

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, SEPTEMBER 10, 2019

7:00 p.m.

In

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green

Andrea A. Hickey

Jim Monteverde

Laura Wernick

Alison Hammer

Sisia Daglian, Assistant Building Commissioner

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3 (7:01 p.m.)

4 Sitting Members: Constantine Alexander, Brendan Sullivan,
5 Janet Green, Andrea A. Hickey, and Jim
6 Monteverde

7 CONSTANTINE ALEXANDER: I call this
8 meeting of the Board of Zoning Appeals to order. Before I
9 get into the business, I'd like to read a statement.

10 After notifying the Chair, any person may make a
11 video or audio recording of our open sessions, which this
12 is, or may transmit the meeting through any media, subject
13 to reasonable requirements that the Chair may impose as to
14 the number, placement and operation of equipment used, so as
15 not to interfere with the conduct of the meeting.

16 At the beginning of the meeting, the Chair will
17 inform other attendees at that meeting that a recording is
18 being made.

19 And I wish to advise that there are at least two
20 recordings of this meeting being made, one by our
21 stenographer to assist her in the preparation of the minutes
22 of this meeting, and the second by a citizen of the city,

1 who has left his tape recorded on the front desk.

2 Is there anyone here planning or going to record
3 this meeting? No? Thank you.

4 With that, I will start -- go to the business of
5 the meeting. We start with -- those of you who have been
6 here before know -- our continued cases. These are cases
7 that started at an earlier date, but for one reason or
8 another have been continued until this evening.

9 We have several of those, and I'll call the first
10 one, which is Case #017127 -- 238 Brookline Street. Anyone
11 here wishing to be heard in this matter?

12 Just give your name and address in the microphone
13 for the stenographer to take.

14 ROY HODGMAN: Hi, my name is Roy Hodgman. I live
15 at 238 Brookline Street. I was here back --

16 THE REPORTER: Can you spell your last name for
17 me, please?

18 ROY HODGMAN: H-o-d-g-m-a-n. I was here back in
19 June. I'm the guy you asked to continue the meeting until
20 tonight. I've been working with my neighbors. The primary
21 objection before was that our neighbors had some issue with
22 the design.

1 CONSTANTINE ALEXANDER: Right.

2 ROY HODGMAN: We've been working with those
3 neighbors for the past couple of months, and despite my best
4 intentions we're still not at a place where I think we're
5 ready to come back and talk again. We'd still like more
6 time to work with them, so I'm here tonight to ask -- I e-
7 mailed Maria earlier, if we could delay this to another
8 meeting?

9 CONSTANTINE ALEXANDER: Yes, that -- I can speak
10 to fellow Board members, that's not a problem. However, I
11 would point out this would be the second continuance for
12 this case.

13 ROY HODGMAN: Okay.

14 CONSTANTINE ALEXANDER: We don't like to the cases
15 more than twice. It really fouls up our agenda and our
16 conduct in the meetings. Okay, so the date we're going to
17 pick is -- unless you've got compelling reasons -- that's
18 the date, we're going to go forward --

19 ROY HODGMAN: Sure.

20 CONSTANTINE ALEXANDER: -- one way or another.

21 ROY HODGMAN: Okay.

22 CONSTANTINE ALEXANDER: You have a date, and

1 unfortunately the person that keeps our calendar is not here
2 right now. Do you have a date you would like to continue it
3 to?

4 ROY HODGMAN: I was thinking sometime maybe two
5 months out, if that's okay with you?

6 CONSTANTINE ALEXANDER: The longer the better, at
7 least in terms of the problem -- we've got to get the same
8 five of us together.

9 ROY HODGMAN: Sure.

10 JANET GREEN: Is it heard?

11 CONSTANTINE ALEXANDER: Say it again?

12 JANET GREEN: Is it heard? It was heard?

13 CONSTANTINE ALEXANDER: Yeah, this is a case
14 heard. Let's see. I'm just trying to figure out what two
15 months from that would be.

16 ROY HODGMAN: Whatever works for the five of you
17 to get back to get back together?

18 CONSTANTINE ALEXANDER: You have to get the five
19 of us together.

20 ROY HODGMAN: Sure.

21 LAURA WERNICK: I do have her calendar.

22 CONSTANTINE ALEXANDER: Well, probably -- how

1 about the first meeting in January?

2 LAURA WERNICK: So you've got January 9 through
3 January 30?

4 JANET GREEN: I can do January 30.

5 CONSTANTINE ALEXANDER: You can? Or the ninth you
6 cannot?

7 JANET GREEN: Cannot.

8 CONSTANTINE ALEXANDER: January 30 work for you?

9 JANET GREEN: Should be fine.

10 CONSTANTINE ALEXANDER: Works for you?

11 ROY HODGMAN: It's good.

12 CONSTANTINE ALEXANDER: We're going to continue to
13 September 3, we're going to make a motion.

14 COLLECTIVE: January.

15 CONSTANTINE ALEXANDER: I'm sorry, January.

16 That's what I meant. The Chair moves that this case be
17 further continued as a case heard until 7:00 p.m. on January
18 30, subject to the following conditions -- the same
19 conditions we did the last time.

20 One is that -- you've already done this. You've
21 signed the waiver of time for decisions, so that's been
22 satisfied.

1 [Sisia Daglian JOINS MEETING]

2 The second is the posting sign that's up there.
3 You either get a new one, or take the old one and modify the
4 date, January 30, the time 7:00 p.m. And that sign has to
5 be maintained for the 14 days required by ordinance, as you
6 did before.

7 And lastly, to the extent you have new, revised
8 plans, dimensional forms and the like, they must be in our
9 files no later than 5:00 p.m. on the Monday before September
10 30. That's -- I think that was the same rule we had this
11 time. That's to give us --

12 ROY HODGMAN: Yeah.

13 CONSTANTINE ALEXANDER: -- time to review in
14 advance of the hearing.

15 ROY HODGMAN: That would be on the twenty-sixth or
16 the twenty-seventh.

17 CONSTANTINE ALEXANDER: I'm sorry?

18 ROY HODGMAN: The twenty-sixth or the twenty-
19 seventh, is that the Monday before? Or do you mean, like --

20 CONSTANTINE ALEXANDER: -- yeah, well whatever --
21 I don't have that calendar.

22 ROY HODGMAN: Like three days ago from now.

1 CONSTANTINE ALEXANDER: -- January 26, 25, 27,
2 5:00 p.m. by that time.

3 ROY HODGMAN: Okay.

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

6 THE BOARD: Aye.

7 [All vote YES]

8 CONSTANTINE ALEXANDER: Case continued. See each
9 other you September 30.

10 COLLECTIVE: January.

11 CONSTANTINE ALEXANDER: January.

12 ROY HODGMAN: Thank you.

13 CONSTANTINE ALEXANDER: Thank you.

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2 (7:06 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Janet Green, Andrea A. Hickey, and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: The Chair will next call
7 Case Number 017116 -- 500 Huron Avenue. Anyone here wishing
8 to be heard on this matter? Mr. Rafferty.

9 JAMES RAFFERTY: Good evening, Mr. Chairman and
10 members of the Board. For the record, my name is James
11 Rafferty. I'm an attorney with offices located at 907
12 Massachusetts Avenue in Cambridge. I'm appearing this
13 evening on behalf of the applicant. We have requested a
14 continuance; the reason -- I just became involved in the
15 case last week.

16 CONSTANTINE ALEXANDER: I know you weren't here
17 the first time, so I'm --

18 JAMES RAFFERTY: Right. I've had the benefit of
19 reading the transcript, and we're -- our intention is to
20 revise the plans and meet with the neighbors before
21 returning. I also learned today that apparently there might
22 be a problem proceeding tonight with the status of the sign.

1 So in either case, we requested a continuance of --

2 CONSTANTINE ALEXANDER: In case -- you would like
3 it to be --

4 JAMES RAFFERTY: I think this is a case heard, so
5 --

6 CONSTANTINE ALEXANDER: Yeah, it's a case heard.

7 JAMES RAFFERTY: Right.

8 CONSTANTINE ALEXANDER: I've got to make sure the
9 five of us --

10 JAMES RAFFERTY: That's right.

11 CONSTANTINE ALEXANDER: So you'll tell us the date
12 you would like to have, or -- we'll work from there.

13 JAMES RAFFERTY: I think from our perspective,
14 something in the four to six-week range works, in terms of
15 the work that we need to do to scale back the proposal and
16 meet with the neighbors I think could be comfortably
17 accommodated in a four to six-week period.

18 CONSTANTINE ALEXANDER: Again, I make the same
19 comment I made to the prior applicant is that this will be
20 the second continuance, and we're not disposed to continue.

21 JAMES RAFFERTY: This would be the second
22 continuance.

1 CONSTANTINE ALEXANDER: Yeah, but this case was
2 continued once before.

3 JAMES RAFFERTY: Oh, I didn't realize that. Okay.

4 CONSTANTINE ALEXANDER: So this will be the
5 second. So, you know, we're not disposed to grant further
6 continuances after --

7 JAMES RAFFERTY: -- absent public conditions.

8 SISIA DAGLIAN: November 21? Or December 12?

9 CONSTANTINE ALEXANDER: Does that work for you?

10 JAMES RAFFERTY: November 21 --

11 CONSTANTINE ALEXANDER: We have a citizen that
12 wants --

13 JAMES RAFFERTY: Sure.

14 CONSTANTINE ALEXANDER: -- to speak, sir. Sir, do
15 you want to say -- you have something you want to say?

16 AUDIENCE: No, I'd like to be heard in this.

17 CONSTANTINE ALEXANDER: Come forward, and you give
18 your name and address to the stenographer.

19 DAVID MILTON: My name is David Milton. I am next
20 door to 500 Huron at 502 Huron Avenue, and I just learned
21 about the requests for continuance today, because I called
22 to see if a new plan had been filed, and I learned, you

1 know, at 4:00 I received no notice, and I learned today that
2 apparently he was retained last week, which was more than
3 enough time to let me know --

4 So I was never contacted at all, even about the
5 request for continuance, and I note that last time, which
6 was in June, it was continued, it was a totally
7 nonconforming request. There was no hardship.

8 It was inadequate in several ways, and the Board
9 recommended that the petitioner retain counsel, and -- which
10 they apparently didn't do it until last week -- and normally
11 I would afford all courtesies.

12 I have not been afforded by any neighbor repeated
13 complaints that have been sustained by the city, and just
14 would like that noted for the record, and I would like
15 notice in advance, if it's either -- if it's at all
16 authorized or required.

17 If the hearing that we scheduled tonight is not
18 going to take place --

19 CONSTANTINE ALEXANDER: Well, as you might have
20 heard when I spoke -- when we heard the prior candidate,
21 this will be the second continuance of this case. We don't
22 continue -- our practice is not to continue beyond two

1 continuances, absent compelling reasons. So I should think
2 we should assume whatever date we get to in a few minutes,
3 that will be the date we'll hear the case.

4 DAVID MILTON: All right. Thank you very much.

5 CONSTANTINE ALEXANDER: I can't guarantee it, but
6 that's what I expect. So what's -- we have --

7 SISIA DAGLIAN: November 21, and Laura you're here
8 that day?

9 LAURA WERNICK: Yeah.

10 CONSTANTINE ALEXANDER: So you can't make it,
11 Laura?

12 LAURA WERNICK: I am here already.

13 CONSTANTINE ALEXANDER: And I'm here as well.

14 LAURA WERNICK: I'm here.

15 JAMES RAFFERTY: Mr. Chair, if I might just
16 briefly respond, I apologize to Mr. Milton. I only learned
17 that it was continued today to this date. When I met with
18 my clients the other day, which had not yet become clients,
19 their understanding was later in the month.

20 I did call Mr. Milton and the other neighbor
21 today, 5:00, just to alert them to the fact. Because I
22 would ordinarily give notice to abutters that a continuance

1 was occurring, and I apologize it didn't happen, but that
2 oversight won't occur again.

3 CONSTANTINE ALEXANDER: Okay. All right. The
4 Chair moves that we continue again as a case not heard until
5 7:00 p.m. on November 21. So did you get that? 7:00 p.m.

6 JAMES RAFFERTY: I did, thank you very much.

7 CONSTANTINE ALEXANDER: November 21, subject to
8 the following conditions, which you're familiar with, Mr.
9 Rafferty.

10 One, a waiver of time for decision, and that's
11 already been done in the prior continuance.

12 Two, a new posting sign to look for to be put up,
13 with the new date, November 21, the new time 7:00 p.m., and
14 that sign has to be maintained for the fourteen days prior
15 to the hearing, as required by our ordinance.

16 And then lastly, and then you indicated there
17 probably are new plans, or modified, of the like. Those
18 have to be in our files no later than 5:00 p.m. on the
19 Monday before November 21. This will allow you and any
20 other citizen that could come down the Inspectional Services
21 Department and review them.

22 It also will be online, the review online as well.

1 That's your -- I never do that, so I don't know how exactly
2 it works, but it's available. Okay. All those in favor,
3 please say, "Aye."

4 THE BOARD: Aye.

5 [All vote YES]

6 CONSTANTINE ALEXANDER: Five in favor, thank you.

7 JAMES RAFFERTY: Thank you very much.

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2 (7:12 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Janet Green, Andrea A. Hickey, and
5 Jim Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 017102 -- 106 Otis Street, #3. Anyone here
8 wishing to be heard on this matter?

9 EDMUND ALLCOCK: Everybody settled in? Good
10 evening. My name is Edmund Allcock. I'm counsel for the
11 applicant.

12 THE REPORTER: Could you spell your name, please?

13 EDMUND ALLCOCK: Yes, that's A-l-l-c-o-c-k, first
14 name Edmund with a u. We were here on September 12 to
15 discuss a variance application for what I call the decks
16 leading from the doors to nowhere, and at that hearing,
17 there were certain concerns raised by members of the Board
18 and by some abutters, so we've come back with a modified
19 application and some additional information with that.

20 CONSTANTINE ALEXANDER: As for the modified
21 application, I take it the modification is just the
22 additional screen?

1 EDMUND ALLCOCK: Correct.

2 CONSTANTINE ALEXANDER: Size of the deck does not
3 change? No. Yeah, we had previously modified the intended
4 decks by building out what I call these catwalks, that lead
5 from the door to the small deck on the side of the building.

6 And this time what we've done is we've put up --
7 based primarily on the abutter's concerns these privacy
8 screens leading off the decks, so that the decks and anybody
9 on the decks are not visible from the abutting property, and
10 also, that the abutters cannot peer into any windows or
11 doors across the way, while they're actually seated on the
12 decks.

13 And I believe we have a plan to that effect.

14 We also conducted a further -- and submitted a
15 further shadow study that I think depicts very limited
16 shadows that would appear once the decks --

17 CONSTANTINE ALEXANDER: But shadows, nevertheless.

18 EDMUND ALLCOCK: There would be some very limited
19 shadowing. I mean, I think it's impossible to say there
20 wouldn't -- but I think primarily the sun comes in the other
21 direction, but I think if you look at the shadow study, it
22 is rather de minimis, and it's just a matter of some shadow

1 coming from the railings on the deck.

2 Also, when we were here last time, there was some
3 discussion about the actual rest of the property, or the
4 site.

5 So what we did was we put together a site plan,
6 together with I think some Google Map imagery that actually
7 shows the limitations of the property, in terms of being
8 able to put anything out there.

9 One side of the property actually has a long-
10 standing, significant drainage problem.

11 CONSTANTINE ALEXANDER: I thought it was settled.
12 According to you, you submitted it, it was a problem. I
13 never heard the word, "significant" and that problem has
14 been rectified. The concern -- have to do something in that
15 regard, may be created.

16 EDMUND ALLCOCK: I'm sorry.

17 AUDIENCE: That's correct.

18 EDMUND ALLCOCK: That's fair, that's fair. And in
19 terms of the property itself, there actually is a deck on
20 the first floor, which ultimately the goal would be -- or,
21 there's like a little area where theoretically all of the
22 owners, all three owners could sit on the deck.

1 The problem with it is you'd literally be sitting
2 on and peering into the windows of the occupant on the first
3 floor. It just -- I mean, ultimately, I think the idea here
4 would be for the first-floor owner to have some privacy, not
5 be forced to have the owners of the second and third floor
6 literally sitting in his windows, if they attempted to enjoy
7 --

8 CONSTANTINE ALEXANDER: Isn't there other parts of
9 the yard beyond the -- besides the deck that would be
10 available to the occupants in number 2 and 3?

11 EDMUND ALLCOCK: Not really. There's not --
12 there's very little in terms of space. There's a bulkhead
13 on the -- I believe it's the west side, that we're pretty
14 much -- I'm sorry, the east side, that would make it fairly
15 difficult to do anything.

16 There is a shed in the back that the owner of Unit
17 1 has the right to use, so we couldn't really interfere with
18 that, and there's really nothing on the west side that could
19 be done.

20 CONSTANTINE ALEXANDER: When your clients walked
21 the condominiums -- they're of course aware of the whole
22 situation and the lack of back yard available to them?

1 EDMUND ALLCOCK: They were. They were aware of
2 the lack of yard space. However, when they did buy the
3 condominiums, there was language in the condominium
4 instruments that gave the owners of the second and third
5 floor the ability, without having to go to the association
6 to actually construct some sort of deck out of the second
7 and third floor -- of course, as always, subject to zoning.

8 But -- so when they actually purchased these
9 units, there was an express intention in the condominium
10 instruments that if they wish to, the owners of the second
11 and third-floor units could actually ultimately construct
12 some sort of deck or balcony.

13 And I think there's been a significant amount of
14 outrage. I think Ms. Crummett highlighted that in the
15 submission. Unfortunately, there are a couple of abutters
16 who don't want to see any deck there whatsoever.

17 I think we've really made an effort, both in terms
18 of outreach and attempt to scale it back with some I think
19 kind of constructive ideas, namely the catwalk concept, and
20 then also the privacy screen, which really I think addresses
21 the concern, as does the catwalk, because where the catwalk
22 is located is sort of directly across from where the windows

1 are.

2 So moving it over to the side we thought addressed
3 the concern even without the privacy screen.

4 But we heard the concerns, and we think the
5 privacy screen is actually a great idea for both parties, so
6 that neither party can be sitting there looking into
7 windows. I mean, obviously they could be sitting in their
8 houses looking into windows, because it's just right there.

9 But obviously, any concerns about the deck, we
10 thought that this would hopefully address those concerns.
11 Do you guys have anything?

12 CONSTANTINE ALEXANDER: Let me interject some
13 comments -- do not take them in a different way, but --
14 first of all, there are two reasons why you have to have
15 setbacks -- our zoning ordinance requires setbacks.

16 One is privacy, and you've made a good faith
17 attempt to deal with that. The other is safety. If a fire
18 happens in a building, one of the two buildings, it could
19 very quickly spread to the neighboring building,
20 particularly with wood-frame structures in a dense
21 neighborhood.

22 And so, the idea is to have some separation to

1 prohibit this if, unfortunately, a fire should arise. A
2 safety screen is to deal with it. That's Number 1.

3 And Number 2, as you know, the legal requirement,
4 or one of the legal requirements for a variance that you're
5 seeking, is just substantial hardship. That hardship has
6 got -- as you know, -- run with the land.

7 It's going to be whoever occupies the space, the
8 two of you have given very meaningful claims of why there's
9 a substantial hardship to you. But it's not the standard --
10 unfortunately or fortunately -- it's not the standard that
11 our ord -- that the law requires.

12 So those of you that are addressing, you have --
13 do you address this substantial hardship?

14 EDMUND ALLCOCK: I'll address both.

15 CONSTANTINE ALEXANDER: Sure.

16 EDMUND ALLCOCK: Both points you made. In terms
17 of the setback, I understand the reason that we have the
18 side yard setbacks for safety purposes. Of course, for
19 whatever reason, this building is well into the side yard
20 setback already.

21 AUDIENCE: Yes, sir.

22 EDMUND ALLCOCK: And I don't think this deck would

1 be adding into that setback as far as concerns about safety
2 or fire. The deck is being constructed right in the alcove.
3 It's not being extended. We're not extending it out in any
4 way, shape or form past where the existing building already
5 is constructed in the setback.

6 In terms of the topography of the land, we pointed
7 out in our letter that possibly one other argument there
8 would be that we -- if we tried to do something on the west
9 side -- I'm sorry, the east side -- it would be, I'm getting
10 my directions right, it would be possibly implicating the
11 drainage concerns on the property, you know, as far as
12 topography of the land goes.

13 I understand the difficulty of the standard.
14 Unfortunately, this is a building that is already there.
15 It's already into that setback and we're not really -- I
16 mean, it's just being constructed right in that natural
17 alcove and not extending any further beyond that.

18 CONSTANTINE ALEXANDER: Hi, name and address for
19 the stenographer, please?

20 MIRVAT ELHAMAD: My name is Mirvat, M-i-r-v-a-t
21 Elhamad, E-l-h-a-m-a-d. Hi, everyone. I want to say
22 something. The patio is too close to the street, and it's

1 dangerous for my son. The patio is too small for three
2 families to share using that door as their main entrance,
3 and we cannot block their entrance.

4 The patio is too close to their windows and doors.
5 When out on the patio, they have no privacy. And I have no
6 privacy. I can see them inside their house, and they can
7 see each other us and here us on the patio. I can't use it
8 to have breakfast with my son, because it's too early in the
9 morning, and I would dispute them being right outside their
10 windows.

11 I will have another baby in the future, and it
12 will be hard to go up and down the stairs, the patio being
13 for the pregnancy.

14 And also, I have some photos, if I can show you?

15 CONSTANTINE ALEXANDER: Sure. Okay. You can show
16 them. You don't have -- you didn't print them out, so I
17 can't put them in the record. Okay. No, that's all right.
18 Show us. Of course, you know, I have to point this out.
19 You knew what you were getting into?

20 MIRVAT ELHAMAD: Yes.

21 CONSTANTINE ALEXANDER: Excuse me -- when you
22 bought the house, or the condominium. You knew about the

1 privacy issues. You knew of the size of the unit, so --

2 MIRVAT ELHAMAD: When we bought the house, the
3 agent told us we can build the -- a balcony. For this
4 reason, we bought this house.

5 CONSTANTINE ALEXANDER: Right.

6 MIRVAT ELHAMAD: And they told us we can build a
7 balcony, and they showed us the door. They showed us this
8 door for the balcony, for the deck. Sorry for my English.

9 CONSTANTINE ALEXANDER: Don't be sorry.

10 MIRVAT ELHAMAD: And they repeated the three
11 times, "You can build the deck." And I don't know, it's too
12 complicated.

13 CONSTANTINE ALEXANDER: Okay.

14 MIRVAT ELHAMAD: And also, you don't want to see
15 the pictures?

16 CONSTANTINE ALEXANDER: You want to see the
17 pictures?

18 MIRVAT ELHAMAD: This is --

19 CONSTANTINE ALEXANDER: I think -- I mean, we've
20 got plenty --

21 ALISON HAMMER: We see the pictures in the file,
22 we --

1 CONSTANTINE ALEXANDER: -- there's plenty of
2 pictures in the file --

3 ANDREA HICKEY: -- see the back yard, we've seen
4 that in the file.

5 MIRVAT ELHAMAD: Another windows, there's -- a big
6 one goes from the stairs, and also, I want to show you when
7 my son -- my son left me and ran to the door. While I was
8 closing the -- he ran to the street. This is the street.

9 He holds his scooter, and he ran to the street.
10 We have a door; he can open the door. He doesn't listen.
11 So this is too, too dangerous to my son, and if I have in
12 the future another son --

13 CONSTANTINE ALEXANDER: Or daughter --

14 MIRVAT ELHAMAD: -- or daughter, it will not help
15 really. And I need to wear my clothes to -- I can't stay in
16 my pajamas with my son. And also, last year I had a probe
17 on my knee. I can't go down and up on the stairs. And I
18 can't hold my son to go down or take him to the park. So
19 this is what --

20 CONSTANTINE ALEXANDER: No, no, I understand -- at
21 last I'm sure all of us do -- I understand your plight very
22 well. The question is why does that entitle you to legal

1 relief? I mean, it is a personal problem that you have with
2 the space that you bought, and there is a zoning law, and
3 you have neighbors who are not happy with what you want to
4 do, and that's our dilemma, and we're going to have to
5 decide tonight.

6 MIRVAT ELHAMAD: No, they told us we can build the
7 deck.

8 CONSTANTINE ALEXANDER: I'm sorry?

9 EDMUND ALLCOCK: Yeah, I think her point is -- you
10 know, what she bought. And we understand that, and I think
11 -- I think it's -- you know, it is, if the issue is
12 satisfying abutters, you know, which we've tried, I do know
13 that there is some precedent, you know, at least in the
14 neighborhood. I know across the street at 107 Otis, a
15 variance was granted for a deck --

16 CONSTANTINE ALEXANDER: My guess is, and this is a
17 guess, there was no neighborhood opposition.

18 EDMUND ALLCOCK: I understand, I understand, but -
19 -

20 CONSTANTINE ALEXANDER: I'm sorry.

21 EDMUND ALLCOCK: -- even then, even then, the
22 Board has to make findings, and --

1 CONSTANTINE ALEXANDER: To be sure, but I can tell
2 you that we have many cases where people want to intrude on
3 a side yard setback for a deck, an addition, and we frankly
4 often grant the relief. But generally, it's because the
5 neighbor -- the persons most affected have no problem with
6 it.

7 EDMUND ALLCOCK: Understood.

8 CONSTANTINE ALEXANDER: This is not your case,
9 unfortunately.

10 EDMUND ALLCOCK: Understood. But if we're talking
11 about -- I mean, there still has to be a finding. I mean,
12 you asked me about the standard and the findings, and I know
13 the one at 107 Otis had the exact same issue in terms of it
14 being a nonconforming structure that was into the setback,
15 and the Board did make those findings.

16 I understand it was no abutter opposition, but I
17 guess what I just say is in this case there's even more of a
18 concern for me, because one of the abutters, the primary
19 abutter that's complaining about this actually constructed
20 --

21 CONSTANTINE ALEXANDER: I don't want --

22 EDMUND ALLCOCK: Well, to me it matters, because -

1 -

2 CONSTANTINE ALEXANDER: It may matter to you --

3 EDMUND ALLCOCK: -- well, but I'm not looking for
4 enforcement, but, you know, to me there's a concept of if
5 the abutter wants to complain, the abutter should be abiding
6 by the same laws that we're abiding by.

7 We came to this Board to actually seek some sort
8 of relief through a discretionary permit, and we're being
9 told that no, it peers into something that we've constructed
10 without getting any permits at all.

11 And notwithstanding that, we've made efforts to
12 scale it back with a catwalk and made efforts to screen it,
13 even though what they have there is not legal to begin with.

14 So I just wanted to say that in terms of the
15 neighborhood, and I definitely understand abutter concerns,
16 and I think my clients have really gone over and above.

17 I mean, even the catwalk itself is unusual, but
18 it's stable, and it's engineered properly, as is the -- you
19 know, the concept of the screening, which I think will
20 alleviate whatever the concern is. And I'm sure we'll hear
21 from the abutters in a moment.

22 But, you know, there comes a point where if the

1 abutter has a concern, the abutter states the concern and we
2 attempt to address it, if the concern is, "I just don't want
3 anything" I'm not really sure that that is necessarily a
4 concern, but maybe that will be the concern that they state,
5 I don't know. Thank you.

6 CONSTANTINE ALEXANDER: Thank you for your
7 presentation. Anything further you want? Before I open the
8 matter up to public testimony.

9 EDMUND ALLCOCK: I don't know if -- are you all
10 set?

11 CONSTANTINE ALEXANDER: This is the current --
12 I'm sorry, I was -- we were talking. All right. I'll open
13 the matter up -- questions?

14 ANDREA HICKEY: I have one question. Could you
15 just clarify the deck that is on the ground floor at the
16 rear, that is common area, even though it looks like it's
17 sort of attached to the first-floor unit, is that correct?

18 EDMUND ALLCOCK: I'm sorry, is that the rear?
19 It's at the front, isn't it?

20 COURTNEY CRUMMETT: Are you -- there's a --

21 THE REPORTER: Could you state your name and
22 address for the record, please? Could you spell your name,

1 please?

2 COURTNEY CRUMMETT: Courtney, C-o-u-r-t-n-e-y

3 Crummett C-r-u-m-m-e-t-t, 106 Otis.

4 ANDREA HICKEY: The deck that's in the picture
5 that's in our file that had the table and the two chairs --

6 COURTNEY CRUMMETT: Yep.

7 ANDREA HICKEY: -- and the rug, that's common
8 area?

9 COURTNEY CRUMMETT: It is common.

10 ANDREA HICKEY: That is correct? Okay

11 COURTNEY CRUMMETT: It's 6 x 20.

12 ANDREA HICKEY: Mm-hm. And I did see from the
13 photo the two sort of side areas, and I agree you can't
14 really use those for anything. I don't dispute that at all.
15 In the rear, where the raised bed is?

16 COURTNEY CRUMMETT: Yeah.

17 ANDREA HICKEY: That is exclusive to Unit 1?

18 COURTNEY CRUMMETT: That's correct.

19 ANDREA HICKEY: And that garage structure or she
20 had, whatever you'd like to call it, that's exclusive to
21 Unit 1 --

22 EDMUND ALLCOCK: Correct.

1 ANDREA HICKEY: -- as well?

2 EDMUND ALLCOCK: That's correct.

3 ANDREA HICKEY: Okay. I just wanted to clarify
4 that. Because visually it sort of appears that that deck
5 could be exclusive to Unit 1, but it is --

6 COURTNEY CRUMMETT: That's exactly why we're doing
7 a variance, because it is directly outside of their windows.

8 ANDREA HICKEY: Right.

9 COURTNEY CRUMMETT: And they use that door as
10 their front door. And so, it's very difficult to share with
11 three families. It's very small, and it does match up
12 against the building, and it's a perfect, exclusive use for
13 Unit 1, only it's not.

14 ANDREA HICKEY: Only it's not.

15 COURTNEY CRUMMETT: Only it's not.

16 ANDREA HICKEY: Right, right.

17 COURTNEY CRUMMETT: And if we got the decks, we
18 would give them that. And that way -- because there would
19 be no need, and everybody would have private area. It's
20 really to improve the living spaces of everybody in the
21 building, and we really have worked with the neighbors.

22 I took what you said to heart. I hope that you

1 saw my neighbor outreach. I really tried, and we tried, and
2 we really addressed their concerns. I'm not sure, you know,
3 we -- there's more that we can do.

4 ANDREA HICKEY: All right, great. Thank you. I
5 just wanted to clarify that that area is in fact common, as
6 it exists at present.

7 EDMUND ALLCOCK: Yes, and just for clarity, if the
8 variance were granted, and the decks on the second and third
9 floor were built, the decks on the second and third floor
10 would be exclusive to the second and third floor, and the
11 deck on the first floor would become exclusive to the first
12 floor, so that nobody could actually peer into -- sit there
13 and peer into those windows.

14 ANDREA HICKEY: Yeah.

15 EDMUND ALLCOCK: That's the problem.

16 CONSTANTINE ALEXANDER: How would we become
17 exclusive to the first floor? Would we amend the
18 condominium agreement?

19 COURTNEY CRUMMETT: Yes, yes.

20 EDMUND ALLCOCK: The association would do a
21 limited common area granted under 183 Section 5. That's the
22 plan.

1 COURTNEY CRUMMETT: Yes.

2 CONSTANTINE ALEXANDER: Anybody else have
3 questions at this point? I'll open the matter up to public
4 testimony. Is there anyone here wishing to be heard on this
5 matter? Yeah, sure.

6 RHONDA MASSIE: Hi. My name is Rhonda Massie. My
7 sister, brother and I --

8 THE REPORTER: Could you spell that, please?

9 RHONDA MASSIE: R-h-o-n-d-a M-a-s-s-i-e. My
10 sister, my brother and I own property that abuts this
11 property. You've received -- 211 Charles Street, sorry.
12 You have received two letters from me?

13 CONSTANTINE ALEXANDER: In the files, yep.

14 RHONDA MASSIE: Okay.

15 CONSTANTINE ALEXANDER: All right.

16 RHONDA MASSIE: There are a couple of things I'd
17 like to say. There has been very little outreach. I spoke
18 to Courtney twice, the first time I saying, I needed care
19 for my mother. My mother has just passed away.

20 The second time I told her that my family and I
21 were opposed the to the decks, and I asked her if she was
22 going to the planning team in East Cambridge, because I

1 don't go to the planning team regularly anymore. I have a
2 medical meeting that I go to on the second Wednesday of the
3 month. I asked her to let me know the night she was going
4 to the planning team, so that I could be there to speak my
5 piece. However, I was never notified.

6 I heard four days later that Courtney was at the
7 planning team disparaging me, and that the planning team
8 voted not to comment because there were no abutters present.
9 I don't know why Courtney didn't reach out to me. She
10 claims to have lost or misread my e-mail address.

11 CONSTANTINE ALEXANDER: She claims to have lost
12 what? I'm sorry.

13 RHONDA MASSIE: Lost or misread my e-mail address.
14 Now, if that were true, she knows my address; she knows
15 Alan, who lives next door; she knows Hannah, who is an
16 abutter. They all have my contact information. And the
17 tenants in the house have my contact information.

18 What the lawyer is neglecting to tell you that at
19 107 Otis, the man who got the variance for a deck is
20 paralyzed. He's confined to a wheelchair. That man had
21 more to do with his getting a deck than anything else

22 And my final thing is I had pointed out to you in

1 one of my letters that my husband and I lived in the house
2 that Gema now owns. We had no access to the outside. We
3 had no deck. And we had two children.

4 I went up and down the stairs from the second
5 floor with the first child when I was pregnant with the
6 second child, and with my two children. It's possible.

7 If this variance is granted, there are thousands
8 of people in this city who live without decks, who live
9 without access to outside areas. What relief are you going
10 to give them? Thank you.

11 CONSTANTINE ALEXANDER: Thank you. Anyone else
12 wishes to be heard on this matter?

13 GEMA SCHAFF: Yes, I would like to.

14 CONSTANTINE ALEXANDER: Start with your name and
15 address, please, for the stenographer.

16 GEMA SCHAFF: My name is Gema Schaff, that's G-e-
17 m-a S-c-h-a-f-f, and I live on 110 Otis Street, and this is
18 the house that is most affected by the decks that are being
19 proposed, that were originally proposed to me as balconies.

20 I originally accepted the idea of having balconies
21 there, and all of a sudden, when I received papers about the
22 balconies, they were complete decks.

1 I don't want to repeat myself, but I said the last
2 time I want to move on with what we agreed on the last time.
3 The last time, we agreed that we were going to have this
4 meeting, in order for us to have a dialogue. I did speak to
5 --

6 CONSTANTINE ALEXANDER: Mirvat?

7 GEMA SCHAFF: -- Mirvat, and I explained to her
8 that I would accept a balcony proposal, as I said at the
9 beginning that I would not accept a proposal of or drawings
10 with decks, because, as I already explained to you, and
11 explained in my letter, it affects my privacy immensely, and
12 if all the windows in that side of the house, they would be
13 looking directly into.

14 That's where I spent most of my day is running up
15 and down my house on that side of the house. That's where I
16 have my kitchen. That's where I have -- where I study,
17 that's where I have my desk.

18 So it would affect me personally tremendously.
19 But you all know this. It would affect my daughter, who has
20 a light disorder. She is affected by the light, and I
21 appreciate the shadow and light study that they did, but
22 that light study is in absence of any light that reflects

1 from the wall that they're now attempting to construct over.

2 It doesn't take a Ph.D. in light, it doesn't take
3 a degree in architecture, it doesn't take a great
4 photographer to know that a light comes from surfaces. It's
5 not only produced by a direct light, but it's also produced
6 by indirect light.

7 The study that they presented is only the effect
8 of sunlight and a direct light. It doesn't affect if
9 there's a wall that has no two decks, and all of a sudden it
10 has two decks there. That obviously is going to affect the
11 reflection of that wall.

12 So that's regarding the light study that they
13 presented.

14 So the -- going back to the letter, because the
15 attorney based his argument on the fact that we were stuck
16 in the no? No, we're not stuck in a no. We accept a
17 balcony, and we accepted from the accepted from the very
18 beginning. If the decks are there, my privacy is going to
19 be affected.

20 The health of my daughter is going to be affected.
21 My quality of life is going to be affected. I built a
22 little patio there, that's going to be affected.

1 So as Rhonda pointed out very clearly, the deck
2 that was allowed across the street was because two sisters
3 lived together, and one of her husband -- the sister's
4 husband is paralyzed and would like some sunlight on the
5 deck. And the sister, they live together. They are
6 perfectly happy to build a small deck. There will be a
7 third or fourth of what they are proposing, if not an
8 eighth. And it's one. They're proposing two, and they're
9 huge. That is completely different.

10 So I also would like for you to consider the
11 drawing that was proposed to me, just so that you understand
12 the magnitude of the need that they have for these decks.
13 The drawings I think are a slap in the face.

14 The drawings create a bigger structure, create a
15 much darker area, and I'm not sure if they understand what
16 is going on here at all, because their proposing something
17 taller, something bigger. It's just absurd. I don't
18 understand the ferocious need -- what happened to, "I want a
19 project, it affects my neighbor, my neighbor doesn't like
20 it, I'm off the project."

21 I mean, we've had two attorneys, we've had
22 meetings, and aggressiveness to the point that I'm

1 uncomfortable. You know, it's almost fearful of having a
2 conversation. So it's not pleasant. This -- I get a
3 headache every time I think of coming here. I really do.
4 This is not pleasant for me. So I don't -- I strongly
5 propose (sic) this project --

6 CONSTANTINE ALEXANDER: Okay, thank you, good.

7 MIRVAT ELHAMAD: I don't have any other words. I
8 don't have enough words --

9 CONSTANTINE ALEXANDER: You've made your point.
10 Thank you very much. And I know it's difficult for anybody
11 to come in and speak against something a neighbor wants.
12 But --

13 MIRVAT ELHAMAD: Thank you so much, thanks.

14 CONSTANTINE ALEXANDER: It's difficult for us.
15 Anyone else? I saw a hand raised. I saw a hand up.

16 TONY MAZZOLA: Yeah. I'm the neighbor across the
17 street. My mother owns the house. My name is Tony Mazzola.

18 THE REPORTER: And your address, sir?

19 TONY MAZZOLA: 113 Otis Street.

20 THE REPORTER: Can you spell your last name?

21 TONY MAZZOLA: M-a-z-z-o-l-a. So I am -- this is
22 the first time I've been here, so this is the first time I

1 ever heard all this. So I don't want to get anybody angry.

2 So I'm just going to tell you my thoughts, and -- because I

3 know these people, and I like these people.

4 So we've lived here since 1962. So I've seen a

5 dramatic change in that neighborhood for the good. So

6 anytime I see anybody doing a project that sometimes these

7 projects take months, I figure, you know what? Yes, I'll

8 tolerate the noise, I'll tolerate the not being able to

9 park, but in the long run, what's good for the neighborhood

10 and me is the property values go up. So I'm looking at that

11 point of view. Okay?

12 Again, I'm not here to get anybody angry. I'm

13 just giving you -- this is my opinion, because I look and I

14 see both these houses. I played in that house when I was a

15 child. I knew the McIntyres (phonetic) who owned their

16 house. They allowed me to work on their hot rod in their

17 yard.

18 So for me, you know, these are all neighbors. I

19 want this to go forward, but like I said, I don't want

20 anybody to get angry, and that's why I figured I'd come over

21 here to show my -- how can I say -- my help to both these

22 neighbors, because I like them. And I've had them come over

1 and sit in my yard and, you know, have a beverage. So
2 anyway, here we go, that's all I can say.

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

5 TONY MAZZOLA: Okay.

6 CONSTANTINE ALEXANDER: We appreciate it.

7 TONY MAZZOLA: Thanks.

8 CONSTANTINE ALEXANDER: Anyone else? Yes, ma'am.

9 SALLY SHIN: Hi. My name is Sally Shin S-a-l-l-y
10 S-h-i-n, and I live in 113 Charles Street. So I'm not a
11 direct abutter, but I'm just an East Cambridge neighborhood
12 neighbor.

13 I'm here to speak primarily after reading last
14 meeting's transcript to raise some concern about how my
15 neighbor Courtney was described. I understand that this is
16 not a court of law, but we are giving -- we're not
17 testifying per se, but how Courtney was described at the
18 previous meeting is very far from the collegial neighbor
19 that I know Courtney to be.

20 As far as I'm aware, I don't think that Courtney's
21 attempts to discuss the project with their neighbors were
22 confrontational or harassing. I just trust that the Board

1 will make a decision that is not colored by what I perceive
2 as perhaps maybe less than accurate recollections of
3 exchanges among neighbors.

4 CONSTANTINE ALEXANDER: Thank you. I'd like to
5 think that we will make a decision on the basis you've asked
6 us to make. Any? Yes, ma'am.

7 CYNTHIA WALL: Good evening. My name is Cynthia,
8 C-y-n-t-h-i-a Wall, W-a-l-l. I live at 130 Otis Street. So
9 I'm in the next block, and I would like to respond to this
10 request.

11 I was actually at the East Cambridge Planning Team
12 meeting, and when Ms. Crummett was asked, you know, what do
13 your neighbors think? There was one neighbor there, Alan
14 Green (phonetic) was there, and he described his concern,
15 and Ms. Crummett said, "Well, I believe -- " she said,
16 " -- a few neighbors first told me they were supporting it,
17 but I'm not sure they are now."

18 I was taken by how honest she was, and she wasn't
19 hostile at all. She said, "Well, you know, I'm going to
20 meet with them and work on it."

21 Now, I'd like to address the material here. This
22 is not a self-created hardship. This is a preexisting --

1 legally preexisting nonconforming use in the zoning. Almost
2 all of our homes now in East Cambridge fit into that
3 category. So everybody is put into the position if you want
4 to do -- even modest steps or not, being proposed, these are
5 small nicks -- we're talking totally 250 square feet, it's
6 125 square feet per deck, that's pretty small.

7 And I understand your concerns about fire, we all
8 do, but they're not -- you know, going to be enclosed living
9 spaces.

10 I think she has gone to extraordinary lengths to
11 address the concerns of the abutters. A shadow study;
12 that's not inexpensive, which shows only one hour a day, and
13 I can tell what time of year it's probably -- it's probably
14 December. And smaller decks have one.

15 This application also meets your Section 10.32,
16 concerning probably future traffic conditions. I know
17 that's minor, but it is in the Cambridge Zoning Ordinance as
18 something that needs to be looked at.

19 I think it's very sad that we don't want to do
20 more to keep families in the city. It's very sad to me that
21 Mirvat and her family it's, "Well, you know, you can walk
22 downstairs." But maybe she doesn't want to. It's

1 interesting to me that there is a new provision in Cambridge
2 zoning, which requires private open space. Do you know
3 every lot used for residential use now is supposed to have
4 private, open space available? In our zone, it's 30%.

5 So if this was a vacant lot, who knows? Somebody
6 might be coming to you asking for a variance, because they
7 can't get 30% for private, owned space.

8 Finally, I would just like to say that I do think
9 that 107 is a precedent. And while, you know, medical
10 conditions are sad, and everybody's got something, that's
11 not really addressed in Chapter 40A or in the zoning
12 ordinance. That's not the issue of hardship.

13 The hardship has to do with the topography, or the
14 structure. It's a hard test to meet, that's why a lot of
15 communities, including Somerville, would put this in a
16 special permit category, so you didn't have to prove
17 hardship, but in the case of 107, the Board decided that the
18 hardship was due to the narrow structure.

19 And I think the same thing here. In fact, these
20 decks are going to be 24 feet from the nearest divider side
21 yard. So, you know, it's even -- it's much greater distance
22 than 107, which I think is about 10 feet. Thank you very

1 much. Thank you for this opportunity to comment.

2 CONSTANTINE ALEXANDER: Thank you for taking the
3 time to come down. Appreciate it. Anyone wishes to be
4 heard? All right. Just make sure there isn't anyone in the
5 audience. Because you're part of the petitioners. Anyone
6 wishes to be heard? No. Go ahead.

7 BRENDAN SULLIVAN: So we've closed public comment?

8 CONSTANTINE ALEXANDER: I'm sorry?

9 BRENDAN SULLIVAN: We have closed public comment?

10 CONSTANTINE ALEXANDER: Okay.

11 BRENDAN SULLIVAN: Yes.

12 CONSTANTINE ALEXANDER: We have. Mr. Sullivan
13 reminds me that we have closed public comment. Since you
14 were part of the petitioner's team, you have an opportunity
15 to speak one more time.

16 ANDREW HINTERMAN: Thank you. My name is Andrew
17 Hinterman, A-n-d-r-e-w H-i-n-t-e-r-m-a-n. I am with LDa
18 Architecture Interiors. I am the designer of this project,
19 and I just wanted to make a couple of comments about the sun
20 study.

21 The sun study was done -- I did look at it sort of
22 throughout the year, but I chose to show the times when the

1 shadow fell on the house, which starts late September
2 through the corresponding time in spring.

3 The study showed that the corner of the deck, that
4 is adjacent to the door casts a shadow on the lower part of
5 that house for approximately one to one and a half hours,
6 depending on the day. And for the majority of the year, or
7 for a significant portion of the year, it is not casting a
8 shadow.

9 I think in earlier versions of this where we
10 looked at just the balcony just adjacent to the -- just
11 adjacent to the door, that would actually create more of a
12 shadow onto the -- onto actually the structure of the
13 neighboring property.

14 There is a good point about reflected light, and
15 that is a factor here. That is not something that is shown
16 in the shadow study. I will say, though, that the addition
17 of the privacy screen, which is designed to be vertical
18 slats that are at approximately a 45-degree angle to the
19 building that we're showing as painted white, are actually a
20 brighter surface than the surface of the existing house in
21 terms of its color.

22 It would actually be projecting some more -- would

1 be reflecting more light onto the abutter's property.

2 So that privacy screen actually does several
3 things in terms of providing privacy for people at 106 and
4 for the people at 110, and in terms of the fit, it actually
5 is -- I believe it is more visually calming, and it's
6 reflecting more light than what would currently be there.

7 I think that's about it.

8 EDMUND ALLCOCK: Could I just say one last thing?

9 CONSTANTINE ALEXANDER: Yes, you can.

10 EDMUND ALLCOCK: In terms of the comment about the
11 balcony, one of -- what we thought the concern always was,
12 was that if we constructed an area directly outside the
13 door, that was something that would look directly into the
14 house, which is why we constructed the catwalk and tucked it
15 into the corner of the building, away from the sort of front
16 door to door or window to window that looked directly across
17 the way.

18 I mean, we feel it is in essence a balcony, but
19 it's tucked more into the corner. It's not as though that
20 is a full deck the entire length of the house.

21 CONSTANTINE ALEXANDER: one of the things that --

22 COURTNEY CRUMMETT: I thought you said --

1 CONSTANTINE ALEXANDER: No, no, you've had your
2 opportunity. Public testimony has been closed. The only
3 thing -- point I was going to make is if it was an offer, a
4 balcony would be acceptable. I don't understand why it
5 wasn't pursued.

6 COURTNEY CRUMMETT: I mean, we would have to open
7 it up to public testimony for --

8 CONSTANTINE ALEXANDER: No, I want your --

9 COURTNEY CRUMMETT: -- I asked, because that was
10 told to me as well recently, I'll take the balcony, but I
11 won't take the deck. And I was told that what they mean by
12 the balcony is that wood piece --

13 CONSTANTINE ALEXANDER: The Juliet --

14 COURTNEY CRUMMETT: Yeah, that wood piece that's
15 in the threshold --

16 CONSTANTINE ALEXANDER: Yeah.

17 COURTNEY CRUMMETT: And that's all. So --

18 CONSTANTINE ALEXANDER: It brings the light in,
19 okay.

20 COURTNEY CRUMMETT: What was that?

21 CONSTANTINE ALEXANDER: It brings light in. I
22 mean, the other way -- you have that there, and you don't --

1 and the safety issue that was raised about the door to
2 nowhere is -- unless I'm missing something -- will be
3 satisfied, because there will be a barrier, if you will,
4 that will prevent someone from running out the door to
5 nowhere and plummeting three stories.

6 COURTNEY CRUMMETT: I don't think so.

7 ANDREW SZENTGYORGYI: I think what is being
8 suggested is the existing condition. It's not, "Go ahead
9 and do a new project, it's just a Juliet balcony." It's,
10 "Actually, I will accept exactly what's here." That's my
11 understanding of what was said.

12

13 JIM MONTEVERDE: Can I ask a question?

14 CONSTANTINE ALEXANDER: Yeah, go ahead.

15 JIM MONTEVERDE: Okay. Just one question. So I
16 understand the door that's there, this Juliet balcony there,
17 the door opens into the dwelling unit, there's the railing
18 there. Is there a hardship?

19 Is there some other condition in that plan of the
20 unit that you can't locate a balcony or some outdoor space,
21 other than in this particular corner that you've chosen it
22 to? I understand -- well, the door, there are several

1 windows. Is there another way to configure a balcony that
2 may not be so objectionable to your purpose?

3 COURTNEY CRUMMETT: Are you suggesting another
4 door with a Juliet balcony?

5 JIM MONTEVERDE: No.

6 COURTNEY CRUMMETT: Or with an actual deck with --

7 JIM MONTEVERDE: A door with a deck, yeah. If
8 that's what you're looking for.

9 COURTNEY CRUMMETT: So -- right, so we looked at
10 that. So on the east side of the building, we've talked
11 about -- we spoke about the drainage issue, and there's a
12 bulkhead there. So --

13 JIM MONTEVERDE: But tell me the drainage issue as
14 it relates to -- you're talking about that on the second and
15 third floor?

16 EDMUND ALLCOCK: Oh, he's talking about building -
17 - like --

18 COURTNEY CRUMMETT: Oh, a pop-out? Oh, yeah,
19 okay, I can answer --

20

21 JIM MONTEVERDE: I assume that's what you're
22 looking at --

1 COURTNEY CRUMMETT: I can answer that question.

2 So the first thing we did, Andy and I looked into, was --

3 maybe I should just let you do it.

4 ANDREW SZENTGYORGYI: Yeah, sure.

5 COURTNEY CRUMMETT: It's this --

6 ANDREW SZENTGYORGYI: Yeah. So we wanted to begin
7 with where the door already is. That was sort of the
8 beginning of this. And it would be possible from a
9 technical point of view to build a structure that is along
10 the south side of the building that would be accessible from
11 this door.

12 However, in order to bring the supports down to
13 the ground floor, we would have to land in the area of the
14 site that is the exclusive use of Unit 1. So we didn't feel
15 like that was the proper location to be looking and doing
16 this.

17 The east side we've talked about, the door is not
18 there, which is why we were sort of looking at this area.
19 The east side of the building is actually closer to the
20 abutter on that side.

21 So we would -- so if we had gone that direction,
22 we would kind of be having a very similar conversation to

1 what we're having now, but with different abutters, at a
2 much closer proximity.

3 EDMUND ALLCOCK: I think we'd also be extending
4 out beyond the -- if we did it on any other portion, any of
5 the other three sides of the building, we'd actually be
6 extending out beyond the building footprint, whereas here
7 it's -- you know, it's already -- you know, there's already
8 an alcove and this is sort of where the documents specify
9 authorize the owners -- again, subject to zoning, to
10 actually construct the decks.

11 BRENDAN SULLIVAN: I think the developer was being
12 a little cute.

13 COURTNEY CRUMMETT: Yeah.

14 BRENDAN SULLIVAN: Well, the developer of the
15 project was obviously being cute, and it was an enticement
16 to -- as a marketing tool.

17 CONSTANTINE ALEXANDER: Oh, absolutely.

18 BRENDAN SULLIVAN: So --

19 CONSTANTINE ALEXANDER: No question about that, in
20 my mind.

21 COURTNEY CRUMMETT: So I just want to make sure I
22 answered your question?

1 JIM MONTEVERDE: Kind of.

2 COURTNEY CRUMMETT: So --

3 JIM MONTEVERDE: If I were to take the time, that
4 I really -- it's immaterial where that door exists now, you
5 want outside space.

6 Is there some other place with either intruding on
7 another setback requirement that you could have placed that
8 -- if it means a new door, if it means columns that come
9 down to the first floor that's either in -- you've got to
10 get the light to do that from the person who's on the first
11 floor, is there some other means to get there? Are you
12 actually trapped to that corner?

13 The fact that the door is there, let's assume
14 that's irrelevant.

15 COURTNEY CRUMMETT: Sure, I understand. So I
16 mean, it would be a little bit review, but I just want to
17 add -- I mean, I think the site plan as you see each it, it
18 gives itself to these decks on this side.

19 And, like we talked about on the site plan
20 narrative, the south side has a very nice existing shed and
21 raised planting bed that we wouldn't want to intrude on.
22 We're trying to improve the lives of everybody in the

1 building. So I don't think that that would be a neighborly
2 or suitable inside of our condo association plan at all.

3 And on the other side, the bulkhead is in the way.
4 It's very close to -- it's closer to the abutter on the east
5 side --

6 ANDREW SZENTGYORGYI: Yep, you mentioned height.

7 COURTNEY CRUMMETT: -- and then, you know, there
8 was this -- you know, this previously drainage issue that's
9 been fixed that, you know, BZA actually heard in 2013. So I
10 don't want to mess with anything on that side of the
11 building. And I, you know, I appreciate your due diligence
12 back then and helping us with that.

13 So it's really -- if you look at the site plan, it
14 makes sense to put it on this side. And there is still open
15 space in the southwest corner. And even more so with the
16 catwalk, where we pulled the balcony back and tucked it into
17 the corner.

18 ANDREW SZENTGYORGYI: All right, so if your
19 question is, "Is there a place where we can do this on the
20 lot that is by-right?" I think the answer to that is no. On
21 all sides, there is a setback pocket.

22 JIM MONTEVERDE: Okay. Thank you.

1 CONSTANTINE ALEXANDER: Okay. I think all
2 testimony has been entered.

3 JIM MONTEVERDE: Yep.

4 CONSTANTINE ALEXANDER: Time for a discussion and
5 a decision. Anyone wish to go? I just want to make a
6 general observation, is that it's cases like this that make
7 serving on the Board of Zoning Appeals not very pleasant.

8 You've got a neighborhood, or neighbors, at war
9 with each other, you've got legitimate -- in my view --
10 legitimate points of view on each side. We have an illegal
11 standard we have to apply. It's not without -- we just sort
12 of draw illegal -- we just can't take the emotional issues
13 into account.

14 But that doesn't mean I'm going to vote against
15 granting relief, but I need to make that observation and get
16 that on the record.

17 Anyone wish to speak on this, or we can just go
18 right to a vote?

19 BRENDAN SULLIVAN: As I think I said the last
20 time, I can only go by what I know through experience owning
21 property that have (sic) people with children and how they
22 use outside porches, decks, whatever it may be, and I

1 sympathize and I can empathize with their having small
2 children and the up and down stairs and limited space in a
3 very crowded neighborhood.

4 And so I would support this, because I really -- I
5 think there was a very real practical hardship if you will
6 difficulty that these outside areas will alleviate and make
7 their life a little bit easier. And I really think that the
8 intrusion or the -- I think is quite benign, myself.

9 CONSTANTINE ALEXANDER: Anyone else wants -- no
10 one has to speak.

11 JANET GREEN: I do.

12 CONSTANTINE ALEXANDER: We'll go right to a vote.
13 Yes, Janet.

14 JANET GREEN: I'm inclined to vote in favor of
15 this project. I think that one of the important things that
16 we look at often is air and light, and the ability to have
17 air and light in the city. And we've had other people come
18 before us who were looking for something like that.

19 But beyond that, it seems to me in reading the
20 file, they've put up screening, they've put up the catwalk,
21 it's -- they've made willingness to make these concessions
22 already. They got the shadow study. And they live in an

1 urban environment. So I'm inclined to support this.

2 CONSTANTINE ALEXANDER: Ready for a vote? Okay.

3 The Chair moves that we make the following findings with
4 regard to variance being sought:

5 That a literal enforcement of the provisions of
6 the ordinance would involve a substantial hardship, such
7 hardship being that this structure, which is an older
8 structure that precedes the adoption of a zoning ordinance
9 doesn't provide much outdoor living space, and restricts the
10 use of that building for residential purposes, particularly
11 if there's children involved.

12 That the hardship is owing to the -- well, it's
13 the shape of the lot. I guess it's the closest -- you have
14 to find that the hardship is owing to circumstances relating
15 to the soil conditions, shape or topography of such land or
16 structure, and especially affecting such land or structure,
17 but not affecting generally the zoning district in which it
18 is located.

19 And the closest I think we can come to if we
20 choose to vote -- grant a variance -- satisfying that --
21 relates to the nature of the structure, the size of the
22 structure, and the nature -- the size of the lot.

1 And that relief may be granted without substantial
2 detriment to the public good, or nullifying or substantially
3 derogating the intent or purpose of this ordinance.

4 I move that we grant the variance requested on the
5 condition that the work proceeds in accordance with the
6 plans submitted by the petitioner, and which have been
7 initialed by the Chair. All those in favor of granting the
8 special permit, please say, "Aye."

9 THE BOARD: Aye.

10 [YES -- Janet Green, Andrea Hickey, Jim
11 Monteverde, Brendan Sullivan; NO - Constantine Alexander.]

12 CONSTANTINE ALEXANDER: One opposed, variance
13 granted. Good luck.

14 COLLECTIVE: Thank you.

15 CONSTANTINE ALEXANDER: We're going take a quick,
16 brief recess.

17 JANET GREEN: Yeah.

18 CONSTANTINE ALEXANDER: We're going take a brief
19 recess. We're going to continue.

20 [BREAK]

21

22

1 * * * * *

2 (8:10 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Janet Green, Laura Warnick, and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: Case Number 017117 -- 117
7 Walden Street. Anyone here wishing to be heard on this
8 matter?

9 SARAH RHATIGAN: Good evening.

10 CONSTANTINE ALEXANDER: Good evening.

11 SARAH RHATIGAN: I am Sarah Rhatigan, from Trilogy
12 Law, representing the petitioner, who is here.

13 MATT HAYES: Matt Hayes, owner of 117 Walnut
14 Street.

15 MILTON YU: Milton Yu, with Peter Quinn
16 Architects.

17 THE REPORTER: Could you spell your last name,
18 please?

19 SARAH RHATIGAN: It's Yu, Y-u. Milton is his
20 first name, with Peter Quinn Architects. Thank you. We are
21 here, as you know, for a continued case of special permits
22 for some window changes on the structure at 117 Walden

1 Street. And while we were last here before the Board, the
2 request of us was that we do two things principally -- three
3 things. One was to -- there were a few planned corrections
4 that needed to be made.

5 And you had also asked that we call out more
6 clearly the windows that required relief, which we did, and
7 we -- I think we used, you know, sort of bright red bubbles
8 around those windows, so that we could just call it out more
9 clearly to everyone, you know, involved.

10 Secondly was because some of the concerns from the
11 neighbors about views of the new windows, many of which are
12 actually as-of-right windows, but in any event, the concern
13 was to show the neighbors the plan for planting of trees.
14 And so, a landscape plan was presented, and was circulated
15 to the neighbors to take a look at.

16 And a little more on that --

17 CONSTANTINE ALEXANDER: Did you get any more
18 feedback?

19 SARAH RHATIGAN: Yeah, which is -- the next thing.
20 And the next thing was to engage with the neighbors in some
21 dialogue on this to see if we could, you know, kind of get
22 to a better place.

1 And so, just reporting on our efforts, I would
2 say, obviously folks are here, and I'm sure they will tell
3 you directly how they feel, so I won't speak for them, but
4 an effort was made to:

5 One, we did get the actual plans to folks last
6 Wednesday. So we did this as quickly as we could, and
7 Milton's got a lot of other things on his plate. So we were
8 pushing him pretty hard to get that out. And there was an
9 effort to meet on the site as well.

10 We were -- Matt and I were able to meet on the
11 site with Ms. Howard on last Wednesday, and we spent quite a
12 bit of time talking about the windows, plus a little bit
13 about the trees with Ms. Howard.

14 And then there's been a lot of communication back
15 and forth by e-mail. And as best we can tell, we -- and
16 then we just -- we circled back with another e-mail today,
17 just kind of summarizing where we were, where Matt was in
18 terms of what he was willing to do to sort of help out.

19 And so, there's sort of -- there are two aspects
20 of this that I'll just present to you in terms of where I
21 think we are, and then if you'll just indulge me, I want to
22 just bring the Board back to just take a peek of what our

1 actual window requests are. Okay?

2 So on the landscaping, the proposal -- and these
3 plans were submitted to you all on Monday by the deadline --
4 the plan was to install one large tree on the left side of
5 the property, and I know you've got the plan in the file.

6 CONSTANTINE ALEXANDER: I didn't fully go down
7 too.

8 SARAH RHATIGAN: This is actually a slightly
9 amended landscaping plan, which I'll explain to you in a
10 minute. This tree right here is the left side of the
11 property. And the effort here was the folks who live in
12 Walden Mews, which is not the neighboring property, but it's
13 two properties over in the back here -- have a view of this
14 side of the house, and there's concern about light coming
15 from new windows.

16 And as I mentioned, a bunch of these are actually
17 as-of-right windows, but in any event, the placing of the
18 tree here was meant to sort of help to shield some of that.

19 That's the same plan that we have -- isn't it? It
20 looks like -- I'm looking at --

21 SARAH RHATIGAN: This is the same, there's a very
22 small change here, so after --

1 CONSTANTINE ALEXANDER: Oh yeah, yeah, I see it
2 now, yeah.

3 SARAH RHATIGAN: So then there was some e-mail
4 communications with folks who live back here who commented,
5 you know, could you plant additional trees along this
6 boundary. So these two right here, we're going to circle
7 them for the Board and we'll submit this plan to you today,
8 obviously.

9 These two are newly proposed.

10 CONSTANTINE ALEXANDER: Right.

11 SARAH RHATIGAN: Okay?

12 CONSTANTINE ALEXANDER: Got it.

13 SARAH RHATIGAN: The other comment generally from
14 folks over here and then the abutter next door on the
15 opposite side of the house was concerned about the type of
16 trees. It's not -- I'm not absolutely certain that everyone
17 agrees, but we believe that we've been asked to replace them
18 with evergreen trees.

19 CONSTANTINE ALEXANDER: I'm sorry, you're thinking
20 --

21 SARAH RHATIGAN: With evergreen trees, as opposed
22 to the specimens that were shown on the landscaping plan,

1 and Matt has confirmed he is happy to swap out the specimens
2 for evergreen trees. So these two proposed, this new tree
3 proposed, and then these two trees proposed would all be
4 evergreen trees, as opposed to the specimen names that are
5 listed on this landscaping plan.

6 CONSTANTINE ALEXANDER: That plan there and what
7 we have in our files are identical, except for the two new
8 trees over there.

9 SARAH RHATIGAN: Precisely, yep. This is the only
10 change otherwise. Okay. So that's the discussion about
11 trees.

12 And then in terms of the discussion about windows,
13 the conversations on site with Ms. Howard, which was also
14 followed up by an e-mail from Ms. Howard, it seemed clear to
15 us that her -- or what she expressed as concerns, which
16 obviously she'll be here to tell you -- relates to certain
17 patterning of windows, and what she thought was sort of a
18 haphazard design.

19 And to be quite honest with you, we spent quite a
20 bit of time, because Matt really wants to get to yes.

21 We want to get the project done. But I think that
22 the response is that the patterning of windows is consistent

1 with, one, his interior needs for the windows, his code-
2 compliant needs for the windows in their particular
3 location, and aesthetics is somewhat a matter of judgment.
4 So we see symmetry where other people may not.

5 CONSTANTINE ALEXANDER: But am I correct that with
6 regard to the right side, you're adding nine new windows?

7 SARAH RHATIGAN: No, there are nine changes.

8 CONSTANTINE ALEXANDER: I'm sorry, you're right.
9 Nine changes.

10 SARAH RHATIGAN: There are nine changes. And I
11 think there is only --

12 CONSTANTINE ALEXANDER: There were what, nine
13 changes that required relief.

14 SARAH RHATIGAN: Correct.

15 CONSTANTINE ALEXANDER: I'm looking at your plans,
16 right here.

17 SARAH RHATIGAN: Yep, yep. And I happy to go to
18 that issue next. Yeah. There's a significant reduction in
19 the number of windows. Excuse me, let me just find the
20 right page here. Do you want to talk of the right side, as
21 opposed to the left side? We could dispose of the left side
22 first.

1 CONSTANTINE ALEXANDER: Sure. The outside --

2 SARAH RHATIGAN: Let's talk about the left side
3 quickly, just to -- yeah.

4 CONSTANTINE ALEXANDER: On the left side --

5 SARAH RHATIGAN: Honestly, I don't think that the
6 neighbors who have expressed concerns about the project just
7 globally, the folks who viewed the left side, I don't
8 believe they really have concerns about the requested relief
9 windows, but they're here obviously, they can tell you
10 otherwise.

11 The top window here, this is the left side of the
12 house. The top window here is reducing two smaller windows
13 to one central window, that is now a code-complaint access
14 window. This is a bedroom up here, it's always been a
15 bedroom, it was previously and will be again. So, you know,
16 these were non code-complaint windows, two of them, and now
17 there's a central one.

18 In terms of net increase of glazing I'm sure it's
19 probably less. We actually didn't do that calculation, but
20 I believe it is.

21 And then the basement window is just making it a
22 slightly larger window than -- again it's for egress

1 purposes. The space inside the basement is a living room
2 space. It's not, like, allowing for any grand change of the
3 use of the basement. So that's the right side.

4 AUDIENCE: Facing the --

5 SARAH RHATIGAN: Excuse me -- let's --

6 CONSTANTINE ALEXANDER: That's the left side.

7 AUDIENCE: Left side.

8 CONSTANTINE ALEXANDER: Right -- the left side is
9 two windows; right side is nine. And right -- and the right
10 side is just very close to the abutting property, much more
11 than the left side.

12 SARAH RHATIGAN: Okay. So now this is the right
13 side. I just want clarification. Yes, we do need special
14 permit relief. Yes, we are within I think five feet of the
15 lot line. But there's quite a bit of distance to the next
16 house to -- you know, just for putting that out.

17 The other thing, as Milton mentioned, is that
18 there's a significant removal of window openings on this
19 wall. So when we were looking at the net change, the
20 calculation was something like a 34 percent decrease in
21 lazing essentially in essentially on that wall of the
22 building.

1 So in terms of window impacts that you typically
2 think about -- that I think this Board typically thinks
3 about with the special permit, privacy, light, those types
4 of concerns, we think there should be a net improvement for
5 the neighbor.

6 And again, I think that the concerns that were
7 expressed by Ms. Howard were kind of like, "We don't like to
8 the way it works."

9 CONSTANTINE ALEXANDER: We're out of time.

10 SARAH RHATIGAN: Which were kind of akin to the,
11 "We don't like the way it looks." Which, you know, again,
12 you know, just we want to just bear with us as to why we're
13 doing what we're doing.

14 So in terms of the windows that require relief, so
15 1 and 2 and 3 are skylights.

16 CONSTANTINE ALEXANDER: Right.

17 SARAH RHATIGAN: I don't think anybody has any
18 concerns about impacts from those. We haven't heard any
19 concerns, and the views are of the sky. There's not any
20 looking up into people's windows, you know, that occurs from
21 that.

22 There's a removal of a dormer window. There was a

1 request to remove this as-of-right window, but that's an
2 existing window, and we're not going to remove that, because
3 that would eliminate the use of this room, which would not
4 be wise.

5 This window opening is shifted over about six
6 inches. The reason for that shift is actually an aesthetic
7 one to match the moving over of the lower window by six
8 inches. This was the result of a change down here, which I
9 will explain, just to move it over to make more room.

10 Again, this is a removed window opening.

11 This was previously a window in this location.
12 It's now moved over and it's a change of shape window, and
13 this is driven by an interior kitchen renovation. And it's
14 just because of the way the cabinets are set, and it's going
15 to be pretty difficult to undo that.

16 Again, window removed, window removed. This is a
17 replacement of the type of window. So this is now a code-
18 complaint casement window?

19 AUDIENCE: Egress window.

20 SARAH RHATIGAN: Egress window. This window is
21 moved over in order to create enough space, and this which
22 is now a bedroom to allow for a bed, in between the two.

1 CONSTANTINE ALEXANDER: And in all these windows,
2 you're identifying a plan. They are in place right now?

3 SARAH RHATIGAN: Um--

4 CONSTANTINE ALEXANDER: I mean, at least --

5 SARAH RHATIGAN: The window openings --

6 CONSTANTINE ALEXANDER: -- openings?

7 SARAH RHATIGAN: -- are. The openings are. This
8 one is boarded up. This --

9 CONSTANTINE ALEXANDER: Yeah, no, I can see that.

10 SARAH RHATIGAN: -- thing is boarded up.

11 CONSTANTINE ALEXANDER: Yes, I can see that. But
12 the question --

13 SARAH RHATIGAN: Yeah. I mean, it's boarded --
14 like, if you look at that one, it's boarded.

15 CONSTANTINE ALEXANDER: The question is why was
16 the window opening made before you got the special permit?

17 SARAH RHATIGAN: Right. So the -- at the time
18 that the renovation plans were first submitted, what had
19 happened is Matt had submitted his permit for all the as-of-
20 right work.

21 And at that time, he had been communicating with
22 the folks on the right side of the property, and he had

1 asked for explicit permission to make these window changes
2 He wanted to file all the paperwork, including the special
3 permit plans, as well as the building plans all at the same
4 time, but the architect -- sorry Milton -- was running quite
5 behind in the plans.

6 And there was, you know, some kind of pressing,
7 you know, concerns about folks who were there and available
8 to do to the work.

9 He didn't understand he was moving ahead at risk,
10 but he also had express permission and there was no sense
11 from -- he had absolutely no sense from the neighbor that
12 there would be -- you know, kind of --

13 CONSTANTINE ALEXANDER: Even though --

14 SARAH RHATIGAN: -- a removal of that permission.

15 CONSTANTINE ALEXANDER: -- the history of
16 neighborhood objection to --

17 SARAH RHATIGAN: Well at the time that that --
18 that this work was done, there was not -- there was no
19 history there.

20 CONSTANTINE ALEXANDER: Well, the history -- I'm
21 talking the second building that's now not --

22 SARAH RHATIGAN: No, this was prior to any of that

1 blowing up, yeah.

2 CONSTANTINE ALEXANDER: Okay.

3 SARAH RHATIGAN: And -- sorry, for the humor, I'm
4 tired. But the -- but no, there was no indication that
5 there was any -- otherwise, he certainly would not have done
6 that.

7 And there was also an effort -- I mean, he wanted
8 to file the special permit application as soon as humanly
9 possible and was, you know, pushing to get that in. And it
10 was filed in May. And then, you know, it's taken some time
11 to get here.

12 The other two window changes are on the basement
13 level. Those are covered by a fence, and nobody can see
14 those unless you're on the property, so I don't think those
15 are a concern. And you haven't done those either? Yeah.

16 So we are hopeful that if you are able to kind of
17 just look at the actual window changes and the actual
18 impacts to the neighborhood, that we really do meet that
19 special permit standard.

20 There's no impact on, you know, traffic access,
21 egress. There's no nuisance to the neighborhood. The
22 window changes are really quite minor and don't have -- as

1 fast as we understand it -- any negative impacts to the
2 neighbors or the neighborhood.

3 CONSTANTINE ALEXANDER: Okay. Questions from
4 members of the Board? I'll open the matter up to public
5 testimony. Is there anyone here wishing to be heard on this
6 matter? Yeah, please come forward.

7 ANDREW SZENTGYORGYI: Hi, my name is Andrew --
8 Andrew A-n-d-r-e-w, last name is S-z-e-n-t-g-y-o-r-g-y-i. So
9 I --

10 CONSTANTINE ALEXANDER: Oh, your address, sir.

11 ANDREW SZENTGYORGYI: So I -- I live at 113 Walden
12 Street. That's on the right side.

13 CONSTANTINE ALEXANDER: Got it.

14 ANDREW SZENTGYORGYI: So for thanks for your
15 forbearance in communications. I'm amazed at your ability
16 to sit through all this. And I have attended all the
17 meetings, except the last one.

18 You know, I support what Matt's doing. You know,
19 I'm very appreciate that -- the property has been in very
20 bad shape for 30 years. I've lived there for 27. So
21 probably more than 30 years. You know, we've worked
22 together a lot, actually. You know, we have an issue about

1 the fence and that survey. This guy's put their ladders in
2 my driveway. He's a nice guy to interact with.

3 However, I do have to say that I thought the way
4 this worked was he made a plan, showed it to everybody
5 nonconformingly (sic), issues were adjudicated by you guys,
6 and then and only then you would go and put the windows in.

7 But now we're sort of being told we put the
8 windows in, they're nonconforming, we didn't get permission,
9 but now there are facts on the ground, and you're stuck with
10 them. And we can argue about what can be moved and what
11 can't be moved, but it doesn't seem the right way to have
12 grown.

13 I do want to point out that I'm actually a fairly
14 skilled craftsman. The trees are not anywhere in the line
15 of sight the windows. So they're really a nonissue. Thank
16 you for changing them to evergreens, I think that's better.
17 But they're not relevant --

18 CONSTANTINE ALEXANDER: There's no room on that
19 side.

20 ANDREW SZENTGYORGYI: Well, that's because he's
21 protecting other facts on the ground that we're not
22 discussing here today. He's paving the whole back yard.

1 Now, he's turning it into a parking lot, and he's protecting
2 that plan. So the trees aren't functionally relevant to
3 anything we're saying today, other than it's more greenery,
4 it's nice, but the greenery has been vastly reduced.

5 CONSTANTINE ALEXANDER: Would you prefer instead a
6 high fence along the --

7 ANDREW SZENTGYORGYI: What's that?

8 CONSTANTINE ALEXANDER: Would you prefer rather
9 than trees say a 10-foot fence?

10 ANDREW SZENTGYORGYI: We have the maximum height
11 fence that zoning allows.

12 CONSTANTINE ALEXANDER: I'm sorry, would you
13 prefer that?

14 ANDREW SZENTGYORGYI: I have it already, that's
15 part of the plan.

16 CONSTANTINE ALEXANDER: You it? Okay.

17 ANDREW SZENTGYORGYI: So, you know, I don't know
18 what to say about being told that Ms. Howard doesn't like
19 the way it looks. My wife doesn't like the way it looks.
20 There are other people who don't like the way it looks. So
21 it's not just Sue. And that's kind of all I have to say.

22 CONSTANTINE ALEXANDER: Thank you. Anyone wishes

1 to be heard?

2 LUIZA SAN JUAN: My name is Luisa San Juan. L-u-
3 i-s-a, last name S-a-n-J-u-a-n. I live at 7 Walden Mews on
4 the left side.

5 CONSTANTINE ALEXANDER: On the left side?

6 LUIZA SAN JUAN: Yes.

7 CONSTANTINE ALEXANDER: Okay.

8 LUIZA SAN JUAN: I think -- I'm sorry, but I feel,
9 Sarah, that you are mistaken because one day I saw windows
10 opening in the back, two new windows, and another new window
11 on the left, right the corner that I see from my bedroom. I
12 was shocked, so I told the city, "I haven't received any
13 notification."

14 I came here to the meeting -- I learned that there
15 was a meeting -- I came here, and I really appreciate -- I
16 don't know how things are done, but I said, "How come
17 windows have been open that open to my bedroom? I have no
18 note, I know nothing." I tried to find the city. It's very
19 hard to work the system.

20 So when she says that there is -- and she told me
21 last time -- and thank you, I have to say that Matt has been
22 willing to put green and trees. But again, there is this

1 corner -- I think I believe I have a picture, we sent it,
2 but maybe if I show you it's right -- it's a corner, right
3 angle. No windows before. Now I have one window in the
4 back, another window in the corner, and another window in
5 the right, where there was no window before.

6 You said there is no new openness, I don't know.
7 I'm not going to argue that. I'm just arguing that there
8 were no windows there, I tried to find out what was going on
9 --

10 CONSTANTINE ALEXANDER: Can I point out something
11 about the left side? Because --

12 LUISA SAN JUAN: This is the left side.

13 CONSTANTINE ALEXANDER: I know. But let me point
14 something out to you.

15 LUISA SAN JUAN: Yes.

16 CONSTANTINE ALEXANDER: The setback requirements
17 under our ordinance are 12 feet 4 inches. And if this
18 building were 12 feet 4 inches from the line, they can --

19 LUISA SAN JUAN: There is nothing.

20 CONSTANTINE ALEXANDER: Nothing.

21 LUISA SAN JUAN: Not even notification?

22 CONSTANTINE ALEXANDER: Miss, no. We have a

1 matter of right.

2 LUISA SAN JUAN: Okay.

3 CONSTANTINE ALEXANDER: As a point of fact, this
4 building is 11.97 feet on the lot line. So --

5 LUISA SAN JUAN: So --

6 CONSTANTINE ALEXANDER: That causes their need for
7 relief with regard to the left side, but in terms of the
8 privacy impact --

9 LUISA SAN JUAN: It's not --

10 CONSTANTINE ALEXANDER: Well, I mean it's none,
11 there is some.

12 LUISA SAN JUAN: There is some --

13 CONSTANTINE ALEXANDER: It strikes me as rather
14 minimal. I can see on the right side people having the
15 problem, because there's much more substantial --

16 LUISA SAN JUAN: Yeah.

17 CONSTANTINE ALEXANDER: -- intrusion into the
18 setback. But left side, I don't know.

19 LUISA SAN JUAN: Okay. It's --

20 SARAH RHATIGAN: It's also just the --

21 CONSTANTINE ALEXANDER: Pardon?

22 CONSTANTINE ALEXANDER: -- just the part of the --

1 CONSTANTINE ALEXANDER: Yeah.

2 LUISA SAN JUAN: It's the height.

3 CONSTANTINE ALEXANDER: Yeah, you said that.

4 LUISA SAN JUAN: If it's from here to there, I
5 don't know how many feet. But you see right away
6 everything. It's open window, open window, and you see each
7 everything.

8 CONSTANTINE ALEXANDER: Right.

9 LUISA SAN JUAN: Yes. And she told me, you
10 already told me that there was no issue on that. I just
11 wanted to point it out.

12 And then for the trees, so unfortunately Matt
13 talked with my husband. He says that -- just a few minutes
14 ago, we couldn't meet before -- and in the way that we were
15 asking a tree to go there, and he said it's not possible.
16 So he agreed to put other trees over here, I don't know,
17 what will become of that.

18 But I just wanted to point out, because --

19 CONSTANTINE ALEXANDER: Thank you.

20 LUISA SAN JUAN: -- there is a privacy issue, at
21 least for me.

22 SARAH RHATIGAN: Mr. Chairman, could I just

1 respond to -- there was one other thing that I --

2 CONSTANTINE ALEXANDER: Do you want your phone?

3 Ma'am? You left your phone here.

4 LUISA SAN JUAN: Thank you.

5 SARAH RHATIGAN: I had forgotten to mention just
6 as an offer that Matt had mentioned this before, but just
7 sort of formally wanted to offer to folks to let them know
8 that he's installing blinds, or shades in all of the windows
9 on that left side, just to respond to --

10 CONSTANTINE ALEXANDER: Of course, those shades
11 can be removed at any time, though.

12 SARAH RHATIGAN: Sure, but they'll be installed
13 nice new shades soon. Because there will be some --

14 CONSTANTINE ALEXANDER: I appreciate the offer.
15 I'm just saying it's not a showstopper, from my point of
16 view at least. Anyone wishes to be heard? Ms. Howard?

17 SUSANNE HOWARD: My name is Sue Howard.

18 CONSTANTINE ALEXANDER: Really?

19 SUSANNE HOWARD: H-o-w-a-r-d, 111 Walden Street.
20 I am an abutter to an abutter who received notice as such
21 about the special permit. I do have a handout which is a
22 copy of the e-mail, that proposal that I made to Matt and

1 some --

2 CONSTANTINE ALEXANDER: Could you just summarize
3 it for us? We're not going to have time to read it.

4 SUSANNE HOWARD: No, it's mostly pictures. If you
5 want to turn to the last part, the reason that I'm concerned
6 is not just because it's my personal preference as to what
7 the windows look like.

8 I'm aware that this is a change -- that there
9 needs to be a finding that any change in extension or
10 alterations will not substantially be more detrimental to
11 the neighborhood than the existing nonconforming structure.

12 I understand that there may be a narrower view of
13 that that only -- the effect on the neighborhood can only be
14 privacy or other issues, but I wish to just express the idea
15 that I do have an interest in what it looks like from the
16 street, because it is part of the neighborhood. And to that
17 end, I have given pictures of the patterns of the windows in
18 the neighborhood, which is attached. And --

19 CONSTANTINE ALEXANDER: Do I understand then, if
20 these -- I see three changes here you've marked on the plan.

21 SUSANNE HOWARD: Right.

22 CONSTANTINE ALEXANDER: *If they were made, you*

1 would have no objection to going forward?

2 SUSANNE HOWARD: That was the offer that was made.
3 It was made on my behalf, and on the behalf of Nancy and
4 Andy, who live at 113. So I can answer for myself.

5 CONSTANTINE ALEXANDER: Yeah.

6 SUSANNE HOWARD: That that would be the case. And
7 I think it would be -- I tried to look at the plan, to see
8 what the windows that were installed could be moved or, you
9 know, sensitive to the fact that when Matt told me that
10 there was a window that needed to be an egress that he was
11 probably not going to change that, and that's why that
12 window in the back on the first floor was different.
13 Likewise on the second floor in the back.

14 He has already installed his cabinets and a
15 window, and it's at a higher level because of the sill.

16 So those are the kinds of things that I wasn't
17 asking -- that I thought wouldn't be changes he could make
18 to make it so that the windows on the outside are more
19 uniform, as they are throughout Cambridge and throughout
20 almost any other building.

21 These -- if you look on the -- I guess it's the
22 last page of my handout. The existing window pattern is

1 what was presented as the existing condition at the site.

2 In the building permit, we were told -- the city was told
3 that those windows were all going to be unchanged.

4 And I have also attached -- the page right before
5 that -- something from Mr. Quinn that shows that these are
6 the window patterns that are going to be installed per the
7 permit. Now, we've heard tonight that Matt thought he was
8 just doing all the things as-of-right first.

9 And so, that's how he submitted his permit. Well,
10 in fact if he wasn't going to do this, these are not --
11 maybe these were -- but if he didn't really mean to do it,
12 why was he presenting it as these are the windows that his
13 permit was issued on?

14 So after the permit was issued, he went ahead and
15 he went about designing from the inside what he needed for
16 windows, and what he needed to make a change, he did. And
17 he put the windows in.

18 And so, now we're left with sort of -- it may work
19 on the inside, but on the outside, it is really not any kind
20 of window pattern. The special permit request is for a
21 change in the patterns of the windows. So I guess my
22 attempt to ameliorate this with Matt -- I met with him and

1 his counsel as soon as the plans were available, and tried
2 to think out what could we do to make this work?

3 And on the plan that does show what we could do is
4 if the windows were the same width, or the same -- or the
5 plane that they were hanging from was the same, I mean when
6 you put a window in -- I mean, I've looked all over
7 Cambridge, and I must admit I like architecture, and I do
8 look at windows and I walk at night and I see how they are
9 lit, and I see that I have never seen any windows like this,
10 where they're hanging both above and below so close to the
11 existing windows.

12 And so, it's not even -- I mean I don't even know
13 maybe his architect didn't design them this way, but they
14 got installed this way.

15 CONSTANTINE ALEXANDER: My only observation is
16 that your objections relate to the design of these windows.
17 That's not a zoning issue. We don't pass on whether the
18 design is appropriate. We pass on the things like privacy
19 and substantial change in a neighborhood character, et
20 cetera, et cetera.

21 SUSANNE HOWARD: Right. I would -- my argument is
22 that it is a substantial change to the neighborhood

1 character. And how you define character is not by privacy,
2 and not by whether or not it has a side lot yard --

3 CONSTANTINE ALEXANDER: Our issue is --

4 SUSANNE HOWARD: -- but that's why I'm bringing it
5 up.

6 CONSTANTINE ALEXANDER: We have to apply the
7 zoning ordinance as it's written.

8 SUSANNE HOWARD: Now, within the full intent is
9 where I would find this.

10 CONSTANTINE ALEXANDER: Okay.

11 SUSANNE HOWARD: As part of -- and also the
12 finding that there -- if the word, "neighborhood" doesn't
13 mean anything, or "substantial detriment to more than one
14 person," and if the Board takes the position and it only
15 affects people who can see in the windows, I guess that's
16 the position --

17 CONSTANTINE ALEXANDER: So it's your position that
18 these three windows that you want to redesign that's not
19 done, that's going to be a substantial impact on the
20 neighborhood?

21 SUSANNE HOWARD: I think so. Because when you
22 walk by, it looks very different than all the other neighbor

1 -- I mean you can look at -- I did give you a pattern of
2 windows, both new and there is nobody that hangs their
3 windows.

4 I mean, it's just a -- it's a mistake is what it
5 is that to me is disrespectful of the neighborhood, because
6 it's only done from the inside out. It doesn't say anything
7 about how it looks to the community.

8 And we are the community. We've been here.
9 There's been other affronts to the community, so we're a
10 little pudgier, I guess. But still, it really matters when
11 you walk down the street to suddenly see something that
12 looks like it wasn't done by an architect who knew how to
13 hang a window. So that's --

14 CONSTANTINE ALEXANDER: Thank you again for taking
15 your time to come down. Anyone wishes to be heard? I think
16 -- sir.

17 MARCELO MARCHETTI: My name is Marcelo Marchetti,
18 7 Walden Mews. Do I need to spell it? M-a-r-c-e-l-o M-a-r-
19 -c-h-e - double t as in Tom - i. I'm one of the neighbors
20 from the Walden Mews. And I understand that we don't have
21 really a case, because of the distance from the windows, et
22 cetera, et cetera.

1 What worries me about this whole process is the
2 fact that permits are provided with a certain plan, and then
3 because the plans have changed, they become fait accompli,
4 and then there's -- because it was already done, there is no
5 impetus, one, to change and then the variance being
6 permitted or not permitted. I find that very worrisome, and
7 I don't understand why that occurs.

8 They came here, my wife came here, and she was
9 told explicitly that it wasn't installed, that there was no
10 risk, but now it seems that the story's changing, because
11 it's accompli. It's unfortunate. And I think that also
12 some of the timelines -- it's not accurate from what Ms.
13 Rhatigan has (sic) been presented. Thank you.

14 CONSTANTINE ALEXANDER: Thank you. Anyone else?
15 Yes, sir. Well, you've already spoken sir.

16 ANDREW SZENTGYORGYI: I just wanted to say that I
17 ratify everything Sue Howard said.

18 CONSTANTINE ALEXANDER: All right.

19 ANDREW SZENTGYORGYI: Just so it's understood.

20 THE REPORTER: Could you just restate your name
21 for the record, please?

22 ANDREW SZENTGYORGYI: My name is Andrew

1 Szentgyorgyi, A-n-d-r-e-w S-z-e-n-t-g-y-o-r-g-y-i, 113
2 Walden Street. I ratify everything. My wife can come up
3 here.

4 CONSTANTINE ALEXANDER: Okay.

5 ANDREW SZENTGYORGYI: She does --

6 CONSTANTINE ALEXANDER: One per family. Anyone
7 wishes to be heard? If we're done with public testimony, I
8 will close public testimony. We have nothing in the files
9 in writing, other than with regard to what's going on
10 tonight, other than with regard to what Ms. Howard referred
11 to and she's handed to us. So I think we're ready for a
12 decision time. Anyone wish to speak on this?

13 I'll make one observation. I don't think you
14 behaved --

15 BRENDAN SULLIVAN: You made the comment on the
16 previous case --

17 CONSTANTINE ALEXANDER: I'm sorry?

18 BRENDAN SULLIVAN: You made the comment on the
19 previous case that it was cases like that which made it very
20 difficult to have sitting on the Board.

21 CONSTANTINE ALEXANDER: I don't find this is
22 difficult.

1 BRENDAN SULLIVAN: I find sometimes sitting on
2 cases like this somewhat difficult, because it's not win-win
3 for anything. It's like -- we have to call it either a ball
4 or a strike, or something like that. And it's --

5 CONSTANTINE ALEXANDER: [Laughter]

6 BRENDAN SULLIVAN: -- not so easy.

7 CONSTANTINE ALEXANDER: It's not easy. What I was
8 going to say is it's I don't think you conducted yourself
9 very well throughout this process. I think you were trying
10 to be cute. I think you pushed the process, and to try to
11 create -- change things that couldn't be changed, and then
12 say to people, "Well, that's how it is."

13 That being said, I don't think the change -- the
14 windows issues would deprive you of a special permit. I'm
15 going to vote in favor of the special permit. I'm going to
16 have it conditioned. I'm going to propose a condition with
17 regard to the landscaping. That's nothing more than you
18 proposed.

19 But if it were not for that, your -- what I
20 believe to be bad behavior, this would be a cut and dry
21 case, in my opinion.

22 Anybody else wish to speak? All right. The Chair

1 will make a motion. The Chair moves that we make the
2 following findings with regard to the special permit being
3 sought: That the requirements of the ordinance cannot be
4 met unless we grant you the special permit, the traffic
5 generated or patterns in access or egress resulting from
6 these window changes you're proposing will not cause
7 congestion, hazard, or substantial change in established
8 neighborhood character.

9 To be sure, we have had testimony from -- I say
10 that and make that motion, that finding notwithstanding the
11 fact that some neighbors believe that this will result in a
12 substantial change in established neighborhood character.

13 That the continued operation or development of
14 adjacent uses, as permitted in the ordinance, will not be
15 adversely affected by what is proposed. Again, that's a
16 matter of -- a matter of opinion and controversy, but I'm
17 moving that you do satisfy this condition.

18 No nuisance or hazard will be created to the
19 detriment of the health, safety and/or welfare of the
20 occupant of the proposed use, or the citizens of the city,
21 and generally, what is being proposed will not impair the
22 integrity of the district or adjoining district, or

1 otherwise derogate the intent and purpose of this ordinance.
2 And again, we've had testimony from some neighbors who
3 quarrel with that and say this condition has not been
4 satisfied.

5 But based upon the proposal before us, based upon
6 these proposed findings, the Chair would move to grant the
7 special permit proposed on the -- subject to the following
8 conditions:

9 That the work proceed in accordance with plans
10 prepared by Peter Quinn Architects -- I'm going to initial
11 the first page -- the first page of which has been initialed
12 by the Chair, and that includes the window treatment, and
13 the date of these revisions is October 1, 2019. These plans
14 include the landscaping plan and the window locations on the
15 two sides that are the zoning relief.

16 And the second condition is that in order to
17 maintain the privacy of the abutters to 1000 -- sorry,
18 abutters to 117 Walden Street, the yard area of 117 Walden
19 Street shall be landscaped in accordance with the landscape
20 plan submitted by the petitioner -- and you're going to give
21 me a new one -- and initialed by the Chair, and accept that
22 the trees that are shown in the plan will be evergreens, and

1 not the trees that are shown on the plans that were
2 submitted.

3 There's no agreement on that, is there?

4 SARAH RHATIGAN: No.

5 CONSTANTINE ALEXANDER: No, okay.

6 SARAH RHATIGAN: Do you want me to write anything?

7 CONSTANTINE ALEXANDER: No, no, no, it's part of
8 the motion.

9 SARAH RHATIGAN: Great.

10 CONSTANTINE ALEXANDER: Should any of the trees or
11 significant plantings shown on such plan die or
12 significantly deteriorate, whether the original ones or any
13 replacements made pursuant to this condition, such trees and
14 plantings shall be promptly replaced with trees and
15 plantings that provide at least as much privacy as is
16 intended by the landscape plan previously referred to.
17 That's the motion.

18 Anybody want to make any changes? Okay. I'm
19 ready for a vote.

20 All those in favor of granting the special permit
21 on this basis, please say, "Aye."

22 THE BOARD: Aye.

1 CONSTANTINE ALEXANDER: Four in favor. Five in
2 favor.

3 BRENDAN SULLIVAN: No.

4 CONSTANTINE ALEXANDER: No, five in --

5 JIM MONTEVERDE: One opposed.

6 CONSTANTINE ALEXANDER: One opposed. Four in
7 favor [Jim Monteverde, Constantine Alexander, Janet Green,
8 Laura Wernick]; one opposed [Brendan Sullivan]. The
9 motion carries. Relief granted.

10 SARAH RHATIGAN: Thank you.

11 CONSTANTINE ALEXANDER: Again, we're going to take
12 a very brief recess, and then we'll hopefully start again.

13 [BREAK]

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(8:52 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Alison Hammer, Andrea A. Hickey, and Jim
Monteverde

CONSTANTINE ALEXANDER: 7148 -- 900 Cambridge
Street. Anyone here wishing to be heard on this matter?

CLARA FRADEN: Good evening.

CONSTANTINE ALEXANDER: Good evening.

CLARA FRADEN: My name is Clara Fraden, C-l-a-r-a
F-r-a-d-e-n. I'm here on behalf of the Cambridge Housing
Authority requesting an insubstantial change of --

CONSTANTINE ALEXANDER: That's your position.
We'll decide whether it's insubstantial.

CLARA FRADEN: Exactly. So on July 25, the Board
approved a substantial change to an existing comprehensive
permit to subdivide the parcel and reduce the number of
parking spaces available at the site from 105 to 90. We had
a very lengthy discussion that night about how to allocate
the parking spaces --

CONSTANTINE ALEXANDER: Right.

CLARA FRADEN: -- with the new subdivision, and I

1 think the decision captured all of that. However, the
2 decision references that there are 90 on-site spaces between
3 Lot 1 and Lot 2, when in fact we have 72 on-site spaces, and
4 then 18 spaces that are available for the exclusive use of
5 the residents, but it is off-site directly across the
6 street. So we are here to request --

7 CONSTANTINE ALEXANDER: Basically, to correct an
8 error, which you claim to be substantial.

9 CLARA FRADEN: That's it.

10 CONSTANTINE ALEXANDER: Which we made based upon
11 information that your client -- you provided to us anyway.
12 Questions from members of the Board?

13 ANDREA HICKEY: Who owns that lot? Does Cambridge
14 Housing --

15 CLARA FRADEN: The Cambridge Housing.

16 ANDREA HICKEY: All right. And when I looked at
17 the plan for that lot, I didn't count out 18 spaces. I
18 counted 15 spaces.

19 CLARA FRADEN: Yeah. So that is because this is
20 the plan that I presented at the last hearing. There are --
21 it is a survey of the parcel 900 Cambridge Street, it's not
22 a survey of the parcel, so it doesn't have the complete

1 picture of those 18 spaces. But there are 18 spaces on the
2 lot.

3 ANDREA HICKEY: But there's nothing in our file
4 that shows that.

5 CLARA FRADEN: That shows the 18 spaces? No, we
6 just referenced this plan here.

7 ANDREA HICKEY: Yeah. That's a problem for me.

8 CONSTANTINE ALEXANDER: Why did you give us then
9 plan with the 18 spaces?

10 CLARA FRADEN: To be honest, I think -- I didn't
11 think that was the emphasis of the plan you were talking
12 about having enough spaces available.

13 CONSTANTINE ALEXANDER: Well, I think the problem
14 it's raised is that you're claiming you're still going to be
15 90 spaces.

16 CLARA FRADEN: Yes.

17 CONSTANTINE ALEXANDER: You're showing us plans
18 that only show 87 spaces. How do we know there will be 90
19 spaces?

20 CLARA FRADEN: I am happy to come back with the
21 survey at the next meeting. We do have a survey of the 155
22 Willow lot. It's just not attached to the lot that was

1 being subdivided. So I --

2 CONSTANTINE ALEXANDER: I think it's warranted. I
3 do not -- I will not consider this a case heard yet, we're
4 preliminary nature. I think we are going to continue -- I'm
5 going to propose that we continue this case --

6 CLARA FRADEN: Okay.

7 CONSTANTINE ALEXANDER: -- if you come back with a
8 plan that shows 90 spaces.

9 CLARA FRADEN: Okay. Of course. So we can come
10 back with a -- does it need to be on one plan, or is it okay
11 to add the 900 Cambridge Street lot that has 72, and the 155
12 lot?

13 CONSTANTINE ALEXANDER: That's fine.

14 ANDREA HICKEY: Yeah, I'm okay with that.

15 CLARA FRADEN: Okay.

16 ANDREA HICKEY: But I want to see the number of
17 spaces.

18 CONSTANTINE ALEXANDER: Yeah.

19 ANDREA HICKEY: And I also didn't notice the
20 spaces as being dimension spaces. Is there anything that
21 shows they're of valid, sort of legal size?

22 CLARA FRADEN: We don't have a plan, to my

1 knowledge, that measures out the dimensions of each space.

2 CONSTANTINE ALEXANDER: And how do we know there
3 are 90 spaces?

4 ANDREA HICKEY: Does anybody else care about that?
5 I mean --

6 CONSTANTINE ALEXANDER: Yeah. How do we know that
7 the number of spaces you're claiming, without the
8 dimensions?

9 CLARA FRADEN: So we counted the spaces on the
10 lot, and we have our limits, the architect who has counted
11 the number of spaces on the lot. So I can ask them for
12 their backup of all the images.

13 CONSTANTINE ALEXANDER: I think the new plans you
14 should bring back show 90 spaces with dimensions.

15 CLARA FRADEN: Okay.

16 CONSTANTINE ALEXANDER: So we can see the 90.

17 CLARA FRADEN: Yeah, that's no problem.

18 CONSTANTINE ALEXANDER: When should we continue
19 the case, too? I assume the members agree with this?

20 ANDREA HICKEY: So it's not heard, then?

21 CONSTANTINE ALEXANDER: Not heard. We never got
22 attending members.

1 ANDREA HICKEY: Then I guess it doesn't matter --

2 CONSTANTINE ALEXANDER: What's the second?

3 SISIA DAGLIAN: October 24 is the next one.

4 CONSTANTINE ALEXANDER: What's the one after that?

5 SISIA DAGLIAN: November 7. Oh, well Brendan's

6 not here.

7 BRENDAN SULLIVAN: I will not be here for that.

8 CONSTANTINE ALEXANDER: Yeah, it's not heard so.

9 BRENDAN SULLIVAN: It's not heard, so.

10 CONSTANTINE ALEXANDER: And we can make -- we have

11 enough room on the calendar?

12 SISIA DAGLIAN: Yeah, there's nothing on the

13 seventh.

14 CLARA FRADEN: Okay.

15 SISIA DAGLIAN: Okay?

16 CONSTANTINE ALEXANDER: I do that only because I

17 think you may need a little bit more time than you may

18 realize.

19 CLARA FRADEN: Okay.

20 CONSTANTINE ALEXANDER: The Chair moves that we

21 continue this case as a case not heard, subject to the

22 following conditions:

1 One, that the petitioner signs a waiver of time
2 for decision.

3 CLARA FRADEN: Okay.

4 CONSTANTINE ALEXANDER: Which Sisia will give to
5 you. There's no posting requirements, so that's out. And
6 that these new plans we're talking about must be in our
7 files no later than 5:00 p.m. on the Monday before November
8 7, did you say?

9 CLARA FRADEN: Yes.

10 CONSTANTINE ALEXANDER: November 7.

11 CLARA FRADEN: Okay.

12 CONSTANTINE ALEXANDER: Okay?

13 CLARA FRADEN: Yes, that's no problem.

14 CONSTANTINE ALEXANDER: All those in favor, please
15 say, "Aye."

16 THE BOARD: Aye.

17 [All vote YES]

18 CONSTANTINE ALEXANDER: Five in favor, case
19 completed.

20 CLARA FRADEN: All right. Thank you.

21

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2 (8:57 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Alison Hammer, Andrea A. Hickey, and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number -- we're finally getting to the regular agenda,
8 it's 9:00 -- 017162 -- 17 Worcester Street. Anyone here
9 wish to be heard on this matter? This time you're on that
10 side of the table.

11 ARCH HORST: My name is Arch Horst, H-o-r-s-t,
12 Black River Architects, and with me are the petitioners,
13 property owners, 170 Worcester. Would you like to introduce
14 yourself?

15 LAURYL RAMAKRISHNAN: Sure. Lauryl Ramakrishnan,
16 L-a-u-r-y-l, last name is R-a-m-a-k-r-i-s-h-n like Nancy -a-
17 n like Nancy.

18 MADAN RAMAKRISHNAN: My name is Madan
19 Ramakrishnan, first name M-a-d-a-n, last name same as hers.

20 CONSTANTINE ALEXANDER: [Laughter]. We want to
21 get out of here before midnight.

22 AUDIENCE: Thank you for that.

1 KRISTIN SMITH: And I'm Kristin Smith, K-r-i-s-t-
2 i-n Smith S-m-i-t-h.

3 CONSTANTINE ALEXANDER: Thank you.

4 ARCH HORST: So in the file you've seen pictures
5 of the building that exists. And the reason we're here is
6 because it is a nonconforming structure, and we're trying to
7 make it into a second unit, and we need a variance for an
8 entry vestibule, and --

9 CONSTANTINE ALEXANDER: Is it going to be a
10 complete living unit?

11 ARCH HORST: Yes.

12 CONSTANTINE ALEXANDER: Could you -- the reason
13 you gave in your application is family members living in the
14 basement --

15 ARCH HORST: That's true.

16 CONSTANTINE ALEXANDER: -- but it -- and if that
17 family member was living in the basement, they must have
18 used the facilities on the first floor or whatever.

19 ARCH HORST: That's true.

20 CONSTANTINE ALEXANDER: Why do you need now all of
21 a sudden a separate kitchen and separate -- I can --
22 bathroom I can see each other --

1 ARCH HORST: Well --

2 CONSTANTINE ALEXANDER: But why a separate
3 kitchen?

4 ARCH HORST: So that there isn't a need to -- you
5 know, share kitchen space.

6 CONSTANTINE ALEXANDER: My concern is sooner or
7 later that you'll no longer live in that property. And this
8 is going to be a definitely property to rent out to a
9 student in a dense neighborhood.

10 I'm not happy, I'm personally not happy with the
11 idea of a separate living unit. I can see a separate
12 bedroom unit with bathroom, but use the kitchen in the main
13 house. That's what I would prefer. I mean, I'm only one
14 member.

15 ARCH HORST: Right. That's not what we set out to
16 do, but I understand your point.

17 ANDREA HICKEY: Are these condo units now at
18 Worcester, or it's a two-family?

19 ARCH HORST: It's a single -- well, it's zoned as
20 a two-family.

21 ANDREA HICKEY: Yeah.

22 ARCH HORST: But it's been used technically as a

1 single-family at the moment. It had been a bed and
2 breakfast previously. But it isn't anymore. It's a single-
3 family use in a two-family zone. And I think it's probably
4 -- has it ever been a two-family?

5 ANDREA HICKEY: I saw some mention in the file of
6 it as a two-family, which is why I asked. I thought I did.

7 CONSTANTINE ALEXANDER: The structure here could
8 be converted as a stable or --

9 ARCH HORST: Yeah. It's existing, and the changes
10 were made.

11 CONSTANTINE ALEXANDER: So the two-family nature
12 must have been to the main house, right?

13 ARCH HORST: I would assume, yes. Yeah, the
14 stable was never --

15 CONSTANTINE ALEXANDER: Never used as a living
16 quarter.

17 ARCH HORST: Yeah. It doesn't have any facilities
18 in it, so.

19 CONSTANTINE ALEXANDER: So somewhere along the
20 line, that two-family got converted to a one family.

21 ARCH HORST: And the only addition to the physical
22 layout of the stables and entry vestibules 6 x 7, that's

1 subject to -- that's in the side yard -- well, I can't tell
2 you if it's in the side yard or the rear yard setback with
3 the existing house, but it's --

4 CONSTANTINE ALEXANDER: Were it not for that, you
5 would have -- you would do this by special permit?

6 ARCH HORST: That's right. That's right.

7 CONSTANTINE ALEXANDER: Okay. Okay. Any
8 questions for members of the Board? I guess not. I'll open
9 the matter up to public testimony.

10 Anyone here wishing to be heard on this matter?
11 Sir?

12 COLIN FLEMING: Hello, Colin Fleming. C-o-l-i-n,
13 last name Fleming, F as in Frank, l-e-m-i-n-g and I live at
14 22 Worcester, which is Number 2, Unit 2 across the street.
15 And we in the neighborhood are generally supportive of this
16 community -- a number of neighbors approached me, Mayor of
17 this district, my summary title.

18 But the only thing the neighbors communicated was
19 that as long as the general level of parking in the area of
20 this driveway -- because obviously the space abuts the
21 driveway is, like, maintained, but that's their main concern
22 because our neighborhood is a highly pressured parking

1 environment. But generally, we're all quite supportive of
2 turning it into a more usable structure.

3 ARCH HORST: I would also say there was one
4 abutter who was here but had to leave, and his concerns --
5 and he had some concerns -- were just that if in the
6 construction process they had to go on his property, he
7 wanted to make sure that they told him, which of course we
8 would do, right?

9 And also, he had concerns about certain code
10 issues, which I assured him the city would not allow us to
11 do something that didn't meet the building code, so.

12 CONSTANTINE ALEXANDER: Okay.

13 COLIN FLEMING: Thank you.

14 CONSTANTINE ALEXANDER: Thank you. Well, I just
15 didn't -- I think the point that was being made though, if
16 we were to grant the relief you're seeking, you're going to
17 have a separate dwelling unit of what, 20 feet? 200 feet?
18 400?

19 ARCH HORST: Two floors.

20 CONSTANTINE ALEXANDER: On two floors? I still
21 would prefer that this can be used for living purposes, but
22 not as separate plumbing. Again, I'm worried about the

1 future.

2 ARCH HORST: Yeah.

3 CONSTANTINE ALEXANDER: In terms of what's going
4 to happen to that property. I don't know -- again, I don't
5 know if any of the numbers might support that, so I'll find
6 out.

7 Okay, I'm going to close public testimony. We
8 don't have any letters or anything else in our files. So
9 I'm ready for discussion. Does anyone care about this being
10 accepted as a complete dwelling unit?

11 ALISON HAMMER: I have just a follow-up on the
12 question about the parking. When I look at your site plan,
13 it seems like there's a long driveway with parking for a few
14 cars in the rear. There may be an old -- this used to be a
15 two-bay garage. When I look at your dimensional table, I
16 see that you claim only one current parking space right now?

17 ARCH HORST: Yeah, that's because according to the
18 zoning ordinance, and the buffers and what not, there is
19 only legally space for one car.

20 ALISON HAMMER: Clearly, it was a historical use.
21 Did you talk to Ranjit about that at all; has it, like the
22 historically been used for two cars?

1 ARCH HORST: I only know how they are using it
2 now.

3 ALISON HAMMER: Okay, it's just -- so one car
4 parks there.

5 ARCH HORST: Yeah.

6 ALISON HAMMER: And just in that front part of the
7 driveway, not in the back park? So you're kind of taking
8 away, you're going from two spaces down to one space?
9 Because it's a two-bay garage now, right?

10 ARCH HORST: Oh, yeah, I see what you're saying.
11 It's not used. It hasn't been used as a garage for I don't
12 know how long, but yes. The point is it could -- well, the
13 building would have to be stabilize, because it's in trouble
14 shape.

15 ALISON HAMMER: Right.

16 ARCH HORST: Yeah.

17 ALISON HAMMER: I mean, I think -- you know, the
18 way I see this is kind of as an outgrowth of maybe more of
19 an accessory unit, than as a full stand-alone unit. I don't
20 know if that's, like, a way we could condition it, and so,
21 you know, it doesn't end up being, like, later down the road
22 two condos with, you know, four cars for each one.

1 It really becomes, you know, a primary residence
2 with essentially an accessory unit which is now in a garage
3 instead of kind of what's already established in the code,
4 as a basement.

5 CONSTANTINE ALEXANDER: Well, that's why -- that's
6 the point I was trying to get at, is that if we don't allow
7 kitchen facilities, there's never going to be a separate
8 unit there.

9 ALISON HAMMER: Right. I --

10 ANDREA HICKEY: Yeah. I can see this being a
11 separate condo unit down the line. I mean, you know, sold
12 separately or kind of an Airbnb sort of things.

13 ALISON HAMMER: Right.

14 ANDREA HICKEY: So I share Gus's concerns about
15 having a kitchen in that space, so it sets it up to be a
16 separate living space, completely contained.

17 ALISON HAMMER: This lot is allowed to have two
18 units, C1 district are over 3000 square feet. So, you know,
19 while there are some issues around permissibility, you know,
20 essentially around this parking issue and the addition, I do
21 understand where folks are coming from, but I also feel like
22 housing is priority. It's a good, small, ostensibly

1 affordable unit. Right now, it's being used for family.

2 And I think, you know, I think if we limit it to -
3 - it's a little bit unfair to the person living there if
4 they're going through living in the basement -- in this
5 particular situation living in the basement, going upstairs
6 for a kitchen, now to have to go in the middle of the winter
7 with their snow shovel, it just doesn't seem like a
8 worthwhile change, in my opinion.

9 I would be happy to see as an accessory unit,
10 where it's deed-restricted and can't be sold separately from
11 the front unit.

12 ANDREA HICKEY: Do we have authority to do that?

13 CONSTANTINE ALEXANDER: I don't think so.

14 ALISON HAMMER: Okay. I didn't know what -- if
15 there's a limitation.

16 CONSTANTINE ALEXANDER: I guess we could. I mean,
17 we can do it and someone can challenge it --

18 ANDREA HICKEY: Yeah.

19 CONSTANTINE ALEXANDER: -- in court, but I have my
20 doubts.

21 ANDREA HICKEY: Okay.

22 ARCH HORST: Anyway, we couldn't use the provision

1 in the ordinance that allows us to create accessory, because
2 it's not in the --

3 CONSTANTINE ALEXANDER: Right, that's right.

4 ARCH HORST: But if we could, we would have not
5 needed to come here.

6 CONSTANTINE ALEXANDER: Right.

7 ALISON HAMMER: Right. Because those accessory
8 units also don't require a new parking -- an additional
9 parking space. So I guess that's how I see us as an
10 accessory unit that happens to be not in the basement, which
11 is probably preferable.

12 AUDIENCE: Yes.

13 ARCH HORST: Well it's also creating a motivation
14 for fixing up a building that really is -- it's leaning.

15 AUDIENCE: Sure.

16 ARCH HORST: Needs work. It'll fall down if it's
17 --

18 CONSTANTINE ALEXANDER: All right. I don't think
19 anybody's objecting to doing the work, it's just a question
20 of what is it going to look like inside? You are going to
21 approve the property, obviously, and it's going to make it
22 more inhabitable --

1 ARCH HORST: Yep.

2 CONSTANTINE ALEXANDER: -- for the people who live
3 in the main structure. Anyway, I never even heard anything
4 from the right side of the table.

5 JIM MONTEVERDE: I'm all set.

6 CONSTANTINE ALEXANDER: You're all set the way it
7 is?

8 BRENDAN SULLIVAN: I think the current trend is
9 affordable housing --

10 CONSTANTINE ALEXANDER: Yes, it is.

11 BRENDAN SULLIVAN: -- in the city, and this will
12 achieve that goal. And I think as far as domestic
13 tranquility, it will vastly improve.

14 CONSTANTINE ALEXANDER: No question about that.
15 Okay. So I'll drop that as a condition. Are we ready for a
16 vote? The Chair will move that we make the following
17 findings with regard to the variance being sought: that a
18 literal enforcement of the provisions of the ordinance would
19 involve a substantial hardship, such hardship being is that
20 this building is an older property, has I guess it was a
21 garage or a stable on it, property that is in dire condition
22 and it needs to be upgraded.

1 That the hardship is owing to the nature of the
2 structure on the lot right now, and that generally relief
3 may be granted without substantial detriment to the public
4 good, or nullifying or substantially derogating the intent
5 or purpose of the ordinance.

6 In this regard, the Chair would note that this
7 would create an additional living unit for the city of a
8 size such that it would be appropriate for affordable
9 housing, unlike, let's say -- well, appropriate for
10 affordable housing.

11 So on the basis of all of these findings, the
12 Chair moves that we grant the variance requested, on the
13 condition that the work proceed in accordance with the plan
14 prepared by -- Black River is it? Black River?

15 ARCH HORST: Yeah.

16 JIM MONTEVERDE: Yep.

17 CONSTANTINE ALEXANDER: -- Black River Architects.
18 Can you read that? What's the date?

19 JIM MONTEVERDE: July 19, 2019.

20 CONSTANTINE ALEXANDER: Okay. All those in favor,
21 please say, "Aye."

22 THE BOARD: Aye.

1 [All vote YES]

2 CONSTANTINE ALEXANDER: Five in favor, relief
3 granted.

4 COLLECTIVE: Thank you very much, thank you.

5 CONSTANTINE ALEXANDER: Good luck.

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1 to do it. So we want to finish the project that we began six
2 years ago. We're a family of four. We've been doing it for
3 six years. The kids are getting bigger. The need for a
4 mudroom has been a little more dire for us.

5 The reason is because it's a nonconforming
6 structure, and the setbacks are, you know, it's like three
7 feet on each side. The --

8 CONSTANTINE ALEXANDER: Actually, you need two forms
9 of relief. You also need a special permit.

10 DANIEL WILSON: Yeah, I understand and one for the
11 windows, that's right.

12 CONSTANTINE ALEXANDER: Oh, okay. The condition on
13 the plans.

14 DANIEL WILSON: Yeah, and the neighbors have
15 included letters.

16 JIM MONTEVERDE: I think we have letters of support
17 from the neighbors.

18 CONSTANTINE ALEXANDER: No, I don't see it. I
19 thought we did. I didn't write it down, I guess.

20 DANIEL WILSON: They've been generally supportive.
21 I can give you copies.

22 CONSTANTINE ALEXANDER: No, no, I have them. We

1 have them. Any comments or questions from members of the
2 Board?

3 JIM MONTEVERDE: So when you do that, the
4 addition, and you do the fireplace, just what dimension is
5 left to pass from Bay Street into the back? Can you
6 actually get there?

7 DANIEL WILSON: Oh, yeah.

8 JIM MONTEVERDE: Can a first responder get there?

9 DANIEL WILSON: It's a one six to "one-six" bump-
10 out, so it's about three to the line, and I think there's
11 about six inches between the line and the neighbor's fence.

12 JIM MONTEVERDE: Yeah.

13 DANIEL WILSON: So that would be what? Two and a
14 half feet? Two feet? Two feet?

15 JIM MONTEVERDE: Mm-hm. Yeah. My only concern
16 was that if there was some first responder, could they get
17 to the -- I mean, could they get to the rear of the lot?

18 A fighter fire gets them underneath -- help back
19 there -- that your additions weren't -- you know, regardless
20 of where the neighbor has a fence, that's today, that moves
21 through the property line just as there will always be room
22 to get back there.

1 DANIEL WILSON: Yeah, we're three-three off the
2 line, so the one-six bump-out, yeah, so it's at a foot and a
3 half right now, if it's right on the line. A little over a
4 foot and a half.

5 JIM MONTEVERDE: I don't think there are many
6 firemen who can get down one-foot six. I couldn't get that
7 one-foot six, and I'm not wearing anything and trying to --
8 you know, combat anything or help someone. That's my only
9 concern.

10 DANIEL WILSON: Yeah. They're legitimate
11 concerns.

12 CONSTANTINE ALEXANDER: I'll open the matter up to
13 public testimony. Anyone here wishing to be heard on this
14 matter? Apparently not. I'll close public testimony. We
15 do have letters of support. Here's a letter from Peter
16 Kuhlmann, K-u-h-l-m-a- double n.

17 "We live across the street from 31 Bay Street, and
18 have reviewed the submitted plans. We fully support the
19 project and have no objections."

20 We have something from -- a letter from Ted
21 Kaptchuk, that's K-a-p-t-c-h-u-k, who resides at 27 Bay
22 Street.

1 "I have reviewed the plans for the proposed
2 mudroom addition and gas fireplace bump-out at 31 Bay
3 Street, and support the owners Daniel Wilson and Terry
4 Turner to carry out the proposed project. I share the
5 ownership of the abutting corner house with Joy Singer, who
6 will write her own letter. We think their improvements will
7 help the neighborhood."

8 Lo and behold, we have a letter from Joy Singer.

9 "I am writing since I am unable to attend the
10 meeting. We live next door to 31 Bay Street in the corner
11 house at 524 Franklin Street. I have reviewed the plans for
12 the proposed mudroom addition and gas fireplace bump-out at
13 31 Bay Street, and support the owners, Daniel Wilson and
14 Terry Turner, to carry out the proposed project. I can't see
15 any downside to this addition."

16 And also, from a petition -- I can't read the
17 handwritings, but it says,

18 "I have reviewed the plans for the proposed
19 mudroom addition to 31 Bay Street in Cambridge, Mass., and
20 support the owners Daniel Wilson and Terry Turner, to carry
21 out the proposed project." And it's written from someone
22 who resides at 20 -- 33a Bay Street, 35 Bay Street -- I

1 think that's it.

2 So all letters of support -- oh, there's 1 more.
3 It's from a Margaret Beck who resides at 33 Bay Street.
4 Same petition that I read just a moment ago. So ready for a
5 vote?

6 The Chair moves -- let's talk about the very, very
7 first. The Chair moves that we make the following findings
8 with regard to the variance being sought:

9 That a literal enforcement of the provisions of
10 the ordinance would involve a substantial hardship, such
11 hardship being is that the structure is an older structure,
12 needs some modification to better deal with -- allow the
13 residents of the structure to better deal with the elements,
14 when it comes to weather and the like.

15 That the hardship is owing to the location of the
16 structure and the shape of the lot, which requires any
17 modification requiring zoning relief, and the relief may be
18 granted without substantial detriment to the public good, or
19 nullifying or substantially derogating the intent or purpose
20 of the ordinance.

21 So on the basis of all of these findings, the
22 Chair moves that we grant the variance requested on the

1 condition that the work proceed in accordance with plans
2 prepared by LH Architects, dated --

3 AUDIENCE: 08/15/19.

4 CONSTANTINE ALEXANDER: 08/05/19. All those in
5 favor, please say, "Aye."

6 THE BOARD: Aye.

7 [All vote YES]

8 CONSTANTINE ALEXANDER: Variance granted.

9 COLLECTIVE: Thank you.

10 CONSTANTINE ALEXANDER: Now we've got a special
11 permit. Can't leave yet. Okay, with regard to the special
12 permit, the Chair moves that we make the following findings:

13 That the requirements of the ordinance cannot be
14 met unless we grant you the special permit you're seeking
15 with regard to the relief, the work you want to have done.

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

19 I would point out that we were talking about two
20 small windows that did not, unlike other cases we have
21 heard, engender the ire of neighbors.

22 That the continued operation or development of

1 adjacent uses, as permitted in the ordinance, will not be
2 adversely affected by the nature of the proposed use. In
3 this regard, we have the letters of support, which substance
4 abuse that there's findings to be made.

5 That no nuisance or hazard will be created to the
6 detriment of the health, safety and/or welfare of the
7 occupant of the structure or the citizens of the city.

8 And generally, what is being proposed with regard
9 to the special permit will not impair the integrity of the
10 district or adjoining district, or otherwise derogate the
11 intent and purpose of this ordinance. So on the basis of
12 these findings, the Chair moves that we grant you the
13 special permit requested, subject again to the plans that
14 were referred to with regard to the granting in the
15 variance.

16 All those in favor, please say, "Aye."

17 THE BOARD: Aye.

18 [All vote YES]

19 CONSTANTINE ALEXANDER: Five in favor. Good luck
20 and have a good evening.

21 CONSTANTINE ALEXANDER: I hate these.

22

1 * * * * *

2 (9:18 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Alison Hammer, Andrea A. Hickey, and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 01712 -- no, I'm sorry --

8 AUDIENCE: You're doing good.

9 CONSTANTINE ALEXANDER: No, no, this is -- 017172
10 -- 270 Third Street. Anyone here wish to be heard on this
11 matter?

12 SIMON BRIGHENTI: Good evening.

13 CONSTANTINE ALEXANDER: Good evening.

14 SIMON BRIGHENTI: My name is Simon Brighenti,
15 Centerline Communications. We're here working with Sprint
16 Wireless. It's a permitting entity, and we're seeking a
17 special permit to place antennas on top of the property of
18 270 Third Street in Cambridge.

19 As much as I enjoy being in front of this Board
20 all the time, this wasn't really our choice. We have a site
21 on top of a building that's over on Main Street, 238 Main
22 Street, and it's owned by MIT.

1 And MIT is apparently doing some renovations on
2 that building, and essentially has requested that apparently
3 all tenants on the rooftop of that building relocate, which
4 is their right under the contractual arrangements that we
5 have of the university.

6 So, the property was located here on Third Street
7 about 1500 feet away, and the application was presented. We
8 got the approval from the landlord. We did place the
9 signage that I provided.

10 Again, attorneys often worked with us on insuring
11 that the site remain there for the period of time, but there
12 was a slight blip for a day or a day and a half or so the
13 first weekend. The sign was put up on Wednesday the twenty-
14 fifth.

15 It apparently was Friday night or Saturday morning
16 it wasn't able to be located. We contacted the town first
17 thing Monday morning, got a new sign, put it back up there,
18 and again I submitted an affidavit stating that there were
19 pictures taken every other day there for the full 14 days.
20 Those pictures are available if needed.

21 The plan was submitted, and I've got a Board here
22 that reflects it --

1 CONSTANTINE ALEXANDER: This isn't the Spectrum
2 Act case, am I correct?

3 SIMON BRIGHENTI: What is that?

4 CONSTANTINE ALEXANDER: This is not a Spectrum Act
5 case?

6 SIMON BRIGHENTI: We -- it is not because what I -
7 - and I -- maybe I should have amended, but when we applied
8 initially, we applied both for the special permit, and we
9 claimed under the Spectrum Act the manager of the rooftop of
10 this building had explained that there was some equipment up
11 on that building.

12 And now it appears that there is not equipment
13 that would qualify as to make it a preexisting structure or
14 an eligible facility.

15 So we're looking at it as it's not going to
16 increase the number of overall wireless facilities in the
17 city, because we're taking one out and requesting a second
18 one put up. But it is on a different building, correct?

19 CONSTANTINE ALEXANDER: And the ones you're
20 putting up will be a little more noticeable, than the ones
21 you're taking down, according to the photo simulation.

22 SIMON BRIGHENTI: Well, there's a difference in

1 elevation.

2 CONSTANTINE ALEXANDER: Right.

3 SIMON BRIGHENTI: The new building is taller, so
4 it would be I suppose less visible from street level, but
5 you're right there are some areas in those picture
6 simulations that would see that. And what actually happened
7 in that regard was coming up on twelve hours ago now, this
8 morning about 10:30 I got an e-mail from this -- from Liza -
9 -

10 CONSTANTINE ALEXANDER: Hagen.

11 SIMON BRIGHENTI: -- Hagen, yeah. Stating that
12 while the Planning Board had not had the ability to have a
13 hearing or -- I'm sorry, an open meeting on this matter,
14 they did have some questions about it.

15 Again, this came in this morning. I tried to
16 organize a group of people from Sprint that had authority to
17 address it. We found some people at short notice.

18 We did discuss that, and we are in a position to
19 be able to present or to state that the antennae that are up
20 there, there are painting methods that could be used either
21 to make it as a brick structure up there, or to paint it
22 black or paint it a color that might be less noticeable than

1 the standard color that's there.

2 CONSTANTINE ALEXANDER: Have you seen the letter
3 that --

4 SIMON BRIGHENTI: I did, yes.

5 CONSTANTINE ALEXANDER: Okay.

6 SIMON BRIGHENTI: Right. I was opening the e-mail
7 that was sent to me this morning. So we could, you know,
8 get -- something that could be done that would not affect
9 the project itself.

10 We could -- you know, if everything else were
11 acceptable here, we can look at it as a condition that the
12 Planning Board be, you know, satisfied with the "stealthiness"
13 painting of the antennas.

14 CONSTANTINE ALEXANDER: Let me just read the
15 letter into the record so we have it.

16 SIMON BRIGHENTI: Sure.

17 CONSTANTINE ALEXANDER: "Unfortunately, due to the
18 -- " this is, again, from the Planning Board, not signed by
19 Liza "-- unfortunately, due to the Planning Board meeting
20 schedule, the Board was not able to review the BZA special
21 permit application at a public meeting.

22 I am forwarding the Design Review conducted as

1 part of the PB #243 Alexandria Real Estate Special permit
2 for this residential building.

3 The rooftop mechanicals are part of all Board
4 reviews, and these antennas mounted on pipe mount and balus
5 (phonetic) frames are going to be very visible from Third
6 Street, Kendall Square, and the newly created open space at
7 Rogers Street Park.

8 Community Development Staff suggests that
9 screening be designed to minimize the visual impact of these
10 antennas, much the way the other rooftop mechanicals were
11 minimized in this development area."

12 So what you're saying is that you will accede to
13 this condition, or you'll agree to work with the --

14 SIMON BRIGHENTI: We'll work with the Planning
15 Board. Again, there's no requirement that there be a public
16 hearing on that, so we could --

17 CONSTANTINE ALEXANDER: Right.

18 SIMON BRIGHENTI: -- either work specifically, you
19 know, directly with the planner, or over the -- with the
20 staff, or we could go to a public meeting.

21 CONSTANTINE ALEXANDER: The only issue -- and I'm
22 not saying it's a real issue -- is that this will be done

1 without any review by this Board, and we're supposed to be
2 reviewing these things.

3 SIMON BRIGHENTI: I understand.

4 CONSTANTINE ALEXANDER: I don't know if it
5 troubles any of the members of the Board. It doesn't
6 frankly trouble me, because I'm not sure why we're reviewing
7 these cases in the first place, anyway. But be that as it
8 may, as an editorial comment.

9 SIMON BRIGHENTI: I understand. For the record,
10 again, this is a residential building, but it is an area
11 that the excuses are allowed. It's under -- it's a PUD plus
12 the Industrial Zone there. There's no additional smoke or
13 light or heat or extra use of facilities or resources for
14 the town.

15 There won't be any additional traffic or safety
16 issues. Everything is in compliance with the -- or will be
17 in compliance with the FCC and FAA regulations, and the only
18 disruption really to traffic would be a small blip when the
19 equipment were to get mounted on the rooftop, if that were
20 to be approved.

21 And then about once a month, ten or eleven times a
22 year, there would be a vehicle coming to the property --

1 pickup truck, SUV, something like that that would perform
2 regular maintenance.

3 It's monitored 24/7 offsite, and in case anything
4 happens -- and again, we feel that it does increase the
5 availability of -- strengthen the availability of a signal
6 in that area for both emergency and nonemergency capacity.

7 BRENDAN SULLIVAN: All right. So this would be a
8 permanent location, not temporary, and you go back to MIT or
9 you're not sure?

10 SIMON BRIGHENTI: No, MIT -- no, this will be
11 permitted.

12 BRENDAN SULLIVAN: Okay.

13 SIMON BRIGHENTI: Well, they are going to be
14 permitted. If the landlord tells us to get lost again, then
15 we would, but yeah. That's our intention, and it would be a
16 permitted location.

17 CONSTANTINE ALEXANDER: You ought to have a lease
18 of some sort.

19 SIMON BRIGHENTI: There is a lease, but again, the
20 contractual is that the -- especially when you're dealing
21 with somebody like MIT, they have a right to terminate or,
22 you know, with penalties and all that, you don't want to get

1 too much of that.

2 BRENDAN SULLIVAN: Right. They hold all the
3 cards.

4 CONSTANTINE ALEXANDER: That's the message I'm
5 getting.

6 SIMON BRIGHENTI: Right, yeah. But this is a
7 landlord that's very welcome here, and we understand they do
8 a great job of the building, and the rooftop is managed by a
9 company that's well-respected as well.

10 CONSTANTINE ALEXANDER: Any other comments or
11 questions from members of the Board? I'll open the matter
12 up to public testimony. Is there anyone here wishing to be
13 heard on this matter? Apparently not.

14 As I said, we've got a memo from the Planning
15 Board, which I've already read into the record. And that's
16 all the commentary we seem to have in our files.

17 So I will close public testimony discussion. Are
18 we ready for a vote?

19 JIM MONTEVERDE: Ready.

20 ANDREA HICKEY: Ready.

21 CONSTANTINE ALEXANDER: Okay. The Chair moves
22 that we make the following findings with regard to the

1 special permit being sought: That the requirements of the
2 ordinance cannot be met unless we grant the special permit.

3 That traffic generated or patterns in access or
4 egress resulting from what is being proposed will not cause
5 congestion, hazard, or substantial change in established
6 neighborhood character.

7 The petitioner having submitted testimony that the
8 congestion will be minimal from the installation of the
9 equipment, and the impact of this on the rooftop will not
10 constituent a substantial change in established neighborhood
11 character.

12 That the continued operation or development of
13 adjacent uses, as permitted in the ordinance, will not be
14 adversely affected by what is proposed. In this regard, I
15 would note that there is absence of any testimony or written
16 communications or complaints that there would be this
17 adverse effect.

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

21 And generally, what is being proposed will not
22 impair the integrity of the district or adjoining district,

1 or otherwise derogate the intent and purpose of this
2 ordinance. So on the basis of all of these findings, the
3 Chair moves that we grant the special permit requested
4 subject to the following conditions:

5 One, that the work proceed in accordance with the
6 plans submitted by the petitioner, the first page of which
7 has been initialed by the Chair.

8 Two, that upon completion of the work, the
9 physical appearance and visual impact of the proposed work
10 will be consistent with the photo simulations submitted by
11 the petitioner and initialed by the Chair.

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

16 Four, that should the petitioner cease to utilize
17 the equipment approved tonight for a continuous period of
18 six months or more, it shall promptly thereafter remove such
19 equipment and restore the building on which it is located to
20 its prior condition and appearance, to the extent reasonably
21 practicable.

22 And last, that the petitioner is in compliance

1 with and will continue to comply with in all respects the
2 conditions imposed by this Board with regard to previous
3 special permits granted to the petitioner with regard to the
4 site in question.

5 And I don't think there has been any previous.

6 SIMON BRIGHENTI: Not through us, no.

7 CONSTANTINE ALEXANDER: Yeah, not through you.

8 And then we -- as you know, we have this long thing about
9 the health impacts and --

10 SIMON BRIGHENTI: Right.

11 CONSTANTINE ALEXANDER: -- with your permission,
12 which is --

13 SIMON BRIGHENTI: Can I request that be waived?

14 CONSTANTINE ALEXANDER: No.

15 SIMON BRIGHENTI: The reading of it.

16 CONSTANTINE ALEXANDER: I can -- you can waive the
17 reading.

18 SIMON BRIGHENTI: The reading, right.

19 CONSTANTINE ALEXANDER: It will be incorporated in
20 the decision.

21 SIMON BRIGHENTI: I did have one other comment on
22 the conditions.

1 CONSTANTINE ALEXANDER: Say it again?

2 SIMON BRIGHENTI: One other comment on the
3 conditions?

4 CONSTANTINE ALEXANDER: Yeah, sure.

5 SIMON BRIGHENTI: You're requiring that we be
6 consistent with the photo simulations, that we work out
7 something with the Planning Board --

8 CONSTANTINE ALEXANDER: Oh, I'm sorry. Thank you.
9 I forgot to put that -- I should mention that. That except
10 with regard to compliance with photo simulations, except to
11 the extent that the petitioner has to make modifications as
12 a result of discussions with the Community Development part
13 of the planning?

14 SIMON BRIGHENTI: And that would hold to the plans
15 as well when we submit for a building permit; it would show
16 the --

17 CONSTANTINE ALEXANDER: Oh, yes.

18 SIMON BRIGHENTI: -- any modifications.

19 CONSTANTINE ALEXANDER: The same would apply to
20 the plans as well. Yep. Thank you for pointing that out.

21 BRENDAN SULLIVAN: Just, if I could add to that.
22 If you were going to work with the Planning -- well,

1 Community Development --

2 SIMON BRIGHENTI: Right.

3 BRENDAN SULLIVAN: -- slash, Planning Board staff,
4 and there are changes to what's in the record here, if you
5 could submit those, not only to apply for a building permit,
6 but also update our file reflecting those changes?

7 SIMON BRIGHENTI: Sure, we can do that.

8 CONSTANTINE ALEXANDER: All those in favor of
9 granting the special permit, please say, "Aye."

10 THE BOARD: Aye.

11 [All vote YES]

12 CONSTANTINE ALEXANDER: Carried, thank you.

13 BRENDAN SULLIVAN: They don't make it easy for
14 you, Simon, because they -- when you apply for the building
15 permit, they will go to this file here, and that file
16 doesn't reflect what you're applying for. It just delays
17 it.

18 SIMON BRIGHENTI: Thank you.

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(9:32 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Alison Hammer, Andrea A. Hickey, and Jim
Monteverde

CONSTANTINE ALEXANDER: The Chair will now call Case
Number 017173 -- 34 May Street. Anyone here wishing to be
heard on this matter?

MAGGIE BOOZ: Good evening.

CONSTANTINE ALEXANDER: Good evening.

MAGGIE BOOZ: I'm Maggie Booz, B-o-o-z. I'm the
architect for Laurie Gaines and Francesca Gaines, who are
the owners of the building. And we're here to request
permission to add a third floor to a two-story building.
The Gaines family has lived in the building for --

AUDIENCE: Twenty-six years. --

MAGGIE BOOZ: -- twenty-six years.

CONSTANTINE ALEXANDER: Oh, my goodness.

MAGGIE BOOZ: And Laurie's raised her two children
in the house on the second floor in very cramped quarters.
And the first floor has been used historically as a rental
unit to subsidize income.

1 And we're requesting permission to add the third
2 story so that the Gaines family can have a little breathing
3 room and continue to live in Cambridge. And I think this is
4 -- and I know you see a lot of cases, people ask for a lot
5 of things from the Board, but this is a case that truly is
6 about preserving a middle-class demographic in town.

7 Because this is this family's only asset, and the
8 fact that Cambridge has become such an outrageously
9 unaffordable place to live really precludes families and
10 children who are raised in this town to take on middle-class
11 jobs and have proper housing. And -- or to live in the town
12 that they work in and care about, and were raised in and
13 were educated in.

14 And so, what we've tried to do in the project is
15 to design a third-floor that was as spacious as possible,
16 but also trying to be respectful of the fact that we're
17 asking for such a large floor area ratio increase.

18 CONSTANTINE ALEXANDER: That's right.

19 MAGGIE BOOZ: So we're adding -- you know, almost
20 about 850 square feet to the building. We're asking to add
21 that much square footage. We've set the building -- we've
22 set the third floor back from the face of the building, so

1 that it isn't an abrupt and precipitous façade on the front
2 on the street side.

3 And we've also made a front balcony, so that that
4 façade is actually set back that much more from the street
5 and creates a bit of open-space porch, not unlike any, you
6 know, rear of a triple-decker in Cambridge.

7 So we also, you know, it should be noted in the
8 plans that there is no second means of egress. This isn't -
9 - we're not trying to make a third unit. We're not trying
10 to make a -- there's no way to make a third unit out of it -
11 - well, there would be a way to make a third unit out of it,
12 but we're not -- that's not what we're proposing. There's
13 not a second stair down to the exterior.

14 So this is truly making a two-story family unit,
15 on top of the rental unit.

16 There's a basement, obviously, in the building,
17 that could -- you know, that one could say, "Okay, you could
18 take the basement and make that living space without asking
19 for this floor area ratio increase." But the fact is the
20 building -- first of all, it sits pretty low to the ground.
21 It's super tight on the sides.

22 And there would be no way to get egress windows

1 into the -- into those spaces that are at the sides of the
2 building. So egress windows by code have to be three feet
3 out from the building in -- you know, in order to be proper
4 egress windows.

5 But in addition to that, a building has a long
6 history of pretty radical flooding in the basement, as do
7 all three of those buildings that sort of are triplets along
8 May Street right there.

9 So the fact that Laurie has been through pretty
10 severe flooding -- and she can talk to you about that, is
11 why we decided -- and I was sort of pushing for -- I should
12 say to you, I was sort of pushing that possibility at the
13 beginning. So why don't we try to get the living space down
14 here?

15 But it would mean really lifting the building, in
16 order to do it. And, you know, lifting the first floor up,
17 lifting the entire thing up so that she can get proper
18 windows in, and so, that you could get rid of this flooding
19 problem.

20 But I'm telling you the sort of finances of that
21 and the physical impossibility of lifting a building when
22 you have such small side yard setbacks, or even distance to

1 the next building, was all became, like --.

2 And thus, we're here.

3 CONSTANTINE ALEXANDER: I -- as you said, you're
4 one of three buildings.

5 MAGGIE BOOZ: Yeah.

6 CONSTANTINE ALEXANDER: But this -- and they all
7 have the same height?

8 MAGGIE BOOZ: They do.

9 CONSTANTINE ALEXANDER: If we granted the relief,
10 what's the -- what do the neighbors think about the fact
11 that your building will be much higher than theirs? I don't
12 know if there's any adverse impact. They might believe
13 there is.

14 MAGGIE BOOZ: Well, I mean, -- yeah.

15 CONSTANTINE ALEXANDER: Okay. Give me -- have you
16 talked to the neighborhoods? I'm just curious.

17 MAGGIE BOOZ: Yes. We have letters from them in
18 support.

19 CONSTANTINE ALEXANDER: Oh! Wonderful, okay.
20 Thank you. I'll put them in the file.

21 MAGGIE BOOZ: Okay, thanks.

22 CONSTANTINE ALEXANDER: Thank you. I'm sorry. Go

1 ahead.

2 MAGGIE BOOZ: No, no, that's all right. Laurie's
3 talked to all the neighbors. The neighbors on both sides --
4 there are letters from both of those neighbors. There is
5 also a letter from -- somebody may be in a way strangely
6 more impacted, which is someone to the east across May
7 Street, or at least someone who is more concerned about it.

8 And they also are -- they also submitted the
9 letter in support, impacted because they really enjoy the
10 western sunsets that go -- that you get over the Belmont
11 Cemetery, over the top of Laurie's house, but, you know, not
12 as impacted, of course, as the abutting neighbors.

13 Yeah, and they are impacted. I mean, there's no
14 question they're impacted. They're especially -- you know, I
15 suppose the one to the north, and I'm not sure which number
16 that is. Your neighbors -- you're looking at the house to
17 the right -- 36? Tom?

18 AUDIENCE: Yeah.

19 MAGGIE BOOZ: -- would be the most impacted,
20 because obviously the sun is coming from the south, and he's
21 getting the most shadow cast over the top of his building.
22 I don't -- you know, I don't know the neighbors. I don't

1 know those two. This is actually in my neighborhood, so I
2 know a lot of the neighbors, but I do not happen to know
3 those two neighbors. But you know --

4 CONSTANTINE ALEXANDER: I did check and see if
5 there's any letters in our file in opposition and I don't
6 see any, which is good. Okay. And you mentioned -- and
7 correctly so, obviously, about the substantial increase in
8 FAR that results from the relief you want.

9 Just for the record, the numbers are that you will
10 go -- the instruction will go from 0.99 FAR to 1.37 in a
11 district where you're not supposed to do have more than
12 0.75.

13 So it would be twice as much FAR -- almost twice
14 as much FAR than our code requires or limits, but numbers
15 are numbers. They don't always tell the whole tale.

16 MAGGIE BOOZ: They don't tell the whole tale. And
17 I -- also I think I should say, but, you know, in that -- so
18 there's a lot of building in back yards in our neighborhood.
19 I used to think that there was some Planning Board thing
20 that didn't allow that to happen, but it's just happening
21 everywhere in our neighborhood. So I don't really know why
22 that is, but it is.

1 And we're trying to preserve open space. And it -
2 - you know, and it's typical of Cambridge to go up. You
3 know, triple-deckers are everywhere in Cambridge. That was
4 the 1890s to 1920s housing stock. That was it. That's how
5 you got housing. It went up.

6 And that's what we're trying to do, preserve the
7 yard and not go out, go out the back. And also, it's
8 consistent with -- I mean, not that it passed, and I don't
9 know what's going to happen with the Affordable Housing
10 Overlay, but that is the idea. And we're not violating the
11 height restriction.

12 CONSTANTINE ALEXANDER: Right.

13 MAGGIE BOOZ: You know, we're not asking to do
14 that, but it's a consistent strategy of going up instead of
15 out.

16 CONSTANTINE ALEXANDER: And as you point out, the
17 important thing is you're not going over the height
18 requirement of 35 feet. That would make it a different
19 case.

20 MAGGIE BOOZ: Right.

21 CONSTANTINE ALEXANDER: Comments from members of
22 the Board?

1 ANDREA HICKEY: Did you think about going back at
2 all?

3 MAGGIE BOOZ: Yeah, the --

4 ANDREA HICKEY: Talk about that a little bit.

5 MAGGIE BOOZ: Well, that's what I was saying; that
6 we didn't go out, that we didn't go out back, we didn't try
7 to take over more of the land. It's a really small site.

8 And it seems that -- and, you know, obviously, we
9 had to talk to the neighbors and make sure people were going
10 to be okay with this, because if they weren't, it would be
11 dead in the water.

12 But it seemed to us more impactful of the
13 neighborhood to take up more land space. And, you know, and
14 actually this is one of the problems with the Affordable
15 Housing Overlay proposal, which is that if you can exceed
16 setbacks, you know, in every direction, then you lose open
17 space, you lose green space -- you know, you lose the
18 ability to plant, and -- you know, you just increase the
19 heat.

20 CONSTANTINE ALEXANDER: And also, if you extend it
21 to the back, you've got to solve the FAR issues, right?

22 MAGGIE BOOZ: Oh yeah, same thing.

1 CONSTANTINE ALEXANDER: I mean, you're just
2 trading FAR up --

3 MAGGIE BOOZ: That's right.

4 CONSTANTINE ALEXANDER: -- rather than back.

5 MAGGIE BOOZ: That's right. Yep.

6 CONSTANTINE ALEXANDER: Okay.

7 BRENDAN SULLIVAN: One of the other factors too
8 will be permeability, too.

9 CONSTANTINE ALEXANDER: I'm sorry?

10 BRENDAN SULLIVAN: Permeability. Once you start
11 gobbling up open space, then that surface water's got to go
12 somewhere --

13 AUDIENCE: Right.

14 BRENDAN SULLIVAN: -- and if it's going to keep
15 bumping up against concrete, then it's going to wind up
16 going into the next neighbor's yard.

17 When I first looked at this proposal, and I think
18 probably all of us looked at it, and you look at the
19 dimensional form and you first comment is, "Wow, it's a
20 lot." Then you read the supporting statements, and it's a
21 convincing argument to do it.

22 The plan I think is sensitive to the three houses

1 They are five foot ten inches apart. And so, the impact of
2 this house on the adjoining house, especially the one to the
3 right, I thought was going to be great.

4 It's not really, because I don't think their left
5 side of their building, they're going to see a blank --
6 well, another wall, like, there with windows -- this is not
7 really going to affect them, because it doesn't get any
8 sunlight anyhow, because they're so close together.

9 So the impact, other than, you know, you're going
10 to be looking up -- I don't think it really affects them
11 adversely -- and I think that the compelling reason is a
12 family that wants to stay in Cambridge --

13 CONSTANTINE ALEXANDER: Right.

14 BRENDAN SULLIVAN: -- and this is their one and
15 only route to be able to do this. And from a financing
16 standpoint, they probably could not afford to buy the house
17 they live in. And after they did this, they could not
18 afford to buy the house that they would live in and occupy
19 with the unit in the basement, that helps from a financing
20 standpoint.

21 And I think it's important. Otherwise, the
22 children then have to go look for -- and I think the purpose

1 here is to keep the fabric of the neighborhood -- keep the
2 fabric of the city somewhat intact.

3 CONSTANTINE ALEXANDER: Well said. True.

4 BRENDAN SULLIVAN: So that's my point.

5 CONSTANTINE ALEXANDER: Any other comments? I'll
6 open the matter up to public testimony. Anyone here wishing
7 to be heard on this matter? No one wishes to be heard? We
8 do have three letters, which you kindly gave to us. One is
9 from Colleen Barber.

10 "I am a neighbor of Laurie Gaines and have no
11 objection to the third-floor project at 34 May Street. I
12 give my support to Laurie, Francesca and Phillip to enlarge
13 their house to stay in the neighborhood."

14 I have a letter from Tom Wu, W-u, who resides at
15 30 May Street.

16 "I write you today to say that I have no objection
17 to the third-floor project at 34 May Street. I give my full
18 support to Laurie and her family to modify their home to
19 stay in the neighborhood.

20 "I personally met with Laurie to go over the
21 plans, as she was excited to share them with myself and the
22 other neighbors. What she is looking to add on appears

1 completely reasonable, and will provide much needed living
2 space to the existing structure."

3 And last, we have a letter from Liz Merrill, M-e-
4 r-r-i-l-l and Ben Mardell, M-a-r-d-e-l-l, who reside at 31
5 Vineyard Street.

6 "We have lived across May Street from Laurie
7 Mangelli for close to 25 years. Laurie and her family,
8 their stories, their garden, her amazing baking -- "

9 Why didn't you bring something down?

10 " -- are vital, valued elements of our street.
11 They are good neighbors. We are writing in support of
12 Laurie's plan to add a third floor to our house. Please
13 allow the third floor to be added."

14 And that's it. Discussion, or ready for a vote?

15 COLLECTIVE: Ready for a vote.

16 CONSTANTINE ALEXANDER: I'm going to just get my
17 paper and thoughts together. The Chair moves that we make
18 the following findings with regard to the variance being
19 requested:

20 That a literal enforcement of the provisions of
21 the ordinance would involve a substantial hardship, such
22 hardship being is that this is an older structure, a

1 structure not very large and therefore needs additional
2 living space, and a structure that should be preserved to,
3 again, provide affordable housing or at least middle-class
4 housing for residents or proposed residents of Cambridge.

5 That the hardship is owing to the shape of the
6 lot, it's a small lot, and close to the abutting property.
7 And then therefore there's no ability to add without seeking
8 zoning relief, additional living space in the structure, and
9 that desirable relief may be granted without substantial
10 detriment to the public good, or nullifying or substantially
11 derogating the intent or purpose of the ordinance.

12 And as the petitioner's architect had pointed out,
13 in fact there's no substantial detriment to the public good,
14 and nothing being proposed will derogate the intent or
15 purpose of the ordinance. In fact, there is testimony
16 including the letters that I've read that go just to the
17 opposite.

18 So on the basis of all of these findings, the
19 Chair moves that we grant the variance requested on the
20 condition that the work proceed in accordance with plans
21 permitted (sic) by Smart Architecture dated 08/28/19, the
22 first page of which has been initialed by the Chair. All

1 those in favor, please say, "Aye."

2 THE BOARD: Aye.

3 [All vote YES]

4 CONSTANTINE ALEXANDER: Five in favor, relief
5 granted.

6 COLLECTIVE: Thank you.

7 CONSTANTINE ALEXANDER: You're welcome.

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2 (9:48 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Alison Hammer, Andrea A. Hickey, and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call Case
7 Number 017128 -- 1160 Massachusetts Avenue. Anyone here wish
8 to be heard on this matter?

9 MEGAN KEMP: Good evening. My name is Megan Kemp,
10 K-e-m-p, from Adam Dash Associates. I represent 1160 Mass
11 Ave, Inc. The applicant with me is David Tang.

12 DAVID TANG: David Tang, owner of Kung Fu Tea.

13 THE REPORTER: Could you spell your names?

14 DAVID TANG: David Tang.

15 AUDIENCE: Just spell it.

16 DAVID TANG: T-a-n-g.

17 AUDIENCE: There you go.

18 MEGAN KEMP: So this is a variance application, it's
19 a use variance. This building is also known as 3 to 5 Arrow
20 Street on the other side. It's in the C2B District, though
21 all of the first floor is retail, which is a nonconforming use
22 in the C2B District, so every retail use going into the space

1 requires a variance that's here. So it's 826 square foot
2 space.

3 We're looking to put in a small bubble tea
4 restaurant. It will be mostly takeout, so it's considered
5 fast-order food.

6 CONSTANTINE ALEXANDER: Do you have other bubble tea
7 restaurants, is this the first one?

8 MEGAN KEMP: This is the first Cambridge location.
9 So it is a franchise. There's one in Davis Square.

10 CONSTANTINE ALEXANDER: Oh, okay.

11 MEGAN KEMP: There's a couple in Allston, Newton,
12 Waltham.

13 DAVID TANG: Waltham and New Orleans.

14 MEGAN KEMP: There are a couple other bubble tea
15 Cafes in the Harvard Square area, but they're on the other
16 side of the square.

17 CONSTANTINE ALEXANDER: What is bubble tea?

18 DAVID TANG: It's -- we use like a tea, like fresh
19 tea. We pour it, and then we use milk, and bubble is a
20 tapioca. It's like a topping.

21 CONSTANTINE ALEXANDER: Oh, that's right. It's a
22 tapioca?

1 MEGAN KEMP: Yes.

2 DAVID TANG: Yes.

3 MEGAN KEMP: Tapioca balls.

4 CONSTANTINE ALEXANDER: Yeah, okay.

5 MEGAN KEMP: And those are made in house. So it's
6 a small, 16-seat location. So there is some seating for
7 people, but because, again, it's primarily take away, it is
8 considered fast-order food. So we were also in front of the
9 Harvard Square Advisory Committee.

10 CONSTANTINE ALEXANDER: They wrote a memo to --

11 MEGAN KEMP: Yeah.

12 CONSTANTINE ALEXANDER: -- a memo to the file, so.

13 MEGAN KEMP: You have that. One of the things
14 that came up there was the idea that we do want to kind of
15 keep the Mass Ave Corridor active and moving, and that's one
16 thing that a fast-order establishment allows people to do.

17 You can pick up your tea, walk down and go to the
18 retail stores in the area, go sit in the park with your
19 friends. Boston Burger is across the street, people are
20 waiting in line, they can come over and hang out while
21 they're waiting to get their table, that kind of thing.

22 Again, as far as variance requirements go, a

1 literal interpretation would be problematic, as again this
2 is all a commercial district and there is no way to go in
3 without a variance.

4 The hardship is the preexisting nonconforming
5 building use. The setback would just not be practical to
6 try to convert this into a residential space at this point
7 in time.

8 CONSTANTINE ALEXANDER: Well, we've already
9 granted in the past at least two --

10 MEGAN KEMP: Right.

11 CONSTANTINE ALEXANDER: -- use variances for this
12 very site.

13 MEGAN KEMP: Exactly.

14 CONSTANTINE ALEXANDER: For use, but it never was
15 a --

16 MEGAN KEMP: Exactly.

17 CONSTANTINE ALEXANDER: -- business use. For some
18 reason, this property is zoned residential, never be
19 residential.

20 MEGAN KEMP: In the conversations last week,
21 apparently it was originally commercial, and then when they
22 put the apartments in upstairs, they switched it over, even

1 though they kept the first floor commercial. Such is life,
2 and so, we're here.

3 CONSTANTINE ALEXANDER: Right. Okay. Thank you.
4 Questions from members of the Board? I'll open the matter
5 up to public testimony. Is there anyone here wishing to be
6 heard on this matter? Apparently not.

7 As the petitioner's representative pointed out, we
8 are in receipt of a memo from the Harvard Square Advisory
9 Committee, and their conclusion -- their comments were, "The
10 Committee discussed and reviewed the operations and the
11 change of use from retail to fast food. This would add
12 variety to the food options on Massachusetts Ave, and in
13 general, Committee members present support active uses on
14 the Massachusetts Avenue Corridor.

15 "A motion was made and seconded to support the
16 application for the use variance. Three of the members
17 present voted to support the motion. One member present
18 voted against a variance, as it is a fast order food use,
19 and does not represent a substantial business presence that
20 a sit-down restaurant would provide."

21 So 3:1 in favor of granting the -- recommending
22 that we grant the relief you're seeking.

1 MEGAN KEMP: Thanks.

2 CONSTANTINE ALEXANDER: That's it. Discussion? I
3 would point out, as I did a second ago, is that we have
4 granted relief before for this property -- the use variance,
5 although it was not for a -- for restaurant use, as this one
6 member of the Committee seems to have preferred. But it is
7 what it is.

8 The Chair moves that we make the following
9 findings. Are we ready for a vote? The Chair moves that we
10 make the following findings with regard to the variance
11 being sought:

12 That a literal enforcement of the provisions of
13 the ordinance would involve a substantial hardship, such
14 hardship being that this is a residentially zoned district,
15 but one that at least in its current form is not at all
16 suitable for residential use, and as I said, that has been
17 recognized by our Board in the past with regard to other use
18 variances we've granted with regard to the property in
19 question.

20 That the hardship is owing to the structure
21 itself, and not -- again -- residentially designed. They're
22 designed for business use, and therefore there's not much

1 likelihood that business -- residential use will ever take
2 place in this property, at least unless the whole block is
3 completely demolished.

4 And that relief may be granted without substantial
5 detriment to the public good, or nullifying or substantially
6 derogating the intent or purpose of the ordinance. So on
7 the basis of all of these findings, the Chair moves that we
8 grant the use variance being requested. All those in
9 favor, please say, "Aye."

10 THE BOARD: Aye.

11 [All vote YES]

12 CONSTANTINE ALEXANDER: Five in favor, good luck.

13 MEGAN KEMP: Thank you.

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1 "My brother and I have very fond memories of their
2 house. It was a three-family house. We spent Christmases
3 with Granny on the first floor. Mother's Day we'd ride up
4 and see her on the second, and Thanksgiving with my Uncle
5 Irving on the third. We spent many Saturdays there
6 gathering, talking with family, writing with cousins,
7 waiting on Granny's coffee rolls.

8 "And I swear that we kept Red's, the corner store,
9 in business with our candy and popsicle runs. It was a home
10 that my father returned to when he got out of the military,
11 and my mother and father as a young married couple lived
12 there with me until they got their own place.

13 "When my great grandmother died, my grandmother
14 moved from New York to live at 159. My father had planned
15 to move back to 159, but he had to change his plans later on
16 in life. So I tell you all this just to let you know that
17 159 Allston Street has always been the family house.

18 "The home was passed down to my brother, Matt, and
19 we had finished up probate, and we were making plans to
20 renovate. The fire occurred in 2014. That was in July. We
21 were both really devastated by the fire, and even more so
22 that it had happened on our watch."

1 CONSTANTINE ALEXANDER: So this property has not
2 been -- since 2014 it has not been utilized? There's
3 nothing?

4 GERALDINE SMALL: It's an empty lot.

5 CONSTANTINE ALEXANDER: That fire damaged it all.

6 GERALDINE SMALL: I think we have some pictures,
7 and it doesn't look that bad, but actually those two walls
8 that you see are the only walls that will remain standing.
9 The rest of the house had been done in by the fire.

10 So my brother and I vowed that we would try to put
11 a three-family back there, but we wanted to do something
12 that -- as retired public-school teacher, I heard a lot
13 about universal design, and also, access.

14 My brother and I have had many, many examples of
15 family members that if their home had been designed a little
16 bit differently, they could have aged in place. Situations
17 where just stepping over a tub is hard, or a doorway or a
18 jam becomes a barrier or three entryway stairs can isolate
19 you.

20 I was watching TV one night, and this lady was
21 talking about building universally designed three-family
22 homes; one fully affordable, and the other two would be

1 market rate. This was like an answer to our prayer, because
2 we were really trying to figure out how we were going to put
3 there a three-family house.

4 So I contacted Oak Tree, and even though my
5 brother and I we hope to stay healthy and not have to maybe
6 utilize that first-floor, but we hope that we can put this
7 house back better than it was. I have a cousin who is in
8 need of that kind of housing. And so, right now in Natick.
9 He's living right now in Natick, and would love to get back
10 to where he grew up.

11 So we're not looking to get rich quick here,
12 because we could have done condos for that, but we're really
13 looking forward to building a family house again, a three-
14 family.

15 CONSTANTINE ALEXANDER: It's remarkable to me
16 anyway, because we don't see this often, is you want to
17 rebuild the house smaller than was there before.

18 GERALDINE SMALL: You know, they say it's smaller,
19 but it has more bedrooms.

20 CONSTANTINE ALEXANDER: It's a more modern design.

21 GERALDINE SMALL: So all we're trying to do is
22 honor our family and the legacy at 159 Allston Street.

1 Thank you for listening. I know that we have -- I will say
2 do you want to add some more?

3 CONSTANTINE ALEXANDER: You're seeking two forms
4 of relief tonight, the variance and then something -- a
5 special permit for parking. We're just going to -- I'm
6 going to -- let's take the vote on the variance first, and
7 then we'll discuss the special permit for parking. So
8 questions from members of the Board?

9 JIM MONTEVERDE: Just one. It's a three-family,
10 correct?

11 GERALDINE SMALL: It's a three-family, yes.

12 JIM MONTEVERDE: SO the second and third floor are
13 separate apartments?

14 GERALDINE SMALL: Yes.

15 JIM MONTEVERDE: Separate units?

16 GERALDINE SMALL: Yes.

17 JIM MONTEVERDE: And is there only one means of
18 egress on the third floor?

19 GERALDINE SMALL: Yes. We decided to put small
20 Juliet balconies on the back of the house, so that if there
21 was --

22 CONSTANTINE ALEXANDER: Will that comply with the

1 building code, state building code?

2 AUDIENCE: Sprinkler.

3 AUDIENCE: Yeah, sprinkler.

4 CONSTANTINE ALEXANDER: Okay.

5 EDWARD SMALL: We have the stairs that can be
6 sprinkled, right?

7 CONSTANTINE ALEXANDER: So it wouldn't be our
8 issue if we didn't --

9 JIM MONTEVERDE: Correct.

10 CONSTANTINE ALEXANDER: You'd have a problem with
11 somebody else, but not with us. Okay. I'm just curious.

12 JIM MONTEVERDE: Yep.

13 CONSTANTINE ALEXANDER: Any other questions of the
14 like? My Board member to my right, Alison, is not -- is
15 going to recuse herself from this case. She realized that
16 she has a conflict. So there will only be four of us voting
17 on this.

18 And I should tell you just so you -- for the
19 record to get the relief you're seeking; you need four
20 votes. It's not a majority, it's only four. Now, if there
21 were five, you could have one person vote against it, and
22 you still get relief. If we have four, you've got to get a

1 unanimous vote of the four of us here.

2 I say that if you wish to continue this case to
3 another night when we will have five members, we'll continue
4 it.

5 ANDREA HICKEY: But it's already heard. How could
6 we?

7 CONSTANTINE ALEXANDER: Well, we'd continue it as
8 a case heard.

9 ANDREA HICKEY: And add a new member?

10 CONSTANTINE ALEXANDER: Oh, you're right. Got to
11 add a new member. Yeah, you're right. Thank you. Thank
12 you, Andrea. So, all right, I guess we're going to have to
13 proceed all over again, but she should know that you need a
14 unanimous vote of the four of us. We will vote on the case.

15 JIM MONTEVERDE: Can I ask you one more thing?

16 CONSTANTINE ALEXANDER: Hm?

17 JIM MONTEVERDE: Can I ask you one more thing?

18 It's a rather remarkable project, so I applaud you for it.
19 It's really -- you don't see these here or I haven't seen
20 these elsewhere. I haven't seen these -- I'm an architect
21 by profession. I don't see these in the magazines. So it's
22 really -- it's noteworthy. It's really a great thing that

1 you're doing, and the modular construction of it, it's all -
2 - it's a very nice pattern. Congratulations.

3 GERALDINE AND EDWARD SMALL: Thank you.

4 CONSTANTINE ALEXANDER: I'll open the matter up to
5 public testimony. Is there anyone here wishing to be heard
6 on this matter? Ma'am?

7 AUDIENCE: I don't know if it's on the variance or
8 on the parking.

9 CONSTANTINE ALEXANDER: Variance. We're talking
10 about the variance.

11 AUDIENCE: So if there's a question about the
12 variance --

13 CONSTANTINE ALEXANDER: Well, we're going to have
14 a discussion on the special permit for the parking in a
15 second. Zoom. I'm going to close public testimony. Ready
16 for a vote?

17 JIM MONTEVERDE: Mm-hm.

18 CONSTANTINE ALEXANDER: The Chair moves that we
19 make the following findings with regard to the variance
20 being sought: That a literal enforcement of the provisions
21 of the ordinance would involve a substantial hardship, such
22 hardship being that the ability to replace this fire-damaged

1 building would be very difficult to achieve without the
2 variance that's being requested; that the hardship is owing
3 to circumstances relating again to the nature of the former
4 structure, and the size of the lot.

5 And that relief may be granted without substantial
6 detriment to the public good, or nullifying or substantially
7 derogating the intent or purpose of the ordinance.

8 In this regard, I would -- the Chair would
9 incorporate the comments made by my colleague with regard to
10 the quality what you're doing, and the benefits of the city
11 that's going to result.

12 So on the basis of all of these findings, the
13 Chair moves that we grant the variance being requested on
14 the condition that the work proceed in accordance with these
15 plans prepared by Green Stacks it looks like, -- anyway the
16 first page of which is initialed by the Chair.

17 All those in favor, please say, "Aye."

18 THE BOARD: Aye.

19 [Four vote YES - Alison Hammer recused.]

20 CONSTANTINE ALEXANDER: Five in favor.

21 COLLECTIVE: Four.

22 CONSTANTINE ALEXANDER: The variance is granted.

1 Four you're right, I'm sorry. I'd forgotten that.

2 GERALDINE SMALL: Thank you.

3 CONSTANTINE ALEXANDER: Now let's talk to the
4 special permit. This is with regard to parking, and I will
5 alert you -- if that's the right word -- that there is a
6 letter in our files in opposition to what you want to do
7 with parking and perhaps the person who wrote that letter is
8 here tonight, is going to speak to it as well. But anyway,
9 talk to us about the parking and what relief you want, the
10 special permit you want.

11 GERALDINE SMALL: Well, initially the house had a
12 driveway, and it was tandem parking. Okay? We've already
13 moved away from that. We had a plan before, three cars,
14 because we were told that three units you have to have three
15 spaces.

16 We did talk to our neighbors, and I did talk to my
17 neighbor this evening, and she has a problem with one space
18 that is directly behind the house, and that it's encroaching
19 on the right of way, so that --

20 CONSTANTINE ALEXANDER: Encroaching on the
21 driveway?

22 EDWARD SMALL: On the right-of-way.

1 GERALDINE SMALL: On the right-of-way. And so,
2 we're willing to give up that space if we could have two
3 spaces and maybe one on the street, where --

4 CONSTANTINE ALEXANDER: Is that what you're
5 proposing? You're going to come over there --

6 EDWARD SMALL: To make things easy.

7 CONSTANTINE ALEXANDER: Got it.

8 EDWARD SMALL: Everybody's happy. We're going to
9 move forward. It's just a simple thing.

10 CONSTANTINE ALEXANDER: Any questions from members
11 of the Board?

12 ANDREA HICKEY: So have there always been
13 historically three cars parked tandem in the driveway?

14 CONSTANTINE ALEXANDER: Two.

15 ANDREA HICKEY: Two, okay.

16 CONSTANTINE ALEXANDER: So you were going to try
17 to get -- not try, obtain a third one, and now you're --

18 EDWARD SMALL: I'll go back to the two.

19 CONSTANTINE ALEXANDER: Very cooperative
20 individuals. People fight to have -- to the death for
21 parking spaces.

22 ANDREA HICKEY: And so, that third space would

1 sort of block the right of way for the house in the back?

2 EDWARD SMALL: It abuts it.

3 GERALDINE SMALL: It abuts it.

4 ANDREA HICKEY: It does, okay.

5 EDWARD SMALL: If anyone wants to see it?

6 ANDREA HICKEY: Yeah, I'd like to see that. I get
7 it now, thanks.

8 CONSTANTINE ALEXANDER: I will open the matter up
9 to public testimony. Ma'am, you want to speak?

10 MARY ELLEN CARVELLO: Mary Ellen Carvello, C-a-r-
11 v-e-l-l-o. I am neighbors and abutters at 163 Allston
12 Street. I 100 percent support the project. I think it's a
13 great project. We've had an empty lot next door since the
14 fire, which also damaged the property at 163 that I own,
15 that has been rebuilt. And I am really happy that they're
16 moving forward with this.

17 The encroachment on the right of way was an issue.
18 I would like to withdraw my opposition based on our
19 discussions that we had. And if that's reasonable or --

20 CONSTANTINE ALEXANDER: Sure.

21 MARY ELLEN CARVELLO: Based on -- you know, our
22 earlier conversation and the withdrawal of that third spot

1 that encroaches on the right of way.

2 CONSTANTINE ALEXANDER: Thank you for taking the
3 time to come down and express --

4 MARY ELLEN CARVELLO: Of course, I want to support
5 them -- our families have been neighbors for 80 some odd
6 years, so.

7 ANDREA HICKEY: I just wanted to ask a question
8 just to clarify.

9 MARY ELLEN CARVELLO: Of course.

10 ANDREA HICKEY: So you're withdrawing your
11 opposition in consideration of the fact that they're
12 offering to give up that space?

13 MARY ELLEN CARVELLO: Correct.

14 ANDREA HICKEY: Understood.

15 MARY ELLEN CARVELLO: That's correct.

16 CONSTANTINE ALEXANDER: Help me -- not you,
17 necessarily --

18 MARY ELLEN CARVELLO: Okay.

19 CONSTANTINE ALEXANDER: Why do you need zoning
20 relief now, if you're going from three spaces to two?
21 What's now the basis of the special permit?

22 ARCHITECT: The size of the spaces.

1 CONSTANTINE ALEXANDER: The size of the spaces?

2 ARCHITECT: Yeah. So the two parking spaces that
3 will remain are 8 feet by 18 feet, so that is not -- so the
4 two proposed spaces are 8 feet by 18 feet, and that is below
5 the standard parking size.

6 CONSTANTINE ALEXANDER: Well, refresh my memory.
7 What is the standard parking size required under the
8 ordinance?

9 ARCHITECT: 642 of regular parking spaces, 8.5
10 wide by 18 feet. So we are six inches shy from being wide
11 enough.

12 CONSTANTINE ALEXANDER: Okay. Thank you. You
13 don't have to -- you can sit down if you like. No one else
14 wishes to be heard, I take it? No, and we have no letters
15 on the file other than the letter that has now been
16 withdrawn by Ms. Carvello. Ready for a vote? It's on the
17 special permit. The Chair moves that we grant -- we make
18 the following findings with regard to special permit being
19 sought:

20 That a literal enforcement -- the requirements of
21 the ordinance cannot be met unless we grant the special
22 permit.

1 That traffic generated or patterns in access or
2 egress resulting from what is being proposed with regard to
3 parking will not cause congestion, hazard, or substantial
4 change in established neighborhood character.

5 With the -- in this regard with the change that
6 petitioner is apparently willing to make, which would reduce
7 the number of parking spaces from three to two on the site,
8 we're now looking at a very slight deviation from the
9 requirements or ordinance with regard to size of parking
10 spaces.

11 That the continued operation or development of
12 adjacent uses, as permitted in the ordinance, will not be
13 adversely affected by what the nature of what is being
14 proposed. And again, that's the result of the concession
15 that you folks have been prepared to make with regard to the
16 number of -- and location of the parking spaces on the lot.

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

20 And generally, what is being proposed will not
21 impair the integrity of the district or adjoining district,
22 or otherwise derogate the intent and purpose of this

1 ordinance.

2 So on the basis of all of these findings, the
3 Chair moves that we grant the special permit requested, on
4 the condition that with regard to parking, that the work
5 proceed in accordance with the plans submitted by the
6 petitioner, except to the extent that the parking spaces on
7 the site will now be two rather than three.

8 All those in favor, please say, "Aye."

9 THE BOARD: Aye.

10 [Four vote YES -- Alison Hammer recused]

11 CONSTANTINE ALEXANDER: Five in favor.

12 COLLECTIVE: Four.

13 CONSTANTINE ALEXANDER: Oh, four, I keep saying
14 it, I'm sorry. And good luck.

15 COLLECTIVE: Thank you.

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(10:14 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Alison Hammer, Andrea A. Hickey, and Jim
Monteverde

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 017179 -- 57 JFK Street. Anyone here wish to be
heard on this matter?

ANDREW UPTON: Good evening, Mr. Chairman and
members of the Board, Andrew Upton for the applicant. And
with me is the applicant, Andy Truong, who is the proposed
owner and will be the manager on site.

CONSTANTINE ALEXANDER: Have we seen this case
before? I mean --

ANDREW UPTON: I don't think so.

CONSTANTINE ALEXANDER: I mean, Veggie Burger is
what you're going to put in there?

ANDREW UPTON: Nope.

ANDY TRUONG: No.

CONSTANTINE ALEXANDER: No?

ANDREW UPTON: This --

ANDY TRUONG: No.

1 CONSTANTINE ALEXANDER: What we're talking about
2 here is this --

3 THE REPORTER: Could you spell your last names,
4 please?

5 ANDREW UPTON: U-p-t-o-n for me, and T-r-u-o-n-g
6 for him. Andrew and Andy.

7 CONSTANTINE ALEXANDER: We had another case for 57
8 JFK Street, and we granted relief, and then the entrepreneur
9 didn't move forward.

10 ANDREW UPTON: Which we hope is a healthy
11 precedent for this one.

12 CONSTANTINE ALEXANDER: Which, their not going
13 forward with the project?

14 ANDREW UPTON: No. This is the former Wagamama
15 space.

16 CONSTANTINE ALEXANDER: Yes.

17 ANDREW UPTON: In that building, and it's
18 basically been split in -- not exactly in half, but sort of
19 a 60/40. So in the front facing JFK Street, is Veggie
20 Grill.

21 CONSTANTINE ALEXANDER: Oh, okay.

22 ANDREW UPTON: You've approved it. I believe

1 they're open -- they had their soft opening this week.
2 Behind it -- and that's in the other section, is where Andy
3 proposes to go with his authentic Japanese cuisine.

4 So for that, we need a permit for a fast-order
5 food establishment. He has obviously previously had this
6 relief in the space. He can tell you a little bit about the
7 concept, but we have -- I can tell you that we met with the
8 Harvard Square Advisory Commission. They were unanimously
9 in favor.

10 CONSTANTINE ALEXANDER: We have a letter from them
11 and I'll read it into the file.

12 ANDREW UPTON: Okay. And that's gives -- at that
13 meeting we addressed recycling, trash, environmental issues,
14 care of the park next door, and all the things that are
15 typically raised with this building and with any restaurant.

16 And Andy has been in touch with the Harvard Square
17 Business Association, and I believe they are also in
18 support.

19 CONSTANTINE ALEXANDER: We didn't get a letter
20 from them, at least the last I looked, no. Usually they do.

21 ANDREW UPTON: Yeah, they usually write a letter
22 but I think -- how recently did you speak to Denise?

1 ANDY TRUONG: Just yesterday. I have an e-mail
2 from that basically is saying --

3 ANDREW UPTON: "Amanda, we'll add you to our mail
4 list when it comes time for you to be in front of the
5 License commission, please let me know. I will attend the
6 meeting and advocate on your behalf." Perhaps she was
7 unaware that we were coming to this Commission.

8 CONSTANTINE ALEXANDER: It sounds that with each
9 eye separately.

10 ANDREW UPTON: But for the record, we are
11 representing that they are in favor.

12 CONSTANTINE ALEXANDER: Okay.

13 ANDREW UPTON: So other than that, we don't
14 believe there will really be any adverse effects. It's
15 historically been a restaurant. It will now be a
16 restaurant. It's a fairly unique concept. It's an
17 experienced operator. He has two other restaurants, which
18 he currently operates.

19 And is it accurate that there will be no sushi?
20 No sushi? So it'll be real sit-down, authentic Japanese
21 food, which we believe there is a market and an appetite
22 for. And with that, we're glad to answer any questions.

1 CONSTANTINE ALEXANDER: We have to make a number
2 of findings, as you may know, with regard to granting a --

3 ANDREW UPTON: Of course.

4 CONSTANTINE ALEXANDER: -- special permit for a
5 fast-food order establishment. And I'll have to go through
6 those in a second. We have to find that the operation of
7 the establishment shall not create traffic problems, reduce
8 available parking, threaten the public safety in the streets
9 and sidewalks, or encourage or produce double parking on the
10 adjacent public streets.

11 I take it you're not -- this is going to be for
12 people who walk by, it's not going to be a destination?

13 ANDREW UPTON: It is -- we are expecting foot
14 traffic. Negotiations with the landlord were based on these
15 representations that historically restaurants in this
16 building have always drawn foot traffic. And it'll be just
17 like the other restaurants in the building and nearby that
18 rely on foot traffic, subway or bus, because there really is
19 no parking at all in that area.

20 CONSTANTINE ALEXANDER: The next one is, "A
21 physical design, including color and use of materials of
22 establishment shall be compatible with and sensitive to the

1 visual and physical characteristics of other buildings,
2 public spaces and uses in the particular location." Do you
3 submit any kind of plans for that? Usually we get a design
4 of what it's going to look like.

5 ANDREW UPTON: We have --

6 CONSTANTINE ALEXANDER: Black and whites, but we
7 don't have anything about the color and the like.

8 ANDREW UPTON: Perhaps you can describe a little
9 bit of the color and the -- interior --

10 CONSTANTINE ALEXANDER: Yeah. What's it going to
11 look like from the street. I mean, the exterior experience?

12 ANDREW UPTON: Well, it's --

13 ANDY TRUONG: It's behind.

14 ANDREW UPTON: You're really not going to see it
15 from the street because --

16 CONSTANTINE ALEXANDER: Oh, yeah, it's right
17 behind.

18 ANDREW UPTON: -- because you're blocked by --

19 CONSTANTINE ALEXANDER: It's not the front part of
20 Wagamama, it's the back part.

21 ANDREW UPTON: Yeah. You have to go --

22 CONSTANTINE ALEXANDER: Inside --

1 ANDREW UPTON: -- into the corridor --

2 CONSTANTINE ALEXANDER: Right.

3 ANDREW UPTON: -- and then into the restaurant.

4 CONSTANTINE ALEXANDER: Yeah, okay.

5 ANDREW UPTON: Well, we can tell you anyway how
6 it's going to look inside.

7 CONSTANTINE ALEXANDER: Well, if it's inside, it's
8 not really a zoning issue for us.

9 ANDREW UPTON: Okay.

10 CONSTANTINE ALEXANDER: I'd forgotten it's the
11 back end of Wagamama, it's not the front end.

12 ANDREW UPTON: That's why there's no elevations,
13 because there's -- you can't see it from the street.

14 CONSTANTINE ALEXANDER: The establishment fulfills
15 a need for such a service in the neighborhood or in the
16 city?

17 ANDREW UPTON: We believe it does. I mean, you
18 can get a lot of sushi around Harvard Square, but sit-down
19 Japanese cuisine, the special octopus that he makes at his
20 restaurant at Symphony Hall and other authentic cuisine, we
21 believe there's a --

22 CONSTANTINE ALEXANDER: There's going to be

1 waiters and waitresses and table service?

2 ANDREW UPTON: Oh yes, there is.

3 ANDY TRUONG: Yeah.

4 ANDREW UPTON: Yeah. We believe there's a
5 significant demand. He has a good reputation at the other
6 restaurant. People are --

7 CONSTANTINE ALEXANDER: Where are your other
8 restaurants located?

9 ANDY TRUONG: I have one in Dorchester. It's
10 called, "Saigon Seafood Restaurant." And there's one in
11 Neponset Café.

12 THE REPORTER: Could you speak into the mic?

13 CONSTANTINE ALEXANDER: Speak into the mic.

14 ANDY TRUONG: Sorry.

15 CONSTANTINE ALEXANDER: One in Dorchester?

16 ANDY TRUONG: So one in Dorchester, it's called,
17 "Saigon Seafood Restaurant." And then there is one at
18 Neponset Circle, which is the bridge to Quincy, and one at
19 Symphony Hall.

20 CONSTANTINE ALEXANDER: And one where?

21 ANDREW UPTON: Symphony Hall.

22 ANDY TRUONG: Symphony Hall.

1 CONSTANTINE ALEXANDER: Symphony Hall. Okay. "The
2 establishment will attract patrons primarily from walk-in
3 trade, as opposed to drive-in automobile- related trade"?

4 ANDREW UPTON: We believe it will. We believe
5 that's the history of the building, the restaurant in that
6 space, and that's also his business model.

7 CONSTANTINE ALEXANDER: Okay. "The establishment
8 shall to the greatest extent feasible utilize biodegradable
9 materials and packaging of food and in the utensils and
10 other items provided for consumption thereof"?

11 ANDREW UPTON: We will, and we discussed that with
12 --

13 CONSTANTINE ALEXANDER: Did you discuss that with
14 the Harvard Square Advisory?

15 ANDREW UPTON: Yep, we did.

16 CONSTANTINE ALEXANDER: "The establishment shall
17 provide convenient, suitable and well-marked waste
18 receptacles to encourage patrons properly to dispose of all
19 packaging materials, utensils and other items provided with
20 the sale of food? And discussed that with Harvard Square?"

21 ANDREW UPTON: It will. We discussed it, and we
22 even talked about how we would be monitoring the Winthrop

1 Park next door, because the last thing he wants is anything
2 that has his name on it that's litter on the ground.

3 CONSTANTINE ALEXANDER: Okay. And, "The
4 establishment will comply with all state and local
5 requirements applicable to egress and use of all facilities
6 on the premises for handicapped and disabled persons"?

7 ANDREW UPTON: It will, and ADA compliance is
8 mandated in the lease.

9 CONSTANTINE ALEXANDER: What about the delivery of
10 raw materials, for better words?

11 ANDREW UPTON: This was also discussed with the
12 Harvard Square people. A significant amount will come from
13 the existing restaurant. He has his own refrigerated van,
14 and a lot of the specialty products go there, and he'll sort
15 of trans ship them here.

16 CONSTANTINE ALEXANDER: Well, those -- the trans-
17 shipment is by truck. Where are those trucks parked? I'm
18 --

19 ANDY TRUONG: We work by van, not by truck.

20 CONSTANTINE ALEXANDER: I'm sorry?

21 ANDY TRUONG: We get the van, it's not by truck.

22 CONSTANTINE ALEXANDER: Oh, so it is a real small

1 van?

2 ANDY TRUONG: Minivan.

3 CONSTANTINE ALEXANDER: A minivan? So it's a --
4 from the parking perspective, it's like a car?

5 ANDY TRUONG: Yes.

6 CONSTANTINE ALEXANDER: In terms of -- is parking
7 provided for occupants in the building for things like --
8 where will this van park? You've got to find a parking
9 space on JFK Street, or is there something in the back where
10 you can deliver?

11 ANDREW UPTON: Let me see -- yeah, I think they do
12 -- I think their deliveries are mostly deliveries come up
13 Winthrop Street --

14 CONSTANTINE ALEXANDER: Yeah.

15 ANDREW UPTON: -- during certain hours, before
16 it's blocked up.

17 CONSTANTINE ALEXANDER: -- but there is a place on
18 Winthrop Street you can make -- because that's closed part
19 of the time.

20 ANDREW UPTON: Right. So everything has to be
21 scheduled around that closing.

22 CONSTANTINE ALEXANDER: Then you will make your

1 deliveries on Winthrop Street, and off you go?

2 ANDREW UPTON: Yeah. And they try to box in all
3 the restaurants to that same time period.

4 CONSTANTINE ALEXANDER: Right.

5 ANDREW UPTON: So it's sort of an established
6 process.

7 CONSTANTINE ALEXANDER: Hours of operation?

8 ANDREW UPTON: Hours of operation, 10:30 to --

9 CONSTANTINE ALEXANDER: I think Harvard Square
10 Advisory said 11:00 to 11:00 or something like that?

11 ANDREW UPTON: Yeah. I believe we said 10:30 to
12 11:00.

13 CONSTANTINE ALEXANDER: 10:30 to 11:00. So it'll
14 provide some night life, if you will, for that area of
15 Harvard Square. Some foot traffic into the evening, not
16 shutting down at 7:00 p.m.

17 ANDREW UPTON: Yeah. And this type of Asian
18 cuisine is very kind of social --

19 CONSTANTINE ALEXANDER: Right.

20 ANDREW UPTON: -- a lot of people like to sit
21 around and talk, and people come from all over, because it's
22 sort of a specialty item. Or at least that's our hope.

1 CONSTANTINE ALEXANDER: I think we've got to make
2 -- all right let me read into the record, the -- or a
3 portion of the memo we received from the Harvard Square
4 Advisory Committee.

5 And then, "This restaurant will be proposed 40
6 seats -- a 40 -seat restaurant? The hours of operation will
7 be from 10:30 a.m. to 11:00 p.m. The space is accessed from
8 within the Crimson Galleria with no -- and it's my mistake
9 before -- with no direct exterior entrance. There will be a
10 sign on the exterior of the building, and there is heavy
11 foot traffic in the middle in the mall, to direct
12 customers."

13 Here's your point. "The food deliveries come by
14 van, and are unique products making up approximately 70
15 percent of all the deliveries."

16 And you understand that the Winthrop Street
17 operates with restricted access after the morning
18 deliveries?

19 Anyway, the conclusion is, "A motion was made and
20 seconded to support the applicant for a fast-order food
21 special permit, and was passed by all members present." So
22 it's a unanimous vote in support.

1 With that, I think we've got to -- we have to make
2 a bunch of findings, unfortunately, to grant the relief you
3 are seeking. So let me go -- are you ready for a vote or do
4 we want a discussion?

5 COLLECTIVE: Ready.

6 CONSTANTINE ALEXANDER: The Chair moves that we
7 make the following findings with regard to the special
8 permit being sought: That the requirements of the ordinance
9 cannot be met unless we grant you the special permit -- I
10 never understood why that's in the ordinance, but be that as
11 it may.

12 Traffic generated or patterns in access or egress
13 resulting from what you're proposing will not cause
14 congestion, hazard, or substantial change in established
15 neighborhood character; in fact, you're just continuing the
16 restaurant use in this building, and you're not on the
17 street level, so the impact is internal, in terms of the
18 impact on the neighborhood.

19 Continued operation or development of adjacent
20 uses, as permitted in the ordinance, will not be adversely
21 affected by what is proposed.

22 And in particular in this case we're talking about

1 a full-scale Japanese restaurant, which is unlike anything
2 that's in the area right now. Am I correct? I think there
3 are -- I'm not aware of any Japanese restaurants besides --
4 or.

5 No nuisance or hazard will be created to the
6 detriment of the health, safety and/or welfare of the
7 occupant of the proposed use, or the citizens of the city,
8 and that generally, what is being proposed will not impair
9 the integrity of the district or adjoining district, or
10 otherwise derogate the intent and purpose of this ordinance.

11 So on the basis of all of these findings, the Chair
12 moves that we grant the special permit requested by the
13 petitioner to --

14 AUDIENCE: Mr. Chairman, if I may --

15 CONSTANTINE ALEXANDER: Sure.

16 AUDIENCE: Do you need to ask for public comment?
17 Or is that not --

18 CONSTANTINE ALEXANDER: I never did, but I can
19 guess there's no one here who wants to make special permits.
20 You're right, I should have done that.

21 AUDIENCE: Just in case.

22 CONSTANTINE ALEXANDER: The record should show

1 that we did give the public an attempt to -- a right to
2 offer comments, and none were offered. Thank you for
3 pointing that out. The Chair moves that we grant the
4 special permit requested. All those in favor, please say,
5 "Aye."

6 THE BOARD: Aye.

7 [All vote YES]

8 CONSTANTINE ALEXANDER: Five in favor, good luck.

9 COLLECTIVE: Thank you very much.

10 CONSTANTINE ALEXANDER: I want to take a very
11 brief recess before we move on to the last case.

12 [BREAK]

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2 (10:31 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Alison Hammer, Andrea A. Hickey, and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now
7 call Case Number 017180 -- 232 Brookline Street. Anyone
8 here wishing to be heard on this matter?

9 BRIAN LAU: Hi. Good evening.

10 CONSTANTINE ALEXANDER: Good evening.

11 BRIAN LAU: My name is Brian Lau, and I work at
12 LDC with engineer.

13 THE REPORTER: Could you spell your name for me,
14 please?

15 BRIAN LAU: My first name is B-r-i-a-n, last name
16 L-a-u. Tonight, I'm representing the homeowner, Mr. Zhang,
17 who is sitting right next to me, and he bought the three-
18 family house four months ago, and he didn't realize the
19 third-floor unit is a separate unit. It didn't come with a
20 so-called legal second means of egress.

21 And where we were trying to apply for a building
22 permit to do the interior remodeling, and the Building

1 Inspector, Michael Grover, told us the third-floor unit
2 doesn't come with a legal second means of egress. That's
3 the reason why we're here today.

4 CONSTANTINE ALEXANDER: So the solution is to
5 build exterior stairs for all three units?

6 BRIAN LAU: Actually, we just took the opportunity
7 to -- because the second means of egress, anyway it's going
8 to come down from the -- all the way from the third floor
9 all the way down to the ground, like at ground level. So we
10 just take this opportunity to connect the second unit, and
11 also, the first-floor units.

12 CONSTANTINE ALEXANDER: Why can't you do the work
13 at -- I mean it costs more money, why can't you do the work
14 internally? Why can't you keep internal stairs? Why do you
15 need to put these decks on, staircases on the back?

16 BRIAN LAU: Um--

17 CONSTANTINE ALEXANDER: What you're doing is
18 you're increasing the size -- you know, I think I know what
19 you're doing. You're looking to increase the size of the
20 three units, so that you can rent the places for more money.
21 That's what this is all about, in my opinion.

22 BRIAN LAU: Yeah, "they are thirsty" -- one of the

1 reasons we just try to -- I mean the first -- like I said,
2 the initial idea, we were trying to renovate the interior of
3 the house, and then we figured out that there's a need to do
4 the second, legal second means of egress --

5 CONSTANTINE ALEXANDER: Yeah, but you --

6 BRIAN LAU: -- for the third-floor unit. So we
7 just take the opportunity to see if we can fully utilize the
8 interior space. We didn't change -- actually we didn't
9 change the footprint of the house.

10 CONSTANTINE ALEXANDER: I know. Well, you're
11 putting the stairs at the back. You're -- you are changing
12 the footprint of the house, including your proposed external
13 stairs.

14 BRIAN LAU: It happened when we looked at the
15 floor plan, we happened to be able to make use of the
16 existing deck. So the exterior stairs, we've got to occupy
17 the existing deck.

18 CONSTANTINE ALEXANDER: You've got to -- to get a
19 variance, you have to show a substantial hardship.

20 BRIAN LAU: Yeah.

21 CONSTANTINE ALEXANDER: You can do the work
22 internally, because you will get more money than what you're

1 proposing to do, but there's no substantial hardship here.

2 You can provide with an internal stairs the three -- the

3 second means of egress for all three units. Am I right?

4 XI ZHANG: Okay, so thank you. So --

5 THE REPORTER: State your name and spell it for

6 me, please?

7 XI ZHANG: Sure, yeah. My name is Xi, that's my

8 first name. Last name is Z-h-a-n-g. So first of all, thank

9 you. So I have a little bit attachment to this area,

10 because I used to be a Harvard graduate student about 15

11 years ago.

12 I lived in Cambridge for about two or three years.

13 I really like this community. And afterwards, actually I

14 worked here in Kendall for four or five years. So I really

15 want to move back here with my kids.

16 So not necessarily I'm not going to rent, or I'm

17 not. I'm actually going to substantially renovate the first

18 floor to be my primary residence. And if possible, I'll can

19 rent out the second or third, and it may be my plan to have

20 my parents come over. So I really want to make this as my

21 primary residence.

22 So having said that, I think I really want to

1 extend -- to some extent, I want to take down the interior
2 stairs, which has been not used very often, I don't think
3 that's a good use. So I want to take that as an
4 opportunity, as Mr. Lau said that it seems we're going to
5 put the stairs outside.

6 So that may increase maybe 10,20 square footage
7 for the first floor. You actually have a bigger, you know,
8 like kitchen space. So I just want to add a little bit of
9 piece to what he said. So from his architect, he -- just
10 give some background information about that. Yes.

11 Of course, you know, for the cost it cost a little
12 bit more than just keep the interior stairs. I think I've
13 lived here for a long term, so I think it well worth my
14 money to remove that to expand this space.

15 ALISON HAMMER: Can I?

16 CONSTANTINE ALEXANDER: Sure.

17 ALISON HAMMER: As we actually discussed briefly
18 on another case earlier, we also learned that there are ways
19 to go down to one staircase and still be code-conforming by
20 sprinklering and having that single staircase meet the
21 requirements of the international Building Code for stairs.

22 So is that something you explored? Is adding the

1 sprinklers and upgrading the remaining staircase and hitting
2 compliance through that method?

3 XI ZHANG: Sorry, like when you say, "sprinkler" -

4 ALISON HAMMER: Automatic sprinkler system?

5 XI ZHANG: Oh yeah, for the lawn maintenance?

6 ALISON HAMMER: Not for lawn -- sprinkler for the
7 building.

8 XI ZHANG: Oh, okay.

9 ALISON HAMMER: So, you know, that's another means
10 of compliance with the building code, is to go down to the
11 single means of egress, is sprinklers -- have sprinklers
12 throughout the building. So I just didn't know if that was
13 something you guys considered, or if you're planning to
14 sprinkler as part of this renovation?

15 XI ZHANG: I think to my knowledge it's we will
16 plan to keep the interior; I think the layouts and keep all
17 of the -- I don't know how to call this -- it's the roof
18 structures. I don't think that we can put in a sprinkler
19 system inside.

20 ALISON HAMMER: So you're not kind of going to the
21 level of renovation where the Building Department is
22 requiring you to sprinkler the building?

1 XI ZHANG: I don't think based on the conversation
2 we had with them, like --

3 ALISON HAMMER: Okay.

4 XI ZHANG: -- you don't need a permit for that
5 project.

6 ALISON HAMMER: Okay.

7 XI ZHANG: Yeah.

8 ALISON HAMMER: Okay. That makes sense, then.

9 BRENDAN SULLIVAN: Are these rentals, or will they
10 turn into condos?

11 XI ZHANG: I think when I bought this, it was
12 three-families. It does now --

13 BRENDAN SULLIVAN: No, what is your intent with
14 the building?

15 XI ZHANG: My main intention is to move with my
16 family to be the primary resident in the first floor. But
17 the second, third, could be used for the rent in the future.
18 But --

19 CONSTANTINE ALEXANDER: The question, though,
20 rentals? Or are you going to condominiumize the building
21 too? Are you going to make these second and third floor
22 units condominiums?

1 XI ZHANG: So right now, it's not, right? So it's
2 a multifamily. No, it's not going to be the condominiums,
3 no.

4 CONSTANTINE ALEXANDER: Any other comments? I'll
5 open the matter up to public testimony. We have one.

6 CARLOS SALAMANCA: Hi. Good evening. My name is
7 Carlos Salamanca. Do I spell my last name? It's S-a-l-a-m-
8 a-n-c-a, and we -- this is Ms. Ruth Carretta. We both own
9 and live --

10 THE REPORTER: Could you spell your name, please?

11 RUTH CARRETTA: My name is Ruth Carretta, C-a-r-r-
12 e-t-t-a. And --

13 CARLOS SALAMANCA: So we have concerns about the
14 proposed renovation, and we have something that Ms.
15 Carretta's going to read that expresses our concerns.

16 MS. CARRETTA: Yeah. So let's see -- thanks
17 everybody for staying so late. I know it's -- we're
18 awfully late, and --

19 CONSTANTINE ALEXANDER: That's our job.

20 RUTH CARRETTA: Yes. So let's see, and as Carlos
21 said, let's see, Carlos and I live at 99 Allston Street. We
22 are your direct abutters in the back. So let's see, our

1 back yard abuts directly onto your back yard. Let's see.
2 We are -- what -- let's see, sorry, I want to keep on point
3 and not deviate too much, so --

4 CONSTANTINE ALEXANDER: It's okay.

5 RUTH CARRETTA: So let's see. By way of
6 background, our house is a small, two-story house on a very
7 tiny plot with a very shallow back yard. And so, both our
8 house and our small back yard are in very close proximity to
9 the property line in the rear of 232 Brookline Street.

10 Let's see. Given our proximity to the opposed
11 (sic) addition in the rear of the property, we are actually
12 particularly disappointed at the lack of any direct
13 communications with us from our new neighbors prior to any
14 addition, plans being made or also construction having been
15 started.

16 So that was -- you know, we got the notice from
17 the BZA, and sought the plans when they were posted, but
18 that's been about it as far as -- actually that has been it.
19 That has been it as far as communications go.

20 Let's see. And -- let's see, we are very
21 interested in ensuring that the zoning rules are applied to
22 fully protect the community as well as our house, and some

1 of the concerns that we have actually I think reflect Mr.
2 Alexander's -- you know, the size of the new project, the
3 proposal is to build a new -- part of the new proposal is to
4 build a new staircase.

5 We weren't sure from the plans -- we're not
6 architects, and we're not sure if these were going to be
7 enclosed stairs, or if they were going to be open. It
8 sounds like they might be open, from what I'm hearing.

9 But even still, especially if it's going to be
10 closed, it's going to -- let's see, it's going to be
11 increasing the overall gross area --

12 CARLOS SALAMANCA: It exceeds. --

13 RUTH CARRETTA: -- let's see -- it's going to be
14 exceeding the overall gross floor area to the size of the
15 lot by quite a bit. So from what the maximums are allowed
16 for the city, and -- let's see.

17 So the current property already exists -- is over
18 that maximum, and with the addition, it will increase even
19 further.

20 CARLOS SALAMANCA: Might exceed.

21 CONSTANTINE ALEXANDER: Just let me interrupt you
22 for a second --

1 RUTH CARRETTA: Sure.

2 CONSTANTINE ALEXANDER: -- just to get the numbers
3 in the record. That you're proposing to add close to 400
4 square feet of gross floor area, and they're going to go
5 from 0.81 to 0.91 in a 0.6 district. So if we were to grant
6 the relief, it would be almost 50 percent more than this --

7 AUDIENCE: Right.

8 CONSTANTINE ALEXANDER: -- ordinance permits.

9 RUTH CARRETTA: -- so, and building up -- where
10 that space would come from is going to be in the back, which
11 is exactly what we would see from our house.

12 So I think that's what -- that would be a concern,
13 not just from our house, but also, we have small -- just a
14 little bit of property and it would definitely -- we would
15 see that extra space from that extra elevation, if you were
16 to build up that way.

17 Let's see, as a sort of -- related but separate
18 concern, the prior owners typically park two cars in their
19 driveway. I guess I'm learning that her minimums.

20 You know, there are standards for how large
21 parking spaces need to be. Your plan looks like you're
22 calling for three parking spaces. So I don't know if that's

1 going to, again, kind of impact on where the driveway is
2 located. If it were to be extended at all, that without --

3 CONSTANTINE ALEXANDER: On that point, parking is
4 not an issue in this case, I mean --

5 RUTH CARRETTA: Blocking a --

6 CONSTANTINE ALEXANDER: -- when they get, should
7 we grant relief, when we get their permits --

8 RUTH CARRETTA: Yep.

9 CONSTANTINE ALEXANDER: I mean, they have to
10 satisfy the Inspectional Services Department that they're
11 going to comply with the parking requirements, and if they
12 can't, then they'll have to come back before us for that
13 relief. So --

14 RUTH CARRETTA: Okay, okay. I think our concern
15 is somewhat related in that the percentage of open area and
16 green space is something that we would want to preserve.
17 And I don't -- I didn't know if, you know, say whether your
18 need for parking or change in the landscaping or change in
19 the hardscaping -- something --

20 CONSTANTINE ALEXANDER: Well, according to their
21 application --

22 RUTH CARRETTA: Yes.

1 CONSTANTINE ALEXANDER: They have 36 percent open
2 space, and that's not going to change.

3 RUTH CARRETTA: And that wont change. As long as
4 that doesn't change -- since we didn't have a conversation,
5 it's like we have a ton of questions --

6 CONSTANTINE ALEXANDER: No, that's fine.

7 RUTH CARRETTA: -- that, you know, we're just
8 trying to --

9 XI ZHANG: I think, first I think you said it
10 right. I mean, there was no direct communication. Because
11 I live a little bit far away from here, but certainly we
12 should have done a much better job, since we know you --

13 RUTH CARRETTA: Sure.

14 XI ZHANG: -- I want to stop by the next few days
15 to explain.

16 RUTH CARRETTA: We would welcome that.

17 XI ZHANG: Yeah, so I think when our project
18 started, we did have some indirect conversation with the
19 neighbors next to us, you know the other big buildings.

20 RUTH CARRETTA: Okay.

21 XI ZHANG: After some note saying that we can have
22 a store and if there are any questions --

1 RUTH CARRETTA: The other one's in Brookline?

2 Both on Brookline?

3 XI ZHANG: I think it's 230. Yes, 230.

4 RUTH CARRETTA: 230, okay.

5 XI ZHANG: I can find the owner, but I know
6 there's some people living there, so I just put some kind of
7 short notice, saying that we're going to start, and any
8 concern put it -- I put my phone number and e-mails, which
9 should have been the other side. I thought it was a little
10 bit far away, but I think --

11 RUTH CARRETTA: Right. There are probably several
12 other. But there are a number of abutters --

13 XI ZHANG: Yes, yes.

14 RUTH CARRETTA: -- who wrote letters, that I think
15 you have.

16 XI ZHANG: Yes, I think the problem is that I
17 think in that -- there should have happened, more
18 conversations. But I'm -- but anyway, I don't want to make
19 an excuse, but I think it is a good opportunity for me to
20 talk to what the plan really is.

21 RUTH CARRETTA: Yeah.

22 XI ZHANG: But there is from our side, there's

1 really no kind of change to the percentage from open space.

2 I don't have the -- I don't know too much knowledge about
3 the terms, but this is no plan to change the outside at all.

4 RUTH CARRETTA: Okay.

5 XI ZHANG: We're going to renovate inside, because
6 I think you probably know that when we bought the house, it
7 was very abandoned, in very bad shape. It's not really
8 livable. I do want to live there, so I wanted a little more
9 money to make it more livable for us that have kids, so.

10 CARLOS SALAMANCA: I just have to make a comment.

11 XI ZHANG: Sure.

12 CARLOS SALAMANCA: The family that lived there,
13 lived there for a long time.

14 XI ZHANG: Yes, I know.

15 CARLOS SALAMANCA: And they never had a problem
16 with the condition of the house. And we actually thought
17 that it's actually -- it's a good -- you made a good buy, as
18 a matter of fact, because it's a sturdy house and --

19 XI ZHANG: Yes.

20 CARLOS SALAMANCA: -- but, you know, we -- you
21 know, we're concerned in a way that what -- that you want to
22 build a full set of stairs to provide egress for the third

1 floor? Is that --

2 XI ZHANG: My understanding when I bought the
3 house: There was no by law, there's no third-floor unit. I
4 don't know the term, but it looks like when we do, when we
5 apply for this permit that we have to make sure that it's
6 all paid for this kind of fire escape --

7 CARLOS SALAMANCA: A second means of egress --

8 AUDIENCE: A second means of egress --

9 XI ZHANG: Yeah. That's what I call that, yeah.
10 So we do want to make this external, because internal is --
11 there's another thing in the peripheral, and there's two
12 internal stairs.

13 CARLOS SALAMANCA: Right, but you have back stairs
14 in the first and second floor. Could you not find a way of
15 providing for that problem within the existing envelope of
16 the house? Do you really need to go out of the existing
17 limits of the house, of the building?

18 BRIAN LAU: Um--

19 AUDIENCE: Outside the extra -- say the existing
20 four walls of that house? Yeah.

21 BRIAN LAU: I want to say something about the
22 first and second floor, second means of egress. They are

1 actually -- the house is like a two-story at the back. So
2 if we need to do, like, an interior stair for the dirt
3 floor, we need to build some kind of addition on top of the
4 second floor.

5 But if I build, it will be things like that -- we
6 have two levels here, so if we do, like, an interior stair,
7 then --

8 CONSTANTINE ALEXANDER: But the fact of the matter
9 is, is that there is an internal solution --

10 BRIAN LAU: Exactly.

11 CONSTANTINE ALEXANDER: -- and if we have to put a
12 little bump on the top of the building, it's far less it
13 would have an impact on the neighborhood than what you're
14 proposing.

15 XI ZHANG: Oh, okay. I mean, right. I think -- I
16 mean, as I mentioned, I do want to make sure that this could
17 be a longtime space.

18 CONSTANTINE ALEXANDER: I know that, but when you
19 do the work, someday you'll not be in the building any
20 longer, but the building will be there with these external
21 staircases. And that's the issue we have to deal with.
22 It's not a personal issue to you. It's an issue that's

1 impacted the neighborhood.

2 XI ZHANG: Exactly.

3 CONSTANTINE ALEXANDER: So long as there's a
4 structure there and there are other structures.

5 XI ZHANG: Okay.

6 CONSTANTINE ALEXANDER: I appreciate it, but
7 you're not responding to the point at least I'm trying to
8 make.

9 XI ZHANG: Okay. So I'm just curious, so, like,
10 so if there's any other way that we could -- maybe talking
11 to the neighbors?

12 CONSTANTINE ALEXANDER: You're not getting the
13 message, sir. It's not a matter of the neighbors getting on
14 your side to put the external stairs. It's our -- when we
15 take a vote, our decision as to what the zoning law requires
16 --

17 XI ZHANG: Exactly.

18 CONSTANTINE ALEXANDER: And what relief you're
19 entitled to. And what I'm trying to suggest to you is I
20 haven't heard yet why you're entitled to relief?

21 XI ZHANG: So --

22 CONSTANTINE ALEXANDER: Other than the fact that

1 you want to have more living space within the structure, and
2 I'm very suspicious about why, to be very blunt.

3 XI ZHANG: So the most conservative solution would
4 be to just keep what we have and adding --

5 CONSTANTINE ALEXANDER: Yep. My view. I'm only
6 one of five.

7 XI ZHANG: Okay.

8 BRENDAN SULLIVAN: My position on this has always
9 been that it's an attempt to capture interior space, and to
10 take that interior space out near the staircase in the back
11 and push it to the outside.

12 And what that does is that you're basically adding
13 to the house, you're adding to the massing, so that the
14 people to the rear are now going to look at another
15 structure, another mass, coming towards me. Something that
16 really doesn't belong, and when you have another solution of
17 using the interior space.

18 Yes, it's going to mean that you're not going to
19 have a bigger kitchen, but the house has probably been there
20 since the 1920s or something like that --

21 AUDIENCE: 1870.

22 XI ZHANG: 1870s.

1 BRENDAN SULLIVAN: -- families have lived there,
2 grown up there, have survived. I don't think anybody had
3 any psychological damage because they have smaller kitchens.
4 So that I'm -- what I object to is that pushing of interior
5 space to the outside, and the added massing to the building,
6 which, again, affects these people and what they see.

7 And I think that's maybe what you're objecting too
8 --

9 CARLOS SALAMANCA: Yes, yes.

10 BRENDAN SULLIVAN: -- if this massing keeps
11 coming.

12 CARLOS SALAMANCA: Exactly.

13 BRENDAN SULLIVAN: So I would not support this,
14 and I have a number of these cases come down before us,
15 where, again, people were trying to capture anterior space,
16 make a bigger kitchen, yada yada, whatever. I have always
17 been opposed to it.

18 JIM MONTEVERDE: So I would concur, which
19 basically means the arithmetic doesn't add up. You don't
20 get the relief you're looking for, most likely. Let us cast
21 a vote, but that's where it seems to be headed. So you -- I
22 think you still have, the Chair can describe what your

1 choices may be. Because if you get voted, if you get turned
2 down, you can't come back for two years.

3 CONSTANTINE ALEXANDER: Two years.

4 JIM MONTEVERDE: Unless it's you come back with a

5 --

6 CONSTANTINE ALEXANDER: -- something substantially
7 different.

8 JIM MONTEVERDE: Right?

9 CONSTANTINE ALEXANDER: I mean, if you --

10 BRENDAN SULLIVAN: I think they would come back
11 with something substantially different.

12 CONSTANTINE ALEXANDER: I'm not sure that would
13 need zoning relief, with more substantially different. The
14 zoning interior has all changed. You know, doing the stair
15 of the interior.

16 ANDREA HICKEY: No, if they had to sort of bump up
17 on the roof --

18 CONSTANTINE ALEXANDER: I'm not sure the bump-up
19 alone will cause zoning relief. Maybe it will, I don't
20 know.

21 ANDREA HICKEY: I think it will.

22 CONSTANTINE ALEXANDER: I don't know. I'd have to

1 see it.

2 BRIAN LAU: So we propose to continue the case and
3 we redo something like this to do, like --

4 CONSTANTINE ALEXANDER: No, because if you do
5 something like that, that's going to be a different case.

6 BRIAN LAU: Oh, sorry.

7 CONSTANTINE ALEXANDER: So no, if you want to do
8 that.

9 BRIAN LAU: So we have to put a new application,
10 then?

11 CONSTANTINE ALEXANDER: Yeah. You have to start
12 all over again.

13 JIM MONTEVERDE: So no matter what happens --

14 CONSTANTINE ALEXANDER: Right.

15 BRIAN LAU: Okay.

16 ALISON HAMMER: Just a suggestion. I obviously
17 can't speak for the Building Inspector, Mike Grover, or
18 anybody else there, but there may be some ability to discuss
19 alternative means of compliance with the Building Department
20 -- you know, for instance, you know, can you sprinkler just
21 that third floor and the stairwell or something like that
22 so, you know, perhaps if you go back to the Building

1 Department and explain that, you know, what you are hoping
2 to do is probably not going to go forward.

3 Perhaps there are other means of compliance within
4 the building code that you could work out with the help of
5 the Building Inspector, and obviously your own knowledge as
6 an architect.

7 CONSTANTINE ALEXANDER: We're going to take a vote
8 tonight. They're both the same way. We take a vote tonight
9 and you're not going to get relief, and you're subject to
10 the two-year hiatus period, or you can withdraw your --
11 withdrawal that's treated as a turndown. So you still have
12 the same restrictions, in terms of you want to go forward in
13 the next two years.

14 What you're going to propose is -- I don't know
15 what the exact words are -- substantially different from
16 what you're proposing tonight.

17 But it's your call. You want us to withdraw, or
18 do you want us to take a vote?

19 BRIAN LAU: I have another design idea. Since the
20 house covered, like, a side porch, I call it like a side
21 porch at the driveway side, so --

22 CONSTANTINE ALEXANDER: Sir, that doesn't impact

1 what we're going to decide tonight.

2 BRIAN LAU: I see. So it will be a new
3 application?

4 CONSTANTINE ALEXANDER: New application, yeah.

5 XI ZHANG: Oh, okay, yeah.

6 CONSTANTINE ALEXANDER: So -- and I -- Alison
7 suggested about meeting with the people of the Building
8 Department.

9 XI ZHANG: Yeah.

10 CONSTANTINE ALEXANDER: They're helpful, they're
11 knowledgeable --

12 XI ZHANG: Okay.

13 CONSTANTINE ALEXANDER: And they'll tell it like
14 it is. But it sounds like probably they need zoning relief
15 again on the different proposals, and there's a whole
16 procedure with regard to that -- not as simple as it was
17 tonight. You would have to have a hearing before us to show
18 that your new proposal is substantially different, whatever
19 the words are, and then what you originally proposed
20 tonight.

21 We would take a vote, and let's assume we say it's
22 not substantially different, you're back where you started.

1 If you say it is substantially different, then the Planning
2 Board has got to agree with that, and then you'd come back
3 on the merits, and come back and then convince us that what
4 you are proposing that is substantially different is --
5 merits the granting of a variance.

6 XI ZHANG: I hope I got it right. I think I did.
7 So we will -- we need to go back to the Building Department
8 and schedule that?

9 CONSTANTINE ALEXANDER: Why don't you -- I mean,
10 we could take either part, it doesn't make any difference.
11 Why don't you just withdraw the application?

12 XI ZHANG: Oh, yeah, yeah. That might be the best
13 solution.

14 CONSTANTINE ALEXANDER: And we'll vote now to
15 accept the withdrawal --

16 XI ZHANG: Yeah.

17 CONSTANTINE ALEXANDER: -- and the case is over
18 for tonight.

19 XI ZHANG: Yeah, sure.

20 CONSTANTINE ALEXANDER: All those in favor of
21 accepting the requested withdrawal of this case by the
22 petitioner, please say, "Aye."

1 THE BOARD: Aye.

2 CONSTANTINE ALEXANDER: Five in favor. Maybe

3 we'll see you again. Again, take care.

4 [10:56. End of proceedings.]

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CERTIFICATE

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Commonwealth of Massachusetts

Middlesex, ss.

I, Catherine Burns, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand this _____ day of _____, 2019.

Notary Public

My commission expires:

August 6, 2021