

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MAY 11, 2017
7:00 p.m.

in

Senior Center
806 Massachusetts Avenue
First Floor
Cambridge, Massachusetts 02139

Brendan Sullivan, Acting Chair
Andrea A. Hickey, Member
Patrick Tedesco, Member
Douglas Myers, Associate Member
Jim Monteverde, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:00 p.m.)

(Sitting Members: Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim Monteverde.)

BRENDAN SULLIVAN: Let me call the Board of Zoning Appeal meeting of May 11, 2017, to order. First order of business will be a public service announcement.

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

There are two being made: One by the stenographer in order to assist her in an accurate recording and record of the night's meeting, and a citizen has deposited a recording device who also tapes our meetings.

* * * * *

(7:00 p.m.)

(Sitting Members Case BZA-012376-2017: Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim Monteverde.)

BRENDAN SULLIVAN: The Board will hear case No. 012376, 120 Magazine Street.

Anybody who wishes to speak, if you come forward, please. When you speak, if you would please clearly state your name and probably spell your last name and your address for the record.

LINDSAY MacINDOE: Sure. I am Lindsay with an A, M-A-C-I-N-D-O-E. And this is my wife Wendy Holding H-O-L-D-I-N-G. We have lived in Cambridgeport for over 15 years. Sorry, did you want me to say something? I don't know what I'm supposed to do. Talk to you.

DOUGLAS MYERS: You're doing fine.

BRENDAN SULLIVAN: You're the Petitioner, right?

WENDY HOLDING: Yes.

BRENDAN SULLIVAN: Okay, yeah, all right. Maybe talk into the microphone if you will a little bit and just tell us what you want to do and why we should allow to you do it.

LINDSAY MacINDOE: Sure. So we live on Salem Street now, which is on Cambridgeport, a little short street.

BRENDAN SULLIVAN: And maybe just speak up a little bit. Push that towards you a little bit.

LINDSAY MacINDOE: Sure.

And we've loved every minute of it. It's a very small house. We have a growing family of two kids under the age of four and a very large dog. And we're just really wanting to stay in our community and in Cambridgeport specifically. And we found this house that needs some love and it has more square footage and we thought we could make this potentially work for our family.

So it's just around the corner a couple blocks away. We, we just enjoy the area a lot and don't want to leave Cambridge and that's harder to do these days. So, we're just hoping that this project can happen.

BRENDAN SULLIVAN: There was some revisions to the --

DAVID FOLEY: I can take it from there if you want. Do you want to trade?

WENDY HOLDING: You can take my spot.

BRENDAN SULLIVAN: You're David.

DAVID FOLEY: I'm David Foley with Foley and Fiore, and we also have a couple of other people from our office. You don't need to know them.

BRENDAN SULLIVAN: Just to set the table a bit, this is an existing two-family home; is that correct?

LINDSAY MacINDOE: Correct.

BRENDAN SULLIVAN: So there was a typical first floor apartment and a typical second floor apartment. The

attic is what? Is it open? Is it being used?

DAVID FOLEY: The attic belongs to the second floor unit.

BRENDAN SULLIVAN: Is there a finished room up there?

DAVID FOLEY: There is a finished room, yes.

BRENDAN SULLIVAN: All right.

DAVID FOLEY: Well, first, thanks for continuing the case and I apologize for that part. But we've been working with Lindsay and Wendy on the renovation of this house and have been sort of tweaking dimensional requirements and the aesthetics of the house so I appreciate the continuances.

The plan is to restore the main body of the house, the front part. And the part that we're changing the most is the L in the back, which is sort of your typical rabbit line of small spaces and changing levels and dropped ceilings. So that part we're changing a lot.

The relief we're seeking is around -- well, the house is non-conforming. It violates the FAR, maximum FAR, and then it also violates the setbacks on both the Magazine Street and Bailey Place. So what we're seeking relief for is expanding a dormer, altering a dormer on the Bailey Place side that's existing and we're making it a little bit bigger to accommodate a new stair to the third floor that is code compliant. And then we're also reconfiguring some square footage on the other side of the house. The largest move is that we're sort of using -- there's an existing covered porch that we'll -- we're using that square footage and then enclosing it, and then adding another small amount behind that porch kind of in line with the main body of the house.

BRENDAN SULLIVAN: So it's basically in-filling -- the footprint doesn't extend any more than what it is to the side?

DAVID FOLEY: We are adding a little chunk in addition to the porch area.

BRENDAN SULLIVAN: Okay.

JIM MONTEVERDE: Can you point that out please?

DAVID FOLEY: Yeah.

DOUGLAS MYERS: Can you bring those plans a little closer, please? They're small. Thank you.

DAVID FOLEY: So I think if we look at -- this is the existing first floor. This is the existing covered porch. So we're using that space and then there's an uncovered deck beyond it, and we're kind of bringing the new portion to that point. You can see it here. This is basically where the porch is and then we're adding this little bay off the kitchen here.

PATRICK TEDESCO: So you're occupying the deck but the deck is not covered so it's not FAR?

DAVID FOLEY: Correct, only this portion of the deck is covered, yeah. Yeah.

PATRICK TEDESCO: And then you're building a deck off that side?

DOUGLAS MYERS: Additionally.

DAVID FOLEY: Yeah, that will probably be not be deck or a terrace at grade and it's permeable.

DOUGLAS MYERS: And then you're also extending, what you referred to as the existing deck, back an additional number of feet so that it's square with the existing structure at the rear of the house?

PATRICK TEDESCO: This portion?

DAVID FOLEY: This, yes, yeah. Right, this actually does.

DOUGLAS MYERS: Right in there, yes.

DAVID FOLEY: Does count to the square footage because it's a covered entry. It's open but we are showing a roof on that covered entry.

Yeah, and Lindsay brings up a good point that this is only on the first level. When you get to the second level, it steps back to where it was.

And then the dormer that we're altering

is -- well, it doesn't really show very well, but it's that. And we're expanding to that. And then we've shown on the dimensions of the dormers are shown on the exterior elevations.

Oh, and I should point out that in addition to requesting to enlarge the dormer on the north side, we are reducing the dormer on the south side which is this one. Currently that dormer, the face of the dormer goes all the way to the face of the house, and the face of the dormer aligns with the first and second floor below. So we're pulling that back up on the roof to be more in conformance with the dormer guidelines.

BRENDAN SULLIVAN: And the sides of the deck off the third floor level there, is it off the third floor?

DAVID FOLEY: On the third floor or the second?

BRENDAN SULLIVAN: Well, third floor.

JIM MONTEVERDE: Third. Right there. Yeah, it showed up on that plan. The right-hand side one. There.

JOSEPH COMBS: That one is about 10 by 15 maybe.

DAVID FOLEY: Yeah, it's like 10 by 15 actually.

I didn't bring a scale.

PATRICK TEDESCO: So other than the dormer,
there's no increase in the third floor?

DAVID FOLEY: Correct.

PATRICK TEDESCO: In terms of habitable space?

DAVID FOLEY: Yeah.

PATRICK TEDESCO: Other than the deck which is on
the roof of the existing second floor. What is that now, is
that a flat roof today?

DAVID FOLEY: No. It's a series of pitched roofs
in the back.

PATRICK TEDESCO: Right, but you're raising the
pitched roofs -- the elevation of the deck is where in
relation to the existing elevation of those roofs?

DAVID FOLEY: It's just below the floor plate of
the third floor.

PATRICK TEDESCO: Could you show me the elevations again?

LINDSAY MacINDOE: Those are higher than the deck right now.

JOSEPH COMBS: So you could see it here.

PATRICK TEDESCO: So you're sort of taking that gable roof off.

DAVID FOLEY: Yeah. So I mean volumetrically, the front portion stays pretty much the same. That lower portion is sort of a lower connector, and then we're, and then the back piece --

PATRICK TEDESCO: So there's still habitable space on the second floor, it's just there's now a roof instead of a gable?

DAVID FOLEY: Correct.

BRENDAN SULLIVAN: Did you speak to -- there's no letters in the file. Did you speak to any, particularly the neighbors behind?

LINDSAY MacINDOE: Yep. And they actually were planning on writing a letter in support. They are excited to see the house fixed up. They've been there for 25 years, and we're very friendly with the family, a cop that used to be on the Cambridge system, and then it was sold to a guy who rented for a while -- who rented the units, and they're just, they say they're excited.

BRENDAN SULLIVAN: Is it owner-occupied behind or not?

LINDSAY MacINDOE: Yep, I believe it's a two family as well and they live upstairs and then they rent out there.

BRENDAN SULLIVAN: Okay.

LINDSAY MacINDOE: Or it's -- yeah, they own the building.

WENDY HOLDING: It's a two family. They live upstairs and they rent out the bottom.

DOUGLAS MYERS: Have you had any negative response

from any of your abutters?

LINDSAY MacINDOE: Nope.

BRENDAN SULLIVAN: It's a lovely house and it seems like it probably needs some TLC, a little bit more than TLC. I mean, a lot of blood, sweat, and tears and money. But that it could be restored to a very nice, workable house, liveable house, and just a question of whether or not, you know, it's -- well, anyhow. See how it goes.

Anything else to add? I mean you can get -- you'll have a chance of last word anyhow.

LINDSAY MacINDOE: Well, I would just say the reason that we really fell in love with this location is that it does have a yard. And so in considering how to, you know, the back of the house needs just so much work that we thought about it in like very open terms, like, what would we do? And we really wanted to retain the yard as much as possible. So that was something that we really fought for

just in terms of footprint and all of that. So I think, I think that will behoove the area, too. It's not taking any greenery away and kind of stuff like that.

DOUGLAS MYERS: A couple of questions?

BRENDAN SULLIVAN: Yes.

DOUGLAS MYERS: In terms of the ownership of the house, is it condominiumized or -- you mentioned a unit on the second floor in the attic. Is that unit a currently condominium?

LINDSAY MacINDOE: No, it's a current two family --

DAVID FOLEY: Two family.

LINDSAY MacINDOE: -- where the second and third floor are one unit and the first floor is one unit.

DOUGLAS MYERS: Who owns the property?

LINDSAY MacINDOE: We own it.

DOUGLAS MYERS: You own it and then on the second floor is your tenant?

LINDSAY MacINDOE: No, we bought it vacant.

DOUGLAS MYERS: I see.

WENDY HOLDING: What happened was that a father lived there for, I don't know, like 40 years, very long time, and his daughter had a family and couldn't find a place to live, so he took his house a very long time ago and basically chopped it in half so she could live there.

DOUGLAS MYERS: I see.

WENDY HOLDING: And that's how it became a two family. I don't know when that happened. It was, like, I think it was that way when our neighbors behind moved in.

PATRICK TEDESCO: But are you using it for a rental unit or are you going to have a single-family?

LINDSAY MacINDOE: A rental unit. I mean, that's kind of the only way that --

BRENDAN SULLIVAN: It's going to be a rental unit in the basement?

DAVID FOLEY: Correct.

BRENDAN SULLIVAN: Could you just show where the door to the basement is from the areaway?

DAVID FOLEY: Sure. There are two areaways, this one which enters the unit, and then this goes also down to the unit. So there's no internal areaway.

BRENDAN SULLIVAN: So this goes down?

DAVID FOLEY: Yeah.

BRENDAN SULLIVAN: And what's down in here?

DAVID FOLEY: That's -- there's a door.

BRENDAN SULLIVAN: Okay.

DAVID FOLEY: Let's see, if we look at this elevation, that's the stair you're looking at --

BRENDAN SULLIVAN: I see. The door's --

DAVID FOLEY: -- and it goes down and that's the door down there.

BRENDAN SULLIVAN: Okay.

DAVID FOLEY: And then this one is that stair which is also shown here, which goes down to the second.

BRENDAN SULLIVAN: Yeah, I didn't see a door marked on here, that's all.

DAVID FOLEY: Well, yeah, the doors are in the basement plan which --

BRENDAN SULLIVAN: So, all right, I'm sorry.

DAVID FOLEY: That's all right. It's a little confusing.

DOUGLAS MYERS: So help me understand, then. There are a total of three living units in this property?

DAVID FOLEY: No, two.

DOUGLAS MYERS: I heard mention of a basement.

DAVID FOLEY: It's a -- currently it's a two family.

DOUGLAS MYERS: How many floors are there? Two floors?

DAVID FOLEY: Three floors.

DOUGLAS MYERS: Three floors?

DAVID FOLEY: Yeah. Three floors and the

basement.

LINDSAY MacINDOE: No, the attic is a third floor.

DOUGLAS MYERS: The attic is the third floor?

DAVID FOLEY: Yeah.

DOUGLAS MYERS: Okay. So the one unit is one unit on the first floor?

DAVID FOLEY: Correct.

DOUGLAS MYERS: And then the second floor and the attic is the other living unit?

LINDSAY MacINDOE: Correct.

DAVID FOLEY: Existing.

DOUGLAS MYERS: And the basement access is shared to both living units or is the basement exclusively accessible to the first floor unit?

DAVID FOLEY: Currently the basement access is just through the house. We're maintaining the two family, but we're changing the configuration of the two family. So the entire first, second, and third floor will now be the

main house. And there will be a small unit down in the basement.

DOUGLAS MYERS: I see.

DAVID FOLEY: Which is why we're adding two external areaways because we have to.

DOUGLAS MYERS: So it will remain a two family -- it will remain two living units?

DAVID FOLEY: Yep, yep. But Wendy and Lindsay will be in the --

DOUGLAS MYERS: The large one. Basically the whole house and the second unit will be in the basement?

DAVID FOLEY: Yeah.

DOUGLAS MYERS: Okay.

DAVID FOLEY: Which, you know, could be sort of a mother-in-law or it could be a rental in that's necessary.

DOUGLAS MYERS: And going back to your elevations on the other board, please. The new dormer is the middle, bottom; right? And that's the new dormer?

DAVID FOLEY: Yep.

DOUGLAS MYERS: And the other dormer, and what you show as your right-hand bottom south proposed elevation --

DAVID FOLEY: Yes.

DOUGLAS MYERS: -- that is a reduction of the existing dormer top which is nonconforming which you say you're going to reduce?

DAVID FOLEY: We're reducing -- we're pulling it back by --

DOUGLAS MYERS: I see.

JOSEPH COMBS: One-foot, six.

DAVID FOLEY: How much?

JOSEPH COMBS: One-foot, six.

DAVID FOLEY: One-foot, six.

DOUGLAS MYERS: So length seems to be about the same?

DAVID FOLEY: The length we're leaving the same, correct. Yeah.

PATRICK TEDESCO: So the both dormers -- I'm
sorry, Doug.

DOUGLAS MYERS: No, I'm done.

PATRICK TEDESCO: Will both dormers conform to the
guidelines when constructed?

DAVID FOLEY: No.

PATRICK TEDESCO: Because of the gable?

DAVID FOLEY: This dormer is longer than the
recommended length. The recommended length is 14 feet and I
think that one is at 17.

DOUGLAS MYERS: 26 is what is shown? No. Yeah.

JOSEPH COMBS: 26.

DAVID FOLEY: Oh, 26.

And then this one, the length is okay but the
setback is closer to the front wall than is suggested in the
dormer guidelines. This house is fortunate in that it has a
very substantial overhang so it doesn't look as bad as some
dormers that do that.

ANDREA HICKEY: And there's no way to make that conforming in that length?

DAVID FOLEY: No, because that's where the stair to the third floor will be. So we can't, you can't step it in or that defeats the whole purpose of the dormer.

LINDSAY MacINDOE: And the current stairs.

DAVID FOLEY: Yeah, the current stair is non-conforming.

PATRICK TEDESCO: So with the existing dormer you're making it conform in one condition and with the relationship with the facade?

DAVID FOLEY: Yeah.

PATRICK TEDESCO: But not -- it's currently, it doesn't conform in length and you're maintaining the length in that section?

DAVID FOLEY: Correct, yes.

PATRICK TEDESCO: I had one other question.

BRENDAN SULLIVAN: Yes.

PATRICK TEDESCO: The third, the second floor in the back L, that lowest roof where those two little windows are existing?

DAVID FOLEY: Oh, yes.

PATRICK TEDESCO: That second floor, that space is habitable. It's got clearance in the under roof?

DAVID FOLEY: It is, yes.

PATRICK TEDESCO: So you're essentially raising it, making a flat roof and then dropping it adjacent so you're trading off?

DAVID FOLEY: Correct, yeah.

And part of why that works presently, I mean, there's enough space in there, but the -- there is a -- as you progress from the main part of the house to the back, there's at least one, maybe two step downs as you sort of go down there.

BRENDAN SULLIVAN: Just to walk through, the existing is 3,088 and you're going to 3,213; is that

correct. So there's a net increase of 125 square feet?

DAVID FOLEY: Right. And we're going from --

BRENDAN SULLIVAN: Right now it's at 0.799 and it's going to 0.83. One of the things that triggers relief obviously is the setbacks, but also that the lot is only 45 feet wide, and the required would be 50. There is no change in the height that complies, and the open space you're actually going from 42.6 to 47 percent.

DAVID FOLEY: Yes.

BRENDAN SULLIVAN: So it's sort of an increase in the open space there and only 36 is required. Okay. As long as we get the numbers correct.

Jim, any other questions?

JIM MONTEVERDE: No, you've answered my questions.

BRENDAN SULLIVAN: Doug?

DOUGLAS MYERS: One last question.

DAVID FOLEY: Sure.

DOUGLAS MYERS: With regard to the new dormer --

DAVID FOLEY: Yes.

DOUGLAS MYERS: -- how far is it from the gable end? The distance. I heard what you've said in explanation. The guidelines recommend three feet, six inches and I would just like to know what the actual distance is. I could scale it out but I failed to do that.

DAVID FOLEY: It's what?

JOSEPH COMBS: Are you talking about --

DAVID FOLEY: This one. How far it sets back from --

JOSEPH COMBS: From this gabling?

DAVID FOLEY: Yeah. What's the length of the roof there?

DOUGLAS MYERS: You have to scale it.

JOSEPH COMBS: I don't know what the length of the roof is. I know it's aligned here.

DAVID FOLEY: Yeah, so the, I think the face of the dormer is aligned with that corner of the house. It's a

little --

BRENDAN SULLIVAN: So is it like a foot overhang there?

DAVID FOLEY: Yeah. What's a little odd is that with the current house --

JIM MONTEVERDE: Two-foot, six, something like that.

DAVID FOLEY: This piece of the dormer is what exists up here. So in the current house, you don't really know that it aligns with the end of the main house, but because of the way we've designed it, you can now see what the corner of the main house is. So it does align with that. But again, and I'm sorry, I don't know exactly what that dimension is.

JIM MONTEVERDE: It's about two-feet, six.

DAVID FOLEY: Two-feet, six? Okay. So there is a substantial overhang even though that lines up with the face of the --

PATRICK TEDESCO: You're creating a little indent, right?

DAVID FOLEY: Yeah, we've made a little indent there which makes that more noticeable.

BRENDAN SULLIVAN: So it sort of softens the whole thing.

DAVID FOLEY: Yeah.

So this piece exists and then these two windows are essentially what we're adding to give you that height as you go up the stairs.

BRENDAN SULLIVAN: Okay. Anything else?

DOUGLAS MYERS: That's all. Thank you very much.

BRENDAN SULLIVAN: Andrea, any questions?

ANDREA HICKEY: No.

PATRICK TEDESCO: One last question. Bailey Way is a private way? Bailey Place is a private way. And does the property line, does your property line go down the center of it?

LINDSAY MacINDOE: It's a little bit on a diagonal. So it goes into it -- I mean, the whole area is gravelized so it's much wider than you need to drive the car, but if you're just looking with your eye and then you were to mark out our house, it would go like 2.1 at the beginning of Bailey Place and then our property line is four and change from the back.

PATRICK TEDESCO: And the abutting property's a commercial property?

WENDY HOLDING: It's below. One commercial and one -- there's like a small architecture firm in front.

LINDSAY MacINDOE: There's a commercial property on the corner of Magazine and Bailey Place, and then there is a residential -- I think it's a three family.

WENDY HOLDING: A triple decker.

LINDSAY MacINDOE: -- but it's not a Bailey Place house. It's an Allston Street house it doesn't have access to Bailey Place.

PATRICK TEDESCO: Okay.

DAVID FOLEY: That shows the lot line.

BRENDAN SULLIVAN: Okay.

Andrea, anything?

Patrick, anything else to add?

Okay, open it up to public comment. Is there anybody here who wishes to speak on the matter 120 Magazine Street?

(No Response.)

BRENDAN SULLIVAN: I see nobody and there is no correspondence in the file, so I'll close to public comment part. Close the presentation part. Let the Board discuss this among themselves.

Patrick?

PATRICK TEDESCO: Well, I had a lot of questions because it's a complicated redo, but I think my sense is that it's thoughtful and you're cleaning up, you know, what is sort of a, not an atypical kind of hodge-podge addition.

I guess I would be hesitant if there were a better opposition because, you know, it is -- in some ways its impact is increasing, in other ways it's decreasing on the balance. I don't find it to be an excessive increase given the overall improvements that we're making. So I, to me it seems reasonable. I mean I'd like to see the existing non-conforming dormer shrunk but it is an existing condition essentially and you're doing some effort to make part of it conforming, not entirely giving the length, but, you know, I think that's an improvement. So I'm personally, you know, inclined to support.

BRENDAN SULLIVAN: Andrea?

ANDREA HICKEY: Yeah. Sort of my comments are the same as Patrick's. The long dormer that's there, I don't love it because it's long, because it's so far out of what we like to see. However, to sort of require you to make that shorter where it's sort of pre-existing, I'm not sure is a fair thing to do. The fact that you're mitigating that

length by moving it up makes it work better for me. So I'm inclined to support.

BRENDAN SULLIVAN: Jim, your thoughts?

JIM MONTEVERDE: No, I agree. The discussion answered all of my questions and I'm fine with it.

BRENDAN SULLIVAN: Doug?

DOUGLAS MYERS: I agree with everybody else. I think that we would be sandbagging you to force you to change the length of the non-conforming dormer, and I think we would be punishing you unduly because of the one-foot shortfall. In terms of your distance from the gable on the new dormer, I think it's fine. I think you've justified that. I think it's fine.

BRENDAN SULLIVAN: Let me make a motion then to grant the relief requested.

The Board finds that a literal enforcement and provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude the

Petitioner from reconfiguring the interior space to allow for better circulation and adequate room size for a contemporary family of their size, and that the additional square footage applied for is a fair and reasonable request given the size and style of the house and the added benefit to the neighborhood of a more pleasing appearance. And also I take special note to the apartment in the basement, which is getting to be sort of the soup du jour, but I think that by adding that, obviously it has some economic benefit, but also I think that it helps provide an apartment for a single person or possibly a couple where that size unit is probably much desirable in the neighborhood and maybe quite sought after. So I think there's a little bit more benefit there.

The Board finds that the hardship is owing to the size of the house on the lot.

The pre-existing non-conformities, especially the frontage of the lot which is only 45 feet in a 50-foot requirement, all of these conditions predate the current

Zoning Ordinance. And that any needed modification and/or addition would require some review from this Board.

The Board finds that desirable relief may be granted without either substantial detriment to the public good and would not nullify or substantially derogate from the intent and purpose of the Ordinance.

To preserve the housing stock. Also to preserve the value of desirable properties, and to provide housing for multitude of families.

And the Board grants this relief on the condition that the work be in compliance with the plans submitted.

And anything else to add to that?

DOUGLAS MYERS: The note to initial the plans.

BRENDAN SULLIVAN: The Board also notes there's been no opposition by abutting properties to this application.

All those in favor of granting --

DOUGLAS MYERS: You'll initial the plans?

BRENDAN SULLIVAN: I will initial the plans.

Thank you, yes.

All those in favor?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor. Good luck.

(Sullivan, Hickey, Tedesco, Myers, Monteverde.)

* * * * *

(7:30 p.m.)

(Sitting Members Case BZA-012801-2017: Brendan Sullivan,

Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim

Monteverde.)

BRENDAN SULLIVAN: Let's see, the regular agenda.

The Board will hear case No. 012801. 40 Gibson Street.

Ms. Booz.

MAGGIE BOOZ: Hello. I'm Maggie Booz B-O-O-Z.

I'm the architect for the project.

JIM O'BRIEN: Jim O'Brien, 40 Gibson.

JULIE O'BRIEN: And Julie O'Brien, 40 Gibson
Street.

MAGGIE BOOZ: We're proposing to -- this is a request for a Special Permit. On the north side of the house we have two awning windows, and what we're proposing is to eliminate one of them and turn one of them into a double hung window. And then we have an area over, over a stair landing. There's a stair on the interior of the house that doesn't have any light, and we're proposing a fixed, you know, what we call a piano window over that landing. It isn't an operable window, it's just a fixed window. And on

the rear we have a door and side light and we also have a -- there's also another set of doors on the rear facade, and we're proposing three double hung windows instead.

BRENDAN SULLIVAN: You're moving the interior around? Is that what the --

MAGGIE BOOZ: A little bit. Not too much, really. You know, we are, we're putting kitchen cabinetry across this rear facade so, you know, we're hoping to. Right now there are doors there and we don't -- it's a really small house. It doesn't need that many doors and so we're proposing windows instead. And both of those, both of those elevations are in the setbacks. The north elevation quite close to the property line and the west elevation is -- it's as you can see, it's a really unusually shaped lot. We're about at that sort of, acute corner right there, we're about 19.4 feet from the foundation.

BRENDAN SULLIVAN: Reading your pleadings, you basically said that the actual glass area of the

exchange -- well, the -- I guess the sliding windows really does not change the amount of opening at all, really.

MAGGIE BOOZ: That's right. It's almost, it's almost a net equal, you know, exchange.

BRENDAN SULLIVAN: Okay.

MAGGIE BOOZ: It's been discussed with the neighbors as well.

BRENDAN SULLIVAN: I have not seen any correspondence.

Have you spoken to them? Any feedback with them?

JIM O'BRIEN: The neighbor immediately to the north of the house and the neighbor that's kind of to our northwest, we had an earlier hearing before the Conservation Commission, so they've had --

JULIE O'BRIEN: Historic.

JIM O'BRIEN: Historic Commission, I'm sorry. They've seen those plans. We've given both sets of neighbors tours of the house in the last two weeks so they

could walk through the house and they've seen the plans, so I know that they're fully aware of what we're doing.

BRENDAN SULLIVAN: Is that Half Crown?

MAGGIE BOOZ: I'm sorry?

ANDREA HICKEY: I think it is. Is it in Half Crown District?

JIM O'BRIEN: It is.

MAGGIE BOOZ: Marsh District.

BRENDAN SULLIVAN: Marsh?

Do you have any correspondence, Maggie, at all from them?

MAGGIE BOOZ: Yeah, we have the --

BRENDAN SULLIVAN: Oh, wait a minute, there is something here.

MAGGIE BOOZ: We have the approval letter from them.

BRENDAN SULLIVAN: Okay, I'll read that into the record. Okay, yeah.

MAGGIE BOOZ: Okay.

DOUGLAS MYERS: Any negative response from your abutters at all?

JIM O'BRIEN: None.

JULIE O'BRIEN: Not that we're aware of.

DOUGLAS MYERS: Understood.

MAGGIE BOOZ: The neighbor to the north is a -- aren't they on the Marsh District or something? Of course they weren't at the hearing obviously. But she was very concerned at first about the, you know, renovations taking place at the house. And really wanted things as historically appropriate as possible. The double hung windows were, you know, I think for her, you know, a welcome change as opposed to the awnings that are there now.

BRENDAN SULLIVAN: Okay.

Any other questions from the Board at all?

Doug?

DOUGLAS MYERS: No.

BRENDAN SULLIVAN: Jim?

JIM MONTEVERDE: No.

BRENDAN SULLIVAN: Patrick?

PATRICK TEDESCO: No.

BRENDAN SULLIVAN: Andrea, any at all?

ANDREA HICKEY: No, thank you.

BRENDAN SULLIVAN: Let me open it up to public
comment.

Is there anybody here who would like to comment on
the proposal before us for 40 Gibson?

(No Response.)

BRENDAN SULLIVAN: There is correspondence in the
file. Cambridge Historical Commission regarding 40 Gibson
Street, and it says that this project has already been
approved by the Half Crown Marsh Commission. Their
Certificate of Appropriateness has been uploaded to the BZA
plan on file. And that is dated March 22nd. And a
Certificate of Appropriateness. After -- alter window

openings, install new windows, construct garden shed,
construct bulkhead, replace skylights, remove chimney,
install air conditioning condensers on south elevation as
depicted on the plans 40 Gibson Street by Smart Architecture
dated November 29, 2016. Okay. We'll focus on our thing.
Okay.

Anything else to add?

MAGGIE BOOZ: I don't think so.

BRENDAN SULLIVAN: Okay.

MAGGIE BOOZ: Unless you have other questions
which we'll be glad to answer.

BRENDAN SULLIVAN: Well, to me it seems like a
nice tweaking of the house. It's a lovely house. Very nice
house.

JIM O'BRIEN: Thank you.

BRENDAN SULLIVAN: Anything else?

DOUGLAS MYERS: No.

JIM MONTEVERDE: Not from me.

ANDREA HICKEY: No.

BRENDAN SULLIVAN: Let me make a motion to grant the relief requested to install one double hung window, one fixed piano window on the first floor north side, and install three double hung windows on the first floor west rear of the house as per the plans submitted.

The Board finds that a Special Permit can be granted.

That the requirements of the Ordinance can be met.

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

And that the continued operation of or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use.

There would not be any nuisance or hazard created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the

city.

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

Special note is taken of a neighborhood abutter who applauds the work as being historically sensitive. A proper word to use? Okay.

MAGGIE BOOZ: Absolutely, yes.

BRENDAN SULLIVAN: On the condition that the work be done in accordance with the plans submitted and initialled by the Chair.

All those in favor?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hickey, Tedesco, Myers, Monteverde.)

* * * * *

(7:45 p.m.)

(Sitting Members Case BZA-012851-2017: Brendan Sullivan,
Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim
Monteverde.)

BRENDAN SULLIVAN: The Board will hear case No.
012851, 725 Concord Avenue. Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Thank you. Good evening, Mr. Chair and members of the Board. For the record, James Rafferty. Offices at 675 Massachusetts Avenue in Cambridge. I'm appearing this evening on behalf of the Applicant, DMP Burlington Concord, LLC, and DMP Causcan, LLC. Those are entities under the control of the Davis Companies who's the owner of the company.

Seated to my right is Mr. Andrew Donovan. He's a Vice President with the Davis Companies. Oh, no, he's at my far right. I apologize.

And to my immediate right is Mr. Dan Perruzzi, P-E-R-R-U-Z-Z-I. Mr. Perruzzi is the architect that designed the canopy that we are here before the Board tonight to seek relief for.

I suspect many members are familiar with the building. It's a building at 725 Concord Avenue. It's in the Alewife Overlay District. It has a base zoning district of Industry B. It's almost at the end of the city boundary

on Concord Avenue as you get close to the Belmont line across from the Fresh Pond Golf Course. The building has in recent years become tenanted entirely by medical offices associated with Mount Auburn Hospital. If you're familiar with the site, the building's parking is located in the rear, and that -- the rear is generally the principal entry into the building for people who are getting dropped off. There aren't any drop-off opportunities on Concord Avenue.

A lot of visitors to the building arrive for -- in chair cars and ambulances, limited ambulatory abilities because of the nature of the work there. They do diagnostic testings.

The building was built before the area was rezoned and the FAR dropped in that district, so the building today exceeds what's currently allowed in the base zoning. What's proposed here is to simply put a canopy over the rear of the building to provide shelter, covering from the elements for people who are waiting to get picked up, for people who are

waiting or being dropped off. It's an amenity for the building.

The hardship is related to the size of the structure, the location of the building, the relationship of the building to the parking.

Our Zoning Ordinance defines covered porches as within the definition of GFA. The interpretation of that has been made to apply to fixtures or pertinences such as this.

It may not look like a covered porch, but the -- it's a canopy that will cover over a sidewalk. So the interpretation is that the area beneath the canopy constitutes gross floor area. In this case it represents an additional 331 square feet into the building. The building has a -- I think it's approximately 90,000 square feet.

ANDREW DONOVAN: 86.

ATTORNEY JAMES RAFFERTY: 86,000 square feet.

Some people often suggest that my use of the term

modest is overused. I would say in comparison this qualifies as a modest increase.

It's probably worth noting that in the -- one of the questions of the standards of course for the Board is whether or not granting the relief is inconsistent with the integrity of the Ordinance or derogates from it. In this case buildings in this district can actually have greater GFA if they opt to go through the PUD process or the Special Permit process permitted in the Alewife Overlay District. Frankly it's a very cumbersome process. It requires multiple meetings by the Planning Board. And this was such a modest change that the Applicant upon advice thought that the more straightforward approach here would be to come before this Board and request the additional 331 square feet. The point being is that the additional square footage, even though it exceeds what the base zoning would allow in this Industry A1, it is well within the overall building and buildings could be permitted through the

overlay district dimensional requirements.

BRENDAN SULLIVAN: The current is 0.90. Do you know when the building was built that it complied with FAR?

ATTORNEY JAMES RAFFERTY: Oh, it did. It was 1.5 and then when the Alewife Overlay District was adopted --

BRENDAN SULLIVAN: It reduced that to 0.75?

ATTORNEY JAMES RAFFERTY: Yeah.

All of the, all of the Industry B District out there -- it was a funny kind of approach. They reduced the base zoning, but allowed for, and actually in some cases, increased the PUD -- I keep calling it the PUD, it's the overlay district zoning.

BRENDAN SULLIVAN: Right.

ATTORNEY JAMES RAFFERTY: So the idea was to --

BRENDAN SULLIVAN: With the Special Permit from the Planning Board?

ATTORNEY JAMES RAFFERTY: Planning Board. And the idea was to try to get buildings in.

But, no, it most definitely was a 00 it's clearly a lawful nonconforming structure built prior to the adoption of the revised dimensional requirements in 2005 or 2006. That's when the FAR in the Industry A-1 District in that area -- excuse me. I keep saying industry. It's Office 1.

BRENDAN SULLIVAN: Okay.

Any questions? Jim?

JIM MONTEVERDE: No, I'm all set.

BRENDAN SULLIVAN: Doug?

DOUGLAS MYERS: No questions.

BRENDAN SULLIVAN: Patrick?

PATRICK TEDESCO: No.

BRENDAN SULLIVAN: Andrea?

ANDREA HICKEY: No.

BRENDAN SULLIVAN: I'll open it to public. Is there anybody here wishes to speak on the matter 725 Concord Avenue?

(No Response.)

BRENDAN SULLIVAN: I see nobody. There is no correspondence in the file.

ATTORNEY JAMES RAFFERTY: We've spent hours preparing for this hearing. I told my client to anticipate a very vigorous inquiry.

ANDREW DONOVAN: We're not done yet.

ATTORNEY JAMES RAFFERTY: Oh, that's a good point. It may be premature. That's a good point, thank you.

BRENDAN SULLIVAN: All right, I will close whatever public comment there was.

Any final words of wisdom?

ATTORNEY JAMES RAFFERTY: I don't think on how I can improve on what I've already said.

BRENDAN SULLIVAN: Your presentation?

All right. Any concerns?

PATRICK TEDESCO: No.

JIM MONTEVERDE: None.

DOUGLAS MYERS: I'm familiar with this property.

My doctor was located in that building for 15 years or more, and it seems to me that this canopy in the rear would make the use of the building much more convenient. It being located in the rear is entirely reasonable, unobtrusive. It's completely consistent with the use of the building which is not inconsistent with the Zoning Ordinance.

BRENDAN SULLIVAN: On numerous occasions I have sat over in the parking lot waiting for people to come out and gone in after them and so on and so forth, and always said, you know what they really need at this place, is a canopy.

ANDREW DONOVAN: Here we are.

ANDREA HICKEY: You asked.

ANDREW DONOVAN: Thanks for the suggestion.

BRENDAN SULLIVAN: And when they built the building, why they didn't do it, you know? And given the nature of the clientele, the people. And, again, you see people coming out there in various stages of impaired

mobility and waiting for taxis, waiting for the RIDE,
waiting for everything.

DOUGLAS MYERS: There's an alcove, the entrance is recessed. If it's raining, you do get some shelter, but this would be a big improvement.

ANDREW DONOVAN: Oh, yeah.

ATTORNEY JAMES RAFFERTY: This was -- I mean, this was originally designed as a generic office building, a general office building. So I think it's only over time that the medical uses and medical offices have dominated. But you're right. I mean -- and it's a building that after it was constructed, I know from close observation, had many floors of vacancies for many years. It was built in the early, late 80s around the same time the Fantasia office building was built in that stretch along Concord Avenue. And it was -- when the office market dropped, that was a, that was a very -- not very active building. A lot of the floors were inactive. So it's proven to be very active.

It's as if -- it serves almost as a secondary location for walk-in and ambulatory services associated with Mount Auburn Hospital. So the parking as the biggest challenge as you know, anyone who goes there, most people drive by car. So -- and it's -- thank you, but I think it's one of those obvious.

BRENDAN SULLIVAN: Let me make a motion, then, to grant the relief requested to construct a canopy over the rear entrance of the existing office building as per the plans and specifications and the dimensional form submitted and initialed by the Chair.

The Board finds that a literal enforcement of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude the Petitioner from constructing this very desirable and much needed canopy over what has become really the primary entrance to the building for staff and patients.

The Board takes particular note that this

"technical" addition of square footage to the building is for the safety and protection of the patients from the elements and not for any marketable or monetary gain by the Petitioner.

And as such, the Board finds that the relief from the requirements of the Ordinance is quite fair and reasonable and a benefit to the community.

The Board finds that the hardship is owing to the pre-existing nonconformity of the building. The building was built according to the Ordinance, but that the zone had been changed some ten, twelve years ago, and as such reduced the FAR's hence any addition of this nature would trigger, would trigger relief from the this Board of the Ordinance.

The Board find that desirable relief may be granted without substantial detriment to the public good. In fact, it would be a benefit to the public good for this canopy.

And the Board finds that relief may be granted

without substantially nullifying or derogating from the intent and purpose of the Ordinance.

All those in favor of the granting the relief.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hickey, Tedesco, Myers, Monteverde.)

ATTORNEY JAMES RAFFERTY: Thank you very much.

* * * * *

(8:00 p.m.)

(Sitting Members Case BZA-012906-2017: Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim Monteverde.)

BRENDAN SULLIVAN: The Board will hear case No. 012906, 352 Pearl Street.

MARY McKEE: I have larger prints and photographs if you find them helpful.

BRENDAN SULLIVAN: Okay, sure.

MARY McKEE: My name is Mary McKee. I'm the architect representing --

BRENDAN SULLIVAN: You may want to pull that a little bit closer to you, Mary.

MARY McKEE: Is that better?

BRENDAN SULLIVAN: Yes.

MARY McKEE: Okay. I'm working with Cat and Jake Kaufman at 352 Pearl Street in Cambridge. We're applying for a Special Permit because the existing structure is non-conforming, and we would like to add windows along the side elevation of the house that is going over the existing setback line. Okay?

And so in the kitchen section of the house, the setback, the existing setback is 5.1 feet. Okay? Which is less than the required setback.

And the reason we want to add windows to that section of the house is because the kitchen itself is very

dark. And so we're actually shifting one window over that's looking -- currently looks directly into the neighbor's window. So creating some more privacy by shifting that window over. And we're adding transom windows there to add more light but not creating issues of privacy with the abutter.

In the living room, which is in the back of the house, there's -- the setback right now is 11.0 feet which is still greater than the setback. And that, that's a really large room. So right now it's used as a one big living room and we'd like to divide that space into living room and dining room. So we're shifting the windows over to define the living room space and then adding another window where the dining area would be.

So in terms of the zoning issues, the 8.22.2(c) we are not -- there's no impact on traffic or egress obviously. This is the side of the house. It doesn't impact the continued operation of the adjacent homes or have a negative

impact on the abutters.

We actually have letters from abutters on either side saying that they support the project. And the change is not gonna create a nuisance or a hazard to the detriment of health of or safety and welfare of the occupants or the citizens of the city.

The proposed project will not impair the integrity of the district. This -- the windows are on the side of the house which you can't see from the front, and we're not changing anything on the front elevation, the existing front elevation.

And in addition we are not changing any of the dimensional requirements of the structure.

BRENDAN SULLIVAN: And so you've spoken to the most affected neighbor and have been sensitive to their requests or their wanting to change some of the windows or the way that you're changing the windows satisfies them?

MARY McKEE: Yes.

BRENDAN SULLIVAN: Okay.

MARY McKEE: Yes.

BRENDAN SULLIVAN: And the reason you're doing it is realigning the interior space and also adding some much needed light and ventilation into an area that is starved for it right now?

MARY McKEE: Absolutely, yeah.

BRENDAN SULLIVAN: Okay.

MARY McKEE: You said that much more efficiently and eloquently than I did.

BRENDAN SULLIVAN: I've heard it many times.

JIM MONTEVERDE: Yeah, been there, done that. We have that stamp made up.

BRENDAN SULLIVAN: After a while you become a parrot, you know?

Any questions?

DOUGLAS MYERS: I have one. Can you show me the dimensional information sheet? I want to make sure I'm

right.

Thank you.

I have a question. It's not directly related to the subject of your Special Permit request, but it is apparently related to your application because it's in the dimensional information sheet. So I just raise the question. It looks as if you're reducing the existing height of the building from 36.96 to 35 --

MARY McKEE: Yes.

DOUGLAS MYERS: And that happens so rarely --

MARY McKEE: No.

DOUGLAS MYERS: -- that I really wanted to ask about that.

MARY McKEE: So the surveyor documented the building at I think it was, was it 36.5?

DOUGLAS MYERS: 36.965.

MARY McKEE: 36.96. And the actual requirement, if you look at the requirements for the buildings in that

zone, it says 35 feet. But we're not changing the height of the building.

DOUGLAS MYERS: Okay.

MARY McKEE: Just the windows.

BRENDAN SULLIVAN: So under requested conditions it would be the same, 36.96?

MARY McKEE: Yes.

JIM MONTEVERDE: No change.

BRENDAN SULLIVAN: Okay, so that's maybe just a clerical error.

DOUGLAS MYERS: Right.

BRENDAN SULLIVAN: Okay.

MARY McKEE: We're not shrinking it.

DOUGLAS MYERS: It wasn't in the plans, but it happens so rarely that I just wanted to ask.

MARY McKEE: No, that's a good catch, yeah.

DOUGLAS MYERS: Okay.

BRENDAN SULLIVAN: Anything else, Doug?

DOUGLAS MYERS: No.

BRENDAN SULLIVAN: Andrea, any questions at this point?

ANDREA HICKEY: No.

BRENDAN SULLIVAN: I'll open it up to public comment. There is correspondence in the file from 348-350 Pearl Street Condominium Association, 350 Pearl Street units 1 and 2. (Reading) To Whom It May Concern: We are supportive of the proposed renovation to the northeast facade of 352 Pearl Street assuming its designation as R3 occupancy and a greater than five-foot setback from the northeast property line. Assuming its designation is R3 occupancy and a greater than five-foot setback from the northeast property line. I think that assumption is correct. Sincerely Susannah Kramer Greenbaum G-R-E-E-N-B-A-U-M and Kelsey H-E-E-B-I-N-K, Heebink.

Correspondence April 6th. (Reading) To Whom It May Concern: We are the owners of 354 Pearl Street. We

have reviewed our neighbors' architectural plans for 352 and we support them. Leah Rugen R-U-G-E-N and Anthony Boral B-O-R-A-L.

That's the correspondence we have. You don't have anything else?

MARY McKEE: No.

BRENDAN SULLIVAN: Okay. And you have not received any negative response? Okay.

Let me close the public comment part. Anything else to add?

MARY McKEE: No.

BRENDAN SULLIVAN: No? Okay.

Any questions, concerns by the Board at all?

ANDREA HICKEY: No.

JIM MONTEVERDE: No.

BRENDAN SULLIVAN: Let me make a motion, then, to grant the Special Permit to remove and add windows on the side elevation of 352 Pearl Street as per the application

and initialled by the Chair.

You won't change these because if you do, you're going to have to come back. So these are pretty much all set. Okay.

The Board finds that it appears that the requirements of the Ordinance can be met with the granting of relief.

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

Continued operation of or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use.

There would not be any nuisance or hazard created to the detriment of the health, safety, and/or welfare of the occupants of the proposed use.

The Board notes that this will allow the Petitioner to increase both fenestration and light coming

into the house which is lacking in this particular area, and would not cause any health, safety, or detriment to other citizens of the city.

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

All those in favor of granting the relief of the Special Permit.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hickey, Tedesco, Myers, Monteverde.)

BRENDAN SULLIVAN: Okay, good luck.

MARY McKEE: Thank you.

* * * * *

(8:25 p.m.)

(Sitting Members Case BZA-012929-2017: Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim Monteverde.)

BRENDAN SULLIVAN: Let me call case No. 012929, 45 Richdale Avenue.

Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Thank you. James Rafferty on behalf of the Applicant. We filed a request earlier today with the Board requesting a continuance. The Applicant and his abutter have been in some recent conversations and the abutter's present tonight. And it was felt a little more time might facilitate a satisfactory resolution. So we contacted the other abutters, all of whom support the project. It's in a, if you had a chance to look at it, it's a unique application to make a single-family

residence out of an auto repair facility. So, but we do, we do want some more time to continue to talk with our abutter on the other side. So we're hoping if you had room in two weeks, we think it's the type of issue we can resolve in a relatively short order.

SEAN O'GRADY: I can give you June 8th. That's as soon as I got.

ATTORNEY JAMES RAFFERTY: If that's as soon, then we'll have to take it.

BRENDAN SULLIVAN: Let me make a motion, then, to continue this matter to June 8, 2017, at seven p.m. on the condition that the Petitioner's representative a sign of waiver of statutory requirement for the hearing and a decision to be rendered thereof.

Also that should there be any changes to the plans and the specifications, the dimensional form rather, that such changes be in the file by five p.m. on the Monday prior to June 8th.

Also that the posting sign be changed to reflect the new date of June 8, 2017; to reflect the new date and time, seven p.m. And that the sign be maintained in the statutory requirement 14 days prior to the June 8th hearing.

Any other conditions that we need? No? All those in favor?

ATTORNEY JAMES RAFFERTY: Case not heard?

ANDREA HICKEY: Not heard.

BRENDAN SULLIVAN: All those in favor of a continuing this matter?

(Show of hands.)

BRENDAN SULLIVAN: On the affirmative vote of four.

ATTORNEY JAMES RAFFERTY: Thank you very much gentlemen, Madam.

(Sullivan, Hickey, Myers, Monteverde.)

* * * * *

(8:30 p.m.)

(Sitting Members Case BZA-012852-2017: Brendan Sullivan,

Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim

Monteverde.)

BRENDAN SULLIVAN: The Board will hear case No. 012852, 10 Canal Park.

TIMOTHY GREENE: That's me.

BRENDAN SULLIVAN: Have you read the correspondence from the Planning Board?

TIMOTHY GREENE: I have not.

DOUGLAS MYERS: Your name?

TIMOTHY GREENE: Oh, my name is Timothy Greene appearing on behalf of the AT&T.

BRENDAN SULLIVAN: Me give me a couple minutes, Tim, to read it because you'll be asked to be quizzed on it.

TIMOTHY GREENE: Okay, yep.

DOUGLAS MYERS: May I, Brendan?

BRENDAN SULLIVAN: Yes.

TIMOTHY GREENE: It's like a general run the floor tonight.

BRENDAN SULLIVAN: You have two.

TIMOTHY GREENE: I have two. I don't see Rick here but he'll be here.

BRENDAN SULLIVAN: So a comment for it all. Okay, Tim, if you just again introduce yourself for the record, please.

TIMOTHY GREENE: Sure. My name's Tim Greene. I'm here on behalf of AT&T.

AT&T has an existing facility at 10 Canal Park.

AT&T is looking to make some changes to its equipment out there. It does not involve any antenna work at all. We requested a building permit and we were told to come here. Some of these without any antenna work, we've been getting building permits, this one didn't make it through. So we're here for a Special Permit going to be adding nine remote radio heads to the site. They will be -- six of them will be on equipment frames. They will be no more than four feet off the roof, approximately 30 to 40 feet back from the roof line. You can't see them. There

are pictures. I have -- I actually -- there was no reason -- I do have plans if anyone wants to see the plans, but there were really no reasons to do photo sims for this one because there's nothing to see. But I took -- we have actual photos of the roof. I'll pass this around, and it shows the equipment. The actual equipment up there.

DOUGLAS MYERS: And this is the case where you have no simulations of the proposed installation?

TIMOTHY GREENE: Correct, because there's nothing to see. But I'll show you what we're doing there.

If -- depending on what page, there's the one that says additional frame to be installed. See the small frame next to the penthouse? There will be another one added right in front of it. Plans show they're no more than four feet high. Again, they're about 30 feet back. And those units, the white boxes that you see on the frame, they're about 17 inches by 17 inches by 10, 12 inches, give or take.

DOUGLAS MYERS: Are these replacements?

TIMOTHY GREENE: These are additions.

DOUGLAS MYERS: These are additions.

TIMOTHY GREENE: These are additions.

So there are already remote radio units out there right now. You can see the antennas up above. These are down below. They don't, like I said, they just put another -- there's a frame there, another frame, be about that high, that's it.

BRENDAN SULLIVAN: So just increasing capacity, if you will; is that correct?

TIMOTHY GREENE: Yeah, if you will. I mean it's, the remote radio units, they work with different frequencies. It allows for the cell site to work better. It works hand in hand with the antennas, depending on, you know, the traffic on a particular site.

DOUGLAS MYERS: Do you have any comment or response to the letter of the Planning Board?

TIMOTHY GREENE: You know what, there's no issues

with that at all. Unfortunately for what we're doing right now we're not -- all those four comments are for antenna work. This isn't for any antenna work. But I mean conceptually I don't have issue with what they're saying.

DOUGLAS MYERS: So not one point is applicable to the installation you're talking about here?

TIMOTHY GREENE: I don't believe so. If you give it back to me. I'll make sure -- I'll see if I can extrapolate one just so I know.

No. 1's about antennas. So that doesn't apply.

Two, is position and spacing antennas for a line with the vertical lines. That doesn't apply.

Three, the mounting brackets and exposed cables, reducing the width of the brackets that exceed the width of the antennas. That would not apply.

All antennas across each facade should be the same length. That doesn't apply.

And all painted materials, including cabling,

should consistent matte finish, it doesn't apply to this, also. But I mean except I could maybe say five if there was units that we were gonna paint, I would -- I'm fine with that.

PATRICK TEDESCO: So you're not touching or changing the antennas at all or adding?

TIMOTHY GREENE: No.

JIM MONTEVERDE: I read it the same way. When I read the document, it doesn't seem like most of what was written on there was actually applicable.

TIMOTHY GREENE: No, I mean, I mean, I've been in front of you probably 12 or 15 times in the last two years. This isn't inconsistent with what the Planning Board, you know, has asked for in the past that we've done on other sites. So....

JIM MONTEVERDE: Okay.

PATRICK TEDESCO: And I took their comments to be global for all four of the cases that we're seeing tonight.

JIM MONTEVERDE: Right, yeah.

You're not touching the antenna. You're really doing the equipment piece that are sitting lower.

TIMOTHY GREENE: Correct. I would take it also that this is just a global like --

DOUGLAS MYERS: Standard.

TIMOTHY GREENE: -- standard. This is what we would like you to do. And, you know, I know that a couple of these, not to get into other ones, but Lesley College building we had had some issues where the antennas being up and having to move them down, because while they may have been at the facade when you looked at them, they looked like they were above. So bring them down lower. So these are things that we've complied with in the past on other sites. Just doesn't apply to this one.

DOUGLAS MYERS: Okay, you've answered my question. Thank you.

TIMOTHY GREENE: Yep.

BRENDAN SULLIVAN: Okay. Let me open it up to public comment.

Is there anybody here who wishes to speak on the matter of 10 Canal Park?

(No Response.)

BRENDAN SULLIVAN: The Board is in receipt of correspondence from the Planning Board, generic comments regarding telecoms before us.

The Board has determined that regarding 10 Canal Park that the comments are nonapplicable because this installation is in a different nature, and more specifically not in the public view at all. I will then close public comment.

Just going through some pro forma stuff. In reviewing the Special Permit application for mobile telecommunications facilities and in particular the Board shall consider the following:

The scope of or limitations imposed by any license

secured from any state or federal agency, and there are none.

TIMOTHY GREENE: Correct.

BRENDAN SULLIVAN: AT&T is -- to the extent to which the visual impact of the various elements of the proposed facility is minimized and the presentation is that there is not a view from the public way.

And it is not in a residential zone, so that does not apply.

Okay. So anybody have any questions? Concerns? Make a motion?

Let me make a motion, then, to grant the relief requested.

The Board finds that the -- this is a Special Permit to allow AT&T to install nine remote head units to the existing facilities as part of the upgrade. The remote radio units will be located out of the public view.

That the application is an eligible facility

request pursuant to Section 6409 of The Middle Class Tax Relief and Job Creation Act, and also as it requires a Special Permit under our Zoning Ordinance.

The Board finds that it appears that the requirements of the Ordinance can be met with the relief being granted.

Traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character.

Continued operation of, or development of adjacent uses, as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use.

There would not be any nuisance or hazard created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or citizens of the city.

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

The Board notes the existence of existing facilities at this location.

The Board also finds that modification of the existing telecommunication facility at the proposed site does not substantially change the physical dimensions of the existing wireless tower or the bay station at such facility within the meaning of Section 6409.

Based on the findings, I would move that the Petitioner be granted the Special Permit it is seeking subject to the following conditions:

That the work proceed in accordance with the plans submitted by the Petitioner and initialled by the Chair.

That upon completion of the work, the physical appearance and visual impact of the proposed work will be consistent with the photo simulations and submitted by the Petitioner and initialled by the Chair.

That the Petitioner shall at all times maintain and proposed work -- at all times maintain the proposed work

so that its physical appearance and visual impact will remain consistent with the photo simulations referred to.

That should the Petitioner cease to utilize the equipment approved tonight for a continuous period of six months or more, it shall properly thereafter be removed, and the building surface shall be reinstated to which it is -- to the prior condition and appearance to the extent reasonably practical.

That the Petitioner is in compliance with and will continue to comply with in all respects conditions imposed by the Board with regard to previous Special Permits regarding this facility granted to the Petitioner.

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

That the Petitioner shall file with the Inspectional Services Department each report it files with

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

That in the event that at any time federal authorities notify the Petitioner that its equipment on the site, including but not limited to the Special Permit granted tonight, fails to comply with the requirements of law or governmental regulations, whether with regard to the emissions of electromagnetic energy waves or otherwise, the Petitioner within ten business days of receipt of such notification of such failure, shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred, and the

basis for such claimed failure. The Special Permit granted tonight shall ipso facto terminate if any of the Petitioner's federal licenses are suspended, revoked, or terminated.

That to the extent the Special Permit has terminated pursuant to the foregoing paragraph A and B, the Petitioner may apply to this Board for a new Special Permit, provided that there's public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special Permit pursuant to paragraph A or B above.

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

That within ten business days after receipt of a building permit or the installation of the equipment subject to this petition, the Petitioner shall file with the

Inspectional Services Department a sworn Affidavit of the person in charge of the installation of equipment by the petitioner with a geographical area that includes Cambridge, stating that A, he or she has such responsibility. And B, that the equipment being installed pursuant to the Special Permit we are granting tonight will comply with all federal safety rules and will be situated and maintained in locations with appropriate barricades, if needed, and other projections such that individuals, including nearby residents and occupants of nearby structures, will be sufficiently protected from excessive radio frequency radiation under federal law.

Any other conditions?

(No Response.)

BRENDAN SULLIVAN: That pretty much covers everything I think.

DOUGLAS MYERS: Yes, I think that's sufficient.

BRENDAN SULLIVAN: That binds you to everything.

On the motion, then, to grant a Special Permit as
per the application, all those in favor?

(Show of hands.)

BRENDAN SULLIVAN: Five.

(Sullivan, Hickey, Tedesco, Myers, Monteverde.)

* * * * *

(8:45 p.m.)

(Sitting Members Case BZA-012853-2017: Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim Monteverde.)

BRENDAN SULLIVAN: The Board will hear case No. 012853, 675 Massachusetts Avenue.

Mr. Greene, if you would introduce your case.

TIMOTHY GREENE: Timothy Greene, here on behalf of AT&T who currently has an existing installation at 675 Mass. Ave. It's been there for quite a while. Last time it was in front of you, I believe was March of 2016. AT&T is looking to make a very small change to this site which is just to replace one single antenna. It is on the back of the building, not on the Mass. Ave. side. It's in the back. Replace one antenna. We would be replacing one remote radio unit and adding one remote radio unit.

It would look no different than what it is does right now. Like I said, it's on the back so the visual impact of it is absolutely --

BRENDAN SULLIVAN: Are you replacing one in kind?

TIMOTHY GREENE: Yes, replacing one antenna in kind.

BRENDAN SULLIVAN: And the reason for replacing it?

TIMOTHY GREENE: Just an upgrade of -- general upgrade of equipment. After a while the antennas don't do what you need them to do. They don't carry the exact frequencies that you need to carry. Antennas actually are set for specific frequencies. And if you have other frequencies, you decide you want to use Cambridge for any reason, whether it be capacity, interference, or the like, you need to change out the antennas.

DOUGLAS MYERS: On this application, I did not see any proposed simulations for existing locations one, two, and three.

TIMOTHY GREENE: One, two, and three. One and two -- well, two are not being touched at all. We put an

existing photos of the building itself. The antenna that's being done is on the back of the building, and was the photo -- it wasn't visible. Hypothetically, though, if you looked at -- the sectors all look the same. If you looked at one of the other sectors in the front, that's what would be changing on the back. It's an antenna that is --

DOUGLAS MYERS: So you're saying that the views --

TIMOTHY GREENE: The views, right --

DOUGLAS MYERS: -- are shown in existing locations one, two, and three, will be absolutely unaffected and unchanged?

TIMOTHY GREENE: Correct. The antenna is 48 inches long. It will be replaced with antenna that's 48 inches long. It does get -- it's 12 inches wide. It will be replaced with one that's 14 inches wide. So you're talking two inch difference, one inch on each side.

DOUGLAS MYERS: They won't be visible in those locations?

TIMOTHY GREENE: No, not in those locations, no. I think if you started moving back say east, if you started moving back east away from Mass. Ave. towards Broad -- I think Broadway.

PATRICK TEDESCO: That's north.

TIMOTHY GREENE: Is that north? I'm sorry. I'm trying to -- if I come up Mass. Ave. towards here and I take a right to go that way, that's north?

PATRICK TEDESCO: Yeah.

TIMOTHY GREENE: Okay. If I head north, after you hit about two, three blocks and you get yourself three, four hundred feet away and you look up, you might have an instance where you can see it. But you're not gonna notice anything, you know, a two-inch difference from four to five hundred feet away on the ground. Forget about being 175 feet in the air. It's not a material change at all. And then that's just the only -- that's the only location that's being affected. The other two are staying the same. It's

189 feet up.

BRENDAN SULLIVAN: Okay. Any other questions?

Jim?

JIM MONTEVERDE: No, sir.

BRENDAN SULLIVAN: Andrea? Patrick?

Let me open it up to public comment. Is there anybody here who wishes to speak on the matter 675 Massachusetts Avenue?

(No Response.)

BRENDAN SULLIVAN: There's nobody who wishes to speak.

There is correspondence from the Planning Board, staff comments, and those would be incorporated into the record.

The Petitioner has agreed. Is that correct, to where those are applicable?

TIMOTHY GREENE: They are not applicable for this one either. The -- sorry, the ones that they're talking

about are facade-mounted antennas. These are actually on mounts up on top of the roof. They wouldn't be applicable. These comments are for antennas that are currently located on the side of the building, with, you know, down below where these are not -- anything that would be applicable, we would, you know, we would comply with, like four. You know, all antennas across facade are the same length. You know, we would do that, I mean within three, four inches of each one. If we have a 48-inch antenna as opposed to 52-inch antenna. We don't have an eight footer and a three footer, that's what I'm going to say. They're all fundamentally the same size. And anything that's painted --

BRENDAN SULLIVAN: Anything painted.

TIMOTHY GREENE: -- would be of a consistent matte finish.

BRENDAN SULLIVAN: Okay.

Let me go through again pro forma for the record that the Board shall consider the scope of limitations

imposed by any license secured by any state or federal agency, and there are none for AT&T.

That the extent to which the visual impact of the various elements of the proposed facility is minimized. And the Petitioner has agreed that all painted materials, including cabling, will have a consistent matte finish to match existing?

TIMOTHY GREENE: Uh-huh.

BRENDAN SULLIVAN: Yes? Okay.

TIMOTHY GREENE: Nothing up there is painted at this site. We'll leave it the way it is.

BRENDAN SULLIVAN: That other effective means to reduce the visual impact of facility from the site.

The Board notes that the, this particular application is merely swapping one antenna for the other. That the new antenna is a reduced size from the existing, and as such, would be indistinguishable from the public way.

TIMOTHY GREENE: Same size. It's not really

reduced. It's 48 and 48 length wise.

BRENDAN SULLIVAN: Yes, but the width?

TIMOTHY GREENE: The width actually increases two inches. I don't know how you want to put that in there.

BRENDAN SULLIVAN: It is not in a residential zone?

TIMOTHY GREENE: No.

BRENDAN SULLIVAN: And so that is not applicable. Okay.

Let me make a motion, then, to grant. The Board finds that the relief can be granted. That it appears that the requirements of the Ordinance can be met with the granting of this relief.

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

The Board finds the continued operation of or development of adjacent uses as permitted in the Zoning

Ordinance would not be adversely affected by the nature of the proposed use.

There would not be any nuisance, hazard, created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city. The Board notes the existence of an existing facility location. And there has not been any reports of any detriment to the health, safety, and welfare of the occupants or to the citizens.

That the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

The Board also finds that the modification of the existing telecommunication facility at the site proposed by the Petitioner does not substantially change the physical dimensions of the existing wireless tower base station at such facility within the meaning of Section 6409 of The Middle Class Tax Relief Act, also known as The Spectrum Act.

Based on these findings, the Board moves that the Petitioner be granted the Special Permit it is seeking subject to the following conditions:

That the work proceed in accordance with the plans submitted by the Petitioner and initialled by the Chair.

That upon completion of the work, the physical appearance and visual impact of the proposed work will be consistent with the photo simulations submitted by the Petitioner and initialled by the Chair.

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

Should the Petitioner cease to utilize the equipment approved tonight for a continuous period of six months or more, it shall promptly thereafter remove such equipment and reinstate the building on which it is located to its prior condition and its appearance to the extent

reasonably practical.

That the Petitioner is in compliance with and will continue to comply with all respects the conditions imposed by this Board with regard to previous Special Permits granted to the Petitioner with regard to the site in question.

With the Board's permission, the narrative regarding the health effects of the transmission of electromagnetic energy waves, if that can be incorporated by reference, and that I can give a copy to the Petitioner and a copy to the stenographer so that that can be incorporated by reference with approval of the Board?

DOUGLAS MYERS: The Board approves. (Inasmuch as the health effects of the transmission of electromagnetic energy waves is a matter of ongoing societal concern and scientific study, the Special Permit is also subject to the following conditions:

One, the petitioner shall file with the

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

Two, in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the equipment permitted by the Special Permit granted tonight, fails to comply with requirements of law or governmental regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, the petitioner within ten business days of receipt of notification of such failure shall file with the Inspectional Services Department a report disclosing in

reasonable detail that such failure has occurred and the basis for such claimed failure, and sixty calendar days after receipt by the petitioner of such notification of failure, the Special Permit granted tonight shall ipso facto terminate.

Three, to the extent that a Special Permit has terminated pursuant to the foregoing paragraphs 1 and 2, the petitioner may apply to this Board for a new Special Permit, provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special permit pursuant to paragraphs 1 and 2 above.)

BRENDAN SULLIVAN: Many times. And that be a condition.

And I think that's it.

All those in favor of granting the Special Permit.

(Show of hands.)

BRENDAN SULLIVAN: Granted.

(Sullivan, Hickey, Tedesco, Myers, Monteverde.)

* * * * *

(9:00 p.m.)

(Sitting Members Case BZA-012889-2017: Brendan Sullivan,
Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim
Monteverde.)

BRENDAN SULLIVAN: The Board will hear case No.
012889, 300 Mount Auburn Street.

ERIC KALLIO: Good evening Mr. Chairperson
and -- all right, Dan's here.

ATTORNEY DANIEL GLISSMAN: Thanks for getting it

started. Good evening. Sorry for the delay.

DOUGLAS MYERS: No delay.

ATTORNEY DANIEL GLISSMAN: Dan Glissman, Prince, Lobel here on behalf of T-Mobile Northeast. I believe the first set that's up tonight is 300 Mount Auburn Street.

BRENDAN SULLIVAN: Dan, are you aware of the Planning Board's general comments?

ATTORNEY DANIEL GLISSMAN: For Mount Auburn Street? I wasn't aware that there were any. I was told the Planning Board had no comments for --

BRENDAN SULLIVAN: Well, they're sort of generic. If you want to spend two minutes.

ATTORNEY DANIEL GLISSMAN: Yes, thank you. I knew there were some comments on the next item on the agenda.

PATRICK TEDESCO: They're the same for both.

ANDREA HICKEY: They're just sort of general comments.

ATTORNEY DANIEL GLISSMAN: Thank you.

BRENDAN SULLIVAN: Okay. Your presentation.

ATTORNEY DANIEL GLISSMAN: Again, this is for T-Mobile at 300 Mount Auburn Street. T-Mobile currently operates three antennas at Mount Auburn Street on the -- they're installed on the light stanchions on the edge of one of the buildings. I have some photo simulations here that I'd like to pass around.

This proposed upgrade is part of T-Mobile's systemwide upgrade for their L700 and L1900 services. So they'll be proposing to add six antennas at this site. We have proposed to install four new antennas within faux flues that are positioned directly in front of an HVAC unit and painted to match that HVAC unit. They're installed, I believe the flues are about six feet and three inches in height and 24 inches in diameter. They're installed on top of mounts, ballast mounts at -- excuse me, not ballast mounts. Steel mounts that utilize existing support beams in the roof from that same HVAC unit, and they raise to about a

total height of ten feet.

The other two proposed antennas are to be installed on top of a -- or a facade mounted on a penthouse, stair penthouse and painted to match.

So this installation is consistent with previous installations. We believe it's consistent with the recommendations from this Board to stealth the equipment as best as possible, which is what we've done here with four out of the six antennas.

If you have any questions, I would be happy to answer them. I could walk you through any of the technical aspects of the application in terms of where and what the --

BRENDAN SULLIVAN: Do you know what the height of the existing equipment is there, that mechanical equipment that you're mounting in front of or --

ATTORNEY DANIEL GLISSMAN: I do.

BRENDAN SULLIVAN: -- using as a base?

ATTORNEY DANIEL GLISSMAN: 69 feet and four

inches.

BRENDAN SULLIVAN: I'm sorry?

ATTORNEY DANIEL GLISSMAN: The height of the equipment or the top height of it above the building?

BRENDAN SULLIVAN: Well, I guess how far does your equipment go up above it?

ATTORNEY DANIEL GLISSMAN: They're designed to be at the same height as the HVAC unit.

BRENDAN SULLIVAN: Okay.

DOUGLAS MYERS: If we're asking questions, then, and specifically with regard to what you just mentioned, as I look at the existing pictures in the east orientation and in the southeast orientation and then in the simulation pictures for each of those two orientations, it appears that new objects, antennas, facilities, are appearing on the sides of these HVAC objects where nothing has been shown in the existing picture; is that correct?

ATTORNEY DANIEL GLISSMAN: That's actually a stair

headhouse. So there's two sort of items. If you're looking at photo 4 maybe? Is that --

DOUGLAS MYERS: Well, I'm looking -- unfortunately, I'm looking at photo 1 and 2.

ATTORNEY DANIEL GLISSMAN: Okay.

Yeah, pages -- sorry, numbered 3 and 4.

DOUGLAS MYERS: What I refer to as the east orientation and the southeast orientation.

ATTORNEY DANIEL GLISSMAN: Yep. Oh, right, right. Okay. So on the --

BRENDAN SULLIVAN: You're talking 3 of 10 and 4 of 10?

ATTORNEY DANIEL GLISSMAN: Yep. And 5 of 10 and 6 of 10.

And so the first photos 3 of 10 and 4 of 10; 3 of 10 being the existent and 4 of 10 being the proposed. You can see the two new antennas that are facade mounted to the stair penthouse. And then kind of behind the tree, the lack

of foliage there, you can almost make out the new cannisters where the other two red arrows are. And then if you go to photo 5, you can see the HVAC unit but you can't really see the penthouse.

DOUGLAS MYERS: Okay.

ATTORNEY DANIEL GLISSMAN: So if you then go to photo 6, you see the four new cannisters, but you can't see the penthouse.

PATRICK TEDESCO: What's the diameter of the cannisters and flues?

ATTORNEY DANIEL GLISSMAN: 24 inches. Two feet.

PATRICK TEDESCO: And these antennas can't be side mounted the way they typically are? Is there a reason why they're sort of freestanding.

ATTORNEY DANIEL GLISSMAN: Yeah, it's based on the direction that they need the antennas to be facing so they have the coverage to hit certain sectors. This is kind of an oddly-shaped roof, if you will, and where they are and

what they're supposed to be pointing at. The two to the -- if you're looking at page 6 of the photo simulations, the southeast orientation. The two right most antennas would be pointing at one sector and the two left most antennas would be pointing -- so they essentially have their, the -- their backs to each other.

ANDREA HICKEY: Are they sitting on some sort of a frame?

ATTORNEY DANIEL GLISSMAN: Yes. Yep. And that frame attaches, it comes out of the frame for the HVAC unit.

DOUGLAS MYERS: Okay.

But in what sense -- let's take specifically the -- may I call them antennas?

ATTORNEY DANIEL GLISSMAN: Yes, absolutely. Or the -- well, go ahead.

DOUGLAS MYERS: If that's not the right word, tell me.

ATTORNEY DANIEL GLISSMAN: No, that's fine.

DOUGLAS MYERS: Is that okay?

Then let's take the pages, photo 4 for orientation south. Are we on the same page so to speak?

JIM MONTEVERDE: Page numbers are there.

DOUGLAS MYERS: I see them now. 9 of 10 and 10 of 10.

ATTORNEY DANIEL GLISSMAN: Sure.

DOUGLAS MYERS: And my question is on page 10 of 10 there are these new antennas, they appear to be four in number, they're shown on front of what is I think you've described as an HVAC unit.

ATTORNEY DANIEL GLISSMAN: Correct.

DOUGLAS MYERS: Correct?

In what sense are they replacing anything under 6409?

ATTORNEY DANIEL GLISSMAN: Well, so these are not replacing anything. These are new antennas.

DOUGLAS MYERS: Brand new?

ATTORNEY DANIEL GLISSMAN: Brand new antennas.

And they're actually -- what you see is not the antenna itself. You're seeing the stealth cannister.

DOUGLAS MYERS: The enclosure.

ATTORNEY DANIEL GLISSMAN: The enclosure your that's designed to look lie a flue. Which placed in front of the HVAC unit in an attempt to have some backdrop to it.

DOUGLAS MYERS: In a general sense, what is the justification under Section 6409 for having these absolutely new facilities placed in a portion of the roof where there are none before?

ATTORNEY DANIEL GLISSMAN: 6409 is in part designed for what's called the colocation of antennas, which could mean replacement but it certainly also means the addition of new antennas.

DOUGLAS MYERS: In addition to what?

ATTORNEY DANIEL GLISSMAN: The existing antennas.

So T-Mobile --

DOUGLAS MYERS: In what sense are you adding them to existing antennas? Merely because there are existing antennas on that roof?

ATTORNEY DANIEL GLISSMAN: Correct.

And under the definition of a substantial -- well, let me take a step back. Under 6409 you first have to have what's called a base station. And that would be something that houses antennas. In this sense, the rooftop is the base station and it houses an existing antenna installation. And under 6409 you can expand or add to that existing base station, in this sense the roof, with new antennas.

DOUGLAS MYERS: In your view under Section 6409 any place on the roof of this building?

ATTORNEY DANIEL GLISSMAN: Correct.

DOUGLAS MYERS: In your interpretation?

ATTORNEY DANIEL GLISSMAN: Correct. As long as you fall within the parameters that have been set forth by the FCC and their interpretation of Section 6409 and you

meet the six prong proposal -- the six prong criteria for 6409, it's our belief and understanding that this would comply with 6409.

BRENDAN SULLIVAN: Let me jump in here maybe for some clarification. The FCC in a report and order adopted October 17, 2014, determined that any modification to an existing telecommunication base station -- we would determine that this is a base station. Okay?

ATTORNEY DANIEL GLISSMAN: Correct.

BRENDAN SULLIVAN: That meets the following six criteria, do not substantially change the physical dimension of the existing base station and, therefore, is an eligible facility request which must be granted.

The modifications to the transmission equipment do not increase the height of the base station by more than ten percent or ten feet, whichever is greater.

Your presentation is that this does not?

ATTORNEY DANIEL GLISSMAN: Correct.

BRENDAN SULLIVAN: Okay.

The modifications to the transmission equipment do not protrude from the edges of the support structure by more than six feet.

And this does not?

ATTORNEY DANIEL GLISSMAN: Correct.

BRENDAN SULLIVAN: The modifications to the transmission equipment do not involve the installation of more than the standard number of equipment cabinets of the technology involved, not to exceed four.

And so you're really not adding transmission, the installation of equipment -- you're not installing any more equipment cabinets?

ATTORNEY DANIEL GLISSMAN: I believe there are -- is it two additional equipment cabinets? Let me just check.

BRENDAN SULLIVAN: Well, that was going to be my next question. Do you need to -- well, anyhow. So in

answering that question?

ERIC KALLIO: Actually there are no additional cabinets. What's there now for cabinets is what's going to be there in the end.

ATTORNEY DANIEL GLISSMAN: Is what would be used, yeah, correct.

BRENDAN SULLIVAN: Okay.

So that you satisfy that, not to exceed four.

The modification to the transmission equipment do not entail any excavation or deployment outside of the base station site.

And you do not.

The modification to the transmission equipment do not defeat any existing concealment or stealth design.

And you're saying that enclosing this in the cannisters do not, and that the other one or two antenna will be consistent with some of the other concealment, that is they'll be painted to the background --

ATTORNEY DANIEL GLISSMAN: Correct.

BRENDAN SULLIVAN: -- surface?

ATTORNEY DANIEL GLISSMAN: Correct.

BRENDAN SULLIVAN: The modifications to the transmission equipment comply with prior conditions of the approval of the base station unless the noncompliance is due to an increase in height, increase in width, addition of equipment cabinets, or new excavation that does not exceed the corresponding substantial changes, threshold numbers 1 through 4.

And your retort is that based on the foregoing, the proposed modification to the base station fully conforms to Section 6409(a) of The Spectrum Act and comply with the prior conditions of approval of the base station.

ATTORNEY DANIEL GLISSMAN: Correct.

BRENDAN SULLIVAN: Okay. So that's the six-prong test.

JIM MONTEVERDE: May I ask a question?

BRENDAN SULLIVAN: Yes.

JIM MONTEVERDE: I think there was a particular one there, and maybe it's the stealth or, it's that -- when you look at, and I'm looking at page 6 of 10. I mean, there's no question you're adding more stuff up there. The stealth is just the fact that you've painted it -- it's painted the same color as the air conditioning piece of equipment on the roof and it's arranged to be a stack, but it is -- there's no way it's stealth. It's there. It's proudly there, all four of them. So it's not attached to anything that are masking it. And you've picked a particular vantage point for the photograph that let's them blend into the air conditioning unit from behind. But as you travel behind it, and from the other view, it's kind of proudly there for all its circular magnitude. So I don't see the stealth. I get the color. I get the -- but it's like no, you put it in front of the equipment, you stand it proud toward the roof line. So I don't get one of the six

categories there.

PATRICK TEDESCO: I share the same comment. You can see them in profile freestanding. I believe you can, maybe not. But you're not really showing us the view -- there's the one view that's hidden by the foliage, but from the other direction coming I guess west down Memorial Drive you would see them.

JIM MONTEVERDE: Yeah, it's not like you put a screen around the entire assembly to actually shield it or stealth it.

PATRICK TEDESCO: Yeah. It's only --

JIM MONTEVERDE: It's just -- so, I have that concern.

ATTORNEY DANIEL GLISSMAN: Well, absolutely. Understood.

These four antennas are in fact stealthed in that you can't see them because they're, they're concealed within these flue chimneys. The flues themselves, that is the

technology by which antennas are generally stealthed. A flue cannister being similar to a screen wall, just in the intent that the antenna itself is not visible.

JIM MONTEVERDE: Otherwise it would be one of these?

ATTORNEY DANIEL GLISSMAN: Correct. Exactly. And that's T-Mobile's existing installation where they have the three antennas that you can see along the light stanchion. So that would be not stealthed. And the original conditions for this site required those antennas to be painted to match. That was the stealthing requirements for that installation. And we believe in this installation we've gone above and beyond that in that we're entirely concealing four out of the six new antennas and complying with the previous decision by painting the additional two antennas.

JIM MONTEVERDE: No, I get it. So inside that tube is actually that antenna?

ATTORNEY DANIEL GLISSMAN: Correct. It's a

slightly different antenna. It's a newer antenna. It's a six-foot antenna.

JIM MONTEVERDE: By something --

ATTORNEY DANIEL GLISSMAN: Yeah, I think --

JIM MONTEVERDE: -- the same 12, 14 inch?

ATTORNEY DANIEL GLISSMAN: Yeah, it's 18 inches maybe.

JIM MONTEVERDE: And in a tube that's double that width?

ATTORNEY DANIEL GLISSMAN: 24 inches in diameter, correct.

BRENDAN SULLIVAN: It's going to look like for sonar tubes.

ERIC KALLIO: Twelve inches.

PATRICK TEDESCO: I mean, I think the other issue I have, I agree with Jim, they're really only concealed when you see them dead on against the mechanical equipment.

The other issue I have is that you're bringing

them forward toward the front edge of the roof, the edge of the roof. And I, you know, again, I can't pretend to understand the technical requirements for placement of these, but when I look at the roof plan, and I think if they were, you know, to the right and back centered in the roof --

JIM MONTEVERDE: Right, correct.

PATRICK TEDESCO: -- and if they were maybe bundled together, I don't know if there's clearance between them, but it would seem to me if you, you know, push them to the middle of the roof which you always try to do with equipment so it's less visible and bundle them together, it may be less prominent. I don't know. I mean, I don't know if that's possible. Because I also think the extension of the steel that supports the equipment is also a visual impact. Because that's coming right up to the cornice line.

JIM MONTEVERDE: Yeah, there's nothing stealthy about it.

BRENDAN SULLIVAN: What is the material of the cannisters made of?

ATTORNEY DANIEL GLISSMAN: Give me one second.

BRENDAN SULLIVAN: Is it fiberglass or something?

ATTORNEY DANIEL GLISSMAN: Most likely. I'll just have to confirm. There's detail in here.

ERIC KALLIO: Yeah, it's a --

BRENDAN SULLIVAN: I guess my thought would be where I'm going with this is that rather than having four individual cannisters, why don't you locate the antennas and just have sort of a square fence-it-in type of thing to make it look like a piece of -- an extension of the equipment?

ATTORNEY DANIEL GLISSMAN: I think that's certainly that we could --

BRENDAN SULLIVAN: It would be -- I don't know if that -- you know where I'm going with that? Almost like fencing it in rather than having four individual sonar tubes there.

JIM MONTEVERDE: I mean that could -- your comment also about just where -- if you look where on the roof it's placed relative to the, you know, there are other things on the roof now. If what you place up there, you know, can appear to be more in concert with or in --

ANDREA HICKEY: Or integrated.

JIM MONTEVERDE: -- in combination -- or integrated with, as opposed to more boldly sitting in front of --

PATRICK TEDESCO: Right.

JIM MONTEVERDE: -- then it seems like there's kind of an equipment zone across the middle of that roof. If that works with the way you need to place it or direction it.

PATRICK TEDESCO: Yeah, or even if they were lined up against the side of the equipment so you're not pushing forward. I just see that area on the roof to the right and back a little bit as being free and clear. And I know that

there's interference and things you have to deal with.

ATTORNEY DANIEL GLISSMAN: Right.

PATRICK TEDESCO: I don't know if that works. But I would just ask if that's a possibility.

ATTORNEY DANIEL GLISSMAN: Right.

BRENDAN SULLIVAN: I guess what's happened is that you've made the antenna stealth. You don't hear it you don't see it, I guess. But the stealthing is what you're going to see which is more objectionable --

JIM MONTEVERDE: Yeah.

BRENDAN SULLIVAN: -- than that. In other words, you know, yeah, you've concealed the antenna, but not the concealment.

ATTORNEY DANIEL GLISSMAN: Correct.

JIM MONTEVERDE: And I assume you don't want to place the antenna naked as they could be painted to match on that air conditioning equipment because?

ATTORNEY DANIEL GLISSMAN: Well, well, so

initially we had proposed amongst the team just having the antennas ballast mounted to the best that they could in front of the HVAC. The reason that they are where they are, I presume, is based on the radio frequency tech's and engineer's tech's take on the rooftop, and where the antennas need to broadcast because of the existing equipment and structures on the roof, if they were say --

BRENDAN SULLIVAN: So you take advantage of the structural on the roof?

ATTORNEY DANIEL GLISSMAN: Right. If they were say here on the side of the HVAC unit, they would be directly right into this building and would be ineffective in terms of the signal that they would propagate.

And same on this side. The rest of the building is right here so they would be broadcasting directly into the hospital. So they need to be going out. And based on the style of this roof and the areas that they need to cover, typically cellphone installations have three sectors;

alpha, beta, and gamma sectors, that's how they define the area that they cover. And so here you have a situation where these two new antennas are broadcasting off the back of the building for the alpha sector. These two within the flues are broadcasting to the gamma sector, also in connection with one of the existing antennas that's right here. And then this existing antenna and these two new antennas are broadcasting out to the beta sector. So certainly we can check. I can work with our team a little bit closer to make sure that there's no alternative locations, but it's my understanding and I believe, Eric, you can probably back this up, that this is the, the area of the roof that provides the appropriate coverage and propagation for each antenna.

ERIC KALLIO: It is because what we're trying to do is cover that row that's right in front of the hospital there.

ATTORNEY DANIEL GLISSMAN: Right, Memorial Drive.

ERIC KALLIO: Memorial Drive. Hence is why that's an optimal location as opposed to putting it to the right there with that existing upper roof is --

ATTORNEY DANIEL GLISSMAN: Right. It's just based on the actual roof conditions, the existing mechanical equipment, and other building --

DOUGLAS MYERS: If you're going to make that inquiry, we would appreciate your determining whether there are other locations for these enclosures that would provide reasonably acceptable results for broadcasting yet would be somewhat accommodative of the points the Board is making. Instead of your coming back and saying no, we can't do anything for you. I would appreciate your giving specific attention to other possible locations and telling us why other possible locations, to the degree they might be suitable for you and yet moving in the direction of accommodating the point that Board members are making.

ATTORNEY DANIEL GLISSMAN: Absolutely.

BRENDAN SULLIVAN: Is there any thoughts on improving the cannisters?

PATRICK TEDESCO: Well, I mean I think --

BRENDAN SULLIVAN: If they can be moved away, then that's one thing.

PATRICK TEDESCO: Yeah. I mean, I think if they're in front of the equipment and painting them the same color as the equipment seems to make sense to me. It's just if they can somehow -- if they can't be moved, if they can be concentrated maybe. Or if 24 inches is the minimum diameter. It just seems like that they look like sort of chimneys in the profile, and at certain vantage points as freestanding. Maybe there's a clearance that's required that has to do with interference. Fair enough. Maybe the 24 is as small as they can be. You know, I understand that. But it just seems it would be good to test that.

ERIC KALLIO: It seems that the cannisters themselves are the point of concern, I mean --

ANDREA HICKEY: I think --

DOUGLAS MYERS: Is there an easier location?

ERIC KALLIO: I mean, but what if --

BRENDAN SULLIVAN: They're rather prominent.

ERIC KALLIO: -- we don't put the cannisters on there and then painted the antenna itself? Then it would be less visible --

JIM MONTEVERDE: That was my first thought. Well, what is actually in there? What's so objectionable that you put the big can over it? I think taking the big can off, you're looking at the same antennas that are elsewhere, I think we would have the same concern but phrased differently. There's no stealth here. Or the stealth isn't just, you know, containing it in a larger volume because it just, you know, it isn't stealth. It isn't -- it's not going away at all. It's not mounted to something and trying to look a part of anything else. It's still sitting in front, proud, and very large.

ATTORNEY DANIEL GLISSMAN: Typically we have generally, if possible, always tried to screen antennas at the request of the this Board. However, we would be more than happy to present to you an option without any screen. And I also think that I hear an option with one entire screen wall?

PATRICK TEDESCO: I think that --

ATTORNEY DANIEL GLISSMAN: And if we did in fact go that route, would you prefer the screen wall to attempt to extend all the way down or still showing some of the support mounting?

PATRICK TEDESCO: I don't know. I think it's less the mounting.

BRENDAN SULLIVAN: You're going to have to be careful not to interfere with the operation of the equipment, too. Because it looks like --

ATTORNEY DANIEL GLISSMAN: Access the equipment, too.

BRENDAN SULLIVAN: There's a fresh air intake.

PATRICK TEDESCO: Maybe a perforated screen or raise it up. I think that's worth exploring.

JIM MONTEVERDE: But I think in priorities it's the location. Is there any alternative location on the roof?

ATTORNEY DANIEL GLISSMAN: Yes.

JIM MONTEVERDE: That either somehow clusters it around that whatever else is on the roof so it doesn't again stand in front and sort of proud on that front face toward Memorial Drive. And then do you have another way to, if in fact you can reposition it and someone can look at it and say well, do you really need to then shield -- you know, cover it, enclose it. And if you do enclose it, is one enclosure better than two? I think it's trying to be as simple as possible, not as complicated and as many number of pieces as possible.

BRENDAN SULLIVAN: Okay. Let me just -- did I

open it up to public comment? I don't think I did.

ANDREA HICKEY: I don't think you did.

BRENDAN SULLIVAN: Let me open it to public comment. Is there anybody here who would like to comment on the proposal at 300 Mount Auburn Street?

(No Response.)

BRENDAN SULLIVAN: I see none. There is nobody in attendance. There is communication from the Community Development Department, generic comments regarding all cellular antenna cases tonight.

I will close public comment.

So, you've heard our comments and probably we will continue this matter. We can digest the comments.

Sean, what would be -- well, what would be a date?

SEAN O'GRADY: 6/8. June 8th.

BRENDAN SULLIVAN: Would that work for you, June 8th?

ATTORNEY DANIEL GLISSMAN: Yes, absolutely.

ERIC KALLIO: Yeah, works for me.

BRENDAN SULLIVAN: About a month's time?

ATTORNEY DANIEL GLISSMAN: Yes, that sounds like a time for us to --

BRENDAN SULLIVAN: Let me make a motion, then, to continue this matter to June 8, 2017, at seven p.m. as a case heard.

Everybody can make it?

ANDREA HICKEY: Yes.

PATRICK TEDESCO: Let me just double check. I'm pretty sure I can.

DOUGLAS MYERS: Yes.

JIM MONTEVERDE: Yes.

PATRICK TEDESCO: Yes.

BRENDAN SULLIVAN: On the condition that the Petitioner sign a waiver for a statutory requirement for a hearing and a decision to be rendered thereof.

And that any changes to the submissions in the

file by five p.m. on the Monday prior to June 8th.

That the Petitioner change the posting sign to reflect the -- is there just one sign or more than one sign?

ATTORNEY DANIEL GLISSMAN: Two signs that we posted here.

BRENDAN SULLIVAN: Two signs.

That the Petitioner change the posting signs, plural, to reflect the new date of June 8, 2017, at seven p.m., and that they be maintained for the statutory requirement of 14 days prior to the hearing.

All those -- yes.

DOUGLAS MYERS: Before we vote. May I ask whether you're able to submit with any revisions, new simulations for any locations that you're actually willing to propose?

ATTORNEY DANIEL GLISSMAN: We'll prepare photo simulations and updated plans for any -- for any revisions that we can make and we'll make sure to have that to the Board the Friday prior to the hearing.

DOUGLAS MYERS: In a timely manner.

ATTORNEY DANIEL GLISSMAN: Correct.

BRENDAN SULLIVAN: That's a good point on the
photo sims, yes.

All right, on the motion to continue this matter?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hickey, Tedesco, Myers, Monteverde.)

* * * * *

(9:30 p.m.)

(Sitting Members Case BZA-012896-2017: Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim Monteverde.)

BRENDAN SULLIVAN: The Board will hear case No. 012895, 14 Arrow Street.

ATTORNEY DANIEL GLISSMAN: Again, Daniel Glissman, attorney with Prince, Lobel, Tye, here on behalf of my client T-Mobile Northeast.

We're here proposing a mechanical upgrade to our existing installation at -- on the smokestack located at 14 Arrow Street. This is in the Office 3 Zoning District in

Harvard Square Overlay District.

T-Mobile currently operates six antennas installed along the facade of the smokestack, and we are proposing to replace three of those antennas with three new antennas.

The new antennas are almost identical to the existing antennas. They're the newest model air antennas, but they are 1.6 inches larger, longer. So the difference is quite minimal. And we do believe that this falls squarely within Section 6409. Again, this is a replacement of three existing antennas with three new upgraded antennas.

We did talk with the Commissioner, the Building Commissioner regarding the potential to go directly to a building permit for this project in that it's a strictly mechanical upgrade, technological upgrade, if you will. However, we ended up still filing a Special Permit application and relief under 6409 of The Middle Class Tax Relief Act.

I'm happy to answer any questions. I believe it's

pretty straightforward installation.

BRENDAN SULLIVAN: Okay, I just gave you the Harvard Square Advisory Committee -- are you familiar with that?

ATTORNEY DANIEL GLISSMAN: Correct, yes. I did look at this. I worked with the Planning Board, and the Harvard Square Advisory Committee elected not to hold a formal meeting for this installation, however, they did submit some commentary. We believe that we currently comply with all of these and can comply with any additional -- anything else that's added in here. There's one correction on this. They state that the -- they comment that the application includes the addition of new antennas as well as the replacement of existing ones and all should be similar. In fact, we are only replacing antennas in this installation.

BRENDAN SULLIVAN: Okay.

ATTORNEY DANIEL GLISSMAN: But we're happy to

refinish the existing antennas and ensure that the new replacement antennas are painted to match the facade.

BRENDAN SULLIVAN: Okay, so all of your equipment that's up there will be refinished, repainted to match?

ATTORNEY DANIEL GLISSMAN: Correct.

BRENDAN SULLIVAN: Okay.

Questions by the Board? Anything?

ANDREA HICKEY: Nothing.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on the installation at 14 Arrow Street?

(No Response.)

BRENDAN SULLIVAN: I see none.

There is correspondence filed from the Harvard Square Advisory Committee. (Reading) To the Board of Zoning Appeal: The Harvard Square Advisory Committee did not convene to discuss the antenna application of 14 Arrow

Street, but some members did submit comments on the installation based on submitting materials. Committee members recommended that all antenna be uniform and consistent in layout and mounting to minimize visual disruption. The tops of all antennas should be aligned at the same height and below the top of the stack to minimize the impact on the skyline of the stack. The application includes the addition of new antenna as well as replacement of existing ones and all should be similar. Also it may be the time for the existing remaining antenna to be refinished to match the new antenna to be installed, and that the finish be matte and not shiny. But any antenna or mounting equipment is no longer in service it should be promptly removed, which is a standard condition of the Board.

There is correspondence from the Community Development Department generic regarding all BZA cellular cases tonight, and that is incorporated by reference.

Okay, anything else to add?

ATTORNEY DANIEL GLISSMAN: No, thank you.

BRENDAN SULLIVAN: Okay.

Going through the pro forma. In reviewing the permits for application for mobile communication facilities the Board should consider the following in reaching its determination:

The scope or limitations imposed by any license secured through any state or federal agencies having jurisdiction over such matters, and there are none.

The extent to which the visual impact of various elements of the proposed facility is minimized.

And to the use of existing mechanical elements on the building roof or other features as supporting background through the use of materials that in texture and color blend with the materials, the Petitioner has agreed to paint the new antenna and the existing ones to match.

Other effective means to reduce the visual impact. This is in an Office 3 Zone so that the residential criteria

does not apply.

Let me make a motion, then, to grant the Special Permit.

The Board finds that it appears that the requirements of the Ordinance can be met with the granting of this relief, but finds that traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character.

The continued operation of or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use.

There would not be any nuisance or hazard created to the detriment of the health, safety, and or welfare of the occupant of the proposed use or to the citizens of the City. The Board notes that there is an existing facility at this location and no such reporting of any detriment to the health, safety, and welfare to the occupants or the citizens

has ever been reported.

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

The Chair moves that the Board finds that the modifications of the existing telecommunication facility at the site proposed by the Petitioner does not substantially change the physical dimension of the existing wireless tower or base station at such facility within the meaning of Section 6409(a) of The Middle Class Tax Relief and Job Creation Act, also known as The Spectrum Act.

Based on findings, the Board moves that the Petitioner be granted the Special Permit it is seeking subject to the following conditions:

That the work proceed in accordance with the plans submitted the Petitioner and initialled by the Chair.

That upon completion of the work the physical appearance and visual impact to the proposed work will be

consistent with the photo simulations submitted by the Petitioner and initialled by the Chair.

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

That should the petition cease to utilize the equipment approved tonight for a continuous period of six months or more, it shall promptly thereafter remove such equipment and reinstate the building in which it is located to its prior condition and appearance to the extent reasonably practical.

That the Petitioner is in compliance with and will comply -- continue to comply within all respects, the conditions imposed by this Board with regard to previous Special Permits granted to the Petitioner with regard to the site in question.

Additionally, regarding the health effects of the

transmission of electromagnetic energy waves, the Petitioner is aware of the Board's position on that. I would like to incorporate those findings by reference and not have to repeat them. You've been given copies of that.

ATTORNEY DANIEL GLISSMAN: Correct.

BRENDAN SULLIVAN: And agreed to those, to the extent possible.

ATTORNEY DANIEL GLISSMAN: Correct.

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

One, the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emanating from all of the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten

business days after the report has been filed with the federal authorities. Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

Two, in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the equipment permitted by the Special Permit granted tonight, fails to comply with requirements of law or governmental regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, the petitioner within ten business days of receipt of notification of such failure shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure, and sixty calendar days after receipt by the petitioner of such notification of failure, the Special Permit granted tonight shall ipso facto terminate.

Three, to the extent that a Special Permit has terminated pursuant to the foregoing paragraphs 1 and 2, the petitioner may apply to this Board for a new Special Permit, provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special permit pursuant to paragraphs 1 and 2 above.)

BRENDAN SULLIVAN: Okay.

Any other conditions?

JIM MONTEVERDE: No.

DOUGLAS MYERS: No.

BRENDAN SULLIVAN: On the motion, then, to grant the Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hickey, Tedesco, Myers, Monteverde.)

ATTORNEY DANIEL GLISSMAN: Thank you.

* * * * *

(9:40 p.m.)

(Sitting Members Case BZA-013035-2017: Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Douglas Myers, Jim Monteverde.)

BRENDAN SULLIVAN: The Board will hear case No. 013035, 382 Huron Avenue.

Is there anybody wishes to speak? If you would clearly state your name, spell your last name, and give your address for the record. You're on.

LINDSAY GIBSON: Hi. My name is Lindsay Gibson and I am at -- my address is 16 Clinton Street, Cambridge. And I'm petitioning to change the zoning from classification of 382 from office to yoga studio.

BRENDAN SULLIVAN: Okay. And why this particular

location?

LINDSAY GIBSON: Because -- well, this particular location, because I've been in the Observatory Hill -- I was on Concord Ave. and had been in the Observatory Hill Huron Village area for 18 years and most of my clientele is in this neighborhood.

BRENDAN SULLIVAN: How long have you been in operation?

LINDSAY GIBSON: Twenty years.

BRENDAN SULLIVAN: Twenty years?

LINDSAY GIBSON: This year.

DOUGLAS MYERS: And lastly at what address most recently?

LINDSAY GIBSON: 223 Concord Ave., and we had to move.

DOUGLAS MYERS: And where is that on Concord Avenue?

LINDSAY GIBSON: It's right -- it's in between

Huron and Walden. It's right across from Hi-Rise next to where Local Foods was.

DOUGLAS MYERS: Okay, that's fine.

BRENDAN SULLIVAN: Okay.

This is a Variance to convert an office use to a yoga studio. This particular location was changed from residence to office use. It's one of -- I think it's one of the first cases I sat back in 1988 or so; is that correct?

LINDSAY GIBSON: Uh-huh.

BRENDAN SULLIVAN: Doctor Mongalo used it as his office. And then subsequent to that it has always sort of been office use. A contractor was in there. I don't know what's in there now. But at various times it's always been used as an office and it seems to work. There is a --

LINDSAY GIBSON: There was a book publisher and it was just before -- about two years ago was a web design and brand design firm. And they're actually down on the first floor now.

BRENDAN SULLIVAN: Okay.

The parking area in back, do you have access to that?

LINDSAY GIBSON: Uh-huh. We have access to some of the spots.

BRENDAN SULLIVAN: As there's at least 10 parking spaces --

LINDSAY GIBSON: Ten or 12 spots back there, yeah.

BRENDAN SULLIVAN: Ten spots in parking. Okay.

ANDREA HICKEY: How many of those do you have access to?

LINDSAY GIBSON: I have access to six if I need them.

ANDREA HICKEY: And is your intent to use those for clients or staff?

LINDSAY GIBSON: Well, most of my clients walk to the studio, walk or ride bikes. So it's really a small yoga studio. And I'm downsizing coming from Concord Ave. So my

studio was bigger on Concord Ave., but coming to -- going to Huron it will be smaller. So -- but most of our clients, my clients walk or ride their bikes to the studio.

And then so it will be either for people who need to park -- if they do need to park or staff. But I also hire a lot of people who live locally, too.

BRENDAN SULLIVAN: Sean, the classification of this is -- I thought vocational school?

SEAN O'GRADY: Yes, vocational school, that's correct. That's, that's as close as we could get when yoga came along.

LINDSAY GIBSON: I know.

SEAN O'GRADY: It's odd.

LINDSAY GIBSON: Because 30 years ago yoga studios didn't exist when the zoning laws were done. Or maybe they didn't, I don't know where they were 30 years ago. But not -- you didn't have them everywhere.

PATRICK TEDESCO: Physical therapy.

BRENDAN SULLIVAN: I was thinking more of a health, a health type of....

PATRICK TEDESCO: Just curious. Is it office?

SEAN O'GRADY: It's -- no, it's actually an institution use. And it was based on the similarity of impact of people coming to the site. It's -- there are classes, a group of people show up at a time and so it's not obvious but it's actually not a bad fit.

PATRICK TEDESCO: I was just curious.

BRENDAN SULLIVAN: Okay.

DOUGLAS MYERS: So that is the use that we're being asked to approve?

SEAN O'GRADY: That is the category that you're being asked to approve, right.

BRENDAN SULLIVAN: We can limit it to a yoga studio? We cannot limit it to this Petitioner because it's a Variance?

SEAN O'GRADY: That's correct.

BRENDAN SULLIVAN: A Special Permit we could.

SEAN O'GRADY: Right.

BRENDAN SULLIVAN: We could limit it to a yoga studio and the impact that a yoga studio and the benefit that a yoga studio has in the neighborhood rather than a vocational school?

SEAN O'GRADY: You can get as tight as a yoga studio or as loose as the advertisement, which could be any vocational school.

BRENDAN SULLIVAN: Okay. Well that's something to ponder I guess as we proceed then. Okay.

Any questions by members of the Board?

DOUGLAS MYERS: Not at this point.

JIM MONTEVERDE: Do you know the approximate floor area of the building that you're using it for the studio roughly?

LINDSAY GIBSON: It's small. It's about, I think the whole space is about 1100 square feet. But then where

the actual classes will be --

JIM MONTEVERDE: Right.

LINDSAY GIBSON: -- is about, it's about 600, 700 feet. So five to ten people is what we're looking at but -- if that helps.

JIM MONTEVERDE: Yep.

LINDSAY GIBSON: We are partnering with Harvard Epworth United Methodist Church where I'll hold bigger classes. So that just -- because we did have bigger classes in the other studio, so those will be held over on Mass. Ave.

JIM MONTEVERDE: Okay, great. Thank you.

DOUGLAS MYERS: You said five or six students?

LINDSAY GIBSON: Five to ten max, but it's usually around five or eight. Yeah. We specialize in small specialty classes and private lessons.

ANDREA HICKEY: On an average how many students do you serve let's say on a weekly basis? Just on an average.

LINDSAY GIBSON: I mean, so this is different because I'm downsizing here. So, again, the classes -- like I do a privates, private classes. And then usually the classes would average about six. And then if you've got privates coming in, that's just one person.

ANDREA HICKEY: So on a weekly basis how many people off the street might be --

LINDSAY GIBSON: So I'm not up and running in this location, so I mean to go from where I was, we did have more, but those are, those larger numbers are going to Harvard Epworth.

DOUGLAS MYERS: Well, for example, you'd like to see how many classes per day.

ANDREA HICKEY: Right, your optimal sort of number.

DOUGLAS MYERS: What you reasonably want or anticipate?

LINDSAY GIBSON: Yeah, so I have -- we have three

or four classes a day averaging about four -- about five people. So then 20 people. And then add another ten people -- I mean, six people for privates. So you've got about 25 people coming through a day.

DOUGLAS MYERS: Six days a week?

LINDSAY GIBSON: Uh-huh. And then -- but these are -- but a lot of these people are repeats, too. So they're coming in two or three times a week. And these are all neighborhood people who will also base -- will shop in the local stores, too. I mean it's, it's sad because a lot of our clients went to Hi-Rise, went to Sarah's, and now, you know, they're being relocated, but they'll bring their business to Fresh Pond Market where the owners of the store of the property were at. But they'll also go to the Village Kitchen, they'll go to J. Miles, Magic Beans, so all of the businesses sort of work synergistically together. The neighboring businesses. And I actually have petitions from all the business, the local businesses, too. And the

abutters, too.

BRENDAN SULLIVAN: Any other question?

ANDREA HICKEY: No.

BRENDAN SULLIVAN: Let me open it to public comments.

Is there anybody who wishes to comment on this matter, the 382 Huron Avenue?

Yes, if you'd please give your name, possibly spell your last name, and address.

ANDREA HICKEY: We'd like you to come up just so everyone can hear.

EILEEN WOODFORD: My name is Eileen Woodford. I live at 25 Corporal Burns Road in Cambridge. And the last name is W-O-O-D-F-O-R-D. And I started -- I chose to come to Majestic Yoga two years ago because I could walk to it. I deliberately chose it because I didn't want to get in the car. I wanted to walk to my yoga studio. It just seemed ridiculous to get in the car to be able to exercise and get

healthier, right? Once I got to Majestic what I found there was not just an excellent yoga teacher, but a whole community of friends, many of whom are here with us tonight. And the prospect of the studio closing and moving somewhere else was really pretty tough to imagine my life not having it there. When this opportunity came up to have the studio moved to Huron Village, it was just an extraordinary opportunity for us to, as a community and as a business, to relocate into a place that has been really hard hit by the road construction there over the past three years. And the businesses have been suffering. I often -- I'm a customer at the bank. I go to the bank. I love the pizza. I eat too much of the pizza. The businesses have been having a really tough time when I went to go buy a necklace at Suzie's, I actually had to go down the street to her sister's shop because Suzie can't support the business full time. She had to go get two other jobs to -- because she wasn't getting the traffic in her store anymore. So this is

an opportunity for a lot of the neighborhood residents to be able to come to the village a little bit more often. I go to the studio at least twice a week. And I'm urging you to support the petition for the Variance because I think it is an economically sustainable business that has been here for 20 years. It's a locally-owned business. It's a woman-owned business. This is exactly the kind of small local business we do want to see in Cambridge, that is having a tough time with the rising rents and the commercial space, and is getting priced out by either chains or being demolished for other types of use. It's a business that will not only add to the economic vitality of Huron Village, but will also be part of making what Cambridge is supposed to be, this really incredibly liveable, wonderful place to be where we do know and see each other and have an opportunity to be a community. So I urge you to grant the Variance.

ANDREA HICKEY: Thank you.

EILEEN WOODFORD: Thank you.

BRENDAN SULLIVAN: Thank you.

EILEEN WOODFORD: And this is the letter that I was not able to....

BRENDAN SULLIVAN: Great.

Anybody else wish to speak on the matter? Yes.

JAMES McCORMACK: Hi, I'm James McCormack, 81 Fresh Pond Parkway, Cambridge, Massachusetts. I'm student at Majestic Yoga but I'm also a homeowner of about 25 years, my wife and daughter, within walking distance of Huron Village. We love Huron Village. It's, it's everything I think a neighborhood should be; going to their shops, frequenting almost on a daily basis. I would not want anything to have a harmful impact on the village, and I think -- rather than harmful, I think Majestic Yoga Studio would have a very positive impact. It's not just perhaps economic values, but also in terms of the people who would be there. We're not talking about large crowds of

individuals coming to the yoga studio. I don't know, I couldn't hear all of it, but the classes are -- it's usually one class at a time, five to ten people. So it's not like you're gonna have huge crowds of people attending this studio at one period of time. And again, there's, I'd be happy to -- the students I do know might not be from that particular area, I'm more than happy to show them the advantages of Huron Village, with the kitchen, the Fresh Pond Market, Marimekko, there's just so much that's there that's just so wonderful. And again, I think this would be a positive asset to the village and that's why I hope you will vote favorably upon this petition.

BRENDAN SULLIVAN: Thank you.

Anybody else wish to comment? Yes, Ma'am.

NAN STONE: Good evening. My name is Nan Stone.

I just wanted to add something. I sent a letter in that I think you have in your packet. But one of the things that hasn't been mentioned is that Lindsay has set up a

non-profit that does every month essentially a community retreat, which I'm guessing will be, because it's big enough, it will be down at Harvard Epworth rather than in the site. But it's a gift to the community. And the -- I mean I've gone a number of times and many of the people who come are people who otherwise can't do yoga. And it's an all afternoon retreat and it's exercise and a little meditation. And but I mean she also habitually raises funds for local charities. She supports the kids when they come around for school stuff. I mean, it really -- Majestic really is a piece of the Huron Village fabric in the neighborhood. And so it was -- I mean, one of the previous speakers said how awful it would have been if she couldn't have stayed in the neighborhood. She's been looking for months to find a place to relocate to stay in. So I hope that you'll support the petition.

BRENDAN SULLIVAN: All right, thank you. Ma'am.

CAROL WEINHAUS: Hello, thank you. My name is

Carol Weinhaus. That's spelled W-E-I-N-H-A-U-S. I live at 271 Concord Ave., which is just down the street from Lindsay's former studio. I'm not a student. I'm part of a group that's very informal of residents and businesses, and we've been trying for the past three years to preserve the business residential mix of what it means to live in a city. And so that what we discovered is there's an ecology where the local businesses help reinforce each other. So you can go to the doctors, go eat, go to the supermarket, go to the bank. And when we were going to lose Lindsay, it was a huge loss. I'm, along with one of my other neighbors, we wrote a letter and submitted it, but we were doing descriptions when we first started looking as a neighborhood, at what the businesses meant that we found they did far more than just run a business. They hire local people. They give to local charities. One of the things not mentioned is during the Christmas stroll that was done on Observatory Hill, Lindsay opened her studio and the whole studio was just supporting

local artists. So she's been a wonderful neighbor. The students that I know all walk to the studio. It's a very quiet environment. So even when you go in there, because the classes are going on, it's very quiet. And she's just a wonderful human being as well.

So thank you very much.

BRENDAN SULLIVAN: Okay. Anybody else wish to comment?

COUNCILLOR DENNIS CARLONE: My name is Dennis Carlone. I met Lindsay a little more than a year ago, and clearly I'm not one of her students, but --

BRENDAN SULLIVAN: Why not?

COUNCILLOR DENNIS CARLONE: I workout three days a week.

BRENDAN SULLIVAN: That's a whole other story.

COUNCILLOR DENNIS CARLONE: But you can't tell that either. But what I've learned, we are in an effort to refine zoning in this Concord Avenue retail area pretty much

to preserve what's there, the mix that you heard described that's so ideal. And I think one advantage of being considered a vocational school you can probably raise your rates. But what I've learned is Lindsay's a community builder. And anybody in urban design knows that's what makes a village center, a community builder. It can be different uses, but some uses really extend out. And I've been amazed that when people learned I was trying to help Lindsay look for other spaces or talk about zoning, if you think this one's a difficult zoning issue, we had some other ones coming that would never work. But you've been looking almost two years now?

LINDSAY GIBSON: Yeah.

COUNCILLOR DENNIS CARLONE: And this is about as close to an existing retail business district that Lindsay could find, and low and behold it's an office building. But this is an asset. And I almost wish in zoning, in urban design, we had that category, a community builder. What are

those -- you know, we can think of others, but what are those uses? So it isn't just a yoga studio, it's really a communication and dare I say, love. I'm sure that's not been mentioned at the BZA before, but there's that -- I'm astonished. I don't know all the people behind me, but the other people I've met who just think the world of Lindsay, this is an asset.

So she has looked everywhere for space, and I mean everywhere. But she wanted to stay as close to her original location as possible for the reasons you've heard so people could walk, people she knew could stay. You can't lose with this person. I'm sure that the letters say that. I like the notion that this might be -- that a yoga studio must stay there, because frankly that will help Lindsay to stay there, but I totally endorse it and I'm thrilled that she's come this close to her reality that works for her. And I hope indeed you do approve it.

BRENDAN SULLIVAN: All right.

COUNCILLOR DENNIS CARLONE: Unanimously. Thank you.

BRENDAN SULLIVAN: Thank you.

Anybody else here to comment?

(No Response.)

BRENDAN SULLIVAN: There are numerous letters in the file all in support of the proposal and they all -- theme as was expressed by the speakers. I'm not going to go through all of them, but I will make note in addition to Councillor Carlone speaking in favor, there is correspondence from Councillor David Maher and also from Vice Mayor Mark McGovern all in favor extolling your virtues.

So anyhow I will close public comment. Anything that you wish to add?

LINDSAY GIBSON: I just have the letters from the abutters and the other businesses and the owners.

BRENDAN SULLIVAN: Okay. We will add those into

the record.

DOUGLAS MYERS: Are all the abutters in favor?

LINDSAY GIBSON: Uh-huh.

DOUGLAS MYERS: None, nothing that you've heard of a negative nature from abutters?

LINDSAY GIBSON: No. The only concern was, you know, about, was about just the -- they just were wondering about just the traffic flow and I spoke to them about that. That was from Stuart and Carol, the 386. And they were fine with it because Carol -- Carol used to own the fitness studio where Half Drown Design is now. Do you know where that is? Where the fitness studio was?

DOUGLAS MYERS: No, but I know the Half Crown.

LINDSAY GIBSON: Yeah so she's -- she used to be there. And they signed the petition in support of it.

BRENDAN SULLIVAN: Okay.

All right, let me close that presentation part. Want to discuss among the Board? Anything?

ANDREA HICKEY: No, I'm set, thank you.

BRENDAN SULLIVAN: I think my only comment is to expand on Councillor Carlone it sort of adds to the fabric of a neighborhood, a retail area. I think the only thing missing in that whole thing, I'm really dating myself now was the post office, which was -- a long time ago.

Anyhow, you'll never get that back.

Let me make a motion, then, to grant the relief requested to convert the existing office to a yoga studio.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude the Petitioner from finding adequate space to conduct her business to accommodate the number of people who require and who seek out her services as a yoga studio teacher.

And that the Board finds that even though the granting of a Use Variance is a special consideration, and I've always cited the Board Mendoza versus Fall River where

the judge, the courts have found it's an unusual form of relief to be granted, but then subsequent courts have found that that the granting of that relief must be substantial. And that granting of the relief would be compatible -- would be not substantial but that it would be compatible with the surrounding area. And I think the testimony has shown and I think the Board concurs that this would be very compatible with an asset to the community and allow patrons to be able to walk to this establishment.

The Board finds that the hardship is owing to the existing use as an office building, and that to change the use to a yoga studio would require relief from this Board.

Desirable relief may be granted without substantial detriment to the public good. Testimony has shown that in fact that the public good would be enhanced by the creation and the allowing of this establishment.

And it would not nullify or substantially derogate from the intent and purpose of the Ordinance.

I would ask the Board's input on this rather than allowing a broadly and to a vocational school as if it would be narrowed to a yoga, and I don't know how far we get with this, Sean. Yoga studio. Can we just -- leave it at that?

SEAN O'GRADY: Yes.

BRENDAN SULLIVAN: That the Board is granting relief to --

DOUGLAS MYERS: For use as a yoga studio.

ANDREA HICKEY: Or limited to.

BRENDAN SULLIVAN: Limited to a yoga studio.

SEAN O'GRADY: Yes.

BRENDAN SULLIVAN: And we'll leave it at that. So that any deviation from that, then, would require further relief from the Board and input from the community. I think we'll leave it at that, so we don't get too wordy.

Okay, on the motion, then, to grant the relief requested? Five in favor?

(Show of hands.)

BRENDAN SULLIVAN: Good luck. Welcome.

(Sullivan, Hickey, Tedesco, Myers, Monteverde.)

* * * * *

(Whereupon, at 10:10 p.m., the

Board of Zoning Appeal Adjourned.)

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to Inspectional Services Department.

INSTRUCTIONS

After reading this volume of the Zoning Board of Appeals transcript, note any change or correction and the reason therefor on this sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
 BRISTOL, SS.**

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of May, 2017.

 Catherine L. Zelinski
 Notary Public

Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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