

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, SEPTEMBER 4, 2014
7:00 p.m.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Brendan Sullivan, Member
Thomas Scott, Member
Douglas Myers, Associate Member
Slater Anderson, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:10 p.m.)

(Sitting Members Case # BZA-004515-2014: Constantine Alexander, Brendan Sullivan, Thomas Scott, Douglas Myers, Slater Anderson.)

CONSTANTINE ALEXANDER: The Chairman is going to call the Board of Zoning Appeals meeting to order. And the first case we're going to call is 004515, 54 JFK Street.

Is there anyone here wishing to be heard in this matter? We have a stenographer here, so if you can give your name and address to the stenographer.

ATTORNEY JAMES JACOBS:

Mr. Chairman, I'm James Jacobs, J-a-c-o-b-s, attorney at the Harvard Transaction Law Clinic. My client is the new owner of the Boston Tea Stop which is at 54 JFK Street. It's locationally it's approximately across the street from the Staples.

CONSTANTINE ALEXANDER: You're the owner? This gentleman's the owner.

ATTORNEY JAMES JACOBS: The owner of the building is here. My client Mr. Cho is the -- he's the new owner of the business although completing that purchase will be conditional on getting the permit assigned.

So the property's one of the -- kind of somewhat upstairs properties. I'll try to be brief here because the property's been in business -- the business has been in business since 2013, eleven years, it's been through two prior owners. So this is the third time the Board has been asked to approve a fast order food establishment Special Permit for it. Before I forget, it would be terrific if the Board could remove that

particular condition for the future.

CONSTANTINE ALEXANDER: Which condition?

ATTORNEY JAMES JACOBS: The one that it is personal to the applicant because --

CONSTANTINE ALEXANDER: We don't do that. For Special Permits we typically limit them to the person that's before us. It gives us more control.

ATTORNEY JAMES JACOBS: Well, the control -- I just ask the Board look at it, because you've got a number of conditions on the permit, and as long as those are followed, it strikes me it doesn't matter who owns the business because the business will be what it is. And if that business changes, it violates the conditions you stipulated, you'll be

able to shut it down.

CONSTANTINE ALEXANDER: I think the right approach to get rid of most conditions, like, for example, no dumpster that blocks the entrance to the Aruna (phonetic). The Aruna is long gone.

ATTORNEY JAMES JACOBS: Well, true.

CONSTANTINE ALEXANDER: And I think as I said, it's been in our policy and our practice to --

ATTORNEY JAMES JACOBS: I'll leave that to the Board.

CONSTANTINE ALEXANDER: -- of this sort personal to the applicant.

ATTORNEY JAMES JACOBS: It's just a request. Because obviously when it comes to sell the business, this is an

imposition and I'm -- at least to me, I'm not sure the sense of -- as I say, it's been running under the different ownership. And, in fact, Mr. Cho has been the manager of the property under the past ownership for --

CONSTANTINE ALEXANDER: You can sit down, gentlemen. It's up to you, you can stand.

ATTORNEY JAMES JACOBS: I've been sitting all day.

How long, Doug, have you been --

DOUGLAS CHO: Three or four years now. I've been working there since 2007.

ATTORNEY JAMES JACOBS: I'd like the Board to stop me because this could be a very simple matter. You may not need to know any more than I've already said. But the establishment sells bubble tea.

Mr. Cho brought a few glasses of it.
It's a tea with tapioca things in it.

CONSTANTINE ALEXANDER:

Bubbles.

ATTORNEY JAMES JACOBS: Yeah.

I've never had it before. He sells mocha ice cream which is a sticky rice thing. And he sells some products which I gather are sort of blends of that, smoothies and slushes and the like. It's obviously served a purpose in the neighborhood. It's served the community for eleven years. If it didn't serve the community, it would be out of business. So it's got customers who value its presence.

It's a totally walk-in business. Aside from the fact that I've never seen anybody stop on JFK Street to run in and get a cup of mocha tea. Mr. Cho hasn't

either.

There are many similar fast order food establishments in the neighborhood. I listed them in the application, but they include Dado Tea, Tealuxe, Starbucks, Tasty Burger, Crazy -- somebody's pizza, J.P. Licks, Boca, B. Good, and others. They're all doing the same kind of work, serving tourists, students, hungry people.

And my other argument, our other arguments are included in the application urging and supporting the Board's finding, the necessary requirements under Section 11.31 and Article 10.

CONSTANTINE ALEXANDER: You've touched on most of them, but a few you haven't touched on, why don't you do that.

Do you utilize biodegradable

materials in your packaging of the food?

DOUGLAS CHO: Well, basically we only have one kind of a packaging which is the cups similar to this and the seal that gets sealed onto it. At this time what we use, I guess is not biodegradable, but that is something that, you know, I've looked into and, you know, as things change and the price of stuff changes I would love to do.

CONSTANTINE ALEXANDER: What do you do -- it leads into the next requirement, dispose of waste. Receptacles?

DOUGLAS CHO: Oh, we have several trash receptacles in the back of our store, in the back area. They're not facing the street, it's like an enclosed parking area I guess. And --

CONSTANTINE ALEXANDER: Do you have -- just out of curiosity, do you have a receptacle right near the doorway?

DOUGLAS CHO: Oh, yes, of course --

CONSTANTINE ALEXANDER: So the patrons can use --

DOUGLAS CHO: -- of course, of course. I thought you meant, like, the bulk. We have multiple trash cans in the store. There's one right by the door that people hit on the way out.

THOMAS SCOTT: Is it a recyclable plastic?

DOUGLAS CHO: That, I, I could tell you from the bottom, yes, but these cups, we've never actually -- we recycle all the paper and cardboard products that come in and we also compost our tea.

THOMAS SCOTT: These could be put in the regular Cambridge recycle stream, right?

CONSTANTINE ALEXANDER: Yeah.

DOUGLAS CHO: I would assume.

ATTORNEY JAMES JACOBS: They're so labelled.

CONSTANTINE ALEXANDER: I've put those kinds of cups in my recycle bin so I'm sure you could.

ATTORNEY JAMES JACOBS: They're coated 5PP, whatever that means.

CONSTANTINE ALEXANDER: Here's a question, again, it's a requirement from the statute, is you have to comply with all state and local requirements applicable to ingress, egress, and use of all facilities on the premises for handicap and disabled persons. You have

a stairway going up?

DOUGLAS CHO: Yes.

CONSTANTINE ALEXANDER: How do you deal with hand -- how do you make it accessible to handicap or disabled persons?

ATTORNEY JAMES JACOBS: Handicap I don't think applies unless there's a major construction. And I'm pretty sure the property was constructed and built out before the change.

CONSTANTINE ALEXANDER: That's the state law for handicap. But for the Zoning we have to find that there is a handicap ramp accessible.

ATTORNEY JAMES JACOBS: I think the requirement is it complies with law, which it does, rather than it's handicap accessible. And unless you have a major

construction --

CONSTANTINE ALEXANDER: Yes, it says --

ATTORNEY JAMES JACOBS: -- you don't have to retrofit.

CONSTANTINE ALEXANDER: -- complies with all -- the establishment complies with all state and local requirements, applicable to ingress, egress, and use of all facilities on the premises for handicapped and disabled persons.

ATTORNEY JAMES JACOBS: Which it does. It's got legal access, legal exits, and handicap. It doesn't have ramps because it hasn't had new construction at an amount that would require retrofitting the accessibility standards. So it's grandfathered.

CONSTANTINE ALEXANDER: Good.

Thank you.

ATTORNEY JAMES JACOBS: My
pleasure.

CONSTANTINE ALEXANDER:
Questions from members of the Board?

ATTORNEY JAMES JACOBS: We have,
if I may, we've got 15 letters of support
mostly from customers. I think
neighbors. We have the owner here who
I --

CONSTANTINE ALEXANDER: I'm
going to open the matter up to public
testimony in a second. The owner or
anybody else wants to testify, they'll
have an opportunity.

ATTORNEY JAMES JACOBS: That's
all we have.

CONSTANTINE ALEXANDER: You'll

have an opportunity for closing comments.

Is there anyone here wishing to speak on this matter either pro or con?

Give your name -- you don't have to come up, give your name and address to the stenographer.

JUSTIN DETORE: Justin Detore, last name D-e-t-o-r-e. And the address you said?

CONSTANTINE ALEXANDER: Yes, where do you live, Cambridge?

JUSTIN DETORE: Brighton.

CONSTANTINE ALEXANDER: That's good enough.

JUSTIN DETORE: Yeah, real quick. I just want to say as someone who works there, there's a, there's like a loyal clientele, loyal customers, you know, from Harvard, college students, the

Asian community. You know, there seems to be a lot of affection for Boston Tea Stop amongst these people. And like I said, we have like a close knit customers, you know. So nothing too big, you know what I mean? But it seems like there's a lot of like -- like I said, a lot of affection between the customers and the Boston Tea Stop.

CONSTANTINE ALEXANDER: Your fame must be broad and wide because there's a letter of support from someone who lives in Milton.

DOUGLAS CHO: We get people from all over. We had tourists -- in the last week we had tourists from Hawaii, California, Australia. I mean we have people from everywhere that come to the store, Milton is included.

BRENDAN SULLIVAN: Hours of operation?

DOUGLAS CHO: We open for business at 12:30, there's usually somebody there by at 11 preparing everything. But we open at 12:30 p.m. and we close at 11:30 p.m. everyday.

BRENDAN SULLIVAN: Seven days?

DOUGLAS CHO: Seven days.

CONSTANTINE ALEXANDER: The hours of operation imposed in the original -- do you have the original case?

SEAN O'GRADY: I don't.

CONSTANTINE ALEXANDER: Decision? I'm just curious.

ATTORNEY JAMES JACOBS: I have it somewhere. I have the current file. I don't have the old files.

This is one of the earlier ones.
And I think it was reproduced exactly.

CONSTANTINE ALEXANDER: There's actually one before this.

ATTORNEY JAMES JACOBS: I may have that, too. What's that one? What year?

CONSTANTINE ALEXANDER: I'll tell you in a second.

ATTORNEY JAMES JACOBS: Well, I'll put it another way. Is this a different one or is that the same thing?

CONSTANTINE ALEXANDER: This says 2004?

ATTORNEY JAMES JACOBS: This was the next piece of paper. If it's identical, then it's the same.

CONSTANTINE ALEXANDER: This is the original one and it imposes the

condition that the business limits this operation between the hours between nine a.m. and one o'clock a.m. And you're clearly within that range.

DOUGLAS CHO: Yes.

CONSTANTINE ALEXANDER: Thank you, sir.

ATTORNEY JAMES JACOBS: If you like them, can you keep them? I can print more.

CONSTANTINE ALEXANDER: Let me finish the public testimony. Just hold on to them for a second. We have them in our files back at the office, we just don't have them here.

Anyone else wish to speak on this matter?

RICKY HARTMAN: Yeah, Ricky Hartman. And I'm a resident of

Cambridge. I've lived in Boston since 2006. I was a student at Tufts and I worked at the Tea Stop for basically since then, and I've noticed basically the same group of customers and also a changing base of loyal customers from as far out as Tufts and outlying schools, but I mean, I guess as a testament to the name recognition, when I was in Peace Corps Nicaragua, actually several volunteers from the Boston area knew of the store immediately and recognized my shirt and that type of thing.

CONSTANTINE ALEXANDER: And they weren't even from Milton, were they?

RICKY HARTMAN: Definitely a state of the Boston area.

DOUGLAS CHO: Milton, Nicaragua.

CONSTANTINE ALEXANDER: Is that

it? Does anyone else have any comments?

(No Response.)

CONSTANTINE ALEXANDER: I'm going to close public testimony. I will reflect in the record that we've been, we've been given about 15 letters of support. I'm not going to read them into the file. They're all incorporated as if they've been read into our record, so they're a part of our record. They're all in support, as I said, of the relief being sought.

With that, I'm going to close public testimony.

Any final comments you want to add, sir?

ATTORNEY JAMES JACOBS: I guess the comment would be if it ain't broke, don't try to fix it.

CONSTANTINE ALEXANDER: We got to go back to the conditions. I mean, I -- as this gentleman mentioned, Mr. Jacobs mentioned, the original decision back in 2003 had a whole host of conditions, including hours of operation, waste receptacles, no depths or dumpsters that would block the access to the Aruna.

Could I have the case back?

ATTORNEY JAMES JACOBS: Give me a moment. Here we go.

CONSTANTINE ALEXANDER: My view is this time around, unless the other Board members say something else, the only conditions we should impose are the hours, that they continue to be between nine a.m. and one a.m. which I think is fine.

And that the Special Permit be as this one was, be granted to you, sir, specifically and is not --

ATTORNEY JAMES JACOBS: To his LLC, actually.

CONSTANTINE ALEXANDER: I'm sorry?

ATTORNEY JAMES JACOBS: The operator is the limited liability which he is the owner.

CONSTANTINE ALEXANDER: It gives you an easy way to get around the need for -- you can just transfer the stock to the LLC.

ATTORNEY JAMES JACOBS: We would never, ever do such a thing. But the operator of the business is the LLC.

CONSTANTINE ALEXANDER: That's the application.

BRENDAN SULLIVAN: The actual language 11.33 Special Permit issued for fast food order establishment hereunder may be utilized only by the owner or operator of such establishment as described in the application documents or those documents that may be modified or something like that. So anyhow, I think it's --

CONSTANTINE ALEXANDER: It's already part of the Ordinance.

BRENDAN SULLIVAN: It's part of the Ordinance.

CONSTANTINE ALEXANDER: We don't need to pose a condition.

ATTORNEY JAMES JACOBS: Maybe it's time to change the Ordinance.

CONSTANTINE ALEXANDER: Talk to City Council.

BRENDAN SULLIVAN: Monday night.

CONSTANTINE ALEXANDER: Yes,
Monday night at City Council.

Anyway, I suggest we keep the hours of operation. We don't need the condition as you pointed out, Brendan, as being special to the individual here. And I think otherwise I'm prepared to vote in favor. But anyway, that's my comment.

BRENDAN SULLIVAN: Sure.

CONSTANTINE ALEXANDER: Anyone else have anything to say or take a vote?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we make the following findings with regard to the Special Permit being sought with regard to the fast order food establishment at 54 J.F.K. Street.

That traffic generated or patterns of access or egress will not cause -- of your premises will not cause congestion, hazard, or substantial change in established neighborhood character. In fact, this is a neighborhood that has many stores, small stores and other establishments, and your business is not such that it's going to cause congestion or hazard or substantial change.

That the continued operation or development of adjacent uses will not be adversely affected at which you're proposing. The proof there is a stack that it's been a tea shop for at least 10 years and businesses are still surviving in that area.

That no nuisance or hazard will be created to the detriment of the health,

safety, and/or welfare of the occupant or the proposed use or the citizens of the city. This is a tea shop and not a fat rendering plant or anything like that.

And further, that the proposed use will not impair the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of this Ordinance. In fact, this will be one more -- it provides a valuable service to the area, a tea shop, unlike a lot of the other food establishments in the area. So there is a need for a tea shop of this sort in this part of Harvard Square.

So on the basis of all of these findings, the Chair moves that we grant the Special Permit to the Petitioner to operate the tea shop on the condition that

the hours of operation be between the hours of nine a.m. and one a.m.

And on the further condition that all of the other conditions that were imposed in case No. 8758 back in 2003 be eliminated. So the only -- yes, sir.

ATTORNEY JAMES JACOBS: Perhaps excluding the one related to the Aruna which isn't there anymore?

CONSTANTINE ALEXANDER: They're all eliminated. The only one I'm going to keep is the hours of operation. And we don't need to impose the condition because it's in the Ordinance.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

DOUGLAS CHO: Thank you.

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

* * * * *

(7:25 p.m.)

(Sitting Members Case # BZA-004120-2014:

Constantine Alexander, Brendan Sullivan,
Thomas Scott, Douglas Myers, Slater
Anderson.)

CONSTANTINE ALEXANDER: Okay.
The Chair will call case No. 004120, 10
Fawcett Street.

Is there anyone here wishing to be
heard on this matter? Are these the same
ones in the file?

ATTORNEY RICARDO SOUSA: The
plans are the same.

CONSTANTINE ALEXANDER: Okay, go
ahead.

ATTORNEY RICARDO SOUSA: Good
evening, Mr. Chairman, and members of the
Board. For the record, once again,
Ricardo Sousa from Prince, Lobel, Tye
here on behalf of the applicant, Sprint
Spectrum. The nature of this

application is that we're asking for a Special Permit to modify our existing wireless antenna installation on this existing rooftop here at 10 Fawcett.

We have currently three panel antennas and we're proposing to add three more panel antennas adjacent to the existing ones, and together with three remote radio heads. The remote radio heads will actually be on the interior of the penthouse, the top penthouse, so they won't be visible to the public. And so, I handed out some plans and some photo simulations, but I'll just sort of walk you through it if we could.

There's a top penthouse here on the building, on Z-2, and the panel antennas are simply facade-mounted, painted to match, and they are in three locations.

These three locations. So we're going to essentially install three more panel antennas. They're actually slightly smaller than the existing ones adjacent to those three. And the remote radio heads, as you can see, sometimes they have to be facade-mounted as well, but in this case we're able to install them on the interior of that penthouse wall.

And the photos, I think, do a pretty good job at depicting the difference. So these are another person's antennas. These are existing ones right here, and the new antenna will be adjacent to that existing one.

Here on this view, same here. Our existing antenna and the future antenna.

And lastly, on this brick facade we have one existing antenna and in the end

we'll have two.

CONSTANTINE ALEXANDER: As you know, the Planning Board has written a memo to us in support --

ATTORNEY RICARDO SOUSA: Yes.

CONSTANTINE ALEXANDER: -- but they suggested some conditions. What you're showing us tonight reflect the relief they want or not?

ATTORNEY RICARDO SOUSA: They do not. And so we would be amenable, Mr. Chairman, to conditions that would require essentially two modifications I believe.

CONSTANTINE ALEXANDER: That's right.

ATTORNEY RICARDO SOUSA: The first of which is that the antennas be mounted --

CONSTANTINE ALEXANDER: Just No. 3, antenna No. 3 be lowered so as to not break the roof line.

ATTORNEY RICARDO SOUSA:
Exactly.

CONSTANTINE ALEXANDER: Then all unused mounting equipment be removed.

ATTORNEY RICARDO SOUSA: That's right.

And so they are all on this view as you can see on the brick facade. This antenna protrudes just slightly above the top of that penthouse wall. And we would be amenable to reducing it down six inches so that it doesn't break the plain. In addition to that there's an additional mount, essentially a pipe mount that we would remove. And those are the two conditions that the Planning Board

requested, and we would be absolutely amenable to making those part of the -- any decision.

CONSTANTINE ALEXANDER: Good.

ATTORNEY RICARDO SOUSA: Lastly, we also did make sure that we utilized on Z-5 of the plans, low profile mounts. So we will no longer be using pipe mounts as part of these antenna installations. They will be low profile, just two inserts.

CONSTANTINE ALEXANDER: Good.

ATTORNEY RICARDO SOUSA: And with that, Mr. Chairman, that's the nature of the application. I would be amenable to answer any questions that you might have.

CONSTANTINE ALEXANDER: And just for the record, this is not a residential

area so there's no need to make the usual findings with respect to that.

ATTORNEY RICARDO SOUSA: That's correct, Mr. Chairman, this is an Office 1 and Overlay district.

CONSTANTINE ALEXANDER: And just for the record, again, you're a licensed -- your client is a licensed carrier in good standing?

ATTORNEY RICARDO SOUSA: That's right. Sprint is licensed by the FCC to construct and operate its wireless network pursuant to FCC license and it's in good standing.

CONSTANTINE ALEXANDER: Good.

THOMAS SCOTT: What advantage does this give the carrier?

ATTORNEY RICARDO SOUSA: So, a couple of things:

First of all, it will be able to operate wireless internet access at much higher speeds, much more bandwidth. This is a new initiative by Sprint to install what's called a 2.5 antenna through the 2500 megahertz of the FCC spectrum. It's able to essentially offer much more and much better faster high speed internet access. In addition to the service it has now, which is more of a voice service, this is more internet access related. And these days more traffic is data traffic versus voice traffic. It's all over the internet. And eventually even phone traffic will be migrating over to the 2500 megahertz. And so most carriers these days have three slots of spectrum:

They have the low band, 7 to 800

spectrum. And they also have a band around the 1900 spectrum. And then they have the 2.2 or 2.5 spectrum, which that's what this is. In order to operate all three spectrums, they just simply need more antennas in order to provide service to their customers.

THOMAS SCOTT: But will the old antennas ever be removed or are they --

ATTORNEY RICARDO SOUSA: So, Mr. Scott, we actually did just replace those.

THOMAS SCOTT: Oh, okay.

ATTORNEY RICARDO SOUSA: Initially this installation had nine antennas. So about two years ago I was before this Board and we replaced their two old CDMA antennas with this one existing antenna that's there now. It's

called an NV antenna that operates two different spectrums. And this is the third spectrum that we'll be operating with a second antenna with a total of six.

CONSTANTINE ALEXANDER: Other questions from members of the Board?

SLATER ANDERSON: What's the service range of one of these antennas?

ATTORNEY RICARDO SOUSA: It varies on a lot of things: Topography, obstacles, like other buildings. But in a, in an area like the city of Cambridge, I would say anywhere between a quarter mile to a half a mile. When you go out to the suburbs, like a town like Harvard, Massachusetts, it's going more like a mile and a half, two miles. But if you hit a hill, all of a sudden you need a site on the other side of the hill. So a lot

of factors that affect the propagation. In addition to that, capacity is a big issue. So in an area like the city of Cambridge where there is a huge number of users, we need more sites to simply handle the volume. It's not a matter of will the signal go that far, we actually want to stop the signal from going too far because it's just not going to work well for the customers.

DOUGLAS MYERS: Am I correct in my reading of simulation 1, the after picture that the newly mounted antenna will not rise above the roof line?

ATTORNEY RICARDO SOUSA: That's correct.

CONSTANTINE ALEXANDER: We're going to impose a condition to that effect.

DOUGLAS MYERS: For all the antennas?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY RICARDO SOUSA: We're amenable to that condition.

CONSTANTINE ALEXANDER: Yes. I'll get to it in a second.

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 there is no one who wishes to be heard.

The Chair would report that we are in receipt of a memo from the Planning Board with regard to this petition.

(Reading) The Planning Board reviewed the

proposed installation and found it to be appropriate. The Planning Board appreciates the location of the installation away from the Fresh Pond Reservation, a significant public open space in this neighborhood. Overall the installation is designed to minimize the visible impacts of the antennas. The Planning Board recommends to the Board of Zoning Appeal that any Special Permit contain conditions that all unused mounting equipment be removed, and that antenna No. 3 be lowered so as to not break the roof line from the public street view.

We already talked about this.

ATTORNEY RICARDO SOUSA: Yes, of course.

DOUGLAS MYERS: And my question concerned that shown in simulation No. 1.

CONSTANTINE ALEXANDER: Right. This is antenna No. 3. I don't any which one antenna No. 3 is.

DOUGLAS MYERS: Your question is well taken. Maybe we're talking about the same thing. I understood it to be simulation No. 3, but clearly the new antenna would be, would have been above the roof line.

CONSTANTINE ALEXANDER: He indicated that the photo simulations do not reflect the Planning Board's comments. These are what the Planning Board saw and made a comment.

ATTORNEY RICARDO SOUSA: Right, that's correct. Exactly right.

DOUGLAS MYERS: In any event, the order will be -- it will apply to all the new antennas.

ATTORNEY RICARDO SOUSA: I think that's very appropriate. I think we can make that a condition that all antennas will not break the plain of the top of the penthouse.

BRENDAN SULLIVAN: So our understanding is that sheet Z as in Zebra-5 detail 1, Z-4, typical antenna and RH mounting detail shows that the antenna does not go above the roof line. So we're assuming that's going to be a typical installation.

ATTORNEY RICARDO SOUSA: That's right, Mr. Sullivan.

BRENDAN SULLIVAN: Okay, yes.

And that's the low profile mount?

CONSTANTINE ALEXANDER: That's on the plans as such.

ATTORNEY RICARDO SOUSA: Right,

yes.

BRENDAN SULLIVAN: That's as close to the building as we can get.

ATTORNEY RICARDO SOUSA: Right.

BRENDAN SULLIVAN: Do they ever -- I mean, all of these antennas, you know, they're necessary bites of the landscape, but they're always mounted vertically because the spectrum goes off in a fan shape. Is that basically what it is? There is absolutely no way they can be a band --

ATTORNEY RICARDO SOUSA: There's no way. I tried to ask in so many different directions with so many different clients and so many different RF engineers, they're not manufactured that way.

BRENDAN SULLIVAN: And do they

ever actually tweak those?

ATTORNEY RICARDO SOUSA: They do. They will do, after the initial installation they'll do what's called an optimization where the RF engineer comes back and potentially simply just works on the tilt more so than anything else.

CONSTANTINE ALEXANDER: That's manual?

ATTORNEY RICARDO SOUSA: These days. These days they actually have remote tilts that we can do remotely. But it's usually -- the first installation is done manually by the RF engineer, yeah.

BRENDAN SULLIVAN: Okay.

ATTORNEY RICARDO SOUSA: Yes.

CONSTANTINE ALEXANDER: Ready for a vote?

BRENDAN SULLIVAN: Yes. Well, I don't know, public comment?

CONSTANTINE ALEXANDER: We had the public comment.

BRENDAN SULLIVAN: Oh, you did? I missed that.

CONSTANTINE ALEXANDER: And I read the Planning Board memo into the record.

THOMAS SCOTT: Can I ask a question? We typically see coverage maps that show coverage. Is the coverage of this facility more specifically Cambridge than Belmont? Because I know we're very close to Belmont in this site.

ATTORNEY RICARDO SOUSA: Yeah, so the existing coverage is not going to change much from where it is now, and that's the reason I didn't bring coverage

maps, is that we already have coverage in this area, and so we're just bringing in additional service within that coverage area.

THOMAS SCOTT: I see.

ATTORNEY RICARDO SOUSA: So I think it is going to cover part of Belmont Street, but there's a significant amount of traffic as you know is on Fresh Pond Parkway there and the rotary, that shopping center, even the residential buildings up -- further up towards Route 2. It covers a pretty big area.

THOMAS SCOTT: And the residential buildings?

ATTORNEY RICARDO SOUSA: Those as well, but I was talking about the very large ones, the housing authority ones perhaps.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: Okay.

I'm going to frame a motion.

The Chair moves that this Board make the following findings with respect to the application being made. That the petitioner has submitted testimony that it is a duly licensed FCC carrier currently in good standing.

That the petitioner has taken steps to minimize the visual impact of what is being proposed, and further take steps to minimize the visual impact by one of the conditions that we're going to impose as part of this -- the Special Permit that's to be granted. So that we're going to vote on whether to grant.

That traffic generated or patterns of access or egress as a result of this

will not cause congestion, hazard, or substantial change in established neighborhood character. In fact, what is being done is just to add three more antennas to the rooftop and the prior antennas, of course, no congestion, hazard, or substantial change in the established character.

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

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, therefore, that the proposed use will not impair the integrity of the district or adjoining district or otherwise derogate from the

intent and purpose of this Ordinance.

In this regard the Chair would note that the Planning Board is in support of the relief being sought and there apparently is no opposition to the relief being sought by citizens of the city.

Therefore, on the basis of these findings, the Chair moves that we grant the Special Permit being requested subject to the following conditions:

That the work proceed in accordance with photo simulations submitted by the Petitioner, the first page has been initialled, and plans submitted by the Petitioner. There are several pages in length, the first page being T-1 also initialled by the Chair.

That should these antennas be discontinued for a period of at least six

months, that they be promptly removed and that the building be restored to its prior condition to the extent reasonably possible.

We have a longer special condition we're now imposing on our telecom cases. I don't think there's anything else under the general. Am I missing any?

(No Response.)

CONSTANTINE ALEXANDER: Okay.
I don't think so.

And then lastly, a final condition which I will read as follows:

Inasmuch as the health effects of the transmission or electromagnetic energy waves as a matter of ongoing societal concerns and scientific study, the Special Permit that's being voted on tonight is also subject to the following

conditions:

The Petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves, emissions, emanating from all of the Petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. This is important. Failure to timely file any such reports with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

Two, in the event that at any time federal authorities notify the

Petitioner that its equipment on the site, including, but not limited to the equipment permitted by the Special Permit granted tonight, fails to comply with the requirements of law or government regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, the Petitioner, within 10 business days shall -- 10 business days of receipt of notification of such failure, shall file with the Inspectional Services Department a report disclosing in reasonable detail as such failure has occurred and that basis for such claimed failure in 60 calendar days after the receipt of the filing by the Petitioner of such notification of failure, a Special Permit granted tonight shall ipso facto terminate.

Three, to the extent that the Special Permit has terminated pursuant to the foregoing paragraphs one and two, the Petitioner may apply to the Board for a new Special Permit, provided the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special Permit pursuant to paragraph one and two.

Any such new application shall not be deemed a repetitive petition and therefore will not be subject to the two-year period during which repetitive petitions may not be filed.

So basically, editorializing, it's a little bit of a good boy provision. We want to keep the citizens of the city apprised of what's going on with respect

to electromagnetic wave emissions and to the extent that you fall out of standing, at least with respect to this site, we want to know about it and we'll review the situation.

ATTORNEY RICARDO SOUSA: I understand, Mr. Alexander.

CONSTANTINE ALEXANDER: Okay. On the basis of these findings with these conditions, all those in favor of granting relief say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

ATTORNEY RICARDO SOUSA: Thank you.

* * * * *

(7:45 p.m.)

(Sitting Members Case # BZA-004125-2014:

Constantine Alexander, Brendan Sullivan, Thomas Scott, Douglas Myers, Slater Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 004125, 1815 Massachusetts Avenue.

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

ATTORNEY RICARDO SOUSA: Good evening, Mr. Chairman, members of the Board. On behalf of Sprint, Ricardo Sousa from Prince, Lobel and Tye.

In light of a what I would consider a negative recommendation of the Planning Board, we went back and modified the nature of this application to essentially reduce what we're doing there from adding three antennas and remote radio heads to essentially simply removing some

antennas and swapping them with new ones. So there will be no new net add of antennas.

Given that change and the need to re-advertise and in speaking with Mr. O'Grady, we think it would be appropriate to file a new application with the Board and to continue this particular application to a date in the future so that we can have an opportunity to re-file.

CONSTANTINE ALEXANDER: What date do you have in mind? How much time do you need? When would you like to --

ATTORNEY RICARDO SOUSA: I will file the new application as early as next week.

CONSTANTINE ALEXANDER: You have to go back to the Planning Board, don't

you?

ATTORNEY RICARDO SOUSA: We do.

However, I have actually gone back to the Planning Board, submitted them new plans in anticipation of tonight's hearing. I will now inform them that a new application will be filed, and I will get a ruling from Liza as to whether or not she can simply change the recommendation to affect a new BZA number or whether or not I'll have to go back to her.

And so perhaps an appropriate continuance would be two hearings from now if appropriate? If you have something available.

SEAN O'GRADY: I'm sorry, I lost track.

CONSTANTINE ALEXANDER: We're

trying to pick a date for the --

ATTORNEY RICARDO SOUSA: For the continuance.

CONSTANTINE ALEXANDER: 16th for two from now.

SEAN O'GRADY: You've got to file the new case, and I'm not sure what the new date is but the end of October.

ATTORNEY RICARDO SOUSA: Is that right? Okay.

SEAN O'GRADY: SO you want to be out beyond that.

ATTORNEY RICARDO SOUSA: So sometime in November that's fine.

SEAN O'GRADY: November 6th.

CONSTANTINE ALEXANDER: Fine.
It's a case not heard. I mean,
chances -- it's almost impossible we're
going to hear this case on the merits

anyway.

ATTORNEY RICARDO SOUSA: I agree, Mr. Chairman, absolutely.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case not heard until seven p.m. on November 6th or 16th?

ATTORNEY RICARDO SOUSA: November 6th.

CONSTANTINE ALEXANDER: November 6th. On the condition that the Petitioner sign a waiver for time for decision.

That the new -- any new plans with respect to this case be in our files no later than five p.m. on the Monday before November 6th.

And lastly, that the posting sign, which by the way, has been damaged. You

might want to go back --

ATTORNEY RICARDO SOUSA: For
1815?

CONSTANTINE ALEXANDER: -- to
reflect the new date and time.

I think you need a new sign. The
other one is ripped off.

ATTORNEY RICARDO SOUSA: Okay,
we can do that.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

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

* * * * *

(7:50 p.m.)

(Sitting Members Case # BZA-004715-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Douglas Myers, Slater
Anderson.)

CONSTANTINE ALEXANDER: Now
we'll move to our regular agenda.

The Chair will call case No. 004715,
249 Walden Street.

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

RACHEL CHIPMAN: Hi, good
evening.

CONSTANTINE ALEXANDER: Good evening.

RACHEL CHIPMAN: Can you see? I'm sorry.

CONSTANTINE ALEXANDER: That's okay.

RACHEL CHIPMAN: My name -- yep. My name is Rachel Chipman. And I work for Network Building and Consulting and I'm an agent for Metro PCS. Also I'm an attorney by trade, but I'm here as an agent for Metro PCS. Just to give a little bit of idea of what Metro PCS is, it's a low cost, no contract wireless provider and was recently acquired by T-Mobile as I'm sure you're aware of. It's working a modernization project program, and this is what I'm here for today. The sites at Walden Street, as we

said, and the relief sought is to proceed with the modernization at the rooftop structure.

And I provided you with a copy of the photo sims in that packet, but these are just kind of enlarged kind of color idea of what's going on.

So currently there are six antennas, and actually concealed inside the fiberglass chimney.

CONSTANTINE ALEXANDER: Three chimneys, right?

RACHEL CHIPMAN: Excuse me?

CONSTANTINE ALEXANDER: Three chimneys.

RACHEL CHIPMAN: Yes, exactly, yep.

CONSTANTINE ALEXANDER: Three antennas.

RACHEL CHIPMAN: So they will continue with the chimney on the rooftop. And for modernization the antenna code will actually be reduced. So it would be reduced from the three antennas concealed inside the chimneys -- I'm sorry, it would actually be reduced from six to three antennas.

CONSTANTINE ALEXANDER: But all within the chimneys. So you can't see that there's six now and not be able to see the three in the future.

RACHEL CHIPMAN: Exactly. It will be concealed within the chimney.

CONSTANTINE ALEXANDER: You're also asking for nine some sort of mounts? Let me look at my notes.

RACHEL CHIPMAN: Yes, so there's --

CONSTANTINE ALEXANDER: Where are they going to be?

RACHEL CHIPMAN: Also, so there's going to be this -- we call them TMA towers, mounted amplifiers to enhance the service. Those will be in the existing pipe within the chimneys as well. It's not going to be outside.

CONSTANTINE ALEXANDER: The chimneys are going to each have, each are going to have an antenna plus I guess three per chimney TMA?

RACHEL CHIPMAN: TMAs. Well, I actually have the plans here.

CONSTANTINE ALEXANDER: I couldn't figure that out from the plans where they were going to be.

RACHEL CHIPMAN: Yes. So, yes, there would be three tower mounted

amplifiers per antenna.

CONSTANTINE ALEXANDER: So the most visual, which is one of our major concerns --

RACHEL CHIPMAN: Of course.

CONSTANTINE ALEXANDER: -- in a telecom case. The visual impact, absolutely no change to what's there right now?

RACHEL CHIPMAN: Absolutely no change because everything is in the chimney. When I went to the Planning Board on Tuesday they approved it because there were no changes. Unless you went inside the chimney unless you wanted to go do that.

DOUGLAS MYERS: It only happens once a year.

CONSTANTINE ALEXANDER: Santa

Claus would be fried.

RACHEL CHIPMAN: So the equipment cabinets that are in the basement --

BRENDAN SULLIVAN: I was going to say it's getting crowded in here.

CONSTANTINE ALEXANDER: I'm sorry, go ahead.

RACHEL CHIPMAN: That's okay.

The equipment cabinets in the basement are going to stay the same. Nothing is going to change there. And as far as from a Zoning perspective, visual impact of the facilities will continue to be minimized because it's being concealed. The facility won't have any adverse affect on the operation of the adjacent uses of the property, and it won't generate any traffic of course or

no nuisance. And it will not cause any increase to the height or change to the footprints and the antennas are actually going to be lowered from six to three.

CONSTANTINE ALEXANDER: And for the record, is your client or your principal a duly licensed FCC carrier?

RACHEL CHIPMAN: Yes, they are.

CONSTANTINE ALEXANDER: In good standing?

RACHEL CHIPMAN: Yes, they are.

DOUGLAS MYERS: Would the net result of these changes be an increase in range or more power in any way generated by these antennas?

RACHEL CHIPMAN: Yeah. So it's actually for Metro PCS. They're trying to upgrade their LTE service. So this is going to enhance the LTE service within

the area. And that's part of their 2014 modernization project.

We'll allow even the higher end Smartphones to work better.

CONSTANTINE ALEXANDER: Any further questions from members of the Board?

SLATER ANDERSON: You approved these faux chimneys not that long ago, right?

DOUGLAS MYERS: Oh, five years ago.

SLATER ANDERSON: Time flies.

DOUGLAS MYERS: I sat on the panel.

SLATER ANDERSON: Yeah, I remember that. Maybe it's just that we've seen this building.

RACHEL CHIPMAN: It was 2009.

CONSTANTINE ALEXANDER: We're going to see it again.

RACHEL CHIPMAN: Yeah, you're seeing it again. Yeah.

CONSTANTINE ALEXANDER: Okay. 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 there is no one wishing to be heard.

The Chair would report that we are in receipt of a memo, a brief memo from the Planning Board, which states with respect to this petition. (Reading) The Planning Board reviewed this application for antenna replacements and finds that

there is no visual impact of installation and no design concerns regarding the antennas. That's all she wrote.

I'm going to close public testimony. Do you have any final comments you want to make, if you want to make, you don't have to make, it's up to you.

RACHEL CHIPMAN: I think the case is pretty, you know, self-explanatory. There aren't going to be really any changes. When I applied for the Building Permit, I was told that any changes need to go before the Board and so that's why I'm here this evening.

CONSTANTINE ALEXANDER: That's correct. Are we ready to are a motion?

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

That traffic generated or patterns of access and egress as a result of this project will not cause congestion, hazard, or substantial change in established neighborhood character.

As indicated, the -- what's going to be done is going to be from a visual point of view no different than what is there right now because all of the relief relates to within the faux chimneys that were part of the Special Permit we earlier granted. That continued operation or development of adjacent uses will not be adversely affected by putting new antennas inside these chimneys.

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

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

In this regard the Chair, at the risk of being repetitive, there is no change in the visual impact.

That the relief being sought is almost internal in its nature, although it's external on the roof, but this petition has the support or lack of any objection from the Planning Board.

So on the basis of all these findings, the Chair moves that we grant the Special Permit being sought on the following conditions:

One, that the work proceed in accordance with the plans submitted by

the Petitioner. The first page has been initialled by the Chair. That's T1.

And that the work be consistent with the photo simulations that you've submitted and are part of our file, the first page of which has been initialled by the Chair.

And to the extent that you discontinue the use that we're approving tonight, that they be promptly removed and -- well, to the extent necessary, restore the building's facade to the -- to make it as close as possible to what was there before, but although it would seem in this case the faux -- the inside of the faux chimney that's likely not going to be much of an issue.

And lastly, we have the special condition, it took me a while to read, and

you may have heard me read it to the prior Petitioner. These are conditions for your information we're imposing on all telecommunication Special Permits to reflect comments that we've heard over the weeks, months, and even years from citizens of the city about their concerns.

And so I'll read it and this will be a final condition:

Inasmuch as the health effects of the transmission or electromagnetic energy waves as a matter of ongoing societal concern and scientific study, the Special Permit is also subject to the following conditions:

One, the Petitioner shall file with the Inspectional Services Department each report it files with the federal

authorities regarding electromagnetic imaging waves, emissions, and the relief from all of the Petitioner's equipment on the site.

Each such report shall be filed with the Inspectional Services Department no later than 10 business days after the report has been filed with the federal authorities. Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit we're granting tonight.

Two, in the event that any -- that at any time federal authorities notify the Petitioner that its equipment on the site, including, but not limited to the equipment, being permitted by the Special Permit granted tonight, fails to comply

with the requirements of law or governmental regulation. Whether with regard to the admissions of electromagnetic energy waves or otherwise, the Petitioner within 10 business days of receipt of such notification of such failure, shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure, and 60 calendar days after receipt by the Petitioner of such notification of failure, the Special Permit granted tonight shall ipso facto terminate.

Three, to the extent that the Special Permit has terminated pursuant to the foregoing paragraphs one and two, the

Petitioner may apply to the Board for a new Special Permit provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special Permit pursuant to paragraphs 1 or 2 above.

Any such new application shall not be deemed a repetitive petition and, therefore, will not be subject to the two-year period during which repetitive petitions may not be filed.

Again, the idea is if there are problems from a regulatory point of view or scientific points of view, we want to know about it, we want to be able to revisit the case and do this all over again.

So on the basis of these findings and subject to the conditions I've just indicated, I move that we grant the Special Permit being sought by the Petitioner.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

RACHEL CHIPMAN: Thank you very much. Have a good evening.

* * * * *

(8:00 p.m.)

(Sitting Members Case # BZA-004576-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Douglas Myers, Slater
Anderson.)

CONSTANTINE ALEXANDER: The
Chair will call case No. 004576, 358
Broadway No. 3.

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

FRED MEYER: My name is Fred
Meyer, M-e-y-e-r, 83 Hammond Street.
I'm a real estate agent and my client to
whom I sold this property is Peter
Sheinfeld who is here tonight. It's a
very unusual property. It is a mixed use
building at the corner of Broadway and
Broadway Terrace. Ten years ago I sold
the top floor to a residential tenant.
That's currently the only residential

unit in the building. It was bought by a couple who -- for their son, and the son and his fiancée are still living there. And I have a letter from that tenant supporting this application.

The second floor is divided into two. The front part is a small office condo. It's four condos in total. The front unit is just a two room office. The back unit, which is what this Variance is sought for, has been a three room office, but strangely it has a connection for a gas stove because it used to be an apartment. It has a kitchen counter and it has a hookup for a washer and dryer. So it's an extremely unusual office suite to say the least. It looks like a residential unit but it's not.

The first floor is a commercial unit

and it is a school for the training of phlebotomists and other health sciences professionals and that tenancy will continue.

Peter Sheinfeld has just bought all the parts of the building except the top floor. So that accounts for all the ownership.

Now the back side of the building --

CONSTANTINE ALEXANDER: I'm sorry, my mind drifted for a second. Your client, Mr. Sheinfeld owns all of the units?

FRED MEYER: Owns three of the four units.

CONSTANTINE ALEXANDER: This is a condominium association?

FRED MEYER: It is a condominium association.

CONSTANTINE ALEXANDER: Is there anything in the condominium documents that prohibits residential purposes?

FRED MEYER: Not at all.

CONSTANTINE ALEXANDER: Nothing that requires any condo residential approval?

FRED MEYER: Not at all. And all of the owners of all four units support this change. And in addition all these people are neighbors who support the change.

The other unusual factor of the building, and I apologize that this picture is so small, but the back of the building is an outside stairway, and that is used just as much or more than the main entrance at the front which has an intercom and goes to each of the four

units. There's also a central station fire alarm. It rings in the fire department and that connects via a home -- via a phone line which I'll mention later on.

Now behind the property is a three car -- is, excuse me, a four car garage and there are two outside spaces, one of which is tandem. So it's two tandem spaces plus one freestanding.

And the other unusual thing about the property is it is shown by the Assessor's as two separate lots. Although they're really all one property. This is Broadway here and here's the building, but behind it is the parking area and lot. So you need to look at the two pictures together. If this garage parking area were directly behind it, it

would have enough rear yard requirement, but it's not, so that's one of the things that the Variance is for. And the only other thing that the Variance is for is it's -- the two buildings are too close to one another, the garage building and the --

CONSTANTINE ALEXANDER: I'm sorry, from the file I didn't see any need for Zoning relief for the type you're indicating. I thought your problem was simply you don't comply with 5.26 which is the requirements you want to convert a -- you want to create a new dwelling unit. I mean, am I wrong?

SEAN O'GRADY: No, you're right.

CONSTANTINE ALEXANDER: There's no relief. There's no problems with --

FRED MEYER: Okay. With the

dimensionals. Okay. I thought there was. But I'm an amateur at this so I could be wrong.

Now I'd like to read you a letter, which (inaudible), but this is the key person involved. There was an upstairs tenant who has three commercial units below it. And this is what he says:

(Reading) As a lone resident at 358 Broadway I can attest to the fact that my fiancée and I are eager to have a new residential unit in the building.

Having a business below us resulted in cars clogging the space in front of our stairway, and that -- this is the Assessor's picture. I didn't take this. They just took this at a random time. And you can see the cars and the stairway is right here, because these two, the

building goes all the way to the back, and right behind it is this parking area. And there were four or five cars that used that office. And the perspective residential tenant who was here has no car. So instead of four or five cars blocking the back entrance to the building, there will be no parking with this unit. And this is one black from City Hall Annex, and as I'm sure having gone there it is a very hard area for parking so this will add more parking spaces.

Now to continue with the letter.

(Reading) ...cars clogged in the space in front of our stairway. And during the day the sounds of people entering and exiting the office were persistent. Furthermore, when the business left, they

removed the phone line that connected to the fire department resulting in an unsafe living condition for us. So there was a period when this central station fire alarm was not connected.

With residents in the unit below us we feel much safer in the knowledge that not only will a residential line with connection to the fire department be installed, but there will be other people invested in the property in a way that is more than commercial. We can rely on others to help maintain the property to watch over our apartment while we are away.

See, now if they leave, there's no one there at night. And three business units. And to help us to take care of issues that might arise beyond the scope

of a normal working day, we fully support this change, the change of this unit from commercial to residential and hope that this comes to pass. Best, Alex. And his name is Alex Tzelniz and he is the son of the owners. And I have that.

CONSTANTINE ALEXANDER: We have a letter in our files from a Maury and Percy Tzelniz completely different letter in support.

FRED MEYER: Yes, that's his parents.

CONSTANTINE ALEXANDER: Who lives there?

FRED MEYER: Their son. Maury and Percy are the mother and father who own it.

CONSTANTINE ALEXANDER: Okay.

FRED MEYER: And their son Alex

Tzelniz and his fiancée live there. They bought it for their son.

CONSTANTINE ALEXANDER: Got it.

FRED MEYER: They bought a unit -- I sold them. They bought a unit for their son and a unit for their daughter.

DOUGLAS MYERS: Well, while we're talking about ownership --

FRED MEYER: Yes.

DOUGLAS MYERS: -- who under your application and what you're projecting to us tonight, who is going to be the owner of unit 3?

FRED MEYER: The owner of unit 3 is -- the closing's already occurred, he's right here, is Peter --

DOUGLAS MYERS: And the use will be rented to a tenant?

FRED MEYER: That's correct.

DOUGLAS MYERS: I thought I inferred that from what you were saying.

FRED MEYER: That's right, it won't be owner-occupied. Peter lives a block away on Lee Street and is able to watch over the property.

And this shows you the ownership agreement for the Tzelnizes.

So, to me it's a very simple case. Nothing is going to change physically. It's a change of use. Washer and dryer will be connected to the existing condition. The gas stove that used to be there, a new gas one will be put in. It will become a residence. So the unit, instead of being -- the building instead of being three office units with one lone residents will be two and two. And that

seems much more appropriate. It adds safety, it removes cars parking on the street because they now can be rented to people, and it just, it's adding affordable housing which is one of the goals of the Zoning. So I think it's a minor Variance that will do a lot of --

CONSTANTINE ALEXANDER: Well, for us to grant the Variance, whether it be major or minor, we have to make findings as a result of law.

FRED MEYER: Of course.

CONSTANTINE ALEXANDER: One is that a literal enforcement of the provisions of the Ordinance will involve a substantial hardship to the petitioner.

FRED MEYER: Yes.

CONSTANTINE ALEXANDER: I think you've addressed that in terms of the fact

that this -- left with a unit that's not susceptible to office use and more susceptible to residential.

FRED MEYER: Right. And it sat for a better part of a year not bought because office tenants didn't want it. It's -- they don't -- they want a place that's more all office building.

CONSTANTINE ALEXANDER: And that the hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures, and especially affecting land and structure but not affecting the Zoning District in which it is located.

FRED MEYER: Right. And this is a unique building. It's mixed use, and it's a unique lot. It's very awkward. So it wouldn't apply generally at all.

CONSTANTINE ALEXANDER: And that the last one is that the relief would not create substantial detriment to the public good or nullify or substantially derogate from the intent and purpose of this Ordinance. I think you addressed that in terms of creating another affordable housing unit --

FRED MEYER: Yes.

CONSTANTINE ALEXANDER: -- and being certainly more rational use of the structure itself.

FRED MEYER: Yes.

CONSTANTINE ALEXANDER: Which is not susceptible to having commercial use on the second floor.

FRED MEYER: Right. And one of the neighbors is former City Councillor Larry Ward who strongly supports and is

fairly aware of community needs.

CONSTANTINE ALEXANDER: Any comments from members?

BRENDAN SULLIVAN: Fred, is there a deeded parking space in the garage or somewhere else on the lot for this unit?

FRED MEYER: No. None of the parking spaces or garages go with any particular unit.

BRENDAN SULLIVAN: Okay. So it does not have parking?

FRED MEYER: That's correct.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Well, it does have parking but not dedicated parking. Parking is allowed behind it, it's just first come, first serve.

BRENDAN SULLIVAN: But it's not

dedicated to the unit?

FRED MEYER: That's right.

BRENDAN SULLIVAN: It's
available but not deeded?

FRED MEYER: And so the unit can
legally and morally be rented to someone
without parking which is exactly what my
client wanted to do. He wanted to have
an affordable unit. He could have gotten
a much higher rent if he combined it with
either a garage or an outdoor parking
space.

CONSTANTINE ALEXANDER: What's
your client going to do with the other
office unit?

FRED MEYER: Rent it out.

CONSTANTINE ALEXANDER: The
office unit?

FRED MEYER: No, the office unit

could -- he hasn't rented that yet. They might want a parking space. But he has -- the other spaces will be --

CONSTANTINE ALEXANDER: Should we expect another petition for converting another unit?

FRED MEYER: No, no, no. The other unit is going to stay office. It will not --

CONSTANTINE ALEXANDER: Honest engine.

FRED MEYER: It will be half and half.

THOMAS SCOTT: So which unit is going to be converted, the rear or front?

FRED MEYER: Let me explain. The first floor is unit 1. The second floor is unit 2 and 3. The front, unit 2 is office and will remain so. That

doesn't have any bathrooms or let alone a kitchen, so it couldn't be a residence.

And unit 3, which is the rear of the second floor will become residential. And unit 4 is already residential.

Oh, one thing I should add, this rear unit actually looks out on a lot of open space because next-door is a non-buildable vacant lot. There was a house there but it burned and they can't -- it's only 1440 square feet so nothing more can be built there. And that's one direction.

And then from the second floor it overlooks the one-story garages. So it still has quite a view. So the view is perfectly appropriate for residents. It's got big windows. And by the way, it has Mitsubishi air conditioning units in

it so each room has its own air conditioner -- it goes, it's what's called a split system. It goes to a compressor on the ground. Very well suited as a nice apartment already.

CONSTANTINE ALEXANDER: Let me point out to other members of the Board and for the record, the reason why you need a Variance here. Because it's rather technical and limited in nature.

Under Section 5.26 of our Ordinance, to create a new dwelling unit by conversion or existing unit you have to meet four requirements. I'm not going to go into all four, but you meet three or your client meets three of them. The one that you don't meet is private open space. There is zero open space now given whether the structure is on the property and there

will be zero afterwards.

FRED MEYER: Right.

CONSTANTINE ALEXANDER: And so you don't meet that requirement. All other requirements you do meet. And so that is the only reason why you're here before us.

FRED MEYER: Is there a Zoning -- is there an open space requirement in this business district?

CONSTANTINE ALEXANDER: In all districts there's open space. Well --

SEAN O'GRADY: It's split. It's split. That is some, yes, some, no, depending on the property.

FRED MEYER: Depending on the use. I follow.

SEAN O'GRADY: Here there is a requirement, yes.

CONSTANTINE ALEXANDER: Any questions from members of the Board before public testimony?

(No Response.)

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

Sir, give your name and address to the stenographer, please.

LARRY WARD: Larry Ward, W-a-r-d, 372 Broadway. Thank you, Mr. Chair, Committee. I've lived at 372 Broadway for about 27 years so I've seen some changes to the place in that neighborhood. And I'm in support of that space becoming a residential unit.

A, it creates more housing in Cambridge which we could definitely benefit from.

And, B, as an office space it just doesn't work. It really does not work. And I've known Peter for quite a while. I'm happy that -- he's not talking about development there. He's talking about taking an existing space and making it a unit out of it as opposed to tearing it down and redeveloping the property which I think will -- I would not be in support of. And hopefully you will see that as well and agree that this is a good use of that property for now. I think it's the best use actually.

CONSTANTINE ALEXANDER: Thank you. And thank you for taking the time to come down. We appreciate it.

LARRY WARD: Thank you.

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

PHILIP TRACY: Good evening.

Philip Tracy, T-r-a-c-y. So we're actually the perspective tenants.

CONSTANTINE ALEXANDER:

Tenants.

PHILIP TRACY: Yep. It's been a wonderful unit. It's very nice inside and partly for me and my girlfriend it's been the only unit we've been able to find in the neighborhood in our price range. My girlfriend is currently living at 220 Prospect for the past four years. I've been there for the past year. It's been difficult finding anything as nice as this in the range and we'd like to find.

CONSTANTINE ALEXANDER: Do you have a car? Does your girlfriend have a car?

PHILIP TRACY: No, she doesn't.

CONSTANTINE ALEXANDER: You don't have a car?

PHILIP TRACY: No.

CONSTANTINE ALEXANDER: So parking is not an issue for you in terms of this property?

PHILIP TRACY: No, not at the moment, no. Yeah, just really good space and it's very nice and really looking forward to getting into it.

CONSTANTINE ALEXANDER: Thank you for coming down.

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER:
Apparently not.

The Chair would report we are in receipt of a letter that I referred to earlier from Maury and Percy

T-z-e-l-n-i-z, Tzelniz. (Reading)

We've read Peter Sheinfeld's application for a Variance to convert unit No. 3 on 358 Broadway from a commercial office to a residential apartment. That apartment will be directly below our unit 4, sharing a common hallway and stairway. We support the change for the better -- we support this change for the better. It will be good to have a live-in neighbor here -- there instead of many nine to five ones. Please forward this to the appropriate person at the Board of Zoning Appeals.

And that's all we have.

I'm going to close public testimony. Questions or comments from members of the Board or are we ready for a vote?

BRENDAN SULLIVAN: I think that

letter basically sums it up for me, is that if I lived on the top floor, I'd want somebody below me.

CONSTANTINE ALEXANDER:

Particularly that's absolutely right.

BRENDAN SULLIVAN: And not just nine to fivers as that letter says. It makes sense.

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 in the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that he's left with an unusual structure.

That the office use on this of unit No. 3 is very inappropriate and,

therefore, precludes him from realizing on his investment in the property.

That the hardship is owing to the nature of the structure. It is an unusual structure with a combination, as we've heard, of residential and commercial uses. And a commercial use on the second floor, at least with respect to the unit No. 3, doesn't work for commercial purposes.

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

In this regard the Chair notes that the relief being sought would add affordable housing unit for the city of Cambridge which is always desirable for

our city. And that there is no opposition to the petition, and in fact, we've had one gentleman come down and besides the perspective tenant in support of the petition.

So on the basis of these findings, the Chair moves that we grant the Variance being sought to allow the conversion of unit No. 3 from a commercial purpose to a residential purpose.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: Good luck.

(8:20 p.m.)

(Sitting Members Case # BZA-004521-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Douglas Myers, Slater
Anderson.)

CONSTANTINE ALEXANDER: The
Chair will call case No. 004521, 27-29
Locke Street.

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

WILLIAM WINDER: Hi, I'm William
Winder, architect. I'm at 11A Meacham
Road. Some years ago they snuck that in
under your guys' noses about 120 years
ago. This is Kevin Lahey.

KEVIN LAHEY: Kevin Lahey, 29
Locke Street.

CONSTANTINE ALEXANDER: Feel
free to sit down. Don't be so formal.

WILLIAM WINDER: As stated, this

proposal is to do a dormer on the right side of the house. We looked at -- at present the house has -- there's a unit on the first floor and the Laheys own the whole house but they live on the second and third floor. The -- there's one bedroom on the first floor and a bathroom and three bedrooms on the first floor with no bathrooms.

CONSTANTINE ALEXANDER: The plans, the relief that is being sought shows two bedrooms and a study. The bedroom morphed into a study now?

WILLIAM WINDER: It could be. Angela uses one of the rooms for artwork.

CONSTANTINE ALEXANDER: I was just curious. I'm teasing.

KEVIN LAHEY: Actually, there's a captured bedroom so you have to capture.

WILLIAM WINDER: Yeah. And so, and the other issue that we had was that there was a very difficult getting up the stairs. It's a regular normal stairway, but in one place it's five-foot, three headroom.

CONSTANTINE ALEXANDER: And the third floor now has three bedrooms as you pointed out --

WILLIAM WINDER: Yeah.

CONSTANTINE ALEXANDER: -- but no bathroom?

WILLIAM WINDER: Right.

CONSTANTINE ALEXANDER: And so you have to go down stairs. And if we grant the relief you're seeking, there will be a bathroom on the third floor as well as two bedrooms and a study.

KEVIN LAHEY: We're actually

just having just two bedrooms on the third. The front room will be an open living room space.

CONSTANTINE ALEXANDER: Okay, but there will be a bathroom on each of your two floors?

KEVIN LAHEY: Correct.

WILLIAM WINDER: Very clearly you could park a baby there.

CONSTANTINE ALEXANDER: And the reason you're before us as a technical reason is you have a non-conforming structure as it is from a FAR, floor area ratio point of view. You're at 0.88 when you're supposed to be no more than 0.5. And you're going to add more space so it will bring you up to 0.9 so a slight addition to your non-conforming FAR.

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: And the other issue -- well, not issue but something we need to talk about is dormer guidelines.

WILLIAM WINDER: Right.

CONSTANTINE ALEXANDER: This project I guess technically doesn't comply with our dormer guidelines. Talk to us as to why we should grant relief anyway.

WILLIAM WINDER: Yes. Well, what we did is, and talking a little bit with the Zoning Department, Sean, and is that we felt that if we -- the five-foot headroom -- I don't know what you call it, but the guidelines that anything over five feet, you know --

CONSTANTINE ALEXANDER: Not five feet. It's 15 feet long.

WILLIAM WINDER: No, but the height. And if you look at --

CONSTANTINE ALEXANDER: Is there a height?

SEAN O'GRADY: I think it's --

WILLIAM WINDER: -- know how to calculate when you have a sloped roof. That's why we did this. That this area which has the 15 feet of headroom --

CONSTANTINE ALEXANDER: Right.

WILLIAM WINDER: -- it's within that and then it just extends down rather than coming straight --

CONSTANTINE ALEXANDER:
Basically I don't want to use a word that's correct, ornamental. You want to make this dormer consistent with dormer on the other side of the house.

WILLIAM WINDER: Right.

CONSTANTINE ALEXANDER: And that requires you to have a dormer that technically doesn't comply with the dormer guidelines. Did I get it right?

WILLIAM WINDER: Yes. And it also allows us to get -- it increases the head height of the stairway coming up just enough to make it so that there's more -- it's safe.

DOUGLAS MYERS: Is the dormer shown in that picture the existing dormer or the proposed new dormer?

WILLIAM WINDER: This is the proposed new dormer.

DOUGLAS MYERS: I noticed among your elevations that there was not an elevation for the left side of the house. Is that correct?

WILLIAM WINDER: Yes. Yes.

DOUGLAS MYERS: So there's no elevation that actually shows the existing dormer?

WILLIAM WINDER: No.

CONSTANTINE ALEXANDER: On the left side of the house?

WILLIAM WINDER: Yeah, there is a dormer on the other side of the house.

DOUGLAS MYERS: Yes, I know. There's no elevation.

WILLIAM WINDER: No, I don't have it with me.

CONSTANTINE ALEXANDER: Is it your representation that that dormer is consistent in dimensions and appearance with the one that's in the elevation?

WILLIAM WINDER: It's actually larger, but it does have --

CONSTANTINE ALEXANDER: The one

on the left side is larger than the one you're proposing to do?

WILLIAM WINDER: Yes.

KEVIN LAHEY: Because of the cheeks it's --

WILLIAM WINDER: Because of the cheeks, it's a little bit shorter.

CONSTANTINE ALEXANDER: But otherwise similar in appearance and gable effect, if you will?

BRENDAN SULLIVAN: It doesn't line up with the other one, though.

WILLIAM WINDER: No, it doesn't.

BRENDAN SULLIVAN: It's askew off to the side a bit.

WILLIAM WINDER: That's right.

BRENDAN SULLIVAN: And that's to, because of the stairwell?

WILLIAM WINDER: Yes, yes.

CONSTANTINE ALEXANDER: You'll have a chance for -- anything further or should I open it up to public testimony?

WILLIAM WINDER: I think the -- we tried, we tried to keep to it a minimum to get a bathroom in there. And essentially that's our -- the bathroom itself is our functional headroom of space.

THOMAS SCOTT: Is the front wall of the dormer alignment with the wall below in the same plane as the wall below or is it set back?

WILLIAM WINDER: It is because of the stairwell. It's a substantial roof overhang. The stairwell, we lined it up.

THOMAS SCOTT: So you're able to bring the roof plane across in front of the dormer?

WILLIAM WINDER: Yes. And that -- yeah, we have -- yeah, it actually, yeah, that will continue across.

DOUGLAS MYERS: What are the dimensions of the setback from the main wall of the house on this side?

WILLIAM WINDER: From here?

DOUGLAS MYERS: On the side of the front wall as Tom said.

WILLIAM WINDER: I don't have it exactly, but it's from the front wall. It's about, you got a ruler? I think I have a.... it's somewhere between three and four feet.

DOUGLAS MYERS: From the, from the wall, from the gable end of the house?

WILLIAM WINDER: No, no, from the wall.

DOUGLAS MYERS: From the wall?

WILLIAM WINDER: On the gable end. The gable end overhangs a couple feet.

DOUGLAS MYERS: Okay. All right.

KEVIN LAHEY: This the wall being --

WILLIAM WINDER: Actually, no, I'm sorry, I'm sorry. I'm sorry. I'm sorry. What's confusing is the bay, this wall and the bay are on the same, same plain.

DOUGLAS MYERS: Let me come over if I may. On your -- what is the -- why don't you hold the picture so they can see.

My question concerns this area here.

WILLIAM WINDER: Right.

DOUGLAS MYERS: What is the setback between the gable and whatever you call this, the main wall?

WILLIAM WINDER: That's what I was saying before. This wall lines up with this wall.

DOUGLAS MYERS: Flush? Flush?

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: From elevation it looks like it's not flush. At first I think is what's puzzling Doug and me.

WILLIAM WINDER: No, the roof line is fine. There's about a 14-inch roof overhang and that runs by. But this lines up.

CONSTANTINE ALEXANDER: Oh, wait a minute. It lines up with the plain of the -- below? So it's -- it's here and

here and with a little overhang here, is that what you're saying?

WILLIAM WINDER: This roof continues by but this wall and this wall line up in order to get up the stairs.

CONSTANTINE ALEXANDER: Okay. But in terms of visually, it is setback a bit from the edge.

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: From the edge of your roof line. Of your roof line.

WILLIAM WINDER: Yes.

DOUGLAS MYERS: And what about the setback of the ridge line of the house?

WILLIAM WINDER: From this point?

DOUGLAS MYERS: From the ridge

line of the roof.

CONSTANTINE ALEXANDER: The top of your dormer on the ridge.

DOUGLAS MYERS: From the ridge.

WILLIAM WINDER: The ridge, as with the dormer on the other side, they're the same height.

CONSTANTINE ALEXANDER: Is the ridge --

DOUGLAS MYERS: Are there any setback, is it flush?

WILLIAM WINDER: No.

CONSTANTINE ALEXANDER: So our dormer guidelines think in terms of size, 15 feet. It's being set down a little bit down from the ridge line and being set back a little bit from the front of that plain. What you're saying basically is that you're not -- you're going to be at

the ridge line so you're not going to comply --

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: -- with aspects of the dormer guidelines. It is larger in dimension than our dormer guidelines require or permit I should say. And you are -- it's sort of mysterious to me as to how -- it does appear to be set back from the roof ridge line, although it is, as you point out, straight flush with the house below.

WILLIAM WINDER: I mean, it's going to be a little -- it's going to be maybe four or five inches but no more. Apparently just to get to make the geometry work.

DOUGLAS MYERS: Would you -- again, I didn't scale this out

because it was beyond my technical ability, but as an architect, can you -- and with respect to the fenestration of the dormer itself, can you express an opinion about how much of the dormer's front wall area consists of windows?

WILLIAM WINDER: You're talking about this?

DOUGLAS MYERS: Yes.

WILLIAM WINDER: Oh, this is like maybe 15 percent.

BRENDAN SULLIVAN: Well, no, I think what he's -- maybe the question is how much of that surface does the window take up? In other words, whatever that area is, that -- and the dormer guidelines call for 50 percent of that facade to be window. So I guess, that window does not

cover 50 percent or I think you were looking for a number.

WILLIAM WINDER: Yeah. If you look at the usable space inside, it's close to 50 percent. But the fact that, you know, part of this, this whole corner here is really over the stairway, and it just, there was no way to put a window in there that didn't look really awkward architecturally.

BRENDAN SULLIVAN: Yes. Can I see the photos in there that I was actually trying to grab. The dormer guidelines actually, you know, shed dormer is easy to sort of chart and to sort of make it comply with, you know, coming in, coming down, all that other stuff. This type of design obviously is trying to mirror what is there. So I think

that's where the guidelines sort of get pushed aside in a sense.

CONSTANTINE ALEXANDER: Just so you understand, we have dormer -- as you know, dormer guidelines.

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: The word guidelines are not legally binding, but this Board takes those guidelines very seriously and we try to make the project comply, if we approve them, with the dormer guidelines. And if not, we want good reason as to why.

WILLIAM WINDER: And in our situation, it was not -- the style of the house really didn't lend itself to that.

CONSTANTINE ALEXANDER: I understand that's your argument.

WILLIAM WINDER: And then

combined with the idea of completed. If we were trying to get even half bath and a stairway.

CONSTANTINE ALEXANDER: It's basically a combination of need in terms of why you're doing the project in the first place.

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: Plus aesthetic trying to match the dormer to the dormer on the other side. That's the arguments as to why you don't feel you need to -- should comply with the dormer guidelines in all respects.

WILLIAM WINDER: Yes.

BRENDAN SULLIVAN: It's done a little bit more delicately.

WILLIAM WINDER: I think that if this was a shed -- not a shed -- well, a

shed dormer or a cheap dormer, it would look odd without more, you know, without more glazing. I think in this case it works. It's appropriate.

BRENDAN SULLIVAN: The shed would be incongruous to the house even though it's the house is starting to get top heavy now if you will, but anyhow.

WILLIAM WINDER: Right.

CONSTANTINE ALEXANDER: Further comments from members of the Board or shall I open it up to the public?

BRENDAN SULLIVAN: Starting to look like the House of the Seven Gables.

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

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

(No Response.)

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

The Chair would report that we are in receipt of multiple letters of support. I'm not going to read them all.

THOMAS SCOTT: Mr. Chair, I believe this woman wanted to be heard.

CONSTANTINE ALEXANDER: I think that's the wife of the applicant.

THOMAS SCOTT: She did raise her hand.

CONSTANTINE ALEXANDER: I'm sorry.

ANGELA RONBERG: It's okay. I'm Angela Ronberg, another owner of the property, and I just wanted to say that we really enjoy the neighborhood and are hoping to have a family and grow and be

able to stay in the area, and so that's also part of what went into our consideration of trying to do this construction just to make it a more comfortable place to raise a family so that we can remain in the community.

CONSTANTINE ALEXANDER: Thank you for taking the time.

Ma'am, you want to speak as well.

KATITI KIRONLE: No, I'm partner with Mr. Winder.

CONSTANTINE ALEXANDER: Okay.

As I mentioned, we are in receipt of various letters of support from -- the letters are from the resident at 25 Locke Street, 36 Shea Road. A lot more than this. Oh, here. 26 Locke Street, 32 Shea Road. I'm sorry. 32 Locke Street, 28 Shea Road, 34 Shea Road.

Where is Shea Road in reference to Locke Street?

KEVIN LAHEY: It's perpendicular. Between Mass. Ave. and Locke Street.

CONSTANTINE ALEXANDER: Okay.
So these are people in the neighborhood --

WILLIAM WINDER: It's around the corner. They're actually abutters.

KEVIN LAHEY: They're abutters.

CONSTANTINE ALEXANDER: Okay.
And 30 Locke Street and that's it.

WILLIAM WINDER: Two of the ones on Shea Road that are certainly in there literally back up to the house.

CONSTANTINE ALEXANDER: Got it.

WILLIAM WINDER: They're right here and here on the site plan.

CONSTANTINE ALEXANDER: Okay.

I'm going to close public testimony. Anything finally you want to add before we take a vote?

KEVIN LAHEY: I don't think so.

CONSTANTINE ALEXANDER: You don't have to. When we take the vote, just so you understand, we will condition -- if we grant relief, we will condition the relief on the basis that the work proceed in accordance with these plans. So these got to be the final plans. If they're not, you want to modify them, you're going to have to come back here which you probably don't want to do.

WILLIAM WINDER: No.

CONSTANTINE ALEXANDER: This is it.

KEVIN LAHEY: We taken some time that we put forward before you what we want to do.

CONSTANTINE ALEXANDER:

Sometimes people who are not experienced with us and they don't come up with final plans and then they have problems. We have a case that we're not going to hear tonight with just that problem. I want to make sure we don't waste your time and our time to making you come back again.

KEVIN LAHEY: Appreciate it.

CONSTANTINE ALEXANDER: Okay.

The Chair moves -- we're ready for a vote -- that with respect to the Variances being sought we 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 is that the third floor of the structure is -- needs expansion to make it more liveable.

That the hardship is owing to the fact that this is a non-conforming structure and any change is going to require Zoning relief.

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

In this regard the Chair would note that there is unanimous neighborhood support for the petition.

That the relief being sought is rather modest.

That the departure from the dormer

guidelines is justifiable under the circumstances, particularly in connection with the design of the dormer.

And, lastly, that relief would allow you folks to stay in the neighborhood and in the city, which is a desirable goal for young couples which is something we like to promote in the city.

On the basis of 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 and initialled by the Chair. There are one, two, three, four, five pages. All of which have been initialled by the Chair.

All those in favor of granting the Variance, please "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor?

DOUGLAS MYERS: No. One opposed.

CONSTANTINE ALEXANDER: You're opposed. I'm sorry. Nevertheless, four people voting in favor. The Variance is still granted.

Thank you.

(Alexander, Sullivan, Scott, Anderson.)

DOUGLAS MYERS: Before the applicants leave could I state my objections just so everyone understands?

CONSTANTINE ALEXANDER: By all means.

DOUGLAS MYERS: It's strictly related to the dormer guidelines. I feel that the cumulative effect of the

non-compliance with the dormer guidelines persuades me that I'm unable to approve this, because of the fact that it's flush with the ridge line. There's no setback as recommended by the dormer guidelines, because the dormer length is approximately 25 feet which vastly exceeds the 15 feet max -- 15 foot maximum permitted by the recommendations of the guidelines.

And also that the fenestration of 15 percent in the front wall area of the dormer falls far short of 50 percent, and I believe will have an unaesthetic consequence that's exact of a small window area and creating a blank front wall appearance. That I think is exactly what the dormer guidelines have in mind in requiring or recommending

fenestration of 50 percent of the front wall area.

Also, in analyzing these factors, I am hampered by the absence of a left side elevation which I think would have given the Board a much more adequate basis to compare the existing dormer and its dimensions and proportions with that of the proposed dormer. So for these reasons I vote against.

WILLIAM WINDER: Can I make a response? Not to disagree with you, but I think, I apologize for not having the elevation. I thought it was just -- they were looking for the effected elevations. That was definitely my error.

DOUGLAS MYERS: I hear you and I've stated on the record, you know, my reasons where I felt it would have been

helpful in making a decision.

WILLIAM WINDER: And I think that we, if we had, if we had put cheap walls then it would have probably been 50 percent, easily 50 percent of the fenestration. So I think it's because of the geometry that it doesn't -- it's probably more than 15 percent. It's probably more like as I'm looking at it now, you know, 20, at least 20 to 25 percent, but I hear your objection.

CONSTANTINE ALEXANDER: And as I indicated, the relief has been granted. Good luck.

KEVIN LAHEY: Thank you.

WILLIAM WINDER: Thank you.

CONSTANTINE ALEXANDER: And not to anyway undercut what Doug has said, but point's been taken.

WILLIAM WINDER: Thank you.

* * * * *

(8:40 p.m.)

(Sitting Members Case # BZA-004612-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Douglas Myers, Slater
Anderson.)

CONSTANTINE ALEXANDER: The
Chair will call case No. 04612, 72 Fresh
Pond Parkway.

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

(No Response.)

CONSTANTINE ALEXANDER: No one
appears to be here.

We are in receipt of an e-mail from
one of the petitioners dated today,
September 4th. (Reading) As we
discussed -- it's a letter addressed to

Maria Pacheco, who like I said, had a conversation with -- as we discussed, we would like to request a continuance for the September 4th hearing on in case as we're still finalizing the plans with our developer and architect. We don't feel that we're ready for tonight's meeting. Our architect is away on a conference and will be in touch with your office as soon as we finalize the conversation with her. We will hopefully get back on the schedule soon afterwards.

I guess I point out to the Board is that we granted relief in this case before, some months ago, for an addition. The petitioner then decided they wanted to change the roof line of the petition and, of course, they didn't comply with the plans we approved. So I advised that

they have to come back before the Board for a new Variance and they're now waffling, my word, as between the old Variance and seeking a new Variance. And that's why while they waffle, they want to continue the case.

What date do we have, Sean?

SEAN O'GRADY: Well, I mean, we could do it as early as the 2nd and you're not here.

CONSTANTINE ALEXANDER: It doesn't seem to rush it.

SEAN O'GRADY: It seems rushing it. So the natural spot would be the 16th, October 16th or sometime thereafter.

CONSTANTINE ALEXANDER: Okay.

DOUGLAS MYERS: The waffles go on the back burner?

SEAN O'GRADY: What's that?

DOUGLAS MYERS: The waffles go on the back burner.

CONSTANTINE ALEXANDER: That's right.

Okay. The Chair moves that we continue this case as a case not heard until seven p.m. on October 16th on the following conditions:

That the Petitioner sign a waiver of time for decision.

That any new plans from those that are in our files now with respect to this petition, must be in our files no later than five p.m. on the Monday before the 16th of October.

And, lastly, that the sign as required by our Ordinance be modified to reflect the new date, October 16th, the

new time, seven p.m., and that the sign be maintained for the 14 days required by our Ordinance.

And further, that the Petitioner be directed that they cannot put the sign inside the window as they've done it now, particularly one that's not, that's hanging askew. It's almost unreadable. And under our new guidelines for signage, they must be more visible. Preferably on a stake in the front yard. There is a front yard place to put it, but not behind a hedge. There are hedges there. Figure out a place to put it.

BRENDAN SULLIVAN: And the Petitioner is encouraged to find the new sign posting guidelines.

CONSTANTINE ALEXANDER: The new sign posting guidelines that we've just

adopted.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

(8:45 p.m.)

(Sitting Members Case # BZA-004608-2014: Constantine Alexander, Brendan Sullivan, Thomas Scott, Douglas Myers, Slater Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 004608, 27 Grant Street.

Is there anyone here wishing to be heard on this matter? For the record, Mr. Boyes-Watson.

MARK BOYES-WATSON: Mark Boyes-Watson, Boyes-Watson Architects, 30 Bowes Street, Somerville.

MARTIN HILL: Martin Hill, Hill Harder Development.

MARK BOYES-WATSON: Pictures up in the top, left of the board are of 27 Grant. It's a little 1200 square foot cottage. Very old. I'm not quite sure when it was built. Sometime maybe between --

MARTIN HILL: 1776 and 1780-something. They can't quite pin it down.

CONSTANTINE ALEXANDER: This is 18th century?

MARK BOYES-WATSON: Yes, 18th century house. And it had a history then but then it moved. It wasn't on Grant

Street.

CONSTANTINE ALEXANDER: It was on Linnaean Street.

MARK BOYES-WATSON: And it maybe not even a residential structure in its first incarnation. Maybe a workshop is what Charles thinks.

And then it was moved in 1865 to Grant Street to its current location, put on a rubble foundation, and then, and then used by I think it was a Mr. Carter, you know, for his residence.

Apparently at the turn of the 19th century, when they were reconstructing the streets, they reconstructed Grant Street and at an elevation about two feet above what it had been at the time the house was relocated in 1865. And so I think that the land owner or the house

owner at that time, in order not to have that dip down into the house, filled the land against the house. And so what's happened is in the current status of this cottage, is that it's been really sitting at grade for over 100 years. So it is, it is a little bit interesting on the inside in the sense that it is majorly rotted out and -- with termites and what have you. So it's been hollowed out somewhat.

So working -- so the Historic Commission is very interested in seeing this house preserved. It's got a very interesting history, part of the Cambridge's history. So the proposal is to pick the exact existing house, just as it is, up, and put a new foundation under it to the same extent as it was buried

under that changed street level in -- at the time beginning of the 19th century, which is about 24 inches of change. And then dig -- so pick it up, put a new foundation in, and when you set it back, you get back the 24 inches roughly of exposed brick and you lift the house safely out of the ground so that that problem doesn't occur.

CONSTANTINE ALEXANDER: And you get more living space because you're going to have a habitable basement.

MARK BOYES-WATSON: So there are two things -- yes, and it allows us to get a habitable basement. Right now the basement is at five-foot, six, something like that, dirt floor.

Because we're picking it up also, so we're here for that, for that extra

basement and volume, because it's an existing non-conforming house. It's quite, one-foot, eight, 1.8 feet from the left side setback. It's in a C-1 Zone which means a formula setback. So that could be -- but will be considered as a change to the left side elevation which would increase the need for a setback. So even though it's going back exactly where it was, we have listed that as a Variance required on that left side. The height, even though we're raising the height the finished height of the house is well under the 35 feet allowed.

CONSTANTINE ALEXANDER: 25 feet?

MARK BOYES-WATSON: 25 feet,
five I think.

CONSTANTINE ALEXANDER: Okay.

MARK BOYES-WATSON: So the two

elements are that finished basement and that, that left side staying as it is.

CONSTANTINE ALEXANDER: I also saw on your dimensional form you have a GFA issue too?

MARK BOYES-WATSON: That comes from the basement. And the reason being that's not the only building on the lot. We have -- maybe I should have gone through that. So this is the lot, and --

SLATER ANDERSON: And that's the lot there, right, over here?

MARK BOYES-WATSON: Yeah. And there was a garage here that's being demolished, and there's already a permitted house back here. So this has nothing to do with this at all.

CONSTANTINE ALEXANDER: And the FAR --

SLATER ANDERSON: The FAR's combined?

MARK BOYES-WATSON: Exactly.

So if you do build this house and don't dig this basement, you're compliant. If you dig this basement above seven, you're not. And that's interesting. When we first encountered this project, you know, there is an ongoing question about habitability of basements that are less than seven feet. This is a very small house. It's like a 1200 square foot house. And so you could say why don't you just leave it below GFA? But we want to make sure the owners of this house are going to legally inhabit this basement so they can benefit.

CONSTANTINE ALEXANDER: What are the plans, should we grant the relief and

you complete the project, what are your plans for the structure? Are you going to sell it?

MARTIN HILL: Single-family.

CONSTANTINE ALEXANDER: It's not going to be sold to the city --

MARTIN HILL: No.

CONSTANTINE ALEXANDER: -- or Harvard? It's not going to be sold to -- well, maybe Harvard will be a buyer.

MARTIN HILL: Yeah, well, they may or may not be a buyer, but it would be on the market as a single-family or one of two on the lot.

SLATER ANDERSON: Condo?

MARTIN HILL: It could be condo ownership.

DOUGLAS MYERS: So I read on the plan that the house that's permitted

behind it is going to be new construction?

MARTIN HILL: Correct.

SLATER ANDERSON: That's not built, but it's permitted?

MARK BOYES-WATSON: Exactly.

DOUGLAS MYERS: And you say the relationship between the two houses will be a condominium relationship?

MARTIN HILL: Yes.

DOUGLAS MYERS: On the one lot?

MARTIN HILL: Yes.

MARK BOYES-WATSON: Yes.

Well, that's -- the other thing that relates to the kind of general reason for working with the house is that the -- this very old house, the ceiling is six-foot, two.

MARTIN HILL: Maybe six-foot, three. They vary because the house is

all over the place. But so if you were stand -- if you come in the front door, you're, you're six-foot three, clearance. If you go in the kitchen and you're six-foot, three, six-foot, two, the kitchen lights, you have a problem.

CONSTANTINE ALEXANDER:

Victorian house. We have ten-foot ceilings.

MARK BOYES-WATSON: Because we're trying to keep it looking the same on the outside, I did a little drawing that's not in the sets. But basically the -- when we're done, it goes from six-foot, seven roughly. There's, as Martin says, the floors are up and down, to seven-foot, six. So it's not, it's still very cottagey. Because we're really trying to keep the appearance

outside consistent without changing it.

DOUGLAS MYERS: Again, since obviously the historicity of the house and its adequate preservation, is it your concern and the concern of the Historic Commission, can you tell us something about the nature and design of the house that's supposed to be built behind it?

MARK BOYES-WATSON: I --

DOUGLAS MYERS: And was that with the nature and design of that house subject to review by the Historical Commission?

MARK BOYES-WATSON: It was not. We did from the beginning -- well, Martin, Martin and Lauren, the developers, talked to Charlie from the very beginning about what the project was, what the goals of the project were,

and what the methodology of the project was. So he's very aware of that. He's aware of the back house. It wasn't subject -- because it's -- actually, neither of these have been officially reviewed by the Historical. There's no review required for the things being done here. So the back house wasn't under his jurisdiction and he didn't have any comment on it.

CONSTANTINE ALEXANDER: Is the house under private ownership now?

MARTIN HILL: Yes, we own it.

CONSTANTINE ALEXANDER: No, before you who --

MARTIN HILL: It was a private owner.

CONSTANTINE ALEXANDER: Private ownership.

MARTIN HILL: Yes. It had been in the family for mildly close to 80, 90 years. And the son-in-law of the people that own it were still living in it. He had been born there, lived there 50 plus or minus years old where he continued to live there with his family.

DOUGLAS MYERS: So in effect this is a development?

MARK BOYES-WATSON: Yes.

DOUGLAS MYERS: It would be fair to say?

MARK BOYES-WATSON: Yes.

DOUGLAS MYERS: And if we don't grant the Variance, the development does not go forward?

MARK BOYES-WATSON: If -- there are two components to the Variance, right, the left side setback and the

basement.

DOUGLAS MYERS: Right.

MARK BOYES-WATSON: So the -- when we originally drew the plans and Martin, when he did his performance, etcetera, etcetera, which essentially would take a fairly -- it's not a very rewarding activity, renovating this little house. It's a tiny little house. It's a huge amount of work. Harvard actually did one similarly behind another house which I was familiar with, and it's a huge amount of work. So the reason -- we only actually added, in the process, the deeper basement because it's not -- it's not completely clear. The code seems to suggest that you could have six-foot, eight basement. So it's not been clear, so we added that as a

requirement. And I understand that's kind of a bit of an ask in doing the back house as well. But the fact is that we would always thought we would be able to do that with this little house in the front which is an integral part of the plan. They now own the property. They'll go forward with the --

DOUGLAS MYERS: They now own -- yes, the developer.

MARTIN HILL: We own the property. The intent, too, was we really one way or the other had to get the house out of the ground. It's in the ground. The sills were in the dirt. So to do anything there and even think about preserving the house, I had to get the house out of the ground so that I can put new sills back in they wouldn't rot.

DOUGLAS MYERS: I don't mean to monopolize the conversation here on the part of the Board, I really don't. Then you mentioned the effect that the -- elevating the basement ceiling would have in the new height in the basement. And I saw on your plans -- that it was not clear to me from the plans, in any event, and that may be my deficiency, that the basement was going to be finished into rooms or that it was finished in any degree. What it -- right or wrong, what is the status of the basement in that regard?

MARK BOYES-WATSON: The basement is -- and it was articulated, I think, in the statement in the A statement of the hardships. Is that, yes, it's very much the intention to finish that basement and

use it as habitable space.

DOUGLAS MYERS: And what about the toilet facilities that were there? It looked as if it were a half bath. I didn't see showers. Again, maybe the drawing was a little superfluous not relative to the drawings. I can ask now what the intention is.

MARK BOYES-WATSON: I just want to remind myself.

DOUGLAS MYERS: Or what the plans show. You tell me, please.

MARK BOYES-WATSON: So, you know, our plan shows a bath.

DOUGLAS MYERS: It does. A full bath?

MARK BOYES-WATSON: Yeah, it's here. So this is the basement plan. I mean, whether these are studies or

bedrooms, you don't ever know.

DOUGLAS MYERS: Okay.

SLATER ANDERSON: This approved permit plans, what are -- is that the -- what is the approved permit plan?

MARK BOYES-WATSON: They're actually shown because we gave you as part of the package the full floor area. So this is the only way in which we're showing you those. So it basically consists of a -- so this is actually assembled. So the back house consists of kitchen and dining room. A master bedroom suite and two bedrooms, it's a three-bedroom home. I think it's allowed, it's a C-1 Zone. I think it could be three units on the lot by Zoning. It's two.

SLATER ANDERSON: It's three.

Is it --

MARK BOYES-WATSON: I think it's
C-1.

SLATER ANDERSON: Is it 1500 per
unit?

MARK BOYES-WATSON: Yes, 1500
per unit.

SLATER ANDERSON: And it's
4,000.

MARK BOYES-WATSON: Yeah. I was
only making it clear. It could only be
a two.

CONSTANTINE ALEXANDER: Further
questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: We can
open it to public testimony.

Anything you want to add?

MARK BOYES-WATSON: There is

something I want to add, actually, because I was reviewing this plan, and we've said everywhere that we're raising the roof two feet, etcetera, etcetera. And then I read on the elevation, and the numbers doesn't -- aren't consistent with the dimensions shown. So, in the sense that, go to the plan. I just want to bring this one thing to the Board's attention relative to what we were saying before. Is that on this drawing here, it says that they're going up two feet, and it says 31.5 which is indeed where it is now. That's a misprint here. It says 32-foot, eight which is not two feet more than 31.5. Same as yours, yeah.

CONSTANTINE ALEXANDER: Why don't you modify that right now.

SLATER ANDERSON: What's it

going from?

MARK BOYES-WATSON: It's going from 31.5 up to two feet up to 33.5.

SLATER ANDERSON: 30 or 31.5 to 23.5?

MARK BOYES-WATSON: Those are -- what happened is the surveyor came in and gave us grade. And that's from the grade. That's a point grade. The height is exactly what's stated there. These are grades, spot grades associated with meeting sea level.

CONSTANTINE ALEXANDER: I'm not following.

MARK BOYES-WATSON: So in other words, the house is 28 -- that height, but these are spot grades tied back to the server. And all I'm saying is that's a technical thing. The height of the house

is exactly what we said, except that when you tie it back to the surveyor, the surveyor's grades, what it comes out to is that number, the 33. Because you go back to the data in the survey.

SLATER ANDERSON: So you're telling us you're giving us the roof from mean sea level?

MARK BOYES-WATSON: Exactly you have to tie it back to the ground so Sean knows where we are when we submit. But I'd be happen to change it.

DOUGLAS MYERS: Is the construction of the rear building, is it your position that it's as of right in every respect?

MARK BOYES-WATSON: Yes. And the permit's issued.

SLATER ANDERSON: Well, that's

my only substantive comment. I kind of feel like the sequencing of this was done in a way to get to -- instead of going in with the raised basement in the first building, plus the space in the new building in the back and getting to your 3,000 square foot max compliant GFA, you went and you permitted the building in the back and maxed that out as of by-right building and now you've come back to capture the basement space subsequent.

DOUGLAS MYERS: I'm left with the unpleasant feeling that the historicity here is a mere boot strap to a development instead of being considered in its own right. If you can disabuse me of that notion, I would be very happy.

MARTIN HILL: What I can say is that over the last three years we've won

two preservation awards from the City of Cambridge.

DOUGLAS MYERS: That is, that is definitely not responsive to my comment. Really, I don't mean to be argumentative or unpleasant, but I mean I did make a comment and I welcome, I welcome your response but that response is definitely not responsive to what I said.

MARK BOYES-WATSON: So I think that the -- I think that the -- in a value -- originally, as I stated before, originally we thought this was a six-foot, eleven basement and wasn't going to be counted. I'm going to get back to why we did it in the sequence that we did. But the, but the reason -- the things have actually changed even in this short period that this has been acquired

and designed. And so I -- and so I -- and the sequence of what we do when -- if you do absent the basement, the request be allowed to use the basement as legal habitable space, the only Variance we're asking for is to raise this house two feet. And it doesn't even move it closer to the property line or anything. It is -- it's just a kind of technical violation of that left side setback. So it's not a huge ask.

We were intending to come here with the minimum ask that we, that we felt that we needed. The change to go back and say could we please use it as a habitable basement is to bring it back where we thought it would be anyway. So I understand that, but I don't think, I don't think --

DOUGLAS MYERS: What does that mean? What does that mean? To bring it back to what we thought it would be anyway?

MARK BOYES-WATSON: In other words, we thought it would be allowed to be used because the Code has been changed. If you read the Code it says six-foot, eight basement is allowed. But there's some confusion as to really that is the case. We don't -- this is like -- it's a very expensive endeavor. We're like, we're here. You could, you could -- I mean we understand that's an ask. We didn't have it in there, we put it in there.

CONSTANTINE ALEXANDER: In my view, I think you did stage this, but I don't see that as a necessary -- I think

you stage it in a way to maximize your chances for success. But I don't find that offensive to me. And in any event, I think the overriding consideration here is we're doing something to preserve a historically significant house and should we let technical Zoning issues prohibit that or our concerns about the development, which it is? But I'm speaking only for myself, I don't have a problem with it.

SLATER ANDERSON: And I would, you know, stand on what I said. I mean, that's my observation of how sort of the sequencing appears. I would say that your sequencing hasn't resulted in what I consider to be a huge overreach of a request. I mean, you are, you know, you're staying within the footprint of

the building. I mean, it's, it's not an unreasonable request. I just think the sequencing has an appearance to it, that's all.

CONSTANTINE ALEXANDER: Very well put.

SEAN O'GRADY: Can I just comment?

CONSTANTINE ALEXANDER: Of course.

SEAN O'GRADY: What Mark is saying is that we really within the last three to six months, I'm not exactly sure on this, we became aware of a section of the sanitary code that limited it to seven feet. And so we as a department turned the ship and said no more 6.11 basements. And so the timing of this gentlemen's arrival, they would have come in thinking

a 6.11 basement was still on the table. It would have been only recently that they would have found out otherwise.

CONSTANTINE ALEXANDER: Thank you. Thank you.

SLATER ANDERSON: And so I understand the six -- if it were the six-eleven were legal, it would have been pre-existing -- non-conform pre-existing space?

MARK BOYES-WATSON: Exactly.

No, we would be allowed to build it to six foot, actually, a good point but, yes. You're allowed to build a six-foot, eleven basement and you don't have to say it's more floor under the rules of the gross floor area.

CONSTANTINE ALEXANDER: You still have the issues of setback, though?

MARK BOYES-WATSON: You always would have that.

CONSTANTINE ALEXANDER: You still need Zoning relief, it would be less relief.

MARK BOYES-WATSON: We would be here. Originally we were just here for that.

CONSTANTINE ALEXANDER: Further comments from members of the Board?

(No Response.)

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

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

(No Response.)

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

heard.

The Chair would note that we are in receipt of a communication from the Planning Board with respect to this petition. (Reading) The Planning Board reviewed the application and leaves to the Cambridge Historical Commission and Board of Zoning Appeal. The increase in gross floor area and requested area for the floor area ratio is not a significant planning issue.

And then we have a letter from the Cambridge Historical Commission from Charles M. Sullivan, Executive Director. (Reading) I am writing with regard to the request of 27 Grant Street, LLC for a Variance in Article 5, Section 5.31, to raise the existing historic house two feet and install a new foundation and a

habitable basement.

The house at 27 Grant Street dates in the late 18th or early 19th century. That's a little different than what you told us, Mr. Boyes-Watson.

MARK BOYES-WATSON: You know, I did -- we have a letter earlier. He must be still revising, what you understand, because we had an earlier communication with him that had my data on it.

CONSTANTINE ALEXANDER: Anyway. The house dates from the late 18th to the early 19th century and may have originated as a stable or workshop.

Thomas Eagleson, an Irish immigrant, moved it to this location from Linnaean Street in 1865, and remodeled it as a dwelling. At that time it was placed on a brick and mortar foundation about 24

inches above grade. After the city raised the level of Grant Street by nearly two feet in 1973 to 1875, the owner filled in the lot rather than raise the house leaving the sill only a few inches above grade.

The principles of 27 Grant Street, LLC have committed to restoring the house for continued use as a residence. They propose to raise it to an appropriate level above grade and increase the floor to ceiling height on the ground floor and construct a finished basement. Granting the requested Variance will make restoration of the house economically feasible. This is a very worthwhile project that will preserve a significant historic asset to the community. I hope the Board will grant the requested

Variance.

And that's it. There are no other communications.

Unless you have any further comments? I'm going to close public testimony. Any further comments?

MARK BOYES-WATSON: (Shakes head.)

CONSTANTINE ALEXANDER: All done?

Have you marked the plans up?

MARK BOYES-WATSON: I did. Just that one.

CONSTANTINE ALEXANDER: Let me have them back. I'll need them.

While he's doing that, any further comments or questions from members of the Board?

BRENDAN SULLIVAN: I have a

comment and that would be that we are savvy enough to pick up on the sequence of events and that yes, it is a development. And, but, you know, that's okay that we all picked up on that, but I'm not offended by it because I think that Charlie's letter sums it up is that it's preferable to preserve this house, to bring it back into good condition. It is going to take a certain amount of resources, aka, money, to do that. And in order to recoup that investment, it's going to require the requested relief and I think it's probably desirable to do that.

CONSTANTINE ALEXANDER: Okay.
Anyone else wish to comment or are we ready for a vote?

(No Response.)

CONSTANTINE ALEXANDER: Ready for a vote.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that this historically significant structure will not be readily usable as a residence being able to continue its use as a residence.

That the hardship is owing to the topography of such land structures being the fact that the street a hundred years ago or thereabouts was -- more than a hundred years ago, was raised causing this, the structure, to be -- have to have its grade changed and resulting in the

problems that have been identified by the Petitioner in which he seeks to remedy.

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

In this regard the Chair would note that the Planning Board seems to support the petition.

Certainly the Historic Commission recommends that we grant the relief, and in fact, if we granted the relief, an architecturally significant structure will be retained and made usable for the city for the residents of the city of Cambridge.

So on the basis of these findings, the Chair moves that we grant the

Variations being sought on the condition that the work proceed in accordance with plans prepared by Boyes-Watson Architects. They are four pages, all of which have been initialled by the Chair.

One of those plans has got a handwritten change to the printed form to reflect the discussion tonight, and its acceptable to this Board.

All those in favor of granting the Variance on the basis so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: Good luck.

* * * * *

(9:10 p.m.)

(Sitting Members Case # BZA-004604-2-14:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Douglas Myers, Slater
Anderson.)

CONSTANTINE ALEXANDER: The
Chair will call case No. 004604, 14 1/2
to 16 1/2 Woodbridge Street.

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

RYAN MORRISON: Yes, I'm the
owner, Ryan Morrison, and my wife Laura
Morrison. So thank you for having us

today and this is my first Zoning Board appeal so I apologize for any miscues or --

CONSTANTINE ALEXANDER: I wouldn't worry about it.

RYAN MORRISON: -- or anything I do improperly here.

We're seeking relief to move some windows and change the size on a non-conforming side of the building. The building sits far back on the property line about six to eight feet depending on where you measure from the building. The cause for the changes, we -- we're in the middle of a kitchen renovation and the existing windows, which I have a picture of here, existing windows, you had three transom windows which were all the way up to the top of the ceiling line so they

didn't have a proper header to support them, the weight above them, and then three awning windows which were all the way down to the countertop level which meant there was no backsplash. When we did investigate the conditions within the wall, we saw that, the -- there was no header above the windows and the studs support wasn't insufficient to carry the load as well.

So our, our proposal to remedy that is to have those windows replaced, and this is our elevation. Essentially go from six windows to three. Solid windows. The bottom of the windows we'll raise about eight to ten inches, plus the increased size of the casing. The old windows were wood windows. The top of the windows will come down about six to

eight inches to accommodate the header plus the size of the -- the increased size of the casing of the new windows. We feel that it's, it's a fitting with the neighborhood. There's lots of houses within this neighborhood that match our style that have three windows side by side like this.

CONSTANTINE ALEXANDER: This is a condominium. And you got approval from the condominium in support?

RYAN MORRISON: We do, we have a letter, yeah, from our neighbors. And I don't know if they're here. They're not here. But we do have a letter of support from our neighbors. It was in our application.

CONSTANTINE ALEXANDER: I don't think I have a letter of support. If you

could give it to us for our files, I would appreciate it. I'll make it part of the record.

LAURA MORRISON: I will look for it.

RYAN MORRISON: I think the issue around changing window sizes, it's a privacy concern for the neighbors. So we do have a plot plan here where you can see, and I apologize that this is so small. Even though we sit far back on our property line, the neighbors sit off of it considerably. Additionally, the primary view of the back of the windows to the back of the house is the back of the neighbor's garage as well as a large evergreen tree. And a --

CONSTANTINE ALEXANDER: Have you spoken with these neighbors and shown

them the plans?

RYAN MORRISON: Yes. We have a letter of support from 11 and 11A Meacham Road. I believe they're here today. There are also some other neighbors here in attendance.

CONSTANTINE ALEXANDER: This letter is from the person most directly affected with the windows?

WILLIAM WINDER: That's us.

CONSTANTINE ALEXANDER: I was wondering why you were hanging around.

KATITI KIROWLE: We're noseey.

RYAN MORRISON: Any other neighbors -- any other views of the house would be at extreme angles and great distances. We have, I have some views from the road, too, behind the house which is probably the best view you could get

of the windows if the garage and the bushes weren't there. We'd also like to note that this is the -- we only have two other windows in the southeast, the southern exposure on the house, so if, if we can't replace these windows, if we can't come to a conclusion, then we'll have a lack of sunlight and --

CONSTANTINE ALEXANDER: And you don't even need a Variance, you need a Special Permit.

RYAN MORRISON: Special Permit, yes, sir.

CONSTANTINE ALEXANDER: Because this is -- that part of the house, is intrudes into the setback.

RYAN MORRISON: That's right.

CONSTANTINE ALEXANDER: Because of that any relocation of windows

requires a Special Permit which is a much easier standard to satisfy than the Variance.

RYAN MORRISON: Great, thank you for saying that.

We have -- the other thing I'll note is that the windows have actually narrowed because of the original studding in the place on the sides as well as in the middle. In total, they've come in about 13 and a half inches between the sides and the spacing in the middle.

THOMAS SCOTT: Is there any reason why they're not double hung like all the other windows in the house?

RYAN MORRISON: It's, where the -- it's so the kitchen sink is in the front, is right in front of the windows and then we have a sort of kitchen space

on either side, and what we imagined was open shelving in front of the windows for china and glasses and that sort of thing. And we thought if we were lifting a double hung window up to open it up, you know, if a plate's overlapping it may tip it forward.

BRENDAN SULLIVAN: Are they casements?

RYAN MORRISON: We were gonna do --

SLATER ANDERSON: Awnings?

RYAN MORRISON: Yeah. So awnings at the bottom about the same size of what was there and then pictures on top.

THOMAS SCOTT: But they won't match any of the other windows in the house?

RYAN MORRISON: I think you'll get the same, the same sort of look because of the division between the -- so where the line is between the awning window and the picture window will look similar to where our division is within the windows on the other parts of the house. And then the molding and finish work on the outside will replicate what we have today.

DOUGLAS MYERS: How will the awning windows open? Crank?

RYAN MORRISON: Crank, yeah. Which is essentially what we had, what we had there as well, yeah.

CONSTANTINE ALEXANDER: Any other questions from members of the Board?

(No Response.)

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

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

WILLIAM WINDER: I'll just add that we charged him \$200 on our property to take the picture. But -- it's....

CONSTANTINE ALEXANDER: For the record. Mr. William Winder.

WILLIAM WINDER: William Winder, 11A Meacham Road. I'm directly behind and probably have the biggest view of their window. I really -- situation where it's a kitchen and the window's, you know, to put a double hung in there it would be kind of sporty and maybe because we've lived with it for 20 years and gotten used to and I found it kind of -- I

agree with the Chairman, the Special Permit because it's just such a sense of a minor change, it was driven by necessity. It's at the top dropping the top down, and I think probably in that sense it may look a little better given the architecture of the house. But I'm really in support of it.

CONSTANTINE ALEXANDER: And so you're in favor of it?

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: Thank you.

KATITI KIROWLE: And I'm Katiti Kirowle and I'm Bill's wife, and the windows are directly in our view. And you asked why wasn't the window like the other windows? Well, it never was anyway. The window they're replacing

was never a double hung.

THOMAS SCOTT: I know, this is a great opportunity to fix that.

WILLIAM WINDER: Yeah.

KATITI KIROWLE: But it wouldn't really fit there if you came and saw the house.

CONSTANTINE ALEXANDER: We are in receipt of a letter from Mr. Winder. But since you've already spoken, I won't read it. You have given us your views for the relief being sought and we have in our files three pages of drawings and plans that you've shown to us already. But these are when we grant relief, as you may have heard, we tie them to plans that we have so these are your finals.

RYAN MORRISON: Yeah, hopefully. Yeah, I mean, we're not going back unless

you tell us no. Yeah, I mean we're, it is what it is.

CONSTANTINE ALEXANDER: The only point is if you did change them, you'd have to come and waste another Thursday night before us.

RYAN MORRISON: Yes.

CONSTANTINE ALEXANDER: I'm going to close public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: Okay.

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

That traffic generated or patterns of access or egress resulting from the work being proposed will not cause

congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or the development of adjacent uses will not be adversely affected since regard with the privacy issues when it comes to new, windows but the persons most affected by this have spoken in favor of the relief being sought.

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

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

In this regard the goal is to make the kitchen area more functional, and by changing the window locations and no other affect upon the city of Cambridge.

So on the basis of these findings, the Chair moves that we grant the Special Permit being sought on the condition that the work proceed in accordance with the three pages of plans submitted by the Petitioner, all of which have been submitted by the Chair.

All those in favor say "Aye."

(Aye.)

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

LAURA MORRISON: So the condo letter, I have it.

CONSTANTINE ALEXANDER: We have it in our files.

* * * * *

(9:20 p.m.)

(Sitting Members Case # BZA-004744-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Douglas Myers, Slater
Anderson.)

CONSTANTINE ALEXANDER: The
Chair will call case No. 004744, 9 Hurlbut
street.

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

Okay, as you heard for the record give your name and address to the stenographer.

TZE LEI POO: Sure. So my name is T-z-e L-e-i P-o-o and I have -- my husband's name is Joseph Blitztein at 9 Hurlbut Street, Cambridge. And then there's Olivia, too. But she's to be disregarded anyway.

CONSTANTINE ALEXANDER: Okay, you two are seeking as well a Special Permit to, to relocate, build a new window.

TZE LEI POO: Build a new window.

JOSEPH BLITZTEIN: Build a new window.

CONSTANTINE ALEXANDER: Briefly

for the record, tell us exactly what's going on.

TZE LEI POO: So we are trying to add a three-quarter bath to the first floor of our house. Basically right now the only bathrooms are on the second floor and we just feel like it's, it's going to be much more convenient for guests and for our parents to be able to have a bathroom on the first floor. So that's why we're adding a bathroom. And basically we would like it to have a window for light and ventilation purposes. Since we're taking, like, a strip from the bedroom, it's going to be very dark and narrow already without the window, so we're hoping that, you know, for the sake of our parents and any guests coming in and using the bathroom at least during the day will

save on energy costs as well. There will be some light and some ventilation as well. And we're trying to also make the window the smallest possible size for the privacy of our neighbors. And we have talked to our neighbors as well regarding that window, and I've showed them the diagram and they said they're fine with it.

CONSTANTINE ALEXANDER: I think we have a letter of support from the neighbor who is most -- at least on paper affected by your window.

TZE LEI POO: Okay, that's great.

CONSTANTINE ALEXANDER: It's on the page right here, that's what you're going to do?

TZE LEI POO: Yes, that's what we're going to do.

SLATER ANDERSON: May I ask a question?

From the contractor and the architects, these ventilation pipes, here, where do these go to?

TZE LEI POO: And so those were, I think those are from the people -- HVAC furnace in the basement.

SLATER ANDERSON: Furnace?

TZE LEI POO: Yeah.

SLATER ANDERSON: So that's like a -- is there a code issue with the vents and the window?

BRENDAN SULLIVAN: Yes.

SLATER ANDERSON: Maybe you want to explain that?

BRENDAN SULLIVAN: The outlet cannot be a certain distance from a window. Usually when we are installing

those, they're usually lower and a plumbing inspector and building inspector will tell us, no, you can't locate it there because of a presence of a window and what have you. I didn't actually see that, Slater. Can I see that?

TZE LEI POO: And so that's photo shopped. It's not real. It's not there.

SLATER ANDERSON: The window's not there but the pipes are there, the vents are there.

TZE LEI POO: The pipes, yes.

SLATER ANDERSON: It's odd that the vents are where they are.

TZE LEI POO: We only just bought the house in July so that's really what it was when we bought the house.

THOMAS SCOTT: Is it a multi-unit house?

TZE LEI POO: Oh, no, single-family.

THOMAS SCOTT: So that's --

SLATER ANDERSON: You can move the pipe. It's not a big deal. But that's -- just jumps out at me.

BRENDAN SULLIVAN: I mean, there are two considerations. It's funny for these --

CONSTANTINE ALEXANDER: You might want to educate them.

BRENDAN SULLIVAN: -- for these direct vents is that they have to be a certain height off the ground so that the snow doesn't --

SLATER ANDERSON: Block them.

BRENDAN SULLIVAN: -- block

them. And then also so that it doesn't go back into a window.

TZE LEI POO: Right.

BRENDAN SULLIVAN: This, if it becomes an issue, as Tom pointed out, these could always be extended up, too --

TZE LEI POO: Sure.

BRENDAN SULLIVAN: -- to, too, to whatever that --

TZE LEI POO: Sure.

SLATER ANDERSON: So one of those is an exhaust of fumes you don't want to breathe in.

THOMAS SCOTT: Carbon monoxide.

BRENDAN SULLIVAN: Something to be aware of, that's all.

TZE LEI POO: If you guys can let us now how far to extend it, we can just let the contractor --

SLATER ANDERSON: He'll help you with that.

SEAN O'GRADY: They'll help you.

CONSTANTINE ALEXANDER: What we would do tonight is we would allow -- authorize you to build a window of this size --

TZE LEI POO: Okay.

CONSTANTINE ALEXANDER: -- on this side of the house --

TZE LEI POO: Okay.

CONSTANTINE ALEXANDER: -- and then the location of that you'll have to work out with the Building Department.

TZE LEI POO: The building inspector, sure, sure we'll do that. Okay.

CONSTANTINE ALEXANDER: Good

catch.

Any other questions or comments from members of the Board?

THOMAS SCOTT: The other option is the window could be fixed and you could have a power ventilator for the bathroom. So you could have the window for light, but you wouldn't be able to open it and then you could have a power ventilator that would vent the bathroom. That's the other option I suppose.

TZE LEI POO: Right. We were hoping to be able to open it because it does get humid in the summer.

THOMAS SCOTT: If that's the case, then I think you really want to think about moving those.

CONSTANTINE ALEXANDER: You better sit down with the Building

Department and find out exactly where you can put this window --

TZE LEI POO: Okay.

CONSTANTINE ALEXANDER: -- given these pipes.

TZE LEI POO: Right. Okay, we'll do that.

For aesthetic purposes we thought it would be best, I mean the way, the way that we drew that, we wanted the window to be in line with the others so that the top of the windows is sort of on the same line and that would look good. But if it doesn't, I mean we could work with that.

CONSTANTINE ALEXANDER: What you might have to do is move the window more to the right, if you will, looking at this picture.

SLATER ANDERSON: You could move

the pipes, too. You've got options.

TZE LEI POO: All right.

CONSTANTINE ALEXANDER: That would be a little more expensive I suspect.

BRENDAN SULLIVAN: It's correctible.

THOMAS SCOTT: The pipes are probably PVC. Pretty easy to move those.

CONSTANTINE ALEXANDER: Okay, is there anyone here -- I'm going to open it public testimony.

Is there anyone wishing to be heard on this matter?

(No Response.)

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

I did see a letter in the file that

I wanted to read into the record. There was a letter, as I mentioned, your neighbor most directly affected who said he or she, I forget, is in support. But I don't find it for some reason. Maybe I imagined it.

DOUGLAS MYERS: No, no, it was there.

CONSTANTINE ALEXANDER: You saw it?

The Chairman would report to the Board that there is a letter somewhere in the file in support of the petition from the neighbor most affected by the proposed window.

TZE LEI POO: Okay.

CONSTANTINE ALEXANDER: And that's all we have for public testimony.

Further comments or questions from

members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: We're ready for a vote.

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

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

That the continued operation of adjacent uses will not be adversely affected by the nature of what is being proposed. In this regard, the letter from the neighbor I referred to, the neighbor most directly affected, if affected at all, is in support of the

relief being sought.

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

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

In this regard the relief being sought is rather modest.

It is consistent with improving the habitability of the structure.

And so, on the basis of this, the Chair moves that we grant the Special Permit on the basis of these findings on the condition that the work, the size of the window, be no greater than the size

of this window on the plan that I've initialled, but the location can be changed to reflect other building and other regulatory issues.

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

(Aye.)

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

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

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