

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, NOVEMBER 6, 2014

7:30 p.m.

in

Senior Center

806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Timothy Hughes, Vice Chair

Brendan Sullivan, Member

Thomas Scott, Member

Janet Green, Member

Maria Pacheco, Zoning Secretary

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PROCEEDINGS

(7:25 p.m.)

(Sitting Members Case #BZA-004957-2014: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our practice, we're going to take up the continued cases first. And the first continued case I'm going to call is case No. 004957, 1664-1668 Mass. Ave.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one here. I think we are in possession of a letter. Yes.

It's a letter from the Jason Parillo, P-a-r-i-l-l-o, Back Bay Sign for Hilton displays. It's addressed to this Board.

(Reading) As petitioner for this case,

for the Starbucks coffee store located at 1664-1668 Mass. Ave., I hereby withdraw without prejudice.

Well, he should be aware that you can't do that without prejudice. You will be prejudiced. The case will be treated as if you were denied.

In any event, I make a motion that we accept this request for withdrawal. All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

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

* * * *

(7:25 p.m.)

(Sitting Members Case #BZA-004850-2014:

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

CONSTANTINE ALEXANDER: The Chair will call case No. 004850, 640 Memorial Drive.

Is there anyone here for this case?

ATTORNEY TIMOTHY TWARDOWSKI: Good evening. I submitted last week a letter through Sean O'Grady requesting a continuance. My client is continuing to work with the property owner, including our own real estate and RF engineers to come up with a solution that takes care of the issues that were raised by the Planning Board and this Board, and we realize that we need more time to do so. So we're requesting a continuance passed the February 1st of next year.

CONSTANTINE ALEXANDER: I can tell you I could have saved you a trip down here.

ATTORNEY TIMOTHY TWARDOWSKI: I thought that might be the case, but when I spoke to Mr. O'Grady by phone, he said I needed to come in in person, so I'm here.

CONSTANTINE ALEXANDER: My goodness.

JANET GREEN: Welcome.

CONSTANTINE ALEXANDER: All right. Sorry to get you out in the rain.

What's -- any date after February 1st?

ATTORNEY TIMOTHY TWARDOWSKI: First available after February.

MARIA PACHECO: We have the 12th or the 26th.

BRENDAN SULLIVAN: Not the 12th for me.

CONSTANTINE ALEXANDER: You want to

sit on the case and do the 26th?

BRENDAN SULLIVAN: Well, it's a heard case.

MARIA PACHECO: Yes.

BRENDAN SULLIVAN: And I will not be here on the 12th.

MARIA PACHECO: Same members here.

BRENDAN SULLIVAN: So it would have to be the 26th.

CONSTANTINE ALEXANDER: Can everybody else make the 26th?

TIMOTHY HUGHES: What are we looking at, February 26th? Yes, I'm good.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued until seven p.m. on February 26th on the following conditions, this being a case heard:

That the posting sign be changed to

reflect the new date and the new time. And make sure you do both.

And that the sign as modified, be maintained for the two weeks that are required under our Ordinance.

And, further, that if new plans or photo simulations are going to be submitted, and apparently they will be, they must, as you may know, I'll repeat it for the record and for the motion, they must be in our files no later than five p.m. on the Monday before February 26th.

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

(Aye.)

CONSTANTINE ALEXANDER: Case continued. Have a good evening.

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

* * * * *

(7:30 p.m.)

(Sitting Members Case #BZA-005263-2014:

Constantine Alexander, Timothy Hughes,

Brendan Sullivan, Thomas Scott, Janet

Green.)

CONSTANTINE ALEXANDER: Turning to

our regular agenda, the Chair will call case No. 005263, 1815 Massachusetts Avenue.

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

ATTORNEY ANNE REYNOLDS: This is the one that we're going forward with?

CONSTANTINE ALEXANDER: The one you're going forward with. We'll take up the one, the original one that's been continued after.

ATTORNEY ANNE REYNOLDS: After this one? Yes.

CONSTANTINE ALEXANDER: I presume that case will be withdrawn if we grant relief on this case.

ATTORNEY ANNE REYNOLDS: Yes.

Okay, so for the record, my name is Anne Reynolds, Prince, Lobel, Tye on behalf of Sprint. This project is at 1815 Mass. Ave.

Sprint currently is operating with three or -- yeah, three antennas currently operating on the building, plus there's three Clearwire antennas, so a total of six plus two dishes. That's what's currently there. And you'll see I think page -- this one, Z-3 of the plans is probably the best to show the before and after.

So what Sprint's proposing to do is to remove the three Clearwire -- basically remove the Clearwire equipment, which will be two dishes and three antennas and replace them with three, 2.5 antennas which is the background of this Sprint is upgrading its network. And then 2.5 antennas, 4G or LTE network, network vision Sprint's network that they're upgrading, and the 2.5 project with this proposal is part of -- allows Sprint to increase the capacity and the speed of

their network.

So there is -- so they're going to remove the Clearwire installation and replace it with just three antennas and then three RRH antennas. The RRH antennas what are smaller, maybe a foot long, they're actually behind the parapet wall. You wouldn't see them. The general public wouldn't see them. All you would see are these three proposed antennas and those dishes would be removed.

CONSTANTINE ALEXANDER: Can you go over as part of your presentation the photo simulations because I don't --

ATTORNEY ANNE REYNOLDS: Yeah.

CONSTANTINE ALEXANDER: Oh, okay.

ATTORNEY ANNE REYNOLDS: I was just going to say this is probably an easier way to view --

CONSTANTINE ALEXANDER: I don't see the new antennas on the photo simulations. That's my problem.

ATTORNEY ANNE REYNOLDS: The newer one. Okay, so here is the before existing. There's other carriers up there, so there are other antennas up there, but Sprint only has six total.

This view is the southeast view. We've got one antenna going right in between the columns, right there.

CONSTANTINE ALEXANDER: Excuse me, the photo sims that we have as part of your application is not the photo sims you're showing me on that board. The one we have just talks about removing the Clearwire antenna. It says nothing or shows nothing about the new antennas.

ATTORNEY ANNE REYNOLDS: Let me see.

CONSTANTINE ALEXANDER: Maybe I'm wrong.

ATTORNEY ANNE REYNOLDS: So this is the after photo.

CONSTANTINE ALEXANDER: That's the after, yes.

ATTORNEY ANNE REYNOLDS: So okay. So here, this is the before photo.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY ANNE REYNOLDS: And this shows you right here there's a Clearwire dish --

CONSTANTINE ALEXANDER: Yes.

ATTORNEY ANNE REYNOLDS: -- and an antenna.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY ANNE REYNOLDS: And if you look on the after photo, this is the proposed new antenna that will --

CONSTANTINE ALEXANDER: Why isn't it identified on these photo simulations, though? It doesn't identify it.

ATTORNEY ANNE REYNOLDS: On the before picture?

CONSTANTINE ALEXANDER: No, the after picture. What it would be like if we approve it tonight. It just says remove clutter from memory.

ATTORNEY ANNE REYNOLDS: Proposed two Sprint 2.5 antenna mounted to existing pipe.

CONSTANTINE ALEXANDER: I'm sorry. I apologize, maybe I missed it.

Okay, I see it. The way it's worded is tricky. It looks like all the reference to remove Clearwire antenna, but I guess not. Okay, I'm sorry. Go ahead.

ATTORNEY ANNE REYNOLDS: So, let

me -- I'll start. The one we were just talking about was this one on the bottom here. So that one there's a dish and an antenna existing right there. And what we're proposing to do is remove both of those pieces of equipment and replace it simply with just one antenna which will be painted to match the brick.

The other two sides of this penthouse there are also existing another -- this far corner right here, there is an antenna and a dish. Sorry, just an antenna. The Clearwire antenna there, and then an antenna and a dish, right here. So on a far left of both sides of that wall. And what we're proposing to do is remove those existing Clearwire antennas again and replace them with two new 2.5 antennas, which again will be painted to match and in a similar location

to what's already existing except there will be less equipment.

So that's the total of what Sprint is looking to do and essentially what we're going to end up with is a net loss of equipment up on that building.

I'm happy to answer any questions.

CONSTANTINE ALEXANDER: I have one thing I want to call to your attention. There was an article in the Wall Street Journal on October 4th entitled, "Cellphone Boom Spurs Antenna Safety Worries."

ATTORNEY ANNE REYNOLDS: I've not read it.

CONSTANTINE ALEXANDER: Okay.

Let me read you the first -- it's a copy -- October 4th. Let me read you the first several paragraphs which to me are very troubling.

It begins: The antennas fuelling the nation's cellphone boom are challenging federal safety rules that were put in place when signals largely radiated from remote towers off limits to the public. Now antennas are in more than 300,000 locations; rooftops, parks, stadiums, nearly double the number ten years ago, according to the industry trade group CTIA. Federal rules require carriers to use barricades, signs, and training to protect people from excessive radiofrequency radiation, the waves of electric and magnetic power that carry signals. The power isn't considered harmful by the time it reaches the street, but for workers and residents near an antenna, it can be a risk.

So it says this article. And of course there are directly across the street from

where you're going to put your antenna is a very large apartment house, and another apartment complex is being built right next-door to it, on the other side of Mount Vernon Street.

Continuing: One in ten sites violates the rules, according to six engineers who examined more than 5,000 sites during safety audits for carriers and local municipalities, underscoring a safety lapse in the network that makes cellphones hum at a time when the health effects of antennas are being debated worldwide.

Another issue that we've heard before on our Board.

(Reading) The FCC has issued just two citations to cell carriers since adopting the rules in 1996. The FCC says it lacks resources to monitor each antenna. Quote,

it's like having a speed limit and no police, said Marvin Wesle (phonetic), an engineer, who has audited more than 3,000 sites and found one in ten out of compliance.

And it goes on.

To me this underscores our concerns about the proliferation of cellphone antennas in Cambridge, particularly on buildings where there are residents, which is not true here, but also across the street when you have, you have apartment houses of -- almost on a sight line with the antenna. Why shouldn't we be concerned about this? Why, you know, I wish you -- I know you weren't aware of the article and you probably can't address it, but I would like your client -- I'm going to ask -- I'm going to suggest to my Board that we pose a special condition relating to this, which we haven't

done before, but why should we be concerned? I mean, to be sure that we can't say no, you can't do it because cell -- these are unhealthy, that's the federal legislation. But this goes -- this article goes to the fact that the cellphone carriers are not complying with the government's own requirements regarding safety at a time when the issue of the safety of these cellphone magnetic waves are an issue.

ATTORNEY ANNE REYNOLDS: I think, all I can say and obviously, I have no control over every single carrier and everything that happens, but the bottom line is as, you know, it's regulated by the FCC. They have regulations that they need to file. Their license depends on that. Sprint cannot make any money, do any business without a license to operate their network. Yes, obviously as

in anything, there's not enough resources to go and test every antenna every two months or whatever period it would be, you know, the best to do, but it's, and in some ways it's self-regulating and there are spot checks and audits and things that happen. Just like anything, you know, you drive and go through a red light five times maybe a cop sees you once and you're going to get a ticket for it. You know you're not supposed to do it and, you know, there are different privileges because of it. So it's in Sprint's best interest to follow those regulations and make sure that they're within compliance with the requirements of the FCC. You know, I know I understand there are a thousand articles out there and people are concerned about, you know, some of those issues.

CONSTANTINE ALEXANDER: I don't

mean to be cynical, but it's not in your interest to comply with the regulations. It's your interest to make a profit. And if nobody is enforcing the speed limits, you're going to speed, why not? And that's a bad analogy but that was the analogy used in the article. So the notion that we should rely upon Sprint's self-interest to make sure these things are safe, I don't know -- the article, by the way, ends with reference to the insurance carriers. I have it right here.

(Reading) Hartford Financial Services Group, and ANM Best, the insurance rating agency, has flagged radio frequency as an emerging risk. Swiss Ray wrote in a 2013 report that if radio frequency radiation is linked to health problems, it, quote, could ultimately lead to large losses. We're not

looking at it from the point of view of the insurance companies. We're looking at it from the point of view of safety of our citizens.

I'm going to ask, just cut to the chase, I'm going to ask my Board that we adopt the condition that requires someone in authority at your company to give us an Affidavit saying, I know what's going on and these are safe. So I have someone on the hook, frankly, who has put his or her John Hancock to this. Because otherwise we have no way of knowing whether these things are being maintained safely.

ATTORNEY ANNE REYNOLDS: We can get an engineer to do that.

CONSTANTINE ALEXANDER: Anyway, I've said enough. Other questions or comments from Members of the Board?

BRENDAN SULLIVAN: The only comment I think I would have is that I sort of thought the photo simulations were not up to the standard that we're either used to or that we expect and that we can easily understand. So aside from that, I think what you're attempting to do is upgrade some of the equipment. The only comment I would have is that I think maybe Verizon has changed some of their equipment in the past and they have painted, colored their equipment a darker red. It's almost a terra-cotta color, which to me looks fine as opposed to the simulated brick which is God awful. And so we've gotten way away from that.

What my other fear is, though, that we're going to have three or four different carriers on this building, paint their own version of red and say well, that's our

interpretation of stealth or -- so I would like them all to match. And I think that whatever -- it's sort of the upper antenna that I think, I don't know, which tends to blend in or seem to be less noticeable to the eye.

ATTORNEY ANNE REYNOLDS: The ones above Sprint's?

BRENDAN SULLIVAN: Yes, just below the roof. The very top of the roof there.

I think I would -- because I go by this. These here --

ATTORNEY ANNE REYNOLDS: Right.

BRENDAN SULLIVAN: -- tend to be darker and to be less noticeable. So you're replacing these?

ATTORNEY ANNE REYNOLDS: We're replacing that right there.

BRENDAN SULLIVAN: Yes, okay.

So those should be painted to match, to match that. However we put that in there, because this stuff here is terrible. But anyhow, if we can --

ATTORNEY ANNE REYNOLDS: To be painted to match.

BRENDAN SULLIVAN: Match those I guess I would be --

CONSTANTINE ALEXANDER: Match what, I'm sorry?

BRENDAN SULLIVAN: I think these may be Verizon I guess or T-Mobile.

CONSTANTINE ALEXANDER: These should match the color of the Verizon antennas?

BRENDAN SULLIVAN: Match the ones --

CONSTANTINE ALEXANDER: Current?

BRENDAN SULLIVAN: -- in the upper level I guess would be a clearer way to put

it, just below the top of the ridge line. Those are less eye catching. Less noticeable. I think more of what we're trying to maybe do, we've been doing away with them which we all need.

So, anyhow, that would be my comment.

CONSTANTINE ALEXANDER: Good.

Other questions or comments from members of the Board?

(No Response.)

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 there is no one here wishing to be heard.

The Chair would note that we are in

receipt of a memo from the Planning Board, this being the only communication I guess we've had on this matter. Let me find the right file. I have three files.

Okay, it's a memo to us from the Planning Board. (Reading) CDD staff, that's Community Development Department, staff has reviewed the revised proposed installation at 1815 Mass. Ave. and found it to be generally appropriate subject to some minor modifications. Staff suggests that the proposed antennas be repositioned so they do not interrupt the red brick line when viewed from the street, particularly from the southeast, and flush mounted to achieve a lower profile installation. Staff also suggests that the owner of the site be requested to improve the appearance and arrangement of all other antennas on the

building. Well, you can't control that. So that's not appropriate to you.

I've asked, by the way, for benefit of the Board members, that Sean O'Grady send this to Lesley Kollag (phonetic) which is the owner of the building pointing out that they should be working with the -- in accordance with the comment from the city, from CDD, should be working to improve the appearance and arrangement of all other antennas on the building.

But back to the specific one to yours, is there a problem with that?

ATTORNEY ANNE REYNOLDS: No. The only thing with the mounting is we've used the low profile mount that I know that the Board often requires. Is that we'd get it as flush as we can, except because of those sort of outside, we have to make sure there's no

interference. So we could agree to put it as flush as we can so it's not avoidance with those walls.

CONSTANTINE ALEXANDER: We've had this discussion before with you and other carriers. So you can't really put them flush to the wall. You do need some sort of mount.

ATTORNEY ANNE REYNOLDS: They need a little bit, yeah, otherwise they'll just bounce right off.

CONSTANTINE ALEXANDER: Okay.

Any further comments? Final comments?

ATTORNEY ANNE REYNOLDS: No.

CONSTANTINE ALEXANDER: I'll close public testimony.

Any discussion among members of the Board or are we ready for a vote? What's the pleasure?

BRENDAN SULLIVAN: I'm fine.

JANET GREEN: I'd just like to say it's a really good idea to ask somebody to be responsible for addressing those concerns.

CONSTANTINE ALEXANDER: Thank you. When I get to the motion, I'll read you the language I propose to put in this decision and every other decision that we have with telecom carriers. We're not picking on you. I want to make that very clear.

Okay, the Chair -- a couple things you should address. You're a licensed FCC carrier, your client is?

ATTORNEY ANNE REYNOLDS: Yes.

CONSTANTINE ALEXANDER: And in good standing?

ATTORNEY ANNE REYNOLDS: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this Board make the following findings with respect to the

Special Permit being sought by the petitioner:

That the petitioner is a duly licensed FCC carrier and in good standing as represented to us by petitioner's counsel.

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

Again, all of these findings I'm proposing are going to be subject to the conditions that I'm going to suggest at the end of the findings.

But with regard to traffic patterns and the like, just to confirm, you've been told by all of the carriers, in terms of the maintenance, once a month you typically --

ATTORNEY ANNE REYNOLDS: Yes, typically at most once a month.

CONSTANTINE ALEXANDER: So it's not a daily occurrence that it would cause traffic problems?

ATTORNEY ANNE REYNOLDS: No.

CONSTANTINE ALEXANDER: That the continued operation of development of adjacent uses will not be adversely affected by the nature of the proposed use. That goes I guess to the safety issues that we talked about earlier. But it's your representation to us, or your client's, that what you're going to do will not adversely affect the other adjacent uses.

ATTORNEY ANNE REYNOLDS: Correct.

CONSTANTINE ALEXANDER: In this regard you're talking about just some -- just emitting radio frequency waves and nothing else.

ATTORNEY ANNE REYNOLDS: Correct.

CONSTANTINE ALEXANDER:

No -- again, same issue, no nuisance or hazard will be created to the detriment of the health, safety, and welfare of the occupant, that's the occupant to the building, or the citizens of the city.

And that the proposed -- what you're proposing will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

On the basis of these findings, the Chair moves that this Board grant the Special Permit being requested subject to the following conditions:

In no particular order, that if the use of these new antennas are discontinued for a period of six months or more, that the antennas be promptly removed and the building

is restored to its prior condition to the greatest extent as is reasonably possible.

That the color of these new antennas you're proposing will be similar to what the upper level current Verizon antennas that are above the roof line, as discussed with what Mr. Sullivan suggested.

Further condition that the proposed antennas be repositioned so they do not interrupt the red brick line when viewed from the street, particularly from the southeast.

That, I think as your plans show and our relief will be tied to the plans you submitted, that you will use low profile mounts. Those are in the plans?

ATTORNEY ANNE REYNOLDS: Yes.

CONSTANTINE ALEXANDER: Further that with regard to the appearance of these antennas, that not only do they -- the color

should be as I previously indicated, but they must continue to be maintained. We've had this problem before where you put them up, paint them nice, and then forget about them and they rust or peel or whatever. You have an ongoing responsibility is what I'm saying.

Also two further conditions:

First special condition is that -- and I've read this before, and we've imposed this on your client before, condition is that in as much as the health effects of the transmission of electromagnetic energy waves is 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 energy wave

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. Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

Two, in the event that at any time federal authorities notified 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 governmental regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, the petitioner shall

within ten business days of receipt of notification of such failure shall file with the Inspectional Services Department the 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 a Special Permit has terminated pursuant to the foregoing paragraphs 1 and 2, the petitioner may apply to this 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.

And lastly, to deal with the safety issues that I alluded to before from the wall Street Journal article, a last final condition, a Special Permit granted tonight shall also be subject to the condition that prior to the installation of the equipment approved tonight, the petitioner shall file with the Inspectional Services Department a sworn Affidavit of the person in charge of the installation of equipment by the petitioner for the geographical area that includes Cambridge. And not just talking about the engineer for this project. I want someone who has responsibility for the region. Stating that A, he or she has such

responsibility; and B, that the equipment to be installed pursuant to the Special Permit we are granting tonight will comply with all federal safety rules and will be situated and maintained in locations with appropriate barricades and other protection such that individuals, including nearby residents and occupants of nearby structures, will be sufficiently protected from excessive radio frequency radiation.

So on the basis of -- I said we would grant the Special Permit. One final condition is that the work proceed in accordance with the plans submitted by the petitioner, the first page of which has been initialled by the Chair. Such plans would be modified as per the earlier conditions of the motion.

So it's these plans as modified by the

other conditions. That's the final condition.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

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

ATTORNEY ANNE REYNOLDS: Thank you very much.

* * * * *

(7:55 p.m.)

(Sitting Members Case #BZA- Constantine

Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 004125, 1815 Mass. Ave.

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

ATTORNEY ANNE REYNOLDS: For the record, Anne Reynolds, Prince, Lobel on behalf of Sprint.

CONSTANTINE ALEXANDER: And I take it, Ms. Reynolds, you wish to withdraw this petition?

ATTORNEY ANNE REYNOLDS: Yes, we do.

CONSTANTINE ALEXANDER: All those in favor of accepting withdrawal say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. You can go.

(Alexander, Hughes, Sullivan,

Scott, Green.)

ATTORNEY ANNE REYNOLDS: Thank you
very much.

* * * * *

(7:55 p.m.)

(Sitting Members Case #BZA-

Constantine

Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 005231, 20 Hubbard Park Road.

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

Just one second.

Okay.

TOM MURDOUGH: So we are proposing --

CONSTANTINE ALEXANDER: Give your name and address for the record.

TOM MURDOUGH: Sorry. I'm Tom Murdough. I'm the architect representing Tom Dupree, the owner of 20 Hubbard Park Road.

THOMAS DUPREE: I am Tom Dupree. My wife and I own the house at 20 Hubbard Park Road.

CONSTANTINE ALEXANDER: Okay, you're seeking a Special Permit to relocate a window or add a window?

TOM MURDOUGH: Enlarging a window. We're basically --

CONSTANTINE ALEXANDER: Installing new windows in a non-conforming wall.

TOM MURDOUGH: It's actually one window. There are two existing windows and we are taking the space between them out to make one large window. And it's a non-conforming wall. The -- the side yard setback on this building on this property basically sort of intersects the building at this corner, and I believe that particular corner's 14 feet set back from the side yard. The other corner of the building is 16-foot, nine so it's on an angle relative to the side yard. And we're renovating the kitchen.

And so we're just looking to expand that window. The window itself faces a neighboring yard which has a tennis court on it. There's no occupation of that property. There is cedar -- is it a hemlock? There's a hemlock sort of --

THOMAS DUPREE: Hedge.

TOM MURDOUGH: -- that runs along that side yard. So this is a --

CONSTANTINE ALEXANDER: Have you spoken to this neighbor?

THOMAS DUPREE: I indeed have. I spoke to the husband an hour and a half before the meeting.

CONSTANTINE ALEXANDER: Don't keep us in suspense. What did he say?

THOMAS DUPREE: I was afraid you'd ask that. No, they're fine with it. They were worried that the wall itself was going

to get pushed -- and I explained to them that the plane of the wall and the windows won't change. We're just combining some windows into a single window.

TOM MURDOUGH: Yeah. So there's no dimensional change to the building at all. And, you know, by -- I believe it's eight -- section 8.22.2.C is permissible (sic) by a --

CONSTANTINE ALEXANDER: Special Permit.

TOM MURDOUGH: By a Special Permit.

CONSTANTINE ALEXANDER: Correct.

TOM MURDOUGH: And this is a building that predates the Ordinance. It's actually --

THOMAS DUPREE: 1894 or '5, we're not sure.

CONSTANTINE ALEXANDER: The

building's that old?

THOMAS DUPREE: Yeah, yeah. It's still in good condition.

CONSTANTINE ALEXANDER: It's a very handsome building.

THOMAS DUPREE: It may not matter but on the average the wall is more than 15 feet.

CONSTANTINE ALEXANDER: It doesn't matter unfortunately.

THOMAS DUPREE: It is non-conforming, right.

TOM MURDOUGH: You know, there's no, you know, this is also facing a side yard. There is no -- it does not face the front or the back streets. It's not visible from public way.

CONSTANTINE ALEXANDER: And are you satisfied with the design of the window which

is a little bit different than the rest of the windows on that side of the house?

TOM MURDOUGH: Yeah. It's, I mean it is a little different, but that's, you know, the design that we're proposing which the clients have requested is sort of a more contemporary design. There are -- actually the rear yard has a larger aluminum sliding window which is consistent with what we're proposing, so we're just sort of keeping that look. And given it is very private and secluded, we don't see an issue with it. It's going to bring in a lot of light for the Duprees and which is a big part of why we're doing this.

CONSTANTINE ALEXANDER: Questions from members of the Board?

THOMAS SCOTT: Did the Historic Commission review the plan?

TOM MURDOUGH: It's not in the historic district.

THOMAS SCOTT: That's not relevant?

TOM MURDOUGH: No.

CONSTANTINE ALEXANDER: It also doesn't face a public way. It's in the back of the house which is another reason why you don't have to go to Historical Commission for approval.

Any other questions or comments?

(No Response.)

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 there is no one here wishing to be heard.

The Chair would note there appears to be no correspondence in our files from anyone. All we have is your report. We take on face value the fact that you have spoken to the most affected neighbor.

TOM MURDOUGH: I have.

CONSTANTINE ALEXANDER: And the neighbor has no objection.

THOMAS DUPREE: No objection.

CONSTANTINE ALEXANDER: Okay, I'm going to close public -- unless you have any comments you want to make?

TOM MURDOUGH: No.

CONSTANTINE ALEXANDER: I'm going to close public testimony. Ready for a vote?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: With respect to the Special Permit being sought, the Chair moves that this Board make the

following findings:

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

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

You pointed out that the neighbor most affected, one, has no objection and, two, basically buffered by a tennis court that separates your window from their property and that is the most major issue with regard to Special Permits and non-conforming walls, is whether it's going to affect the privacy of a neighbor. And you've presented to us and proved that privacy will not be affected, neighbor's privacy will not be affected and

the neighbor seems to concur with that.

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

And that what you're proposing will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

In that regard the Chair, again, would say that the relief being sought is rather modest. It is such that it has no impact on the public ways of the city of Cambridge. It does affect the neighboring property, but as I've indicated several times now that neighbor seems to have no problem with the relief being sought, and there seems to be well -- relief is well substantiated as

there's a tennis court in between.

Based on all these findings, the Chair moves we grant the Special Permit you're requesting on the condition that the work proceed in accordance with these plans that I'm going to initial. So plan A1.3 prepared by Murdough, M-u-r-d-o-u-g-h Design.

Now, before I take the vote, you haven't been before us before. These got to be the final plans. If you change them, you're going to have to come back before us. You're comfortable that this is it?

TOM MURDOUGH: Well, the one thing I would say is we have not done exploratory work to determine the structural members, so the windows may get smaller. They're not going to get any larger. I can't, I mean I don't -- would that be cause for --

CONSTANTINE ALEXANDER: I

appreciate you're calling that to our attention. I'll make the motion so that in accordance with the plans provided that you can reduce the size of the windows.

TOM MURDOUGH: Yes.

CONSTANTINE ALEXANDER: But not increase them beyond what is shown on this plan.

TOM MURDOUGH: That's fine.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

Good luck.

TOM MURDOUGH: Thank you very much.

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

* * * * *

(8:05 p.m.)

(Sitting Members Case #BZA-005280-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005280, 45 Bellevue
Avenue.

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

As you know, for the record.

MAGGIE BOOZ: Maggie Booz, Smart
Architecture, B-o-o-z, 625 Mount Auburn
Street, Cambridge. And my client.

ELIZABETH BARTLE: Elizabeth
Bartle, B-a-r-t-l-e, 45 Bellevue, Cambridge.

CONSTANTINE ALEXANDER: What
address?

ELIZABETH BARTLE: 45 Bellevue.

CONSTANTINE ALEXANDER: Oh, okay.
I thought I heard 35. That's why I said
why -- you live in the property that we'll be
talking about?

ELIZABETH BARTLE: We don't live
there now because there was a house fire.

MAGGIE BOOZ: So we're here to
request permission to install two double hung
windows at the second floor of the rear facade
of the building in a location that currently
has a piano window, generally known as a piano
window, which is right up here. And so it's
these two windows that are part of the
application. The other part is that we want
to remove this double hung window and install
instead, and in a different location, this
square casement window with multiple lights,
with multiple patterns of glass. It matches

some light configurations, sash, and pane configurations that are on the front of the dormers on the original part of the house.

We're also making some other window changes, but they don't require a Special Permit because it's a reduction. For instance, this one, we're taking out this kind of contemporary three casements and a big triangular picture window and we're replacing it with double hungs and a smaller square window. Just trying to be more historically sensitive, but it's not part of the request. The request is these two windows and this window.

CONSTANTINE ALEXANDER: And the reason you need the Special Permit, again, just for the record, is because this side of the house is non-conforming, it's too close to the setbacks?

MAGGIE BOOZ: Correct, correct.

We're trying to get light into a bedroom. I don't really know why, you know, why the bedroom was ever designed with a piano window because normally those are for parlors and putting pianos under. And it's kind of a small room actually. It's tight. It's no more than about ten feet from the -- out to the bay wall.

CONSTANTINE ALEXANDER: What's that room going to be used for?

ELIZABETH BARTLE: My son's bedroom.

MAGGIE BOOZ: And the reason we want to change this window is because we installed -- there was -- there were two stairs in the house sort of. There was a main stair that went from the first floor to the second floor, and then there was another

stair at the other side of the house that went from the second floor to the third floor. We stacked them. We put the stair to the third floor over the, over the spare from the first to the second floor, which this window is right in the middle of. And so we're trying to get -- we're trying to continue to have natural light in the stairwell and that's the place where it can go.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I'm going to open the matter up to public testimony. You don't have to sit down, but you can if you like.

Does anyone wish to be heard on this matter?

(No Response.)

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

We appear to have no correspondence or other communications in the file.

Have you talked to the neighbor who's --

ELIZABETH BARTLE: We've communicated with everybody. The woman that's directly behind us --

CONSTANTINE ALEXANDER: Yes, that's what I'm talking about.

ELIZABETH BARTLE: -- I couldn't get ahold of her, but Maggie did talk to her.

MAGGIE BOOZ: Yeah, so they don't live there yet. They just bought that property there. It's that old Paul Rudolph garage that was turned into a house. I don't know if you know about that. I only learned

about it about two months ago when it was for sale. But anyway, there's this big old garage that got turned into a -- it was turned into a residence and probably in the sixties, and it was for sale and that's why I went into it. They had an open house for architects. And so it was purchased by this couple or family, I think, and just last week when I was out on the street at Bellevue, this woman came around onto Bellevue walking her dog and she, you know, called my name or called to me and introduced herself as the new owner of that property. And I said well, we're looking, you know, we're going to -- that Elizabeth and David were going to be looking for some relief for windows. She had an accent. Maybe she was German. I think her name was sort of --

CONSTANTINE ALEXANDER: We're not going to hold that against you.

MAGGIE BOOZ: Anyway, I don't know why I'm describing all that.

CONSTANTINE ALEXANDER: I know, I was a little puzzled by --

MAGGIE BOOZ: Just to make your evening more interesting.

So anyway, she said --

ELIZABETH BARTLE: What kind of dog did she have?

TIMOTHY HUGHES: It was German.

ELIZABETH BARTLE: It was a Dachshund.

MAGGIE BOOZ: Anyway, she said we're very easy going. I said well, that's great, because Elizabeth and David are very easy going and she said no problem. I didn't show her any drawings.

CONSTANTINE ALEXANDER: She didn't jump up and down and say over my dead body?

MAGGIE BOOZ: No, no, she did not.

CONSTANTINE ALEXANDER: That's it?

I'm going to close public testimony.

Anyone -- any comments or are we ready for a vote?

TIMOTHY HUGHES: I'm ready for a vote.

CONSTANTINE ALEXANDER: I never have to ask you.

MAGGIE BOOZ: I'm sorry.

CONSTANTINE ALEXANDER: All right.

The Chair moves that we make the following findings with regard to the Special Permit being sought. These findings, by the way, are required by our Ordinance. It's nothing we made up.

That the traffic generated or patterns the access or egress that is being proposed will not cause congestion, hazard, or

substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely effected.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant. That's you folks. Or the citizens of the city.

And that the proposed -- what you're proposing will not impair the integrity of the district or other adjoining districts or otherwise derogate from the intent and purpose of this Ordinance.

On the basis of these findings, the Chair moves that we grant the Special Permit being requested on the condition that the work proceed in accordance with the plan or

sheet numbered 2 prepared by Smart
Architecture and initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Special
Permit granted. Good luck.

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

MAGGIE BOOZ: Thank you very much.

* * * * *

(8:15 p.m.)

(Sitting Members Case #BZA-005317-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005317, 259-261 Brookline
Street.

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

ATTORNEY SEAN HOPE: Good evening,
Mr. Chair, members of the Board. For the
record, attorney Sean Hope, Hope Legal Law
Offices in Cambridge. I'm here tonight on
behalf of the owner Mr. Charlie Mahoney.

CHARLIE MAHONEY: 261 Brookline
Street, LLC.

ATTORNEY SEAN HOPE: This is an
application requesting Special Permit relief

to add windows within the setback on a delapidated structure. This is a property that sat vacant for numerous years. The property abuts a public park on two sides, and also a retail use on the left side setback. So the windows are not going to affect the privacy of any of the abutters. The one is a commercial property. There are new windows that are going to be in the front of the structure as well as the rear. The front of the structure does not need relief because it's facing the street, and the rear yard meets the rear yard setback.

I think this is a structure that many in the community have been waiting to be renovated. I actually live very close to this property and numerous times walk by it and see it. So it's an eyesore. I'm sure there are rats and kind of numerous things if

anyone went by to see the property.

We think the requested relief will allow light and air and also for the renovation of the property.

CONSTANTINE ALEXANDER: How long has the property been in its current condition? Just out the curiosity.

CHARLIE MAHONEY: My understanding was that the owner that I purchased it from was using it like a few days a month for about ten years.

CONSTANTINE ALEXANDER: It's a two-family house, though, right?

CHARLIE MAHONEY: Yes. One side was vacant for that period of time.

CONSTANTINE ALEXANDER: Okay.

CHARLIE MAHONEY: And it wasn't really fully occupied. The other side wasn't fully occupied.

CONSTANTINE ALEXANDER: When did you purchase this property?

CHARLIE MAHONEY: I purchased this February I think.

CONSTANTINE ALEXANDER: About nine months?

CHARLIE MAHONEY: Yeah.

CONSTANTINE ALEXANDER: Six or eight months ago?

CHARLIE MAHONEY: Yeah.

CONSTANTINE ALEXANDER: And this by the way, this is the key drawing?

ATTORNEY SEAN HOPE: That's exactly.

CONSTANTINE ALEXANDER: Which is where the windows are.

ATTORNEY SEAN HOPE: And on the drawing, not that it matters, but it does show certain areas of relief on the front that

actually don't need relief --

CONSTANTINE ALEXANDER: I know,
right.

ATTORNEY SEAN HOPE: -- but we tried
to identify where the new windows would be and
what they would look like.

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

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair
notes that there is no one.

The Chair would report that there is
nothing in our files from any neighbors or
other citizens of the city.

Have you talked to any of your
neighbors, out of curiosity. About this

project?

CHARLIE MAHONEY: Neighbors? Yes. Some of the people who live in the neighborhood --

CONSTANTINE ALEXANDER: Yes.

CHARLIE MAHONEY: -- for a number of years have stopped by when I've been on the site. And they are happy to see it, you know, being fixed up and preserved more or less, you know. So, yeah.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: And for the record, too, I actually had a conversation with Lee Simmons. She has her business located at 195 Brookline Street, a few blocks away. Not related to this, but she did see my name on the sign and she asked what was happening, and she was also encouraged that it was going to be renovated and have

people living in it. And so anecdotally.

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

Discussions from members of the Board? I'm not even going to ask you, Tim, if you're ready for a vote.

TIMOTHY HUGHES: Okay.

CONSTANTINE ALEXANDER: All set?

TIMOTHY HUGHES: Um, never mind.

CONSTANTINE ALEXANDER: Okay.

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

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character. In this case, of course, we're just talking about just modifying windows in a non-conforming

setback.

That the continued operation and 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/or welfare of the occupant of the structure or the citizens of the city.

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

On the basis of these findings, the Chair moves that we grant the Special Permit being requested on the condition that the work proceed in accordance with the plan numbered A2.1 prepared by Peter Quinn Architects and initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Good luck.

CHARLIE MAHONEY: Thank you.

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

* * * * *

(A short recess was taken.)

(8:30 p.m.)

(Sitting Members Case #BZA-005234-2014
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005324, 82 Larchwood
Drive.

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

ATTORNEY JAMES RAFFERTY: Good
evening, Mr. Chairman, members of the Board.
For the record, my names is James Rafferty.
I'm an attorney with offices at 675
Massachusetts Avenue in Cambridge, appearing
this evening on behalf of the applicants,
Susan and Robert Starbuck seated to my right.
And to the right of Mr. and Mrs. Starbuck is

Frank Shirley the project architect.

This is an application for an -- essentially to ask for a modest increase in gross floor area. And I advised my clients that I often get accused of throwing that term modest around in cases where it might not be appropriate. But I said I feared no contradiction this evening because --

CONSTANTINE ALEXANDER: I'm going to contradict you. You're going from conforming FAR to non-conforming. That's not modest.

ATTORNEY JAMES RAFFERTY: It's a modest increase of 87 feet.

CONSTANTINE ALEXANDER: It's significant in terms of the impact.

Go ahead.

ATTORNEY JAMES RAFFERTY: I'm glad

you said that, because they were wondering why they needed a lawyer. Everyone was getting what they wanted tonight. And I said you should see what they can be like. You've lived up to your billing, Mr. Chair.

At any rate, it's a unique story, if you will, in terms of there's Zoning interest. So the house is a single-family house in a Residence A-2 District. I'm sure you've seen the photos if not been by the house. And the house is conforming, but for the fact that this front entry is within the setback. But if it's an uncovered porch, it would be conforming. And the Starbucks who have purchase the home and are relocating here from New York City to be close to their daughters, both of whom live around the corner on Fresh Pond Parkway. Through Mr. Shirley and his work with the Building

Department, they were able to ascertain if they remove the roof from the top of the vestibule, then it was an uncovered porch, it qualified for the three-foot exception into the setback area and they could proceed with the vast majority of their construction as of right because they wouldn't be constrained by Article 8 ten percent limitations. So they put two modest additions, but they are small. But what Mr. Shirley has done, really, is quite impressive. The entire design of the house is being transformed essentially to a Tudor home with very close attention to architectural details. And it was in significant deferred maintenance I say would be the expression here.

So what we're here tonight for is to ask the Board for two things. As I said, the GFA as proposed, or as currently exists, is about

40 square feet below what's allowed. We're asking in total for an additional 130 square feet. And it's occurring in two areas.

One, is to return the roof to the vestibule. The vestibule would be rebuilt and it would have the roof on it as the vestibule has existed perhaps since the house was constructed at that location.

That has a GFA implication. Also has that setback implication. So the relief on the vestibule is related to the GFA. Some 28 square feet as well as the incursion into the setback.

On the balance of the request here, the 87 square feet is for a covering over a walkway connection from the garage to the home, and it's included within GFA because it's covered, but it's open on the sides. Were it to be more of a trellis, it would not

be GFA, but it is a roof. And it's intentionally a roof to assist Mrs. Starbuck in being able to move from the home -- from the garage into the home. She has a handicap and requires use of a cane and is concerned about inclement weather.

So in many ways, I explained to them that they could put sides on this thing, because once -- the GFA is there once you put the roof on it, but they're very committed to having the yard remain open. They've talked with all of their neighbors. Three of their neighbors, including as near as we can tell, anyone who would be able to see this visually have sent letters of support.

CONSTANTINE ALEXANDER: Two. I got two in the files.

ATTORNEY JAMES RAFFERTY: There were three there at one o'clock today.

CONSTANTINE ALEXANDER: Maybe another one came in since I had been there.

ATTORNEY JAMES RAFFERTY: Okay. They're e-mails or letters.

CONSTANTINE ALEXANDER: We only have two. I only see two. It's not a great moment. Keep going.

ATTORNEY JAMES RAFFERTY: On either -- neighbors on either side and across the street is what I saw today. But so that I respectfully suggest that that's probably the lion share of the relief which is to allow for this covering to be -- here you can see it perhaps best in rear elevation. It comes off the house in that version of it, you see it.

CONSTANTINE ALEXANDER: Question: Is there an issue here about the separation of structures? As you know in the Ordinance

ten feet.

ATTORNEY JAMES RAFFERTY: Right.

CONSTANTINE ALEXANDER: And aren't you getting close to -- you're not connecting the structures?

ATTORNEY JAMES RAFFERTY: Well, that's just it. We're not.

CONSTANTINE ALEXANDER: Doesn't that mean you have to meet the ten feet then. If you were connected, it's one structure you wouldn't have to worry about the --

ATTORNEY JAMES RAFFERTY: Well, this is not, the question then is is that, is that structure part of the house? It's not connected to the garage intentionally, so it doesn't connect to the garage.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: So it's not an attached garage. If the garage were

attached, we'd have setback issues with the garage.

CONSTANTINE ALEXANDER: Okay. But it is attached to the house.

ATTORNEY JAMES RAFFERTY: It is attached to the house.

CONSTANTINE ALEXANDER: The house with the attachment isn't that going to be closer than ten feet to the garage?

ATTORNEY JAMES RAFFERTY: It is.

CONSTANTINE ALEXANDER: But don't you need Zoning relief for that?

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: You're not seeking it?

ATTORNEY JAMES RAFFERTY: Well, we're looking for dimensional relief. It's the article, the section.

CONSTANTINE ALEXANDER: Are you

sure that 5.31 covers the ten foot -- I'm not sure where it is in the Ordinance right away. But I'm not sure you have the right citation. And if you don't, we have a problem from an advertisement point of view.

ATTORNEY JAMES RAFFERTY: Well, the accessory structure exists already and we're looking to put this, put this covering on.

CONSTANTINE ALEXANDER: But you're not going to move the other structure closer to the accessory structure. And right now it's more than ten feet, I think, from the garage and now --

ATTORNEY JAMES RAFFERTY: Oh, it is. It is, yeah.

CONSTANTINE ALEXANDER: And now it would be less than ten feet. I'm looking for the section that has that requirement. If anybody on the Board knows where it is, help

me. It must be in 5.

ATTORNEY JAMES RAFFERTY: It is in
5.

It's accessory structures. It's in 5.

CONSTANTINE ALEXANDER: My
recollection is that it's a completely
freestanding section or subsection --

ATTORNEY JAMES RAFFERTY: It is.

CONSTANTINE ALEXANDER: The
question is where?

ATTORNEY JAMES RAFFERTY: I think
it's in definitions of accessory structures.

CONSTANTINE ALEXANDER: Where is
Sean when we need him?

ATTORNEY JAMES RAFFERTY: It's a
height restriction of 15 feet and there's a
separation requirement of 10 feet.

CONSTANTINE ALEXANDER: Where is it
that has the separation? And is it 5.31,

that's the question?

ATTORNEY JAMES RAFFERTY: I think it's a footnote in 5.31. If you bear with me.

What it is is a -- that's why I know it's in 5 because it's an exception to the setback requirement for accessory structures. And in order to take advantage of the setback requirement which requires only five-foot setbacks from the rear and the side yard, the structure need not be more than 15 feet in height and more than ten feet from the house. So it's a footnote in 5. And if you give me a second....

CONSTANTINE ALEXANDER: Show me that footnote.

TIMOTHY HUGHES: How about 3B, 5- page is 517 so it would be footnote 3B. But that says Residence B District. What kind of residence district are we talking

about?

ATTORNEY JAMES RAFFERTY: Residence

A.

TIMOTHY HUGHES: There is a reference there to --

ATTORNEY JAMES RAFFERTY: Yes, it's footnote 3. Setback --

TIMOTHY HUGHES: Building exceptions.

CONSTANTINE ALEXANDER: This is a requirement that it's citywide. It's 10 foot between structures, that's my recollection. It's a safety issue, generally, that's why we have it. We don't want fire jumping from one building to the next building or you want to be able to get to the backyard or the side yard to -- the firemen need to get there to put out a fire. That's the reason it's in the Ordinance. I

can't find it for the life of me.

TIMOTHY HUGHES: What about 3A, setback exceptions?

ATTORNEY JAMES RAFFERTY: Yes, I thought it was there, and I'm not seeing it.

TIMOTHY HUGHES: It says 15 feet in an A-1.

ATTORNEY JAMES RAFFERTY: That's the front/back. No, it is a setback issue.

CONSTANTINE ALEXANDER: It's a separation issue.

ATTORNEY JAMES RAFFERTY: Now, to take advantage of the accessory structure setback, the 10 foot separation issue is a different issue that's a Building Code requirement.

CONSTANTINE ALEXANDER: Say it again, I'm sorry.

ATTORNEY JAMES RAFFERTY: I believe

the 10 foot separation is a Building Code requirement.

CONSTANTINE ALEXANDER: No. We had this issue in other Zoning cases and Sean and I have discussed it.

ATTORNEY JAMES RAFFERTY: No, no, you're right now that I think about it. Yes.

Good thing it's not a busy night.

CONSTANTINE ALEXANDER: Sorry to keep all the other members of the Board here, but we have to get to the bottom of it.

ATTORNEY JAMES RAFFERTY: I agree.

FRANK SHIRLEY: I found it.

CONSTANTINE ALEXANDER: You found it?

FRANK SHIRLEY: Yes.

ATTORNEY JAMES RAFFERTY: What does it say?

FRANK SHIRLEY: It's on page

4-3 -- it's 4.21. It's under accessory uses
4.21.H.

CONSTANTINE ALEXANDER: 4.21.H.

FRANK SHIRLEY: Yes. C-1 district
buildings shall not be located near or 10 feet
principal building near five feet side or
rear lot. But that's the provision.

CONSTANTINE ALEXANDER: That's good
news and bad news from your perspective. You
haven't advertised Section 4 or Article 4 of
this section.

ATTORNEY JAMES RAFFERTY: Well,
that is true, but one of the remedies is we
could get setback relief for the garage under
5.31.

TIMOTHY HUGHES: Well, you haven't
advertised for that, have you?

ATTORNEY JAMES RAFFERTY: We
advertised under 5.31.

CONSTANTINE ALEXANDER: That's for the breezeway, not for the garage.

Well, we can handle the case tonight. If we want to grant relief, I think you're going to have to come back for the second Variance from this section.

ATTORNEY JAMES RAFFERTY: Frank, is this element part of the structure?

FRANK SHIRLEY: To me it's not engaged with the house.

CONSTANTINE ALEXANDER: When you say not engaged with the house, I'm sorry, what do you mean by that?

ATTORNEY JAMES RAFFERTY: It's freestanding.

FRANK SHIRLEY: So --

CONSTANTINE ALEXANDER: You still have the same issue. You have a freestanding structure that's within 10 feet.

ATTORNEY JAMES RAFFERTY: You could have a trellis off the back of the house.

CONSTANTINE ALEXANDER: You're right.

FRANK SHIRLEY: This is an open air piece. It's --

ATTORNEY JAMES RAFFERTY: It looks like this. It doesn't touch the house.

BRENDAN SULLIVAN: The Building Department says that the spacing between those structuring members, I think, have to be a minimum of, it may be four feet.

ATTORNEY JAMES RAFFERTY: Well, no, that's not the issue, because that's what makes it a roof. So we're saying that this is GFA.

CONSTANTINE ALEXANDER: Let me suggest --

ATTORNEY JAMES RAFFERTY: But this

is no different than putting a pergola within ten --

BRENDAN SULLIVAN: That's what I'm saying, on a pergola or a trellis per se that --

THOMAS SCOTT: It does engage the house here.

CONSTANTINE ALEXANDER: It looks like from the plans it engages the house. We'll get to that later on. I had a lot of trouble with the plans trying to identify this breezeway. It looks like it's part of the house.

THOMAS SCOTT: The roof engages the house. It's attached to the house.

CONSTANTINE ALEXANDER: It's attached to the house.

Well, let me, in the interest of moving ahead, and I know you've been here this

evening and you don't need to have this arcane discussion. We can proceed on the relief that you're seeking, but I'm going to have to tell you you're going to have to talk to the Inspectional Services Department. You may need further relief. That could be a separate petition and we don't have to stop everything tonight.

ATTORNEY JAMES RAFFERTY: Right.

Well -- so I guess we would request the relief we've applied for, and if additional relief is needed, you may see us again.

CONSTANTINE ALEXANDER: Right.

That's certainly true.

I had trouble when I looked at the plans in the office and talking to Sean, I said I can't figure out this breezeway. It looks like it's part of the structure. Where's the breezeway? And what we concluded was you're

extending the roof which is what those plans show.

ATTORNEY JAMES RAFFERTY: Is that an accurate assessment that you're extending the roof?

FRANK SHIRLEY: So, all right. So we look at -- I'm sorry that they're not clear.

CONSTANTINE ALEXANDER: Well, let me -- we can go through this, but either way it's an issue you have to go before the building -- rather than just waste time tonight.

FRANK SHIRLEY: Okay.

CONSTANTINE ALEXANDER: This argument, if there's an argument, you have to have with Sean O'Grady at Inspectional Services.

ATTORNEY JAMES RAFFERTY: Well,

with all due respect --

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: -- there is some relevance to the GFA here.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: So I would like the record to reflect --

CONSTANTINE ALEXANDER: That's fine.

ATTORNEY JAMES RAFFERTY: It probably would take a minute. I appreciate the time, but the covering represents the GFA.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: So I do think a finding would need to be made with regard to the covering.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: And I

think it might be helpful to get this explanation, because -- and then I will go over it with Sean.

FRANK SHIRLEY: Okay. So this view of the aerial view, you're looking at it from above here. This triangle here is that first set of rafters. This structure is freestanding by its own, and all the way through here. It eventually engages the building down here, but it's about 20 feet away. But it engages the building where the mudroom door is.

CONSTANTINE ALEXANDER: Engages the building, it's a same. Same structure. Engages the building. It's not a freestanding structure. That's the point. Freestanding for most of it, but it also engages the structure and that gets to the Zoning issue, that creates the Zoning issue.

FRANK SHIRLEY: Okay.

CONSTANTINE ALEXANDER: And, again, these plans really, don't -- those drawings here and these plans are hard to put together I must say. This shows a very simple extension of the roof. And now I see all this stuff here, but this is what we have to go by, these plans.

Okay. I'm sorry, Mr. Rafferty, I interrupted you. Perhaps --

ATTORNEY JAMES RAFFERTY: No, no. So those -- I mean, so there's GFA issues. So the GFA would allow for this to be covered and the GFA is in the front porch and then it's the setback in the front as well. As to whether or not we need relief under provisions of Article 4, I guess that's correct. We did not advertise that and I'll review that with --

CONSTANTINE ALEXANDER: That's not before us tonight.

ATTORNEY JAMES RAFFERTY: Right. I'll review that with Mr. O'Grady. I would hope the Board would be able to act on what's before us and then we can --

CONSTANTINE ALEXANDER: Absolutely. There's no reason we can't act on what's before us. And if you can tell Mr. O'Grady that you don't need relief, then so be it.

ATTORNEY JAMES RAFFERTY: Well, that would be my first preference. I understand.

CONSTANTINE ALEXANDER: I'm sorry, I didn't mean to cut you short. Anything else?

ATTORNEY JAMES RAFFERTY: No.

CONSTANTINE ALEXANDER: Questions

from members of the Board?

THOMAS SCOTT: So can we tie the approval for the plan, for the plan -- if he needs the relief, how can we tie this approval to the plan?

ATTORNEY JAMES RAFFERTY: I'm sorry?

CONSTANTINE ALEXANDER: Well, if he needs relief --

THOMAS SCOTT: If the plan shows this covered breezeway attached to the house.

CONSTANTINE ALEXANDER: Yes. But if they can persuade Inspectional Services --

THOMAS SCOTT: That's fine.

CONSTANTINE ALEXANDER: -- then it's fine.

THOMAS SCOTT: But what if he doesn't do that?

FRANK SHIRLEY: Then we have to come back for another Variance for the 10 foot.

CONSTANTINE ALEXANDER: These same plans. I assume it would be the same plans. You're not going to change --

FRANK SHIRLEY: Yeah.

CONSTANTINE ALEXANDER: It wouldn't affect their plans.

ATTORNEY JAMES RAFFERTY: No, not to speak as a member, but I think -- I think the issue would be that determination would then be determined whether the relief we obtained was sufficient to proceed for a Building Permit. And if there's a conclusion -- and I think the decision stands on its own. I agree, I don't think that by approving this you -- you're doing anything beyond your authority. I don't think you're allowing a Zoning violation. I think you've raised the

questions as to whether or not there's adequate relief has been applied for and I'll have to review that with Mr. O'Grady.

CONSTANTINE ALEXANDER: I think Tom Scott's point essentially is you have to persuade Inspectional Services Department that you don't have a problem with the 10-foot separation of building and you have to modify the plans to get there, you're going to have a problem, you have to come back to us because we're going to tie it to these plans. And if you have new plans, you're back in the same soup.

ATTORNEY JAMES RAFFERTY: Yes.

THOMAS SCOTT: These plans might show something that might not get approved.

ATTORNEY JAMES RAFFERTY: Right. I don't anticipate we'll changing the plans.

You, right?

FRANK SHIRLEY: No.

ATTORNEY JAMES RAFFERTY: No.

CONSTANTINE ALEXANDER: All right.
It's your issue.

ATTORNEY JAMES RAFFERTY: Right, I
think we'll have to see what --

THOMAS SCOTT: Then you have to come
back to us for relief if he says that it's not,
you know, it requires relief.

ATTORNEY JAMES RAFFERTY: That's
all right.

THOMAS SCOTT: So what plan do you
bring back before us?

ATTORNEY JAMES RAFFERTY: It would
be the same plan. It's not advertised.

JANET GREEN: It will be advertised.

ATTORNEY JAMES RAFFERTY:
Continuing this case we're going to have to
re-advertise. If we need relief under

Article 4, we're going to need to file it, so I think in the end we'd have to --

THOMAS SCOTT: My point is if this isn't tied to this case this evening, but yet it's on this set of plans and this plan is approved --

CONSTANTINE ALEXANDER: No. We're going to -- to grant relief tonight, it will be tied to those plans. If they, to get the further clarification under article 4 or whether they've got a problem, they have to persuade Sean, they have to modify those plans, they'll win that battle but lose this battle, because they'll have to come back for relief, the same relief they're seeking tonight tied to new plans.

ATTORNEY JAMES RAFFERTY: You're right.

If we have to come back and we've

changed something then -- which I think is unlikely, but that we change it, because it's working.

CONSTANTINE ALEXANDER: Right.

You're either going to persuade ISD that you don't need to do anything or you're going to persuade them that you need -- not persuade, I mean, you're going to be faced with the fact that you need to get further relief but on the very same plans that we're seeing tonight.

ATTORNEY JAMES RAFFERTY: Correct.

CONSTANTINE ALEXANDER: I don't see a problem.

Okay? Any further comments or questions from members of the Board?

TIMOTHY HUGHES: So what are we doing?

CONSTANTINE ALEXANDER: We haven't done it yet.

SUSAN STARBUCK: That was my question.

CONSTANTINE ALEXANDER: What we're doing is to act on the petition before us tonight. But we've identified a potential further Zoning issue that has not been addressed. And whether or not there's a Zoning issue will be determined by Sean O'Grady and Ranjit after further conversations with Mr. Rafferty and the architect. And this doesn't affect tonight. This is sort of a head's up that this might not be the last time we're going to see this property before us. That's the point.

ATTORNEY JAMES RAFFERTY: Well said.

CONSTANTINE ALEXANDER: Okay. Does anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

We are in receipt of two pieces of correspondence: An e-mail from Chun, C-h-u-n-Shin, S-h-i-n Hahn, H-a-h-n, addressed to us. (Reading) My neighbor at 82 Larchwood Drive, Cambridge, has informed me of two constructions on their property: A breezeway between the north side of the garage and the back door and replace the roof on their front glass vestibule. I'm writing to let you know that I am fine with these two proposed works. Please feel free to contact me.

We also have an e-mail from Suzanne, Yelin, Y-e-l-i-n. (Reading) Recently we have talked with the Starbucks about their Variance proposal consisting of one, adding

a breezeway in the rear of their property to provide them with a covered roof from their garage to their house; and two, putting a roof over their entranceway. For the project one, this will basically only change the view in their backyard. It will not change the look of the neighborhood. In fact, will not be visible from anywhere. Project two, will just return the house closer to the state as before, how we know and like it, and a roof on the front entrance will certainly only improve the look and feel of the house. We are in favor of these proposals and support their project.

And that's it.

ATTORNEY JAMES RAFFERTY: Okay.

CONSTANTINE ALEXANDER: Let me make sure there's not a third one. Is there something from the Planning Board?

SUSAN STARBUCK: We also did speak to our --

CONSTANTINE ALEXANDER: Oh, no, this is from you, Mrs. Starbuck. I don't see anything in the file. It's not essential.

ATTORNEY JAMES RAFFERTY: Yes, okay. Right.

CONSTANTINE ALEXANDER: As long as you're telling me the letter is not in opposition?

ATTORNEY JAMES RAFFERTY: No, no.

CONSTANTINE ALEXANDER: One more letter is not going to make a difference one way or another in support.

ATTORNEY JAMES RAFFERTY: Right.

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

I assume you have no further comments?

ATTORNEY JAMES RAFFERTY: No.

CONSTANTINE ALEXANDER: Ready for a vote or do you want discussion?

TIMOTHY HUGHES: No, I'm ready for a vote.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that with respect to the Variances or Variance being sought of the two items, 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 that the petitioner needs some sort of protection from the house to the garage given her physical condition.

That the hardship is owing to where the location of the structure and the shape of the structure and the garage.

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

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

In this regard the relief being sought is modest in nature. That it has no real impact on the neighborhood as pointed out by a neighbor, and it has neighborhood support.

So on the basis of these findings, the Chair moves that we grant the Variance that's being sought on the condition that the work proceed in accordance with the plans submitted by the petitioner and initialled by the Chair. They are plans prepared by Frank Shirley Architects. They're numbered A-1.01, A-1.02, A-1.03, A-2.01, A-2.02, Z-1.03.

All those in favor of granting this Variance please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. Hopefully we won't see you again.

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

ATTORNEY JAMES RAFFERTY: Thank you
very much.

* * * * *

(8:55 p.m.)

(Sitting Members Case #BZA-005329-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005329, 43 Appleton

Street.

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

ATTORNEY JAMES RAFFERTY: Yes, good evening, again, Mr. Chair.

Yes, we got some feedback from an abutter in this case, so we're trying to address that. So we're requesting a continuance in this matter. I think I heard from the abutter's lawyer that she's away for the second meeting in December and there would be a preference for the first if that's available for a continuance?

UNIDENTIFIED AUDIENCE MEMBER:

Excuse me, I'm the neighbor.

ATTORNEY JAMES RAFFERTY: Oh.

UNIDENTIFIED AUDIENCE MEMBER:

Yeah, I just showed up to be sure nothing would happen.

CONSTANTINE ALEXANDER: We have availability on the first?

MARIA PACHECO: The first of --

CONSTANTINE ALEXANDER: First meeting in December?

ATTORNEY JAMES RAFFERTY: Is that the 6th.

MARIA PACHECO: December 4th.

UNIDENTIFIED AUDIENCE MEMBER: That's fine, that's fine with us. Yeah.

CONSTANTINE ALEXANDER: Okay. Are you aware, by the way, there's not only this gentleman and his lawyer is in opposition there's also another letter in opposition from Simeon Bruner the architect?

ATTORNEY JAMES RAFFERTY: No. Thank you.

CONSTANTINE ALEXANDER: He also, just so you know, being prepared for the

December 4th?

ATTORNEY JAMES RAFFERTY: Yes,
okay.

CONSTANTINE ALEXANDER: He wrote a letter. I don't know if he lives nearby. He doesn't identify. The letter is written on his stationery. It concludes, given the conclusion, given the other possibilities, any new structure should respect the Zoning setbacks attached to the main structure or not. I, therefore, request you do not support the request for the Zoning Variance. So you have two things.

UNIDENTIFIED AUDIENCE MEMBER: He lives in the neighborhood. He's one of the neighbors.

CONSTANTINE ALEXANDER: He wrote a letter on the stationery.

UNIDENTIFIED AUDIENCE MEMBER: He's

abutting.

ATTORNEY JAMES RAFFERTY: He lives next to Doctor Land's house on Brattle Street.

CONSTANTINE ALEXANDER: Okay. I just wanted you to be aware of that.

ATTORNEY JAMES RAFFERTY: He may be concerned on the principles involved.

CONSTANTINE ALEXANDER: Okay. This is a case not heard so we don't need to have all the five of us here.

The Chair moves that this case be continued as a case not heard until seven p.m. on December 4th, on the following conditions:

That the petitioner sign a waiver for a time for decision. You know the drill.

That the sign that's posted on the property now be modified to reflect the new date and the new time and be maintained for

the 14 days required by our Ordinance.

And to the extent that new plans or dimensional forms are required when we meet, you need to have those new plans and forms in our files by five p.m. on the Monday before us.

So maybe your lawyer will know about it, but if you wanted to see if they're changing what they're proposing, come after five p.m. on the Monday before and you'll see what's going to be before us on that Thursday.

Okay?

UNIDENTIFIED AUDIENCE MEMBER:

Okay.

CONSTANTINE ALEXANDER: All those in favor of granting the continuance on this basis say "Aye."

(Aye.)

ATTORNEY JAMES RAFFERTY: Thank

you.

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

* * * * *

(9:00 p.m.)

(Sitting Members Case #BZA-005038-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet

Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 005038, 55 Cambridge Parkway.

Is there anyone here wishing to be heard on this matter? Are you the petitioner?

UNIDENTIFIED AUDIENCE MEMBER: No.

CONSTANTINE ALEXANDER: Oh, okay. I'm looking for the petitioner.

No one here from the petitioner. We have no letter in the file? Is there a letter?

MARIA PACHECO: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair is in receipt -- there's letter from Amy Crosby who I believe is the architect or with the architectural firm dealing with the sign. It's addressed to Ms. Pacheco. (Reading) Per your phone call

just now, please let this e-mail serve to inform the Board of Zoning Appeals that we will not be attending the Zoning appeal hearing tonight. Based on a voicemail received yesterday from Sean O'Grady, it is our understanding by the Board Chair that the posters notifying the public of the hearing were not posted in accordance with the BZA rules for signage posting, and because of this our case will not be heard tonight.

That's correct.

We are coordinating with our client now and determining how we would like to proceed. We will be in touch as soon as we receive direction on this.

And for the benefit of you folks who are here, our Ordinance requires that any panels, signs cannot be located more than 20 feet from the street line. And clearly these things

were not located within -- they were located more than 20 feet. And for that reason we cannot hear the case tonight. We could dismiss the case just simply because of not complying, but it's our universal practice in all cases over the years that when petitioners blow the posting requirement, we continue the case to give them a chance to correct it. And we will propose to do that tonight.

We'll pick another date. Now since you took the time to come down here, I want to make sure the date works for the two of you so you can come to the new date if you want to.

UNIDENTIFIED AUDIENCE MEMBER:

Thank you.

CONSTANTINE ALEXANDER: What's the date we can hear it?

MARIA PACHECO: Well, we already

have three on the 20th and three on the 4th.
You want to go to December 18th?

CONSTANTINE ALEXANDER: December
18th, that's fine by me.

Is that okay with you folks.

UNIDENTIFIED AUDIENCE MEMBER:
That's fine. Thank you.

CONSTANTINE ALEXANDER: Okay.
We'll continue the case.

The Chair moves that this case be
continued as a case not heard until seven p.m.
on December 18th?

MARIA PACHECO: Yes.

CONSTANTINE ALEXANDER: Subject to
the following conditions:

That the petitioner sign a waiver of
time for decision.

That a corrected sign, continue the new
date and the new time be posted in compliance

with the requirements of our Ordinance for the 14 days required by our Ordinance.

And that to the extent that the plans for the sign are modified or proposed to be modified, those new plans must be in our files by five p.m. on the Monday before the 18th.

So you might want to check after the five p.m. to see if there's any changes.

And further, that to the extent that the petitioner does not sign a waiver for a time of decision, that it is the decision of our Board -- before I make a motion to continue, I want to make a second motion.

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

(Aye.)

CONSTANTINE ALEXANDER: All in favor. Continued.

(Alexander, Hughes, Sullivan,

Scott, Green.)

CONSTANTINE ALEXANDER: Further motion, to the extent that the petitioner does not timely file a waiver of time for a decision, that this case be dismissed on the grounds that the petitioner did not require with the requirements of our Ordinance with regards to the posting of signs.

I don't want to find that they --

TIMOTHY HUGHES: What do you consider timely, Gus?

CONSTANTINE ALEXANDER: Timely. Before -- timely being tied to the time by state statute when we have to make a decision or if we don't, then the relief is automatically granted.

TIMOTHY HUGHES: Okay, all right.

CONSTANTINE ALEXANDER: Good question. That's what I mean by timely, the

purpose of that. I don't want a situation where by default, since relief is granted. Either they have to come back before us and if they don't sign the waiver of time for decision, they're going to be thrown out.

BRENDAN SULLIVAN: What's the magic date, Maria, as far as the hearing?

CONSTANTINE ALEXANDER: Do you know what the date would be when they have to --

MARIA PACHECO: It should be on the folder.

BRENDAN SULLIVAN: Actually, there's two dates; one is a hearing and another one is a decision.

MARIA PACHECO: Right. So you have to hear it by 12/14.

CONSTANTINE ALEXANDER: Okay. So 12/14 is the magic date.

MARIA PACHECO: Right.

CONSTANTINE ALEXANDER: Well, they've got to -- no. Yes, they have to sign a waiver for time of decision by the December 14th.

BRENDAN SULLIVAN: When are they scheduled for? I'm sorry.

CONSTANTINE ALEXANDER: 12/18.

MARIA PACHECO: 12/18.

TIMOTHY HUGHES: We can kick it down the road, right?

CONSTANTINE ALEXANDER: Say it again, I'm sorry?

TIMOTHY HUGHES: So we're going to boot it out if they don't come in and sign by the 14th?

CONSTANTINE ALEXANDER: The case is over. If they don't come in by the 14th, they've lost.

TIMOTHY HUGHES: Right.

CONSTANTINE ALEXANDER: And they've got two years before they can come back before us.

All set?

All those in favor of approving this motion say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

(Whereupon, at 9:05 p.m., the
Zoning Board of Appeal
Adjourned.) **ERRATA SHEET AND SIGNATURE
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I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

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