, the doorway it's wider than the stairs.

CONSTANTINE ALEXANDER: Okay.  
Questions from members of the Board?

TIMOTHY HUGHES: No.

JANET GREEN: I just have one comment, and that is to just bring to your

attention there are several Cambridge organizations that will recycle food if especially a startup when you're figuring out how much you need and whether you have leftovers, to really consult with those organizations.

MICHAEL KAPLAN: 100 percent.

That's a great idea.

JANET GREEN: Yeah, that's -- especially at the beginning and also when summer comes and there's, you know, there's always adjustments to be made in that.

MICHAEL KAPLAN: There is. Thank you for bringing that up. That is a great idea.

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

ATTORNEY KEVIN CRANE: Just one

comment, Mr. Chairman. I just want to make sure that the Board's aware that the City Council recently amended the Zoning Ordinance at this location raising the number of fast order food establishments from three to 15 actually, which certainly evidences a policy in the Zoning Ordinance for such establishments. Although I wish -- I realize that it's still done on a case-by-case basis.

CONSTANTINE ALEXANDER: Yes, I was puzzled by it. I read the same thing I guess in the paper. I mean, our Ordinance doesn't prescribe the number of Special Permits for district. It just says certain districts you can't have fast order food establishments and others, such as Harvard Square or your area you can. But it there's nothing in the Zoning Ordinance.

SEAN O'GRADY: There's some new rules in Overlay districts, special districts.

CONSTANTINE ALEXANDER: Oh. Is it now in effect, legally in effect?

ATTORNEY KEVIN CRANE: It was approved in conjunction with the whole Boston Properties rezoning.

CONSTANTINE ALEXANDER: Yes, I saw that in the paper.

ATTORNEY KEVIN CRANE: Yeah, it was approved from three to 15. And I think it was it broke down eight in this Ames Street district, which we're in. And then seven in the remaining MXD District.

CONSTANTINE ALEXANDER: Thank you. Thank you for bringing that to our attention.

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 we are in receipt of letters. We have one letter from the East Cambridge Planning Team from Barbara Brussard, B-r-u-s-s-a-r-d. (Reading) Michael Kaplan owner of Bailey & Sage and his attorney Kevin Crane met with members of the East Cambridge Planning Team to discuss the restaurant which is planned for a space at Five Cambridge Center near the Main Street entrance. They're asking for a quick fast order permit. Not quite, but you're asking for something like that. As they explained it, there will be 45 seats inside the restaurant, 16 tables in the lobby of the

building, and another 12 in the alley connected to the parking garage. That's consistent with the plans you've shown us?

ATTORNEY KEVIN CRANE: It's not 16 tables. It's four tables with 16 seats.

CONSTANTINE ALEXANDER: You're right. Okay.

They will offer sandwiches, salads breakfast items. Our schedule has been quite full until last evening so we apologize for the late letter.

What are they, are they in favor or opposed?

ATTORNEY KEVIN CRANE: It's certainly neutral. We were there and all I can say is when we finished our presentation, they clapped for us. So I thought, I thought we were pretty well received, Mr. Chairman.

CONSTANTINE ALEXANDER: All right.

Let the record show that the East Cambridge Planning Team clapped and were in favor.

BRENDAN SULLIVAN: I think they would tell us if they were opposed.

TIMOTHY HUGHES: Yes, they're not shy about that kind of thing.

BRENDAN SULLIVAN: In this instance silence is golden.

CONSTANTINE ALEXANDER: We also have a letter from the Cambridge Redevelopment Authority. (Reading) The Cambridge Redevelopment Authority would like to voice its full support in favor of Bailey & Sage in seeking a Special Permit to locate a fast order -- fast food establishment at Five Cambridge Center. As the Board of Zoning Appeal may be aware, an amendment to the Cambridge Zoning Ordinance applicable to the MXD District in Kendall Square was

recently enacted by the City Council to enable the construction of a major residential and retail development on Ames Street. An important component of that amendment is an increase in the number of fast food establishments allowed in the MXD District from three to 15. The CRA was strongly supportive of the provisions in the amended Ordinance to increase the number of fast food establishments in Kendall Square. The CRA felt that a relaxation of the cap in the MXD District in Kendall Square would be beneficial of the work culture of the area. We realized that because of the Kendall Square workforce -- we realize that because the Kendall Square workforce was young, energetic, and works long hours, there was a new demand for fresh, healthy food available to go. We especially wanted to encourage all

Massachusetts' owned food businesses serving locally sourced healthy products to open for business in Kendall Square. We hoped that because each new fast food license required a Special Permit from the BZA, the CRA's support would encourage businesses like Clover and now Bailey & Sage to locate in the area in place of more conventional and ubiquitous multi-national fast food operations. We hope that you will approve the Special Permit application for Bailey & Sage.

And that's it.

Any final comments?

ATTORNEY KEVIN CRANE: No,  
Mr. Chairman.

CONSTANTINE ALEXANDER: Okay,  
discussion or ready for a vote?

TIMOTHY HUGHES: Ready for a vote.

JANET GREEN: Ready for a vote.

CONSTANTINE ALEXANDER: Okay.

Have to take a lot of votes for fast order food establishment.

The Chair would move that this Board make the following findings:

That the Petitioner has satisfied the requirements set forth in 11.31 of our Ordinance. Such requirements dealing with traffic, need for the service in the neighborhood, whether the establishment will attract patrons primarily from walk-in trade, will they use biodegradable materials, will they provide suitable and use well marked waste receptacles, and will they comply with all laws regarding handicapped and disabled persons.

And that the Petitioner has satisfied the -- I move that we find that they have

satisfied the requirements of 11.31.

And further we have to go to the Special Permit requirements generally speaking.

The Chair moves that we make the following additional findings:

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

That the continued operation or development of adjacent uses 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, and the 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 that regard the Chair would note that the project has the support of the Cambridge Redevelopment Authority and apparently the East Cambridge Planning Team. And that the comments in the letter from the Cambridge Redevelopment Authority speak well to why what is being proposed will not derogate from the intent and purpose of the Ordinance but in fact will benefit the community at large.

So on the basis of these findings the Chair moves that we grant a Special Permit for the Petitioner to operate a fast order food establishment at Five Cambridge Center pursuant to the plans that have been submitted by the Petitioner and initialled by

the Chair.

These are the plans that you were referring to, we have them in our files already. I'll initial that.

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

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Alexander, Hughes, Sullivan, Green.)

(A short recess was taken.)

\* \* \* \* \*

(7:55 p.m.)

(Sitting Members Case #BZA-003082-2014:

Constantine Alexander, Timothy Hughes,

Thomas Scott, Janet Green, Arch Horst.)

CONSTANTINE ALEXANDER: Okay, the Chair will call case No. 003082, 15-17 Flagg Street.

Is there anyone wishing to be heard on this matter? Hopefully good things will come to those who wait.

AMINA DERBALI: Hope so.

THOMAS SCOTT: Sorry to make you wait.

AMINA DERBALI: That could be a long drive.

CONSTANTINE ALEXANDER: Name and address for the stenographer.

KAJ VANDKJAER: Yes. Good evening. My name is Kaj Vandkjaer and I operate in Cambridge, KV Design and building and my residence is 21 Surrey Street, S-u-r-r-e-y, Cambridge.

AMINA DERBALI: Me too?

CONSTANTINE ALEXANDER: Yes, if you're going to speak.

AMINA DERBALI: Amina Derbali, 17 Flagg Street, Cambridge.

CONSTANTINE ALEXANDER: Okay, when you were here last time, you wanted to put an addition on and the deck, that was the original proposal.

AMINA DERBALI: That was the original.

CONSTANTINE ALEXANDER: And there were some neighborhood or neighbor concerns in some respects, we continued the case,

you've come back with revised plans.

KAJ VANDKJAER: Yes.

CONSTANTINE ALEXANDER: Why don't you describe them to us.

KAJ VANDKJAER: Well, we -- the original plan was to put an addition on the one story in the back and then a roof deck above that which we've added some square footage, and also one neighbor was of the opinion that could be parties on this roof deck and knowing the owners, yes.

AMINA DERBALI: If only.

KAJ VANDKJAER: So we realized that A, was -- we had to find a way backwards, get back into this. And so what we have come up with is to retain the roof where it is. We have to remove the chimney. It's -- the picture will show, it's collapsing anyway. And the owners have always felt that it wasn't

in balance in the way that we did -- I did the dormers in the 80s, and we put three up and saved some money. And we felt this time we will build a fourth dormer so the house has symmetry.

CONSTANTINE ALEXANDER: The fourth one being the new one, the fourth one is in the rear.

KAJ VANDKJAER: Yes.

CONSTANTINE ALEXANDER: It balances the other one that's in the rear now.

KAJ VANDKJAER: Yes.

CONSTANTINE ALEXANDER: Is this last drawing?

KAJ VANDKJAER: Yeah, that's it.

CONSTANTINE ALEXANDER: That's the project?

KAJ VANDKJAER: Yes.

CONSTANTINE ALEXANDER: That's what

it will look like if we grant you relief?

KAJ VANDKJAER: Yeah.

Right. And then we -- the owners are still hoping to get a way of looking over the, over the backyard. The backyard is sort of always in the shade and loaded down with trees. So we introduced the deck between the two dormers, the four-foot extension with the curved front.

CONSTANTINE ALEXANDER: This is a two-family house?

AMINA DERBALI: Yes.

CONSTANTINE ALEXANDER: The tenant, they're not going to have access to the deck --

AMINA DERBALI: No.

CONSTANTINE ALEXANDER: It's for your purposes, right?

AMINA DERBALI: In fact, in fact on

the third floor we use both sides.

CONSTANTINE ALEXANDER: That's my question.

AMINA DERBALI: Right. And so the access actually will be from our side, the 17 Flagg side, and there is no access from the tenant's side. They only have two stories.

KAJ VANDKJAER: And they don't have a stair either. So there's no way that they there will be a conflict.

CONSTANTINE ALEXANDER: And the reason you're before us is because you have an FAR problem. You're a non-conforming structure right now?

KAJ VANDKJAER: Yes.

CONSTANTINE ALEXANDER: You're over the permitted FAR.

KAJ VANDKJAER: We are being over, yes.

CONSTANTINE ALEXANDER: And you're a 0.84 in a 0.75 district, and you're going to add about 80-something square feet by virtue of what you're proposing? So you're going to go to 0.86; is that correct?

KAJ VANDKJAER: Yeah, the latest --

CONSTANTINE ALEXANDER: According to your plans that's what it says.

KAJ VANDKJAER: Yes. I was asked to bring in --

CONSTANTINE ALEXANDER: I have it right here.

KAJ VANDKJAER: Oh, you have it.

CONSTANTINE ALEXANDER: And it shows an increase in FAR from 0.84 to 0.86.

KAJ VANDKJAER: Yeah.

CONSTANTINE ALEXANDER: And in fact you get that increase because you're adding about -- for purposes of the --

KAJ VANDKJAER: Well, yeah, the space is basically there. We're putting a dormer on it.

CONSTANTINE ALEXANDER: You're adding a dormer for purposes of the Zoning you're adding floor area.

KAJ VANDKJAER: Yes, exactly.

CONSTANTINE ALEXANDER: 80 feet of floor area.

KAJ VANDKJAER: Right.

CONSTANTINE ALEXANDER: And that's -- so you're increasing your non-conformance, that's your issue obviously?

KAJ VANDKJAER: Right.

AMINA DERBALI: But significantly less than we would have had we added --

CONSTANTINE ALEXANDER:  
Understood.

Did you speak with the neighbor who expressed concerns?

KAJ VANDKJAER: Well, I sent a copy of the revised plans to Laura and she's here.

CONSTANTINE ALEXANDER: She'll have an opportunity to speak. Because there's nothing in our files. Okay.

Any questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: I'm going to open the matter up to public testimony unless you have more you want to say before I do that.

KAJ VANDKJAER: No, I think we're where we want to be.

CONSTANTINE ALEXANDER: Is there anyone wishing to be heard on this matter?

LAURA DONOHUE: My name is Laura

Donohue, D-o-n-o-h-u-e, 11 Flagg Street.

And I would start by saying I appreciate that you have listened to my concerns from the previous meeting and that you addressed them.

The previous plan was gonna be about 10 feet away from my bedroom window, naturally I was concerned. And they did send me the other plans and I haven't had a chance to look at them. If I may look at one other in large just because it was on my computer, it was little. I would suggest that the plans that are being presented today have pretty much addressed my concerns. So with regards to this, what was going to be the second story on the back, I was concerned that it was going to be blocking a lot of my light that was my afternoon sun from four to seven o'clock.

That no longer is an issue. It looks like the roof is going up a little bit, but that just

looks like a two feet range run-off thing.

AMINA DERBALI: No, actually, no, we're not changing the roof at all.

LAURA DONOHUE: Oh, okay. I couldn't tell from the picture if it's going up or something.

AMINA DERBALI: He shows the chimney gone.

LAURA DONOHUE: Oh, okay.

AMINA DERBALI: It could fall down by itself.

LAURA DONOHUE: All right, anyway, and the fact that the proposed deck has a much smaller capacity, and the fact that it will it be sandwiched in between the two dormers suggests that, you know, the voices do carry at night, they will be contained. And I'm not acoustics expert, but this feels a lot more comfortable to me. And, again, my

concern was not with the noise aspect of the current owners of the building. It's if the owners turn. You know, a 20-person capacity roof deck right here is not what I want 10 feet from my bedroom window. So, this addresses my concern with regards to the issues we discussed last time. I think this would look attractive on the building, and I think everything in terms of the end result has been satisfied.

I do have two questions about the project. May I ask those --

CONSTANTINE ALEXANDER: Go ahead.

LAURA DONOHUE: -- at this time?

Okay.

The first is that a lot of the work is going to be done on the part of the building that is between our two, closer to me. And our houses are very close. And I would just

like to request that the contractors be specifically asked to honor the property line. And I have had issues with my other neighbor on the other side. Every time they paint the house, they trash my lawn and I'm kind of tired of it. And I go out and I ask the contractor, please stop trashing my lawn. They stomp all over my lawn. You know, occasionally a ladder has to cross the line, I get that. Okay. Stomping all over my lawn for three weeks, I would not be okay with that. So I -- contractors do what's convenient. I'm sorry I hope we can --

KAJ VANDKJAER: I can talk to them.

LAURA DONOHUE: I appreciate that. I'm just tired -- the guys on the other side really made me unhappy.

Secondly I don't know when you're planning to do this and I don't know how long

this project will go on, but if this very heavy noise should go on when I'm trying to turn an apartment, I just want to make sure that we have a conversation. I don't want to lose rent because I can't rent it because this project may go longer. I have no idea this will take. Two or three weeks, not a big deal. The project across the street is six months behind schedule. You know, outside work going on six months longer than schedule, I might lose rent. So I just want to make sure we have conversations when you're going to do this. I see when I'm going to be turning tenants so that I make sure I don't lose rent. Because I have people that tend to work at home. I have faculty members, junior faculty, they're working in the house all the time. Like I said, a little bit here and there, you know, a couple weeks

outside when you're ripping the roof off, that's one thing. If it's going to be two or three months, let's -- I have no understanding of how long these projects go. So I just want to make sure that we talk about duration and timing so that when I look at when my tenants are turning, we can solve that problem and the property line. And just, I just don't want more contractors storing their construction waste and their materials on -- I'm sorry, but....

CONSTANTINE ALEXANDER: No, no.

Most of your concerns are --

LAURA DONOHUE: Regular concerns.

CONSTANTINE

ALEXANDER: -- understandable. I have to point out they're not a matter of Zoning. It's not going to be part of our decision.

LAURA DONOHUE: I know. Thank you.

In terms of the design, I'm -- I think this meets my concerns.

CONSTANTINE ALEXANDER: Okay.

LAURA DONOHUE: Thank you.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down.

LAURA DONOHUE: Thank you for showing me the bigger picture.

AMINA DERBALI: We don't know when we're going to do this yet.

KAJ VANDKJAER: We don't even know if we're allowed to do it.

AMINA DERBALI: Right, exactly.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there doesn't appear to be anyone else. There's no letter in our files.

I'm going to close public testimony.  
Are there any final thing you would like to  
say?

KAJ VANDKJAER: No.

CONSTANTINE ALEXANDER: Discussion  
or we ready for a vote?

JANET GREEN: Vote.

TIMOTHY HUGHES: Ready.

CONSTANTINE ALEXANDER: Okay. The  
Chair moves -- by the way, when we make the  
motion --

AMINA DERBALI: I think this is  
yours.

CONSTANTINE ALEXANDER: We have  
plenty of copies.

It's going to be tied to these plans.  
So you can't modify them assuming we vote to  
grant the Variance. Well, if you do, you're  
going to have to come back before us.

KAJ VANDKJAER: Yes.

CONSTANTINE ALEXANDER: You understand?

KAJ VANDKJAER: Absolutely.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this Board make the following findings with respect 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 additional space, including outdoor space.

That the hardship is owing to the fact that this is a non-conforming structure. So that any modifications of the structure require Zoning relief.

And that relief may be granted without substantial detriment to the public good or

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

In this regard the Chair would note that the additional FAR that's being added is modest in nature.

That the design of the project is consistent with the architecture of the building, particularly with regard to the balance of the two dormers in the rear.

And the Petitioner has taken steps to modify the potential noise impact of the deck that's going to be created by virtue of this project.

And, therefore, on the basis of all these findings the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with plans submitted by the Petitioner.

I'm going to just initial, initialled

by the Chair. The Chair will initial the plot plan that's the first page of a good number of pages of plans.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Hughes, Scott, Green, Horst.)

\* \* \* \* \*

(8:10 p.m.)

(Sitting Members Case #BZA-003139-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Janet  
Green.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 003139, 69 Clarendon  
Avenue.

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

ATTORNEY SEAN HOPE: Good evening,  
Mr. Chair, members of the Board. For the  
record, attorney Sean Hope, Hope Legal  
Offices in Cambridge. I'm here tonight on  
behalf of the owners of 69 Clarendon Avenue.  
We have Mr. Fred Kantor and his wife Evelyn  
Lugo-Kantor.

CONSTANTINE ALEXANDER: Welcome back.

ATTORNEY SEAN HOPE: The builders of the project Mr. Saki Pitliangas to answer any questions about the building or of the design.

This is an application requesting Variance relief to construct a new three-story duplex among the lot. The site is in Res B. It's one of the last houses in Cambridge going up the hill in North Cambridge, pretty much bordering Somerville adjacent to Matignon. This was a case that was before the Board back in 2008. I'm sure you're pretty familiar in that case. In that case the Petitioners were requesting additional GFA, very similar to the relief requested today. Before we get into the merits of this case I'd just like to give the

Board a little brief history of their past with the property. Back in 2006 Mr. Kantor desired -- he had lived in Medford -- the Kantor family has been in Cambridge for three generations. His father was a superintendent on the police department and Mrs. Lugo was also -- she was a member of the License Commission and as well as a Cambridge police officer. They have strong Cambridge roots. And like many of Mr. Kantor's contemporaries who moved out of Cambridge, desired to come back and to live and to raise a family.

And so when this property came on the market in about 2006, he encouraged their family then to go and invest in this property that needed a lot of renovation but was in sound structural condition but it was, it was dated and needed a lot of renovations. This

was also a two-family. So the idea was that they'd have some income coming in to be able to offset some of the costs.

As the Board is familiar, back in 2008 the project as designed was to fully restore the property, renovate it, and to be able to meet the Kantors' specific family needs.

CONSTANTINE ALEXANDER: Okay.

They add a third floor. It's not only renovated but also they're adding a third floor.

ATTORNEY SEAN HOPE: Right. There was an existing third floor, but it was an attic so it's not living space.

CONSTANTINE ALEXANDER: Make it a livable -- habitable space.

ATTORNEY SEAN HOPE: And convert into a mansard style very similar to what is being proposed today.

But between 2008 and today -- so after the approval, Mr. Kantor is not an experienced developer, and although the plans were approved when they actually priced out the cost to do the renovations, it was twice as much -- the minimum bid was twice as much as they could afford. Between 2008 and today, they went through a series of contractors, saved money, try to do home equity -- various amounts of efforts to be able to do that. When I mentioned the Kantors' family needs, they have two children with autism. At the time in 2008 the youngest son who is here tonight, he was two, and their oldest son I think was 17 at the time. Part of the hardship and the reason why we're here today was -- and so it's a two-family structure, but -- and the Kantors live on the first floor. You may be able to

see it. Their unit, when you walk into the building, there's a general foyer used by both occupants on the second floor and it's really a two bedroom with two other rooms for living space. So from 2008 till today their younger son was actually sharing a bedroom, that master bedroom, as well as the older son had the second bedroom. In addition to being in confined quarters, there's also therapy that needs to happen. So right now most of the therapy can't happen in the home. There's skilled development and other things. There's a letter in the file that addresses some of those issues. That was, I believe, part of the nature of the hardship back in 2008, and also that's relevant today. Although more time has passed, the younger, the youngest child is older.

So some advantages to this proposal as

opposed to what was approved in 2008. First, this is off-site construction. So the cost to build is significantly lower. And this is really an opportunity for them to be able to get the room they need.

The other proposal had the Kantors on the second and third floor. This is now a split level duplex. So they would actually have three floors of living area and that entire third floor would be for the Kantors. So that this will allow them to have separation, as well as this whole -- if you look at the floor plan, the whole entire -- there's a bedroom in the back, but the majority of that third floor is going to be play therapy area. And so although this was based on a hardship of not being able to afford to do the renovations that was approved, this actually is a superior design

from their standpoint.

Also the previous design, because it was an existing building, was limited because of the existing plumbing and infrastructure. So they actually couldn't be able to design the property the way they would like they were to do in this case.

Before we were here this property, we went to the process of approval and Historical found the existing building significant and so we had to go before the Cambridge Historical Commission to have them approve the demolition. So this is, what's there today -- if you turn it around on the other side. And so this is a picture -- I think -- this is a picture of house. And so it's really this reverse gable on the front of the house that it was, it's Italian architecture. There's vinyl siding. And

if you really take off that one architectural feature, it doesn't seem like there's very much to it. But we went before the Historical Commission, although they found the building significant, they did not find it preferably preserved. So they ended the demolition delay. This happened last Thursday, and they approved that to allow us to come to the Board this evening.

I'd also like to point out to the Board the proposal that we're applying for tonight is actually property 124 square feet smaller than the previous proposal. This was for efficiency. They were able to essentially use the structure and build it to design to be less than that. They're also keeping in mind what the Board approved last time. The existing go structure is non-conforming in terms of setbacks and also in terms of -- in

setbacks. Not in terms of height. And so what we've done is new construction trying to make the property as conforming as possible. So the only relief we're asking for tonight is for the additional GFA. We've centered the house. We've moved it back to meet the 15-foot setback. Also important, because this was new construction, is to keep the existing parking in its current location. That is the reason the house is oriented the way it is. If you can see it on the other plan, but the house is shifted. This is --

CONSTANTINE ALEXANDER: Why is it necessary to keep the parking where it's now located? Just out the curiosity.

ATTORNEY SEAN HOPE: Well, it wasn't a requirement. One, there's a curb cut. There's not another curb cut on the additional side so we didn't have the

opportunity to move it. So based on the layout.

So that's the presentation as it is now. I think it's the Kantors' history with the property. This is really a remedy of last resort. They want to be able to keep the house. They want to be able to stay in Cambridge and also be able to renovate the house. So this is -- this is a long road for them, but I think what they're proposing is compatible for the neighborhood. I think we kept in mind the mansard style, as I said, to keep the third floor available for the therapy that's really part of the reasons why they're applying today.

CONSTANTINE ALEXANDER: We should get on the record that the relief you're seeking is actually substantial by numbers in nature. The house right now is 0.38, in

terms of FAR, in a 0.5 district, so it's conforming. And if we were to grant you relief, you're going to 0.686.

ATTORNEY SEAN HOPE: That's right.

CONSTANTINE ALEXANDER: Virtually doubling the gross floor area of the house by what you're proposing. But by the same token, as you pointed out, that was true of the old project. In fact, you would even have more GFA.

ATTORNEY SEAN HOPE: That's right.

CONSTANTINE ALEXANDER: And we made findings then that you met the requirement for a Variance with regard to FAR. So well -- I mean, it speaks why -- a strong argument, why we should adopt the same findings. Nothing's changed in the neighborhood, am I right, since 2008 that would impact?

ATTORNEY SEAN HOPE: I mean, they could speak to that. But I think their personal needs have only grown.

CONSTANTINE ALEXANDER: I understand their personal. And what about impact to the neighborhood? Has the neighborhood changed at all in the last five years?

FREDERICK KANTOR: No.

CONSTANTINE ALEXANDER: I see no objections in our files.

ATTORNEY SEAN HOPE: There no objections. I do think there is a neighbor -- there is actually a couple of neighbors here to speak on it. But we do have a petition that was signed by some of the neighbors as well as there's letters in the file. But and Mr. Pitliangas can speak to this. They did actually look at first at a

regular --

SAKI PITLIANGAS: The majority of the neighborhood has actually a gable roof type of a design with supersized dormers on the side. And it's a collaboration and in terms of the historical aspects and architectural -- we decided to go the with the mansard because of the needs of the family primarily but also to beautify the neighborhood in some respect. And so we kept that design.

ATTORNEY SEAN HOPE: And I would only add that I think they looked -- they started off with a gable design. And on that third floor they would be losing several square feet because of the edges of the house, and they're able to maximize (inaudible).

CONSTANTINE ALEXANDER: Can I ask you a question on the plans you submitted?

It just may be me. On the very first page it says: Note, actual house may vary from elevation. I mean that, you know, we have a -- you've given us the elevations in the file.

SAKI PITLIANGAS: Not vary from the elevation, but there's no structural specifications from the house at this moment because we didn't do a wind zone calculations, we didn't do any special strapping that needs to be done, and that's not reflected in there because we're waiting hear from the Board before we have final drawings stamped for the state of Massachusetts.

CONSTANTINE ALEXANDER: I'm going to strike this note from your plans.

SAKI PITLIANGAS: That's fine.

CONSTANTINE ALEXANDER: I don't

want any suggestion that you can -- that you have right to change the elevation from what you're showing us.

THOMAS SCOTT: Is the house going to be build as a modular unit?

SAKI PITLIANGAS: Correct.

THOMAS SCOTT: So it's going to come on a tractor trailer and they're going to put this up in sections.

SAKI PITLIANGAS: No disturbance to the area or minimal disturbance to the neighborhood and there will be six modular components.

THOMAS SCOTT: So once the foundation is done, then these components are going to be delivered to the site. And how long after everything is delivered is the house ready? I'm just curious.

SAKI PITLIANGAS: Well, after the

delivery. Well we set it in about a day and a half. Okay. So there will be some disturbance in the neighborhood. The day and a half. But after that, it's buttoning up as the term implies, and the site and some roofing that needs to be done. And then probably next internally some heating connections that need to be done in the basement. And within about a few months later, depending on the inspections and others, they should be able to move in. But it will be minimal disturbance in the neighborhood.

CONSTANTINE ALEXANDER: I just make one observation before I open this up to public testimony in that Mr. Hope is being pretty modest. He sat on the Board when we approved this Variance in 2008.

ATTORNEY SEAN HOPE: I was going to

leave that out.

CONSTANTINE ALEXANDER: 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 anybody here wishing to be heard on this matter?

NICHOLAS JUSTIN: I do. So my name is Nicholas Justin. I'm the neighbor next-door at 63-65 Clarendon Avenue. And so my concern is that the plans for the new building are going to be significantly closer to our house than the existing building is. So the existing building, if you can turn it around, setback between here and here is I think about 19 feet. Maybe 16 feet to the gable or the French window. But the new

house is planned to be nine and a half feet from the line instead. So that's a significant change. And the corner of the existing house is, as I said, not in compliance, but the new location will be much closer and block significant amount of morning sun. And so our concern is if you turn it around again, that -- so our house is right here. And these windows look directly into our upstairs bedrooms. We have two -- our bedrooms are on the side facing their house. And so our bathroom is directly opposite this window as are the bedrooms. So having the house a good ten feet closer to us where there is a lot of space on the far side of the house and the house will now extend from the maximum point -- the 15 feet is the setback requirement in the front and 25 feet is the setback requirement in the

back, I believe the existing plans are to expand the house to meet those exact setback requirements.

CONSTANTINE ALEXANDER: I wanted to point out to you, you're right of course it's going to be closer to your house and it will be roughly almost nine and a half feet from the property line. But the Ordinance only requires seven feet, six inches of setback. So they're going to comply with the Zoning Ordinance.

NICHOLAS JUSTIN: Even though it's a much bigger house.

CONSTANTINE ALEXANDER: Yes.

NICHOLAS JUSTIN: Our concern was that -- I mean, we had bought a house in Cambridge partly because of the nice property sizes. And so having the house so much closer to us changes what we bought into.

CONSTANTINE ALEXANDER: It does.

THOMAS SCOTT: Mr. Hope, could the house be moved further?

ATTORNEY SEAN HOPE: We did look at that and I think there was -- we knew about this concern of the abutters. Part of the challenge is the existing parking, and that parking because it's accessed by the curb cut, if there was an additional curb cut on the left-hand side, maybe we could put parking on that side and shift the house over.

THOMAS SCOTT: Turn the plan around again? I still see -- isn't there room for two cars there? On the right.

ATTORNEY SEAN HOPE: Yeah. So they're existing, there are three cars parked on the lot --

THOMAS SCOTT: Okay.

ATTORNEY SEAN HOPE: -- and then

between the parking on the furthest to the left, there's about a five foot setback between the parking space and the house. And meeting the requirements of Zoning. So without losing a parking space or without I guess applying for additional relief, there is an exception for parking to the house, but I believe that's an existing structure. And even if that didn't apply, you know, I think we really would be talking about a couple of feet, five feet. I guess that would have a car adjacent to the house on that side.

CONSTANTINE ALEXANDER: Wouldn't it be better to modify your neighbor's concerns? I mean I think -- I don't think you get a lot of opposition for us for relief for the five-foot requirement if you're going to move the parking on the other side of the structure and get your structure farther away from

their structure.

ATTORNEY SEAN HOPE: Yeah, I do think that there is -- I mean, people do do it, but I think having cars parked next to bedroom windows is less desirable. I think if we can get closer to 19 feet that he had before, then I think we might have considered it. But from our, you know, here now, I don't know if that was discussed. But we did look at moving it. We didn't think that it was going to make appreciable difference on the sun and the shade that is currently at issue. And we also compared to what was approved prior to, you know, and we tried --

CONSTANTINE ALEXANDER: He wasn't here in 2008.

ATTORNEY SEAN HOPE: I understand.

CONSTANTINE ALEXANDER: I'm not being persuaded. You're not persuading me,

Mr. Hope. I mean, you've heard a legitimate concern and I haven't heard a good answer.

THOMAS SCOTT: I have a question. I mean you're only required to have two parking spaces, right? So the third one is kind of a luxury. Couldn't that third one be a tandem space? Does it have to be, you know, a parallel to the others?

ATTORNEY SEAN HOPE: So you could have tandem space, but the tandem space would only have to serve one unit. And I guess we'd have to put the second car further into the yard, you know, obviously --

THOMAS SCOTT: And then you could move the house easily without affecting --

SAKI PITLIANGAS: Plus also you will be turning into the property so they could turn around afterwards for the child.

JANET GREEN: The bus? Explain

that.

EVELYN KANTOR: If I may.

Our -- both of our children have special transportation and specifically for Jai because there are safety concerns. He bolts. We have to hold on to his hand tightly. The bus meets us -- rather than for Jose where he's more appropriate with this now, he's picked up right in front. But for Jai, they pull right in, and that's where I meet the driver with all of the packed things and put him on his bus. So that is really been beneficial and, you know, and it's a safety concern for our child. You know, if we have to hold this little guy's hand tight and get him in there and that's been, that's been beneficial to have that driveway in there to have her pull in.

CONSTANTINE ALEXANDER: I certainly

understand you have the safety concern. But the safety concern is making sure that the child doesn't bolt. If the bus pulled up at the curb and you held your child's hand and put him or her on the bus and the bus can turn around, there are plenty of places to turn around. I've done it to come look at your property. So, again, I'm not sure I'm hearing a good reason why we can't accommodate this gentleman's concerns.

EVELYN KANTOR: No, I understand. You know, when I described to you -- what I'm describing to you where the bus pulls in and my child's safety is huge, this is critical for him.

CONSTANTINE ALEXANDER: I understand that.

EVELYN KANTOR: I mean I know you have to -- you're listening to your concerns

here, sir. And but, you know, when we step out, you know, primarily the thing is to kind of block him, you know, so that we get him in an area, and that's actually how we are able to do that. As opposed to going straight out, we go to the left where is our parking area and they pull in the driveway. I'm sorry, that's the best I can sort of give you the visual.

CONSTANTINE ALEXANDER: I've seen the property. I can visualize it.

EVELYN KANTOR: Okay, thank you.

CONSTANTINE ALEXANDER: Okay, I'm sorry. You have anything else.

NICHOLAS JUSTIN: Just for the record, I didn't see the plans until March 16th. I don't think I've had an opportunity to weigh in on the plans before.

CONSTANTINE ALEXANDER: Your

concerns are still there?

NICHOLAS JUSTIN: Yes.

CONSTANTINE ALEXANDER: About the location of the house and your desire to have it relocated on the lot?

JANET GREEN: Do you feel like the house is a more attractive house than the one that's there in the new design?

NICHOLAS JUSTIN: Definitely given the condition of the current house, it will be an asset to the neighborhood. It obviously will be taller, I think, than the current house. The -- I mean, in regards to the mansard style, the house directly across the street was just renovated is, there aren't any mansards on the street that I'm aware of. So it doesn't have that style in the street. It doesn't matter to me.

CONSTANTINE ALEXANDER: Yes, in

terms of the taller, right now the house is 27 feet, 11 inches high. And this mansard structure is going to be 33 feet high. So it's almost six feet higher.

NICHOLAS JUSTIN: Right. That's also a concern for the shading of our second floor. Because we only have a two story. And we have nice sun.

FREDERICK KANTOR: If I could just -- I'd like to speak. I had looked at for the shadow and actually -- shadow actually goes away from their property. It's facing my house, the shadow goes to the right. It falls.

CONSTANTINE ALEXANDER: The light is going up the hill?

FREDERICK KANTOR: Yeah, it falls going up towards the hill. So it's actually shadowing away from his home.

NICHOLAS JUSTIN: The property is sort of -- if this is north, the property is -- the sun rises.

JANET GREEN: Show it on that.

NICHOLAS JUSTIN: So the sun rises -- so the sun rises here, right? So our house is here. So the sun rises like this. So for most of the morning this side of the house gets sun. It's certainly true in the afternoon. It's not an issue at all.

FREDERICK KANTOR: Right.

SAKI PITLIANGAS: How far are you from the property, their property?

NICHOLAS JUSTIN: I believe we're at the limit. I think we're eight feet away. We just have a small sidewalk and then hedge.

SAKI PITLIANGAS: That's it. So your property line. We did eliminate also the bump out here which is a bay window so we

made it flush. So if you come from the bay window to the property line, it's not a significant change. So if by moving basically to the bay window side, I think that's what approximate distance is from the property line. The nine and a half feet, maybe 10 feet. Plus the distance.

NICHOLAS JUSTIN: I don't believe that's true.

SAKI PITLIANGAS: This is not scaled, but yeah. I'll check with the engineer that did it.

NICHOLAS JUSTIN: Okay. There's paint on the sidewalk that there is next to the house. There's a nice cross mark saying where the corner of the house will be, and it's a significant distance just to correct you.

SAKI PITLIANGAS: So you have about

19 feet now.

NICHOLAS JUSTIN: I think it's probably more like 16 to the bay window as you pointed.

SAKI PITLIANGAS: 16 for the bay window.

CONSTANTINE ALEXANDER: Okay. Let's stop this colloquy. The point being made.

Anything else you want to add?

NICHOLAS JUSTIN: I think that's it.

CONSTANTINE ALEXANDER: Thank you very much for taking the time to come down.

EVELYN KANTOR: Thank you.

CONSTANTINE ALEXANDER: Yes, you wanted to speak?

ESTHER SPLAINE: My name is Esther Splaine and I live directly across the street from the property. So the concerns that my

neighbor has I won't have. And I approve it. I'm happy with it. It will be -- the house that is going to be built will look much better than the house that is currently there. And my house will be the worst looking house now. So....

CONSTANTINE ALEXANDER: We'll see you in about six months for a Zoning Variance, right?

ESTHER SPLAINE: So but that's all I wanted to say.

CONSTANTINE ALEXANDER: Thank you very much for taking the time to come down.

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there's no one else.

We do have some correspondence in the file. There is a petition that's been

submitted by the Petitioner which states:

(Reading) I am writing to lend my support for 69 Clarendon Avenue for Variance application, seeking to demolish the existing structure, replace it with a simpler more modest dwelling that would exceed the allowable floor area of the district. I/we have had the opportunity to review the plans to plans of the replacement structure and believe the additional space requested is appropriate and will mitigate the unique hardship that the Kantor family has been undergoing. We hope you will vote favorably on the Variance application. And the petition has been signed by residents at 90 Clarendon, 62 Clarendon Avenue, 70 Clarendon Avenue, One Matignon Road, and 71 Clarendon Avenue.

We also have a letter from Councillor

Denise Simmons, City Councillor. (Reading)

I am writing to lend my strong support for the 69 Clarendon Avenue Variance application to add additional square footage to the Kantor family's proposed new home. I have known the Kantor family for many years. They're valued members of the community, and both Evelyn and Rick have served honorably as public servants on the Cambridge police force. In recent years there has been a growing challenge over how to keep middle class families in Cambridge and allow them to grow and remain in place. In particular, middle class families with children are finding it increasingly difficult to afford even modest sized homes without making great sacrifices in terms of the living space prior to the area. I understand that the Kantor family has spent over five years, including

previous BZA hearings, attempting to affordably renovate the existing home to create a healthy environment for themselves and two children with autism. Currently the Kantors share a bedroom with their seven-year-old son and are living in conditions that will not allow for the necessary home therapy that the new replacement structure can provide. I am pleased that Cambridge has a comprehensive review process for projects that exceed to allow dimensions within the district. Based on the specific facts of this case, I am requesting the Board of Zoning Appeals to find that this family's hardship is sufficient to grant the additional gross floor area requested. The city's health and then human services department has the ability to provide the necessary therapeutic

services to the two autistic Kantor children due to our strong commercial tax base. I have also reviewed the replacement dwelling plans. They will be using off site building construction and believe the replacement structure is appropriate for the neighborhood. Additionally the construction of the home using off site construction will still require local tradesmen and women which is also a benefit to our city. For all of these reasons I again strongly urge you to approve the demolition this evening and allow the Kantor family proposed construction to proceed.

And there's one other letter in the file if I can find it. I'm having trouble locating it. You referenced it. A person who is providing physical therapy benefits.

ATTORNEY SEAN HOPE: Developmental

therapy, yes.

CONSTANTINE ALEXANDER: And the letter was endorsing and saying that it was necessary.

EVELYN KANTOR: She's here with us tonight.

CONSTANTINE ALEXANDER: I'm sorry, it's in here but I'm just not locating it.

EVELYN KANTOR: April's company.

JANET GREEN: She's here tonight?

EVELYN KANTOR: That's right.

She's with Jai right now.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one else wishes to be heard. Any final comments, Mr. Hope?

ATTORNEY SEAN HOPE: I would only

say, you know, in terms of the side yard setback, I think it was important and then the Board is aware that we are compliant, and that was important to comply. I do think that, you know, Jai the youngest child, part of his comfort in the home is routines. And although it seems like an easy task to bring him to the street as opposed to the parking space, I think it is considerable. You know, he's only going to grow older and it's only going to become more challenging. It's not the fact that we can't move the house. I think that if we had heard about this concern earlier when the plans were drawn, I think we maybe could have maybe made that concession. I think part of it, I did find out about this last week and, you know, we were compliant and I think that parking space is important. So, you know, we would love to have the house as

proposed. I think there's also a timing issue. But if in the Board's wisdom if you feel compelled to ask us to move the house in order to accommodate the Petitioner's needs, I did talk to Mr. Kantor, and that's something we would consider. Although what I'm just not sure of is the actual appreciable benefit that moving the house five feet over is going to give. I think any time you feel like you're moving further away, it feels better. But what I haven't heard is that it's going to make a considerable difference in terms of shadow or privacy, and I would say the window on that side is not going to be a bedroom, it's going to be a play area. So in terms of privacy, we do meet the setback. And I think if we were building in the setback and we were adding a new window, I think that's when privacy would be at issue. So while it may

be just some feet, I think it is important in terms of keeping the parking for the reasons I stated before, and I do think it's important that we are meeting the setback. And if someone was going to build another house of that size, they would have that same setback. And also the fact that the house is bigger and larger, we are under the 35-foot height limit. So it is a larger house but we're not asking for any relief on height. And you know, I -- we thought long and hard about this. We spent several months with this construction designer mostly on the interior. I don't think we missed the proximity to that side yard setback, and I do think that it would, it would be a hardship if we had to get rid of that parking. As Mr. Scott suggested, you know, to make appreciable difference we would be losing

that parking space. And I think a tandem parking space wouldn't allow the bus to pull in that same way. And I do think it is a safety concern. But more importantly I think because the unique hardship, this is not just a normal seven-year-old child, and I do think the routine does work for them. I ask the Board to appreciate those points and vote favorably, but I would like to hear the deliberation because, you know, we are here to obtain approval and to take your comments very seriously.

CONSTANTINE ALEXANDER: Thank you.

I'm going to close public testimony at this point.

Ma'am you want to speak?

SYLVIA KANTOR: Could I add one thing?

CONSTANTINE ALEXANDER: Of course?

SYLVIA KANTOR: You're bringing Jai out to get him on the school bus, it's not just holding his hand. You have his car seat and his lunchbox. I mean, it's like a lot. And I thought some people thinking, you know, you're just taking his hand and putting him on the bus. But it's not -- you have a lot of things that you have to bring with him at the same time. That's why it makes it safe if it's off the street to get him into the school bus.

CONSTANTINE ALEXANDER: Thank you. Could you give your name?

SYLVIA KANTOR: Oh, I'm sorry. My name is Sylvia Kantor and I'm Fred's mother.

CONSTANTINE ALEXANDER: Thank you. Thank you for taking the time to come down.

Time for deliberation. Comments from members of the Board?

THOMAS SCOTT: Isn't a third space empty all the time or is there three cars?

FREDERICK KANTOR: Three cars.

THOMAS SCOTT: So when the bus arrives, are there three cars in the driveway? I'm not sure I understand how the bus -- he has to be able to pull into those spots, right? So those cars can't be there.

EVELYN KANTOR: Yes, but during that time is when the other vehicle is gone to work.

THOMAS SCOTT: So one of the vehicles is gone?

EVELYN KANTOR: Yeah.

FREDERICK KANTOR: We have tenants.

EVELYN KANTOR: Yes.

FREDERICK KANTOR: And they're gone. And he goes to work early.

THOMAS SCOTT: Okay.

FREDERICK KANTOR: So that space is open. I usually park in the middle. She parks her car closest to the --

EVELYN KANTOR: I work the day shift. I also start at, you know, 6:30. I'm usually out of the house so, you know that, we -- this is really important to us, Mr. Chairman. I just want to just add, you know, I'm the mother of these children. This has been a long haul.

CONSTANTINE ALEXANDER: Five years.

EVELYN KANTOR: And we've worked very hard. And, you know, I'm sorry for, you know -- and I'm glad our neighbors, you know, this is what this process is for and they've come here and talked to you tonight. But, you know, the fact of the matter is that we took a lot of time with this project, long and hard, different options. Mainly I give

credit to Rick because while I was holding down other things, this is what he has been doing. He's been working with Mr. Pitliangas for years now just trying to get so many different input from him and the best ways. This is critical for our family and this is for these two guys that are here with us tonight.

CONSTANTINE ALEXANDER: Just an observation, and I'm speaking only for myself, and I don't think you're going to find any opposition from this Board for building the structure you want to build, these plans. The question is simply a question that perhaps, perhaps it should be located on a different location of the lot. That's what we're trying to explore --

EVELYN KANTOR: I understand.

CONSTANTINE ALEXANDER: -- given

your neighbor's concerns. I think put your mind at rest. I think there's no question you're going to get approval tonight. I'm speaking out of turn, I think, approval tonight to build the structure that you have right here.

Anyway, comments from members of the Board?

JANET GREEN: I would say that I really am sympathetic to the question about the parking. I have a lot of experience with this situation of helping someone who needs assistance move from one place to another and it's not, it's really hard to describe if you haven't experienced it. The difference it can make one side or the other. I also feel that concern about the neighbors feelings about it. I didn't hear specifics about what, you know, there was sort of a general

concern that light would be subtracted from his house, but I didn't hear specifics about the difference it would make enough to make me not support the parking where it is right now. You know, obviously, you know, I would work with my colleagues about this.

CONSTANTINE ALEXANDER: Thank you, Janet.

Anyone else want to speak?

Okay. I must say I am troubled by the location of the structure. As I said a few minutes ago, I have no problem with the structure itself. I think the neighbor has raised some concerns, Mr. Hope, five feet, if you move it over five feet really make a difference in terms of the impact? I suspect the impact will be the same from where it is now or five feet farther from your property. But we don't have information on that to make

a determination.

Tom, as an architect do you have any feeling on that?

THOMAS SCOTT: I mean in a neighborhood where the houses are closer together, five feet can make a big difference. If it's not a hardship, you know, to you because it seems like everything would be the same except that you wouldn't have that five foot buffer between that last space and the house, you know, would be willing to make that concession?

SAKI PITLIANGAS: May I add something?

THOMAS SCOTT: Yes.

SAKI PITLIANGAS: I just scaled it because I was going by the scale. And currently the bay window here is about 12 feet and less than -- maybe 12 feet, three inches.

So we're actually nine and a half here. So going to the edge of the bay window, so going to maybe two and a half if not, two and a half feet.

THOMAS SCOTT: To the bay window. But the house, the body of the house is further back than that.

SAKI PITLIANGAS: That is correct. But also the body of the house has moved back so the light, if you figure the light coming out from the east travelling this, the block it from the house is going to be less. So in the morning sun you would be getting less or less blockage from the existing house right now. The existing house --

CONSTANTINE ALEXANDER: Tom jogged my memory about something. Did I understand you to say that if you were -- if we were to grant relief, which we could not do tonight

with the five feet buffer, you could have everything you want in terms of parking, the bus being able to pull in and you can move the structure over?

ATTORNEY SEAN HOPE: I actually maybe ask Mr. O'Grady. I know that section Article 6 where it talks about the distance between a property and a parking space. Is that the section that's only for existing one, two, and three families?

SEAN O'GRADY: The question is do you have to comply with 6441.

CONSTANTINE ALEXANDER: I thought you could get a Special Permit, you could get a Special Permit to -- if I'm doing it from memory.

ATTORNEY SEAN HOPE: No, exactly. Yeah, and that Special Permit is for existing one, two, and three families if I'm not

mistaken.

CONSTANTINE ALEXANDER: And then you get a Variance.

ATTORNEY SEAN HOPE: I think that's another level of hardship. I think that was the concern, because this is new construction, we wouldn't be able to have that new parking abutting without going for a --

CONSTANTINE ALEXANDER: A Variance.

ATTORNEY SEAN HOPE: A Variance.

CONSTANTINE ALEXANDER: As you're doing tonight?

ATTORNEY SEAN HOPE: Yeah. The same way. But I think if it was a Special Permit it may have been a different calculation in terms of what we need to prove to be able to do that.

CONSTANTINE ALEXANDER: But anyway,

we may be ahead of ourselves. I think Janet has spoken. No one else wishes to speak. I can make the motion and see where we go. But if we make the motion and we turn it down, you don't want that. So maybe I can ask members to -- they don't have to, but express their views as to --

ATTORNEY SEAN HOPE: Can I ask the Chairman a question? Is there a possibility that since we know where -- could we, could we amend the drawing if --

CONSTANTINE ALEXANDER: You haven't advertised.

ATTORNEY SEAN HOPE: No, okay. Well, I think we're not quite clear if we would need relief on that. Would we need relief if the house --

SEAN O'GRADY: You might want to talk to me privately about that.

ATTORNEY SEAN HOPE: Yeah, okay.

CONSTANTINE ALEXANDER: What did you say?

SEAN O'GRADY: I'm not sure he wants to ask that question.

ATTORNEY SEAN HOPE: Yeah, okay.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: All right.

CONSTANTINE ALEXANDER: Okay?

ATTORNEY SEAN HOPE: Yeah.

CONSTANTINE ALEXANDER: So anyway, I'll just say for myself, I'm entirely in favor of this project. No problem there. But if we have a solution that's very minimal in terms of the impact, i.e. the parking close to the building, that would satisfy a neighbor's concern which has at least some legitimacy. I don't know why we wouldn't go there. I don't want to turn this thing down

flat. I certainly don't want to do that. So I'm a little bit on the fence as to whether I would approve the petition as presented tonight. I don't know how other members feel.

TIMOTHY HUGHES: I think you make a very good point, but I don't have a hard and fast opinion about it one way or the other. I could go either way. If we needed to continue this, if they needed to do something about the parking, if we need to move the house a few feet, I'd be good with that, too.

CONSTANTINE ALEXANDER: It does mean you have to, as you know, we advertise the case, we push the project back a couple months.

ATTORNEY SEAN HOPE: I mean I think the timing is significant, but you know, this is new construction. They do have to live

with their neighbors, and I would hate to see a good project become contentious over the couple of feet. You know, timing is important, but I think this is going to be obviously a long-term investment. Just getting some of the feedback from the Board, the five feet to me is not -- I would not want to put the project in jeopardy because of that. And I also do want to respect some of the concerns that may be alleviated so....

BRENDAN SULLIVAN: Do you want to huddle for a few minutes?

ATTORNEY SEAN HOPE: I think we need to.

BRENDAN SULLIVAN: And we'll go to another case and come back.

CONSTANTINE ALEXANDER: We're going to recess.

THOMAS SCOTT: And from my

perspective I would, I'd be in favor of the project because we do meet the setback criteria that's dictated by Zoning. I guess I'm just asking the question just to see if we can help out the neighbor, that's all. So I'm not opposed to the project. I certainly want to approve the project. But it's always good to, you know, have --

BRENDAN SULLIVAN: Well, I'm sure you're well aware of potential ramifications even if we were to approve this. And that you could conceivably be held up for six months, something like that, if we say were to approve and then further discussions and then led you to make an alteration so that, you know, you're going to -- the clock is ticking which means that you may very well have to come back here to modify this and, you know, six months down the road from now.

ATTORNEY SEAN HOPE: I understand.

BRENDAN SULLIVAN: You know? So maybe if it's something that can be resolved to shorten that time frame, that's all.

ATTORNEY SEAN HOPE: Okay.

CONSTANTINE ALEXANDER: We're going to recess the case.

BRENDAN SULLIVAN: And I say that in very couched comments.

ATTORNEY SEAN HOPE: Thank you.

CONSTANTINE ALEXANDER: We'll see you in a little while.

(Case recessed.)

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(8:55 p.m.)

(Sitting Members Case #BZA-003327-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Janet  
Green.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. Case No. 003327, 9 Ellery  
Square.

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

The floor is yours, Mr. Patel.

BHUPESH PATEL: Hi, I'm Bhupesh  
Patel from Design Tank and I'm the client rep  
for 9 Ellery Square. Stephanie Lettieri and

Paolo Scafetta. They're presently in California.

This is basically a pretty straight forward project, but it's 18-unit development that was built and of 18 units 9 Ellery Square is one of them, and they're basically a series of row houses that's shown here. It's this row house here. And this is Broadway. And that's Ellery. So it's basically very close to the sort of Swiss, I forget what it's called. The Swiss sort of tech center across the street from the library.

What's being proposed is they have actually extended a landing that's inside the unit that overlooks a two-story living room space to create an area for a desk and like an office space that looks over the living room. At present the existing house has an

FAR of 0.75, but has FAR of 1.25. So basically requesting that an additional four percent to 1.29 be allowed. So that is what the waiver is for. Technically there is also non-compliance with the setbacks because it's a row house. As far as the heights and the rear setbacks in the front setbacks it does meet all of those requirements.

CONSTANTINE ALEXANDER: But those setback requirements are not going to be, you're not going to further intrude in the setback nor on the side.

BHUPESH PATEL: That's right. So as far as it goes, it's a pure technical FAR issue because the footprint remain exactly the same.

The other part of it is just that the owners did this work when they were not in the country by their contractor who did the work

without a Building Permit. And then at the point of selling the property this was discovered because the contractor in the process of providing the paperwork for the listing agent, sort of confessed that he actually never pulled a Building Permit.

CONSTANTINE ALEXANDER: So that's why you waited until Mr. O'Grady was out of the room, right?

BHUPESH PATEL: That's why I was called and you just have to get a Variance for it because it is technically a Variance. And that's why we're basically illustrating the entire floor plan of the building to illustrate literally what's being done relative to the rest of the building.

I did actually bring support letters from all the other condo owners so I can provide those for the file, as well as a

letter which is from the condo association indicating that they met about and the deliberated on the actual subject and support it. I'll provide those for the file.

There was a structural letter that was also provided to Ranjit prior to the Variance application to illustrate that they -- the work that was done is sufficient to hold up what is allowed, what is provided for in the Building Code, as well as what these new owners are going to use it for which is basically for a piano.

CONSTANTINE ALEXANDER: Is there a work area in your application?

BHUPESH PATEL: It is. It's being used as an office space and so you work and look over the living room where the kids would play. It's what the owners did was basically was the purpose for it. But the new owners

are going to be using it for their piano so it will be a music space. That's really it. The only other odd issue is the way the lots are segregated, there's two large common spaces. They're actually individual lots. As a matter of Assessor's records, the lots are shown as just the building plus the rear yard. So after going through the meeting minutes from the original meeting, I clarified with Ranjit that we would actually take a portion of the common lots and calculate the open space and the FAR. Not the actual footprint and the rear yard.

CONSTANTINE ALEXANDER: So you said you had some letters you wanted to submit for the file?

BHUPESH PATEL: Yes.

CONSTANTINE ALEXANDER: While he's doing that, any questions from members of the

Board?

TIMOTHY HUGHES: No, I don't have any questions.

THOMAS SCOTT: How do you get to the space? How do you get to the new space that was created?

BHUPESH PATEL: What happens is -- it's one of these row houses where each floor is at a half landing. So you go up half the stairs and you have a floor plate. And you go up the second half of the stairs and you have a floor plate. So it's floor plate where the kitchen is and four steps and then where the living room is. And then you go up a full set of stairs and look over on this landing at a living room below and an entire space above you that doesn't have a floor plate. So it's just a two-story space that you're looking over. So they skipped that

floor plate on this side and they continue basically one and a half stairs to get to what is basically a bedroom, and then you go up a little bit more and there's another bedroom. So they just took out that floor and they basically put it back. A portion of it back.

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

Is there anyone wishing to be heard on this matter? Ma'am.

JANANN LICKLIDER: I'm Janann, J-a-n-a-n-n Licklider, L-i-c-k-l-i-d-e-r. I live at 12 Ellery Square and we didn't even know -- I mean none of our neighbors even knew about this. I mean it's been here for years. So clearly it didn't bother anybody. I consider it sort of bunk beds. I mean, it increases your space, but anyway. So I'm totally in favor of it.

CONSTANTINE ALEXANDER: So you're not violently opposed to the relief?

JANANN LICKLIDER: Not at all.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Appears to be no one else.

We do have a letter submitted by the Petitioner. It's a letter from the Ellery Square Owners Association Board of Managers saying that the association unequivocally supports the petition. From the association's perspective, it is an acceptable modification to their house.

And then there is a petition in support of the relief being sought and signed by numerous individuals. I'm not going to try to identify them. There's 15, 20 people at

least who have signed the petition supporting. And there appears to be nothing in the file that would be opposition.

Final words, Mr. Patel?

BHUPESH PATEL: No, that's it.

CONSTANTINE ALEXANDER: Comments from members of the Board or ready for a vote?

JANET GREEN: Ready for a vote.

TIMOTHY HUGHES: I'm good with it.

CONSTANTINE ALEXANDER: I would think you would.

Okay, the Chair moves that with regard to the Variance being sought, that this Board make the following findings:

That a literal enforcement of the provisions the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that the Petitioner needs additional living space.

That the hardship is owing to the nature of the construction of the -- and the interior layout of the property in question, 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 impact of what is being sought is entirely internal. That it has support of the owner's association. There is no relief. It's very modest in nature. And there's no opposition to this Petition from the neighborhood or citizens of Cambridge.

So, on the basis of these findings the Chair moves that we grant the Variance being sought.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in  
favor.

Variance granted.

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

\* \* \* \* \*

(9:00 p.m.)

(Sitting Members Case #BZA-003419-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Janet  
Green.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 003419, 1 Kendall Square.

MICHAEL PRIVITERA: Hi. My name is  
Michael Privitera, P-r-i-v-i-t-e-r-a,  
Privitera Signs and I'm representing Turn  
Style Cycle.

CONSTANTINE ALEXANDER: Okay. You  
need a Variance because of the height of this  
illuminated sign; is that correct?

MICHAEL PRIVITERA: Yes. I guess  
the law requires 30 inch maximum, but I'm

proposing a 44 inch. I got an e-mail from Liza today. I didn't see it until six o'clock so I couldn't call her.

CONSTANTINE ALEXANDER: Is this it?

MICHAEL PRIVITERA: Okay. Then you're head of me.

CONSTANTINE ALEXANDER: We have it in the file. Usually we have this in the file. For some reason we didn't have it. We just asked for the details. It's just the facts.

MICHAEL PRIVITERA: Okay.

CONSTANTINE ALEXANDER: There's no opinion expressed one way or another. It simply says why you need relief.

MICHAEL PRIVITERA: Anyway, the sign that I'm proposed is here in the drawing. It's 44 inches square. All right. And I feel it fits the proportion of the

storefront. And if you're familiar with the site, it's perpendicular to Hampshire Street, and the site is actually below grade. I mean, this is almost even with the sidewalk on Hampshire Street because you step down. So it's only viewed from one direction. And the size of 30 square inches would be kind of small on that and it would make the lettering approximately two and a quarter inches, impossible to read. The only parts of this that light up are the graphics and the lettering itself so it doesn't throw a lot of lumens like a light faced sign would.

CONSTANTINE ALEXANDER: To me the most important thing is the location of the sign, it's not flush to the Hampshire Street so that it --

MICHAEL PRIVITERA: Right.

CONSTANTINE

ALEXANDER: -- distracts people. And it's also not -- it's a very modest departure from the requirement. You're at 44 inches rather than 30 inches.

MICHAEL PRIVITERA: Right. You can barely see the storefront from Hampshire Street. If there's a car parked there, you can't at all. But it is what it is. I didn't rent the site.

CONSTANTINE ALEXANDER: You may be aware --

TIMOTHY HUGHES: Can I see the picture?

CONSTANTINE ALEXANDER: Your petitioner has attracted a lot of interest among citizens of the city.

MICHAEL PRIVITERA: I read some of the very interesting letters. It's 1.1 mile from the river. I don't know how the rowers

are going to see it. It's facing away from the river. When I first saw that letter, I said these must be the people who they give the visibility on the weather for because like who cares if it's five miles. But it doesn't face the river and it's not, you couldn't see it even if you did. And I had a lady call me, a resident call me -- I was actually at Fenway Park preparing for opening day, and she called me to ask me questions about the sign. And there was music blaring in the background, she probably thought I was at a bar. But hopefully not. But that's, I mean, pretty much it. Pretty cut and dry.

CONSTANTINE ALEXANDER: Anyone here wishing to be heard on this matter?

Ma'am.

CAROL O'HARE: I'm the lady. You were very nice.

CONSTANTINE ALEXANDER: Oh, you're the person who called?

MICHAEL PRIVITERA: You were the lady that called me? As long as you know, I wasn't at a bar. I could barely hear you it was very loud.

CONSTANTINE ALEXANDER: The record will show that this gentleman was not at a bar when you called.

MICHAEL PRIVITERA: Thank you.

JANET GREEN: He was at Fenway Park.

MICHAEL PRIVITERA: I've got pictures.

CONSTANTINE ALEXANDER: Please sit down.

CAROL O'HARE: Well, my name is Carol O'Hare. I am one of the people who wrote. I don't know if you read my letter, but I certainly know that it's not visible

from the river, and I certainly know that it's facing an interior courtyard and so you're wondering why I'm here.

I'm here because -- why am I wasting my time and why am I wasting your time? Because and because this sign is tiny, but I, I just wonder whether why you're saying the sign is so small it's not visible. Because if it were on the street at the level you're proposing, which is at, you know, the first-story level from the street the way I saw the pictures, it would be -- it would be too big and so -- and furthermore, this sign is being manufactured for this site which is the question I asked you.

MICHAEL PRIVITERA: Yes.

CAROL O'HARE: So it's not like this is a standard issued sign that's coming out of corporate someplace in the midwest. So if

this sign were the legal maximum, it would -- and it were on the street, you'd say why do you need a larger sign when all your neighbors have --

CONSTANTINE ALEXANDER: But it's not on the street. But you keep saying if it were on the street, it would be a problem.

CAROL O'HARE: Yes, but --

CONSTANTINE ALEXANDER: It's not on the street.

CAROL O'HARE: -- the fact that it's not on the street, there should be, and this Board could suggest that there be a change to the law that said signs on interior courtyards should not be regulated by the Sign Ordinance. But this Board -- but he -- this claim is that this Petitioner has a hardship that is due to the topography, the substantial hardship, financial or

otherwise. Financial, why is there a financial hardship when the sign would be visible, perfectly visible from the interior courtyard just as it would be if it were on the street? Why is this hardship due to soil conditions, shape or topography? I am -- I realize that this is an inconsequential nit-picky issue.

CONSTANTINE ALEXANDER: Thank you.

CAROL O'HARE: But I am taking this on because this Board granted -- of the 13 sign variances that this Board heard last year, you granted nine; two were withdrawn, and only one was denied. And these signs are -- it is as if you have Special Permit authority over these signs. So I debated with myself, should I come here on this inconsequential sign and try to stop this Board from adopting the Zoning Law with

respect to signs? Every time a sign comes before you, you have some justification for granting it. This one is, it's just simply not justified. I -- Mr. Pri --

MICHAEL PRIVITERA: Michael.

CAROL O'HARE: Michael. And I'm Carol.

He has -- you know, he was very honest with me. He said the sign could be constructed to comply. You see that it is at pretty much street level where most signs on first floors are. Why does it need to be larger? I ask you rhetorically why does it need to be larger? Especially because it's right across the courtyard. Does it need to be larger than is permitted on the public street if only the people walking through this courtyard are going to see it? And once the people who generally walk in that One

Kendall Square area see it, they're not gonna need to know that Turn cycles is there. They will know it from looking in the window and presumably seeing everybody bicycling. And the -- I encourage this Board to instead -- and these Sign Variances are so totally distinguishable from other Ordinance or Variances because other Variances that you grant for setbacks, for bays, for garages, for extra height, for bulk, for reduced parking, they really involve some kind of substantial hardship even though everybody knows it's not the kind that the statute requires, but signs are different. There is no substantial hardship. These signs are for people who need to find a place or who businesses who want to show where their place is. We don't, we don't buy into branding. We buy into building identification, which

this sign will perform when it -- if it complies with the Zoning. And so I encourage this Board to stop, to just say no. These are distinguishable. And instead of asking about a Sign Variance why not grant it? Ask why grant it? What is the hardship? And what does the city get from it? And why, if you're going to grant it, do we have an Article 7?

CONSTANTINE ALEXANDER: Well, let me try to address the very valid points, many of which were made in the letter that you sent to the Board anyway.

CAROL O'HARE: I know. I felt like saying --

CONSTANTINE ALEXANDER: No problem. Let me try to address it.

As you are well aware, I think the citizens are well aware signage in Cambridge

has been somewhat of a controversy. I will grant you, to be the first to say, that a Variance procedure for signage is sort of inappropriate. In many communities you have a Sign Ordinance which is completely separate from the Zoning Ordinance, and the standards for relief are different.

CAROL O'HARE: I know.

CONSTANTINE ALEXANDER: But we don't have that in Cambridge. We don't write -- this Board doesn't write the Ordinance. City Council does. The City Council chose to put this as a Variance procedure. So we deal with --

CAROL O'HARE: But the --

CONSTANTINE ALEXANDER: Let me finish. Please let me finish. Okay?

We deal with that. Our Board sits here on all Variance cases, we try to do

substantial justice. We try to cure hardships, individual hardships. We also have to balance a lot of interest. And in the case of signage, we balance the commercial interests because businesses do need signage with the impact -- sorry, with the impact that it has on the citizens of the city. So, for example, if someone's going to put a sign that's ten times bigger than the Sign Ordinance allows and it's going to have neon lights and the like, I don't think this Board would grant relief. I think you're unduly -- I'm offended a bit frankly about the notion that we just rollover and play dead because of signage. And you give the numbers about 9 out of 12 or the like. Some of the ones were withdrawn were withdrawn because we probably expressed opposition and skepticism. And we do look at each case.

But at the end of the day, I'm speaking for myself now, I'm not going to speak for members of the Board, we look at the impact on the community, particularly the neighborhood, of the sign. And if we see not any meaningful impact, adverse impact on the neighborhood -- and we, and there's always a legitimate interest for a sign for a business, I don't think we're going to rush to turn down -- we're going to rigidly apply the test for a Variance. We never rigidly apply the test for a Variance in all cases, residential as well. We, again, as I said before, we try to do substantial justice and do what is best for the community, taking into account what the City Council has given us direction in the Ordinance. Here we're talking about a sign that is 12 inches, 14 inches, I'm sorry, too big. It is a sign that

is not going to be visible on the street.  
It's going to be -- let me finish, please.

CAROL O'HARE: That's exactly what I  
said in my letter. I listed it all --

CONSTANTINE ALEXANDER: Then why  
are you opposing it?

CAROL O'HARE: I am here opposing it  
on principle.

CONSTANTINE ALEXANDER: Your  
principle is that -- I'm sorry, your  
principle is that we are a Board that rolls  
over and plays dead for sign --

CAROL O'HARE: No, Mr. Chairman,  
you announced just moments ago that on the  
two -- on the two that were withdrawn, and  
this and this is why I'm here, you announced  
moments ago that on the two sign things,  
Variances that were withdrawn last year, that  
they were withdrawn because they thought

better, that you did not -- would not have approved them. Well, I will tell you that on the Sanofi sign which I worked very hard to -- and I'm sorry.

MICHAEL PRIVITERA: I just feel like I'm being picked on for precedent for the whole Sign Ordinance.

CAROL O'HARE: It is. It is.

MICHAEL PRIVITERA: That's not fair to me or my customer.

CAROL O'HARE: Why not? Because --

MICHAEL PRIVITERA: Because --

CAROL O'HARE: -- people aren't entitled to the Variances.

CONSTANTINE ALEXANDER: Ma'am --

MICHAEL PRIVITERA: You don't have an --

CONSTANTINE ALEXANDER: I don't want to parade this debater's argument. The

Sanofi case is a perfect example --

CAROL O'HARE: It is because you said, and I have read the transcript of the Sanofi case. You said if they withdrew, if they modified their plans and came back to you with a revised sign that was lower or more in keeping, you are quoted, and that you could --

CONSTANTINE ALEXANDER: I was quoted as saying what?

CAROL O'HARE: I'm about to finish because I'm a little nervous now. I'm about to finish. You said that -- you said that in the postponement proceeding that -- I'm sorry. That the letters -- a pile of letters that you had received opposing a sign on the Memorial Drive that says Sanofi, which would create a precedent, could be -- you didn't say ignored, but they would become irrelevant

basically. You reread your transcript. If they modify the sign and lowered it.

CONSTANTINE ALEXANDER: I'm sorry, I don't -- that's just not a fair characterization of what I said. That's not a fair characterization of what I said.

CAROL O'HARE: I wouldn't have said it, Mr. Chair, if I hadn't read it several times. And, you know, Sanofi withdrew it because the community spoke to Sanofi and they had the good sense to say we don't need that sign and the -- we don't need that sign just as this puny little sign for this tiny business doesn't need it. It could be eight inches smaller if --

MICHAEL PRIVITERA: I disagree with you, Carol.

CAROL O'HARE: -- if he reduced the lit portion of the sign to comply, than the

backing could be --

MICHAEL PRIVITERA: Well, that would serve no purpose then.

CONSTANTINE ALEXANDER: Let's move on then. Okay. You made your point.

CAROL O'HARE: Fine. I've said my point.

CONSTANTINE ALEXANDER: Thank you very much.

CAROL O'HARE: And I have to say that your -- some of your colleagues are looking at me like I am an (inaudible).

MICHAEL PRIVITERA: I get that all the time, don't worry about it.

TIMOTHY HUGHES: That's because you hang out in bars I hear.

MICHAEL PRIVITERA: That's where my office is.

CAROL O'HARE: Thank you for your

patience.

CONSTANTINE ALEXANDER: Thank you. Thank you for taking the time to come down and to write a letter. We do appreciate that. Maybe we don't appreciate what you say, but we do appreciate you taking the time.

MICHAEL PRIVITERA: Sorry.

CONSTANTINE ALEXANDER: We do have a number of letters in the file. We have a letter from a Barbara and Steve Blacklo (phonetic) who is saying: We would like to express our strong dissatisfaction with the proposal to place an electronic or any sign at One Kendall Square.

MICHAEL PRIVITERA: There is -- I don't know if you guys notice --

BRENDAN SULLIVAN: Why don't you let him finish?

MICHAEL PRIVITERA: Oh, I'm sorry.

CONSTANTINE ALEXANDER: Let me read the letters and then you'll have an opportunity.

MICHAEL PRIVITERA: Okay, thank you.

TIMOTHY HUGHES: Can I see that picture, please?

CONSTANTINE ALEXANDER: And then we have a letter from a David Lobron, L-o-b-r-o-n. (Reading) As a Charles River bike commuter and rower and Cambridge worker I ask you to not allow the exemption for a tall lighted sign on the river near Kendall.

And I don't know what sign he's talking about.

The river is an oasis in the city used by thousands of people, it should not be commercialized.

A letter -- we have that already.

A letter from a Katherine with a K, K. Merseeth, M-e-r-s-e-t-h. (Reading) As a Cambridge resident and a frequent user of the Charles River, I strongly oppose this Variance.

And we also have a memo from the Planning Board which says they -- it says they, they referencing the Planning Board. (Reading) The Planning Board also reviewed the Sign Variance request at One Kendall Square and commented that it is a good design using internal illumination and scale appropriate for the unique retail facade. Also, that it is barely visible from Hampshire Street.

And those are the public comments.

Sir, you wanted to --

MICHAEL PRIVITERA: Yeah. It's barely visible part, it is true. I mean,

that's why we need whatever we can so it can be read. I didn't design the logo. It is a corporate logo, they're just moving into this area. All right? And as far as, you know, the river, we don't need to go there. There is an existing sign on the site. I don't know if it was permitted or not. And you can't legislate good looks, but it's a really ugly sign. And it's actually bigger, it's four foot square.

CONSTANTINE ALEXANDER: Is it illuminated though?

MICHAEL PRIVITERA: It's got wiring going through it. I haven't been there at night so I would assume it is. It has a Plexiglass face and it has a feed going through it, so I assume it's illuminated.

THOMAS SCOTT: Is it the same size or bigger?

MICHAEL PRIVITERA: When I first looked at the site, and you can kind of see it, yeah, right there, the sign was blank. It had a blank face in it. And now a couple weeks ago when I was at the site posting all the things, you could see that it has a face in it. So I mean I don't know.

THOMAS SCOTT: It's on a similar type piece of architecture?

MICHAEL PRIVITERA: It's on the same plank. Here --

THOMAS SCOTT: In the same courtyard?

TIMOTHY HUGHES: Yes.

THOMAS SCOTT: Okay.

MICHAEL PRIVITERA: You know, here's my sign and this one is just on the other side of the steps.

THOMAS SCOTT: Okay.

MICHAEL PRIVITERA: And it is a subgrade plane. So you can see the front of Turn Style Cycle as you're driving. If you happen to look between this, you know, space you can see it. So they want whatever they can get obviously. A 30-inch square sign would look like a stamp on an envelope. It would be a waste of money. You know, because the letters would now about be slightly bigger than your name tags here.

Anyway, I mean, there's not a whole lot else I can say about it.

CONSTANTINE ALEXANDER: Okay.

MICHAEL PRIVITERA: I don't think I should be used as a precedent case.

CONSTANTINE ALEXANDER: We'll find out.

MICHAEL PRIVITERA: I will.

CONSTANTINE ALEXANDER:

Ms. Hoffman you wanted to speak?

HEATHER HOFFMAN: Sure.

Hi. Heather Hoffman, 213 Hurley Street. And I will probably actually be walking right by this site on my way home. I go through this through One Kendall Square frequently when I walk from the Central Square area to my home in East Cambridge, so I'm pretty familiar with this. And I agree with a lot of what Carol said. What I see over and over is that there aren't hardships. And really I'm not picking on you.

MICHAEL PRIVITERA: I know. Just, you guys are using it as a precedent case and that's not fair.

HEATHER HOFFMAN: That's not -- I actually --

MICHAEL PRIVITERA: You need to change the law. Whoever writes the law is

who you need to talk to. They're just interpreting it.

CONSTANTINE ALEXANDER: Okay.

HEATHER HOFFMAN: And I completely agree and I'm asking them to interpret it in accordance with what I believe it says, which is that you need a hardship. And, you know, the --

CONSTANTINE ALEXANDER: Isn't the hardship -- looking at the architecture of the square and the layout of the square, a sign of only 30 inches would not be sufficient to identify something very close. Isn't that the reason why -- the sign would not communicate what it wants to communicate if it's limited to 30 inches, again, giving the area?

HEATHER HOFFMAN: As I understand it, this sign is not going to be visible

particularly from the street. It's going to be for people who are walking. If I'm walking, I can see a 30-inch sign. I really can. I can, you know, all of the signs in there I've been living with, you know, the giant blue glow for a very long time.

CONSTANTINE ALEXANDER: Can you tell me what the adverse impact on the community would be if we were to grant relief? If it's not visible from the street and people walking in the square there will see a slightly bigger sign. I just want to understand. I want to balance the equities.

HEATHER HOFFMAN: Okay, well here's -- what I see is that generally the Sign Ordinance is -- or the sign provisions in the Zoning Ordinance are not taken as the law, they're taken as a suggestion. And if that's what we want, that's fine. We can do

that. We can write our law to be that. Or we can take our law to be the law. And it's my feeling that we ought to take the law to be the law. And if the Board of Zoning Appeals thinks that the City Council has designed a Zoning Ordinance in a way that doesn't serve the city of Cambridge well, then not only can you, but you should, communicate that to the City Council.

TIMOTHY HUGHES: I think they -- I'm going to weigh in here. I think they already know that. They tried to change the whole process last year and then they rescinded on it. I don't know exactly why they did.

HEATHER HOFFMAN: Oh, I even missed that so I don't know about this process.

TIMOTHY HUGHES: The fact of the matter is that the Sign Ordinance, the way it's written, is so narrow that you'd be lucky

to have it apply to ten percent of the architecture in the city because the city's architecture is so varied compared to what the Sign Ordinance will allow us to do, you know, without a Variance. It's almost impossible. It should be amended. The City Council should take a hard look at it, but they couldn't do the hard work. They changed it once and then they got, I don't know, they had to change it back. They're unwilling to do the hard work. They're leaving it to us to do the hard work. The City Council is on this particular issue.

CAROL O'HARE: 18,000 --

TIMOTHY HUGHES: The cookie cutter -- the cookie cutter thing, the one-size-fits-all Sign Ordinance just does not work in a city like Cambridge with its multiplicity architecture. And that's why

we can establish hardships for certain situations and we use and we, like Gus says, we balance that against, you know, the commercial needs and whether or not it's going to be a problem, you know, it creates any kind of a problem for the city.

CONSTANTINE ALEXANDER: I object to the fact that you're suggesting that we don't follow the law. I don't accept that.

TIMOTHY HUGHES: This whole Variance process is part of the law.

HEATHER HOFFMAN: No, I'm not saying that. And are you talking about it was a lot more than a year ago, the branding signs? The.

CAROL O'HARE: Yeah, the building identification.

HEATHER HOFFMAN: That one -- they got thousands and thousands of signatures,

including mine, and I gathered a whole lot of them.

TIMOTHY HUGHES: Right. But all they ever did was rescind what they passed. They didn't make any substantive changes or efforts to change this one-size-fits-all Sign Ordinance that we're saddled with that we have to do something with.

CONSTANTINE ALEXANDER: And we do it --

TIMOTHY HUGHES: And we do it the best way we can.

CONSTANTINE ALEXANDER: Exactly.

HEATHER HOFFMAN: I would agree with you. I think you can make a very good case that the Ordinance does not serve the city of Cambridge well. That the branding signs had absolutely nothing to do with that. That was a specific thing so the corporations could

proclaim their wonderfulness to, you know, to a zillion people.

MICHAEL PRIVITERA: And that was not us.

HEATHER HOFFMAN: And that was not you. I totally agree. That was simply what I see in my neighborhood is just growing numbers of signs, illuminated signs, that interfere with your ability to sleep. It's like -- it's proliferating. And so at some point you say maybe this isn't working out so well for us.

CONSTANTINE ALEXANDER: What do you want us to do?

TIMOTHY HUGHES: Yes, at some point you do, but this isn't the point.

CONSTANTINE ALEXANDER: What you want us to do is ignore the law. You want us to ignore the law and say just because we

don't want any more signs in the city of Cambridge. We're not going to do that.

HEATHER HOFFMAN: No.

CONSTANTINE ALEXANDER: Let me finish.

We're not going to do that. We're going to apply the law. We have a hardship test and we apply that hardship test. You may not agree with us as to whether it's a hardship, you or other citizens of the city. That's why we get paid the big bucks. We make the decisions. And you can take us to court if you don't like it.

HEATHER HOFFMAN: No, I completely agree with you. The -- I agree with you that the question is whether there's a hardship here. I absolutely agree. And I will simply say to you that since I am a person who walks through this very site on a regular

basis, I think I could see this sign if it were a legal size. And you can come to a different conclusion. I'm not gonna sue for all kinds of reasons, including I live too far away. But I'm just telling you that it's my belief from great familiarity with the site that a walker can see it.

CONSTANTINE ALEXANDER: Thank you.

HEATHER HOFFMAN: Sure.

MICHAEL PRIVITERA: Real quick? Go ahead.

CONSTANTINE ALEXANDER: I don't think you need to.

BRENDAN SULLIVAN: You're better off just --

CONSTANTINE ALEXANDER: Keep quiet.  
Anyone else wishes to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Thankfully no one else wishes to be heard.

I'm going to close public testimony. We can go to a vote or discuss it. We've heard a lot of interesting points of view and good colloquy, but what's the pleasure? You want to go to a vote or do you want to talk?

JANET GREEN: I'm ready for a vote.

THOMAS SCOTT: I'm ready.

CONSTANTINE ALEXANDER: I'm ready, too.

Okay. The Chair moves that this Board make the following findings with respect to the Variance being sought:

That the literal enforcement of the provisions would involve a substantial hardship. Such hardship being that the sign would be limited to a size that would not be visible except to people close to the sign.

It would not be able to achieve the purposes of a sign in terms of communication, communicating information, specifically the location of the business involved.

That the hardship is owing to the circumstances relating to the topography of the land and structure. This is an unique area with the courtyard. Whole area is located on a former manufacturing site, and so it's a situation where that there are -- it is not your typical flat sign, flat wall sign that faces a public way. It's an interior courtyard.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of this Ordinance.

In this regard the Chair would note that we have support -- this petition has the

support of the Planning Board.

That the sign will not be visible, virtually not visible to the street.

That in balancing -- that there is a -- the city has not banned signs across the Board. But there is a recognition that certain signs are permitted as of right and other signs may be allowed by virtue of a Variance procedure. And that is what we're going through tonight.

So on the basis of all of those findings, the Chair move that we grant the Special Permit -- I'm sorry -- the Variance being sought to construct a sign. I'm going to initial -- this is the sign -- you can't change the sign in terms of dimensions.

MICHAEL PRIVITERA: That's it, believe me.

CONSTANTINE ALEXANDER: All those

in favor of granting the Variance --

THOMAS SCOTT: Can I just raise one point?

CONSTANTINE ALEXANDER: Go right ahead.

THOMAS SCOTT: Will the sign be illuminated only when the business is open?

MICHAEL PRIVITERA: I don't --

THOMAS SCOTT: What are the hours of operations?

MICHAEL PRIVITERA: What are the regulations? I know a lot of towns have regulations that they have to be off at a certain time. I would, you know.

CONSTANTINE ALEXANDER: We don't have that in Cambridge.

MICHAEL PRIVITERA: I don't think it would be illuminated all night. I would assume just when open. I'll just tell him

them you said it has to be off at eleven. Unless they're open until midnight. A lot of towns will have that, you know, either when you're open or it has to be off by a certain time.

CONSTANTINE ALEXANDER: I'm glad you made that point.

I'm going to amend the motion to say that impose one condition, the sign be in accordance with plan you submitted, which I've initialled. No difference.

And secondly that the sign may not be illuminated between the hours of eleven p.m. and seven a.m. in the morning.

MICHAEL PRIVITERA: Unless they're open. Maybe they're open till midnight. I don't know what the hours are going to be.

CONSTANTINE ALEXANDER: I am sorry?

BRENDAN SULLIVAN: I would think

they're not open after eleven.

CONSTANTINE ALEXANDER: I wouldn't be surprised.

JANET GREEN: But I think they might open at six a.m.

CONSTANTINE ALEXANDER: All right.

MICHAEL PRIVITERA: Okay.

CONSTANTINE ALEXANDER: Between the hours of eleven and six.

MICHAEL PRIVITERA: Okay.

CONSTANTINE ALEXANDER: Okay, on the basis of those two findings that I proposed and the conditions I have suggested we impose, all those in favor of granting the Variance say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Hughes, Sullivan,

Scott, Green.)

MICHAEL PRIVITERA: Can you just write eleven to six? Do I keep that or you keep that?

CONSTANTINE ALEXANDER: I keep that.

MICHAEL PRIVITERA: Okay.

What is their procedure? I don't need that. I have quite a few of them.

What is their procedure now, like, what do I do next?

SEAN O'GRADY: Six to eight weeks you'll get a letter from us telling you what to do next.

MICHAEL PRIVITERA: Pardon?

SEAN O'GRADY: Six to eight weeks?

MICHAEL PRIVITERA: Six to eight weeks?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: It takes a while. And then after that there is a 20-day appeal period to the courts if someone wishes to take an appeal.

SEAN O'GRADY: I'm sorry, I actually misspoke. Six to eight weeks you should be through the process.

CONSTANTINE ALEXANDER: Oh, okay.

SEAN O'GRADY: In maybe four weeks you'll get a letter from us telling you you've got an appeal period coming and telling you what to do.

MICHAEL PRIVITERA: Okay. So if things go well, within six weeks I should be able to start manufacturing and installing the signs?

CONSTANTINE ALEXANDER: We can't give you a specific time.

MICHAEL PRIVITERA: Approximately.

SEAN O'GRADY: As far as --

MICHAEL PRIVITERA: I'm only  
asking --

SEAN O'GRADY: It could be two  
months.

MICHAEL PRIVITERA: Thank you,  
guys, so much.

CONSTANTINE ALEXANDER: Thank you.

\* \* \* \* \*

(9:35 p.m.)

(Sitting Members Case #BZA-003139-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Janet  
Green.)

CONSTANTINE ALEXANDER: Clarendon?

ATTORNEY SEAN HOPE: So we did talk  
to the neighbors and we want to request a  
continuance. I think this is an opportunity  
to maybe take a fresh look at what we can do  
with the parking there and to still keep  
what's important to us as well as, you know,

move the house potentially. So we couldn't quite come to terms on exactly what to do, and I also think we need to look at the ramifications of doing it and not doing it on the fly. If in case there is a posting requirement, we obviously want to be back here soon. We want to make sure we have time to review the plan and then also advertise if we need additional relief.

CONSTANTINE ALEXANDER: You're going to have to re-advertise. Assuming you're going to end up something about moving the driveway, you have to re-advertise.

ATTORNEY SEAN HOPE: Yes. So we want to request a continuance with enough time to do that. So I don't know what the schedule is.

CONSTANTINE ALEXANDER: Before we comment on that, I just want to -- and I'm

speaking out of turn perhaps. I just got quoted for saying something I don't think I said. But I want to assure you that this Board is determined to grant you the relief you want in terms of building the structure. We just got to get it right in terms of the neighborhood impact.

FREDERICK KANTOR: Thank you.

CONSTANTINE ALEXANDER: Don't go away feeling that this project is in jeopardy. There just needs to be further details.

ATTORNEY SEAN HOPE: Thank you.

CONSTANTINE ALEXANDER: You have a puzzled look on your face.

SEAN O'GRADY: Sooner? Later?  
What's your preference?

ATTORNEY SEAN HOPE: I think we need -- what are the available dates?

SEAN O'GRADY: If you're sure you need to re-advertise, then we'll just put this one off because we're trying to keep this from being a repetitive petition.

CONSTANTINE ALEXANDER: We'll continue this case. We'll hear the new case that you advertise. And then after we decide that case, we'll dismiss this case.

ATTORNEY SEAN HOPE: Right, understand.

SEAN O'GRADY: Otherwise we would do it sooner.

ATTORNEY SEAN HOPE: Yeah. I mean my feeling is we're probably going to have to re-advertise just based on what we were talking about. So I guess that would mean -- so we would have the other case once it was advertised and on the agenda. We can push this one further out and consolidate.

SEAN O'GRADY: How soon do you think you'll be re-filing?

ATTORNEY SEAN HOPE: Within the next week.

SEAN O'GRADY: Okay. Why don't we say -- I think I'm speaking a little bit out of here because Maria's not here, but if you got it in in the next week --

ATTORNEY SEAN HOPE: We need to talk with the neighbors as well.

SEAN O'GRADY: You want to do 5/22 or do you want to do 6/12?

ATTORNEY SEAN HOPE: Let's do 5/22 and we'll work towards that date.

SEAN O'GRADY: Okay.

CONSTANTINE ALEXANDER: This will be a case heard, but not like we're really going to hear the case at the end of the day. I suspect we're just going to hear the other

one. So can everybody make 5/22, members of the Board?

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be further continued until seven p.m. on May 22nd, this being a case heard. So a waiver of a time for decision is already on file.

Continues on the condition that the posting sign be maintained for the two weeks before May 22nd. Just take your magic marker, change the date to May 22nd, and change the time to seven p.m.

And on the further condition that if you come in with new plans, maybe relocating the structure, they must be in our file as you know, by five p.m. on the Monday before May 22nd. Don't miss that. If you do, we won't hear the case. Otherwise, again, we'll

probably hear the real case, the new advertised case.

Anyway, all those in favor of continuing the case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

\* \* \* \* \*

(9:40 p.m.)

(Sitting Members Case #BZA-002837-2013:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Janet  
Green.)

CONSTANTINE ALEXANDER: I move that  
with respect to case No. 002837, 107  
Hampshire Street, that it be continued until  
seven p.m. on May 8th. This is a case that's  
heard, so we have a waiver of time for  
decision.

Conditions being that the revised plans from the Petitioner must be in our files by five p.m. on the Monday before.

And on the further condition that the posting sign be modified to reflect the new date and the new time. If that's not done and the sign must be maintained for the two weeks required under our Ordinance. And if that's not done, we'll continue the case further.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

\* \* \* \* \*

(9:40 p.m.)

(Sitting Members Case #BZA-03340-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Janet  
Green.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 003340, 65 Harvey Street.

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

Good evening. Name and address,  
please, for stenographer.

EDWARD MILLER: My name is Edward Miller, 65 Harvey Street. Just explain?

CONSTANTINE ALEXANDER: I don't think it will take you a long time to explain it, but, yes, why don't you briefly explain.

EDWARD MILLER: As it stands, my house is a two-family split by bilevel. So we live on the second floor and our tenant lives on the first floor. And to accommodate a growing family, we want to get a third bedroom out of our unit and so we want to take over more of the house but still leave it as a multi-family house so there would be a smaller studio rental space. And in order to execute the plan that we've come up with, we need to install a new door and make one window larger to satisfy, you know, egress building requirements. And so that's why I'm here.

CONSTANTINE ALEXANDER: Okay, thank

you.

Any questions from members of the Board?

TIMOTHY HUGHES: No. Have you talked to the neighbor most affected by your rear yard setback?

EDWARD MILLER: Actually, I have not seen him because it's the winter. But we have talked in the past.

CONSTANTINE ALEXANDER: There's no letter of opposition from him.

EDWARD MILLER: Right.

CONSTANTINE ALEXANDER: We haven't heard pro or con.

EDWARD MILLER: Right.

CONSTANTINE ALEXANDER: I think the presumption is that if he or she had a problem, we would have heard of it by now.

EDWARD MILLER: Right.

CONSTANTINE ALEXANDER: Is my feeling.

Okay, I'm going to open it to public testimony.

Is there anyone wish be to be heard in this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. As I mentioned, there is nothing in the file.

This new door, is that going to be -- that area looks like it's awfully narrow to have a --

EDWARD MILLER: Yeah, that is.

CONSTANTINE ALEXANDER: Big enough to support a traditional door or a conventional door I should say?

EDWARD MILLER: Yes.

CONSTANTINE ALEXANDER: Ready for a

vote?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: How did I know?

Okay, the Chair moves that we make the following findings with respect to the Special Permit being sought:

That the traffic generated or patterns of access or egress that will result from what is being proposed will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely affected by the relief being sought.

That 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 for other reasons 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.

With regard, the Chair would note that the relief being sought is rather modest.

There appears to be no neighborhood opposition or abutter opposition.

And that the work being sought would actually increase the safety of the occupants of the structure by providing another means of egress in the event of an emergency.

So on the basis of these findings, the Chair moves that the Board grant the Special Permit on the condition that the work proceed in accordance with this plan that you've given us?

EDWARD MILLER: Yes.

CONSTANTINE ALEXANDER: Initialled  
by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in  
favor.

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

EDWARD MILLER: What's the next step  
now?

CONSTANTINE ALEXANDER: There will  
be a written decision. It will take a couple  
weeks.

EDWARD MILLER: Okay.

CONSTANTINE ALEXANDER: You will be  
notified. At that time -- and so will all the  
abutters who received notice of this

application. At that time, there's a 20-day appeal period to the courts.

EDWARD MILLER: Okay.

CONSTANTINE ALEXANDER: If someone doesn't like the relief we granted. So you've got to wait that out, too. So you're looking at probably, as Sean indicated earlier, six to eight weeks from now you'll be able to start the project.

EDWARD MILLER: Oh, okay. Thank you.

\* \* \* \* \*

(9:45 p.m.)

(Sitting Members Case #BZA-003344-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Janet  
Green.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 003344, 7 Camden Place.

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

WILLIAM SIMMERS: Hello.

CONSTANTINE ALEXANDER: Yes, go

ahead.

WILLIAM SUMMERS: I'm William Simmers. I'm an architect. I represent the owner who is David Wegman. He's a new owner of this property. He just purchased it.

The only issue I believe that's in front of the Board right now is we're enlarging the front entry vestibule by 27 square feet. I think since it's a non-conforming building in terms of FAR, that's the only --

CONSTANTINE ALEXANDER: You're slightly non-conforming, the building is slightly non-conforming.

WILLIAM SIMMERS: It's not slightly non-conforming, because it's a very unusual --

CONSTANTINE ALEXANDER: Well, from a Zoning point of view.

WILLIAM SIMMERS: From a Zoning --

CONSTANTINE ALEXANDER: I'm not making any architectural comments.

WILLIAM SIMMERS: No, no. From a Zoning point of view, it's right up against, very close to the rear property line. So it's --

CONSTANTINE ALEXANDER: The issue is FAR.

WILLIAM SIMMERS: The FAR, not the -- the vestibule is in front. It is within the front setback, so that is conforming. But that's the only issue before the Board here.

Now this case has in fact popped up before boards before. I believe in 2003 this whole thing came up before the vestibule. As I showed there was almost exactly presented as there, but they had also expanded the left-hand side of the building, the kitchen

which we are not proposing to do. So the -- and they had approved that -- the second thing that went through was through the Half Crown Historical Commission and they also approved it. So it's really --

CONSTANTINE ALEXANDER: Can I have a copy of that? I don't think it's in our files. Can I keep that copy?

WILLIAM SIMMERS: That copy you can keep actually.

So the only issue is the FAR, and obviously whether anybody objects to it.

CONSTANTINE ALEXANDER: And you need the extra space in the vestibule to be able to use it?

WILLIAM SIMMERS: Well, it's an incredibly narrow vestibule where you can't do anything. You're basically squeezing in, and by enlarging it a little bit to the sides,

you can both get a closet which does not exist in the building right now. And you can also get a little sit down space where you can take off your shoes, boots.

CONSTANTINE ALEXANDER: Questions from members of the Board?

TIMOTHY HUGHES: What are the actual numbers we're talking about?

CONSTANTINE ALEXANDER: Yes. It's right now 0.547. We're in a 0.5 district.

TIMOTHY HUGHES: Right.

CONSTANTINE ALEXANDER: And it would go to 0.585. We're adding --

WILLIAM SIMMERS: So.

CONSTANTINE ALEXANDER: That's your form.

WILLIAM SIMMERS: Is it? It's been a long time.

CONSTANTINE ALEXANDER: 0.547 to

0.585 in a 0.5 district.

WILLIAM SIMMERS: Oh, yeah.

TIMOTHY HUGHES: Okay.

CONSTANTINE ALEXANDER: Any further questions?

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: I'll open it 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.

I don't believe we are in receipt of any correspondence.

This is a very tight neighborhood. Do you know if your clients have spoken to the neighbors?

WILLIAM SIMMERS: Well, he's -- as I said, he's a new --

CONSTANTINE ALEXANDER: Doesn't mean he couldn't talk to the neighbors.

WILLIAM SIMMERS: Well, he actually did talk -- there's someone doing work on the house sort of --

JANET GREEN: I saw that.

WILLIAM SIMMERS: -- to the right as you come in. The house basically is barely visible from the street. You can't even see what we're doing from -- at least from Mount Auburn Street. Can you from Camden Place, but you have to go quite far in, and it's -- I'm not sure it's a private way. It's marked a private way, but I don't think it really is.

CONSTANTINE ALEXANDER: Well, I think we can draw the conclusion to the fact

that no one seems to have appeared tonight to oppose it and no one has written a letter to oppose it.

WILLIAM SIMMERS: And the house -- it's all fenced in. There's a garage in back of it. There are brick row houses on the left that face the other direction. So, the fact remains that there aren't very many neighbors even though it's a tight neighborhood.

CONSTANTINE ALEXANDER: Okay.

I'm going to close public testimony. Anyone wishing to make comments or go to a vote?

TIMOTHY HUGHES: I'm ready for a vote.

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. Such hardship being that the Petitioner has a home with an inadequately dimensioned front vestibule that affects the ability particularly coming out of the elements.

That the hardship is owing to the back -- the shape of the lot. It is a very unusually shaped lot and in a very tight area so that any kind of modification to the structure is going to run afoul of one element of the Zoning Ordinance or another. And in fact it is a non-conforming structure so that any addition that such that is being proposed requires Zoning relief.

And that relief may be granted without substantial detriment to the public good or

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

In this regard the Chair would note that no neighborhood -- no neighbor opposition has been expressed.

And as I've indicated, the relief being sought is rather modest in nature.

The Chair moves that the Variance be granted on the condition that the work proceed in accordance with the plans submitted by the Petitioner prepared by William Simmers, S-i-m-m-e-r-s architect. There are three pages, and all three pages have been initialled by the Chair.

And, again, these are the final plans?

WILLIAM SIMMERS: Yes.

CONSTANTINE ALEXANDER: Okay.

I should also mention, by the way, with regard to the third element of the Variance

that this matter has been considered by the Half Crown Marsh Neighborhood Conservation District and they expressed no opposition to what is being proposed.

All those in favor of granting the Variance on the basis of the motion I just made, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

WILLIAM SIMMERS: Thank you.

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

\* \* \* \* \*

(9:55 p.m.)

(Sitting Members Case #BZA-003377-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Janet  
Green.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 003377, 18 Beech Street.

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

THOMAS DOWNER: Good evening my name  
is Thomas Downer. I'm an architect. We are

working with my clients. This is Baoqing Yan and her husband Xin Gao. They are the property owners at 18 Beech Street.

They currently own -- it is currently a two-family home. They live on the first floor. They would like -- their children are getting older, they need some more space. They would like to move to the second and third floors in order to make that their residence and keep the building as a two-family. The existing second floor has a single bedroom, and the third floor is accessible only by an extremely steep narrow stair that gets up to basically a half story with, I think, it's like eight feet, eight and a half feet between the points where it's only -- where you have five foot of headroom. So in order to accommodate the -- in order to achieve three bedrooms in the property, they

would like to have a dormer addition on that third floor in order to make that space usable and relocate the stair there and then add a second bedroom or third bedroom on the rear of the second floor over an existing first floor addition.

CONSTANTINE ALEXANDER: So, Mr. Downer, are you aware that we have dormer guidelines in the city of Cambridge.

THOMAS DOWNER: I am.

CONSTANTINE ALEXANDER: Okay. So you know that what you're proposing is in violation of our dormer guidelines. It exceeds -- it's a 19-foot dormer when the dormer guidelines say no more than 15 feet.

THOMAS DOWNER: We're asking for an addition on the third floor.

CONSTANTINE ALEXANDER: I know. You don't appear before our Board very often

I don't think, but our guidelines we rigidly enforce them. We almost, almost make them a legal matter, a legal requirement unless there's very strong reasons not to do that. And I guess I want to hear why you need a 19-foot dormer, that you cannot live with anything less or anything more than a 15-foot dormer.

THOMAS DOWNER: I'm -- there's -- I guess I'm unfamiliar with the fact that this was a requirement for a dormer. My understanding was if we were to call it a dormer, it -- there's certain requirements for that. But if we were going with it as an addition on the third floor that --

CONSTANTINE ALEXANDER: No.

THOMAS DOWNER: Anyway, the -- I think it's entirely possible to do that as a 16-foot dormer.

CONSTANTINE ALEXANDER: Well, I think -- my suggestion to the Board and to you is that we continue this case and you come back with new plans and show a dormer that comply with our dormer guidelines or a strong reason why you cannot comply with the dormer guidelines and achieve what you want to achieve. But we can't just simply say -- we have to approve substantive plans. We don't have plans here that --

THOMAS DOWNER: Right. I would accept -- I think that would be fine with a continuance.

JANET GREEN: So I would ask is there anything else we'd like them to look at on the plan?

CONSTANTINE ALEXANDER: Good point. I have nothing else.

THOMAS DOWNER: The issue is FAR.

CONSTANTINE ALEXANDER: Yes.

THOMAS DOWNER: And so it's a non-conforming structure. It's pretty close --

CONSTANTINE ALEXANDER: It's a modest addition. I misspoke. The last case I gave Tim the wrong numbers. The numbers that I gave for the other case are the numbers for this case. It's a 0.5 district, and they're going to go from 0.47 to 0.585. So it's a very slight increase to a non-conforming structure that is slightly non-conforming in terms of FAR.

THOMAS DOWNER: It's non-conforming as to the side yard and the front yard, but we're not affecting either of those aspects.

CONSTANTINE ALEXANDER: So, I think we continue this case as a case heard. What's the first --

SEAN O'GRADY: Heard?

CONSTANTINE ALEXANDER: A case heard, yes. We've gotten into the merits.

SEAN O'GRADY: I was out of the room.

TIMOTHY HUGHES: I didn't hear anything, Gus.

THOMAS SCOTT: Neither did I.

THOMAS DOWNER: Would you like me -- we have letters from abutters that are in support --

CONSTANTINE ALEXANDER: Save it for the next time.

TIMOTHY HUGHES: That would definitely make it a case heard if we entertain that stuff.

SEAN O'GRADY: May 8th.

TIMOTHY HUGHES: I have to be here anyway.

CONSTANTINE ALEXANDER: The way it

works, you're going to have to come back with revised plans obviously. You have to have them in the file by five p.m. on the Monday before May 8th. So if we did it to May 8th would you have enough time to revise them?

THOMAS DOWNER: Yes.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case heard subject to the following -- I'm sorry, to seven p.m. on May 8th, subject to the following conditions:

That the Petitioner sign a waiver of time for decision. You have to do that to continue the case.

That the posting sign that you have up there now, just modify it with a magic marker. Change the date to May 8th, the time to seven p.m., and keep it up for the 14 days before May 8th. You can take it down for now if you

want, but make sure it's there for the 14 days before May 8th.

And on the last condition, which I just mentioned, that to the extent you are going to have revised plans, and you will, that you have them in our files no later than five p.m. on the Monday before May 8th.

THOMAS DOWNER: The Monday or Friday?

CONSTANTINE ALEXANDER: The Monday. So that and again -- Sean can fill you in on that later on. But if you miss that, we're not going to be able to hear the case on May 8th.

THOMAS DOWNER: Okay.

CONSTANTINE ALEXANDER: And you have enough time.

BRENDAN SULLIVAN: And you should also change the dimensional form if the

numbers change subsequent -- change the dimensional form if the new plan changes those numbers. The dimensional form has to correspond to whatever drawing you're submitting.

CONSTANTINE ALEXANDER: All those in favor of continuing the case ay on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

\* \* \* \* \*

(10:00 p.m.)

(Sitting Members Case #BZA-003395-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Janet  
Green.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 003395, 571 Franklin  
Street.

We're ready to go.

BLAKE ALLISON: Blake Allison,  
Dingman Allison. Dingman Allison

Architects. We're basically here to request Zoning relief in order to renovate this property so that it will function for family living for the current owners. It's an extremely small building on a very tight lot. We've designed a very modest addition. And so most of the Zoning relief has to do with adding on this addition. It's a question of side yard setbacks, not FAR.

CONSTANTINE ALEXANDER: That's amazing. I'm sorry.

BLAKE ALLISON: It's amazing, yes. Well, it was 25 feet wide, but it's very deep. There's also a minor part of the request which is that the existing front door has a very small roof over it but it's not enough to really shelter the door. So we'd like to just increase the depth from one foot currently to three feet by four and a half.

So that's a net increase of that roof by nine square feet. But that's in the front yard setback so that would also be part of the relief that we're requesting.

Basically the addition is on the rear of the house. It's not really visible from the street. It's one room on the ground floor which will allow for a little family area with the kitchen. There's a very small little mudroom attached to that. On the second floor there's a bedroom which will allow them to have a two-bedroom set up with bathrooms. And very importantly it will give them room to put in a new stairwell. The stair that's there now is almost like a ladder. It's one of the steepest, narrowest, most dangerous stairs I've ever seen. So this will be a new stair, code compliant.

Additionally we'll do a full basement room underneath that so they'll have something in the basement, a playroom. The rest of the basement doesn't have full headroom so that will give them a little something extra.

What's important to explain, though, is you can see in this bottom photograph is that we're removing a rather large garage which sits smack in the middle of this whole deep part of the lot, and that unfortunately is in a space that is surrounded by all the adjacent properties. They all kind of look in on that. And so we'd like to put forth the idea that this will be a substantial improvement for all the adjacent properties. That instead of looking at this horrendous garage, there's going to be nice open space there, a grass area, a play yard for the children and

so on.

CONSTANTINE ALEXANDER: Are you proposing any kind of decks or balcony in the rear of the house?

BLAKE ALLISON: Yes, very small, a deck that fits into this corner right here.

CONSTANTINE ALEXANDER: A ground level deck?

BLAKE ALLISON: This is actually up a few steps. So this is like a little back porch actually. It's -- you would come up a few steps from the ground onto that porch and then from there you enter into --

CONSTANTINE ALEXANDER: And the porch is not covered?

BLAKE ALLISON: In the site plan you can see that the idea is to have a brick patio coming out from that and then a garden area beyond. But that would all be open space.

Right now the property's non-conforming for open space. By removing the garage, we'll actually correct that non-conformity.

And the owners have done extensive conversations with their neighbors. So I'll let, you can introduce yourself.

KIN LO: I'm Kin Lo from 571 Franklin. We -- Blake gave us a form and we reviewed the schematics that Blake had provided to us with all of the abutters that we were aware of and I think abutters of abutters. So showed them the plans and asked them for their support which is this is a letter here.

CONSTANTINE ALEXANDER: Anybody express disapproval for what you want to do?

KIN LO: There's a neighborhood e-mail list that we just recently found out about, and there was some discussion on the

project on it. There is the full thread from that. There were initial questions about what we were doing and, you know --

CONSTANTINE ALEXANDER: None of that is directed to the Board. That's internal communication -- is their e-mail intended to be given to this Board?

BLAKE ALLISON: Yes.

CONSTANTINE ALEXANDER: Oh, okay.

BLAKE ALLISON: Because that has additional supporting comments from neighbors.

KIN LO: This is the whole conversation.

BRENDAN SULLIVAN: How long have you lived there?

KIN LO: Just over a year. Year and four months maybe.

BRENDAN SULLIVAN: So when you

bought the house, did you at that time, did you feel that it was inadequate anyhow?

KIN LO: So we knew that we wanted to renovate the home, and we actually thought about doing a construction loan and do it before we moved in but it didn't work out. So we've spent the last year trying to figure out what we wanted to do and how much it was going to cost and that kind of stuff.

BRENDAN SULLIVAN: But buying it knowing that it was inadequate, that you needed more space, were you also unaware that there was really nothing you could do as of right? That you were going to need some relief from the Board?

KIN LO: Yeah -- what we didn't understand as homeowners was it's not necessarily that we need more space in its current configuration, but what we learned

was -- so we knew that the staircase was an issue. It's a very steep, dangerous staircase. What we didn't realize is that bringing that up to code and making it conforming would take so much space in the house that it would be really challenging to even get back what the existing -- I think we underestimated the impact of remediating those stairs. We thought it would be a little bit more straight forward.

BRENDAN SULLIVAN: Well, I mean, this is a hard sell for me because I just think it's going to have a huge impact on your two neighbors, and you know, I think that photo illustrates anything that I could possibly say. But anyhow.

KIN LO: Maybe along those lines in terms of the -- like the adjacent neighbors -- so we talked to all of the

abutters and I was actually concerned that -- about the garage, that maybe they'd -- somehow it provided some separation. But everybody was extremely happy -- actually a few of them they asked us if we were going to remove the garage as part of this proposal. So there's been a ton of support from all of the abutters who, you know, particularly with respect to removing the garage and making that green space, who feel like it's going to make the whole property and their property just kind of a better living space. Like Blake was saying, all these properties and they're all centered looking in on this old garage.

CONSTANTINE ALEXANDER: I see people in the audience. Unless they have nothing better to do on a Thursday night than to hang around here, I suspect they're going

to have views. I'll let them speak for themselves.

KIN LO: Sure.

CONSTANTINE ALEXANDER: I don't mean to cut you short. But you've given us written support, so far as you're aware there's no opposition.

KIN LO: Right.

CONSTANTINE ALEXANDER: I'm sorry, anything further you wanted to add at this point or I'll open it to public testimony.

BLAKE ALLISON: Unless it's questions. I know it's late. Everybody wants to get out of here.

CONSTANTINE ALEXANDER: We're here late.

Any questions from members of the Board?

(No Response.)

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

Is there anyone wishing to be heard on this matter? You have to come and give your name and address to the stenographer.

NOAH JAVERUS: My name is Noah Javerus (phonetic). I'm at 577 Franklin Street. I rent an apartment on the first floor which is next to 571, on the side of 571. And I just wanted to state certain things for the record that would be nice -- my main concerns were about the noise because of my apartment is right next to it. So I guess if --

CONSTANTINE ALEXANDER: Are you a director abutter? 577 would seem a couple doors down.

NOAH JAVERUS: It's directly right next-door. My apartment is on the first

floor on just the half that faces 571.

CONSTANTINE ALEXANDER: Okay.

NOAH JAVERUS: So I guess if there's some way to have them work, start after ten a.m., that --

CONSTANTINE ALEXANDER: So your concerns are noise concerns are with construction?

NOAH JAVERUS: In terms of construction, digging, and everything. It's right next to the back part of my apartment.

CONSTANTINE ALEXANDER: Understood. I know. We hear that a lot from people. A legitimate concern.

NOAH JAVERUS: Yeah, I guess sometimes it's hard for construction workers to actually want to start late, but my work schedule is on the early side. So if there's

any way that that would be helpful. Actually in the record that it starts after ten a.m.

CONSTANTINE ALEXANDER: I guess to your benefit, we don't -- I mean, construction issues around -- concerning construction is a very valid one. It's nothing that we can address as a member of the Zoning Board. There is other relief. I think Sean, if there is a problem with noise and the like, can people speak to the Traffic Department or --

SEAN O'GRADY: The state law sets the time for construction. And so --

TIMOTHY HUGHES: Unfortunately it's seven a.m.

NOAH JAVERUS: Is it any way to have it written down that the neighbors would like it to start later or something like that?

CONSTANTINE ALEXANDER: I think we

strongly suggest, as you've suggested to the Petitioner, that they try to accommodate your needs. I mean, I'm sure they want to be good neighbors. I don't want to get into making a specific condition assuming we grant relief for that. I think it's beyond the Zoning issues.

NOAH JAVERUS: Sure.

CONSTANTINE ALEXANDER: Other members of the Board may disagree with me on that.

NOAH JAVERUS: But there are things of similar nature so maybe it falls in the same category to have things covered, like after the stuff is worked. You know, and dust and stuff don't come in my windows.

CONSTANTINE ALEXANDER: It's hell to live next to a construction site. We recognize that. People have complained

about that. And it's not that we don't have any empathy for what you're saying. We just don't have any authority to deal with it.

NOAH JAVERUS: I thought maybe for the owners it might be helpful to having, you know, when they're dealing with the construction --

CONSTANTINE ALEXANDER: I would hope you would do everything you can to accommodate your neighbor's concerns about noise, grit, and the light, dust.

KIN LO: Definitely.

CONSTANTINE ALEXANDER: You've got to live in the neighborhood.

KIN LO: We're not planning on going anywhere for a while. So it's important to us I'll both the plans and the process.

NOAH JAVERUS: Yeah. I guess the only other thing, I wasn't quite sure like of

the plants that come in -- all of my windows are actually on that side. So I didn't see the drawings of like --

CONSTANTINE ALEXANDER: They're in the file. Or you can look at them right now, too, if you like.

NOAH JAVERUS: How much that will block my light coming in or not.

CONSTANTINE ALEXANDER: You can come forward and look at the plans.

BLAKE ALLISON: A lot of it is passed.

NOAH JAVERUS: So I'm over here. This is the other house, right, right. So currently most of the windows are already behind the house and there's just like two over here.

BLAKE ALLISON: Part of the design of the build is this setback here.

NOAH JAVERUS: And is this the height of the same pointed roof or just the two --

BLAKE ALLISON: Yes, it's -- well, here's the view. This is the view from your side. So the roof is a little lower.

(Looking over the plans.)

NOAH JAVERUS: It may not be related. This is a gap in the fence. Are you planning on --

KIN LO: We're talking to Mary about that. We'll move all of that.

NOAH JAVERUS: Of course down my path there there's no fence there I guess.

KIN LO: Yeah.

NOAH JERVUS: Okay, that sums it up.

CONSTANTINE ALEXANDER: Anything you want to add or is that it?

MARIA SPECK: We're the neighbors so

we're one off basically on 628 Green Street.  
So it's nice --

CONSTANTINE ALEXANDER: If you want to just talk to them, that's fine. If you want to address us, you need to give your name and address for the record.

MARIA SPECK: It's very -- we're all new home owners here so we -- I think we're here in this yard.

THE REPORTER: Could you give us your name, please?

MARIA SPECK: Maria Speck,  
S-p-e-c-k.

ALNOOR EBARHIM: I'm her husband.  
My name is Alnoor Ebarhim, A-l-n-o-o-r  
E-b-a-r-h-i-m. We're not direct abutters,  
but we can see the property from our second  
floor.

MARIA SPECK: And we will hear the

construction.

ALNOOR EBARHIM: And we will hear the construction. And we both work a fair bit at home, and so in from our perspective we're not opposed to you certainly building up this part of the house. We actually quite understand the need to do it because we've seen the property from the front side and it looks pretty small. Right? And so, and we've got -- we've got a steep stair in ours but it sounds nothing like as steep as what you described, right? So we don't know. And so we certainly understand that that, that configuration needs space.

And so our request, and is really probably nothing to do with the authority of the Board, but we appreciate the opportunity to be able to express it, which is simply if we can have some conversation at some time

about sort of the noise and the schedule and the amount of time you think it might take, and then we can talk about that and coordinate that in some way. Especially since we do work quite a bit at home. Marie entirely and me part of the time.

KIN LO: Yes, I actually work at home, too.

MARIA SPECK: We're dreading that.

KIN LO: That back site is so tight. All the properties that are so close together so we want to make sure we can do whatever we can to get that -- I don't think it's any way it's not going to be disruptive on some level, but whatever we can do, scheduling and that kind of stuff and, you know. We definitely want to be good neighbors.

MARIE SPECK: How long do you anticipate -- approximately the estimate, do

you have any idea how long the whole project will take?

KIN LO: Well, Blake has indicated it could be between six to nine months, but a lot of the work would be inside. So maybe Blake could speak to like what portion would actually be on the outside of it.

BLAKE ALLISON: The most disruptive part would be initially when they're doing the demolition of the garage and the excavating and building the shell of the new building. That's probably several months. And then once that's done, it will be quieter because the rest will be a lot of work inside the building.

ALNOOR EBARHIM: Ideally and I understand these take time, when would you like to start on that?

KIN LO: I think as soon as possible

but we're like -- I don't -- there's a lot of stuff that -- all of this stuff and then planning. And so Blake has indicated the earliest would be late to midsummer if everything goes perfectly on schedule. July, August.

TIMOTHY HUGHES: The first thing that has to go perfectly on schedule is we have to vote on the Variance here. So can we get back to that? You can have discussion some other time to have discussion stuff?

MARIE SPECK: Thank you.

NOAH JAVERUS: I forgot one other thing about this, the timing. If there's any way to not have it on the weekends?

Thank you.

CONSTANTINE ALEXANDER: Okay. The Chair will close public testimony.

The Chair will note that we are in

receipt of a petition signed by a number of I'd say about ten or so individuals or person -- or families. It says (Reading) We have reviewed the plans for the addition and renovations at 571 Franklin Street, dated 1/27/14 by Dingman Allison Architects. We have no objection.

And then there is something from -- oh, this is the e-mail traffic you were referring to from Phyllis and Harvey Baumann, B-a-u-m-a-n-n. Well I guess this is a letter -- I'm seeing if there's any conclusion. This is an e-mail from Phyllis Baumann to other neighbors on the e-mail list alerting them what's going on. But I don't see anything that pro or con.

BLAKE ALLISON: I highlighted the relevant comments in there and what neighbors who didn't sign that petition are saying that

they approve basically.

CONSTANTINE ALEXANDER: Okay.

It's too long to read now, but I'll take the representation in here that there's nothing in opposition of relief being sought.

Okay, I'll close public testimony. Commentary from members of the Board or are we ready for a vote?

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that with regard to the Variance being sought that this Board make the following findings:

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 additional living space, particularly since the Petitioner proposes to change the stair,

a staircase and stairs in the structure to make them compliant with our Building Code. Sorry, the Building Code which it isn't now. So we want to increase the safety of the occupants of the structure.

That the hardship is relating to circumstances relating to the fact that this is a very narrow lot and is non-conforming as to setbacks and, therefore, any relief that would be sought would require relief from this Board.

And that the 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 Chair would note that there is no neighborhood opposition, and that what is being proposed -- well, and no

neighborhood opposition.

On the basis of these findings the Chair moves that we grant the Variance being sought subject to the following conditions:

That the work proceed in accordance with the plans submitted by Dingman Allison Architects, three pages, all of which have been initialed by the Chair.

And on the further condition that the garage and the rear yard be removed which you plan to do anyway. Demolished and removed.

And on the suggestion or the request that you proceed with this -- this is not a part of the decision, but when you proceed with the project, you be very sensitive to the neighborhood, neighbor's concerns about noise, impact or dust and the like of the neighborhood. We request that you try to minimize that to the maximum extent possible,

but you can't obviously eliminate it.  
There's going to be some dislocation. The  
nature of the beast.

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

(Aye.)

CONSTANTINE ALEXANDER: Four in  
favor.

(Alexander, Hughes, Scott, Green.)

CONSTANTINE ALEXANDER: One  
opposed.

(Sullivan.)

(Whereupon, at 10:25 p.m., the  
Zoning Board of Appeals  
Adjourned.)

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