

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, OCTOBER 26, 2017

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green, Member

Andrea A. Hickey, Member

Patrick Tedesco, Member

Douglas Myers, Associate Member

Alison Hammer, Associate Member

Sisia Daglian Assistant Commissioner

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(7:15 p.m.)

CONSTANTINE ALEXANDER: The Chair will call this meeting to order, and at the outset let me read a statement for the benefit of the audience:

After notifying the Chair, any person may make a video or audio recording of our open sessions, which this is, 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 to 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. And I wish to inform that actually two recordings are being made. A citizen of the city has a tape recorder up here, and our stenographer makes a transcript is recording as well to assist her when she types up the minutes of the meeting. So be advised, forewarned, or whatever.

With that, I'm going to call -- we're going to start with our continued cases. These are cases that have started at an earlier date but for one reason or another have been continued to tonight.

\* \* \* \* \*

(7:15 p.m.)

(Sitting Members Case BZA-013852-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Douglas Myers, Alison Hammer.)

CONSTANTINE ALEXANDER: I'm going to call case 38 Essex Street. Case No. 013852.

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

ATTORNEY PETER COHEN: Mr. Chairman and members of the Board, Peter L. Cohen for Jeffrey and Elizabeth J. Peoples, 38 Essex Street, continuation of the case from August 24th. I'm joined by Keith.

KEITH GIAMPORTONE: Keith Giampertone of Next Phase Studios, architects for this proposal.

THE STENOGRAPHER: Spell your last name.

KEITH GIAMPORTONE: G-I-A-M-P-O-R-T-O-N-E.

ATTORNEY PETER COHEN: And Heather Hoffman is also here for us if we have any further title related questions

on this matter.

Since, it's -- just to recap, when we were at the previous meeting there seemed to be sentiment on the Board as I understood it, for the granting of parking relief to allow them to establish at least one parking place.

CONSTANTINE ALEXANDER: Not at least, one parking space.

ATTORNEY PETER COHEN: Well, let me rephrase it. There seemed to be support among three members for -- possibly two, but two members objected and suggested reduction. So we're now back with a carefully crafted proposal for one parking space.

CONSTANTINE ALEXANDER: And one which has opposition from neighbors nevertheless. For its location.

ATTORNEY PETER COHEN: In that connection I just like to emphasize that we've had two further meetings at the Peoples' property with all interested neighbors asking them to attend, to participate, and each of those meetings were

slightly different and I'm sure that they -- those who were at that meeting who are still in opposition will characterize things in their own way. But my experience of it was that in the first meeting there was a discussion of whether this sort of plan A or plan B would be preferred. But then there was a lot of other discussion about whether there should be a global agreement covering all matters of the street. We had talked as early as a year earlier ago whether a private way that has many sort of amorphous legal questions attached to it should have some kind of an understanding. So there were some attempt to discuss whether we could agree on things like whether everybody could agree where everybody else should park, issues of snow removal, who would be responsible for repairs of the road in case the city didn't do it? But there was no agreement on all of those matters and there's particularly disagreement about two persons about parking rights that are not -- don't relate directly to the 38 Essex. So it became clear that

there wasn't going to be an understanding of that.

So then there was a second meeting on October 11th where cars were used to sort of go in and out and park in the two alternate matters.

It was certainly our impression that all in attendance except for Mr. Keating seemed to prefer what we're calling plan A, which is what you have before you, as being the generally better plan in a number of respects, not the least of which has to do with safety questions. We considered filing a plan B at the same time, but the thought was we should really submit the one that we think is a better plan and hope that you will also find it better and approve it.

CONSTANTINE ALEXANDER: I have to correct you on one thing. You said the only neighbor objecting was the Keatings or Mr. Keating, but we have a letter signed by Mister -- I assume Mr. and Mrs. Keating and four -- three other people. So there's more than just the Keatings.

ATTORNEY PETER COHEN: Well, there's been a change, because at the end of the meeting Arlene and Henry who I believe is here, and may again contradict what I say, said to me and others that the plan A did seem to be the superior plan, and that we'd have her support. She may have now changed her mind, but this is what our experience was.

CONSTANTINE ALEXANDER: The letter we have is October 23rd which is only a few days ago.

ATTORNEY PETER COHEN: Yes.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY PETER COHEN: There could be a change in position. I'm simply saying that I know that one of the things you care about is process, and we've done our homework with the neighbors and we've certainly tried to -- the letter you have before you is also one on which we were not copied I hasten to add.

So there are three -- there are six properties on Percy Place, three of them seem to be in some level of

opposition to the specific plan A, but not to the concept of a parking place. And then the other three are 40 Essex Street which the Kings are here I think in support, and you also have a letter from them. The Peoples obviously from 38. We don't know what the position of No. 2 is, Alison and Max who live there. But they have small children and it was actually they who first brought the safety question to my attention, and although they haven't attended meetings subsequent to the initial one that I can recall, I've certainly always tried to be mindful of that. So we think the plan A is the better one. And our goal is to leave here tonight with a grant of A --

CONSTANTINE ALEXANDER: What is wrong with plan B?

Because I think there was sentiment on this Board at the initial hearing that one, we wanted it to be one parking space. And two, if my memory being correct, that the first impression of the board members of those were willing to support one parking space, was plan B, which is planned in

the side yard which is again, I have it written down, parallel to the back fence. What is wrong with that approach? And from a zoning point of view.

ATTORNEY PETER COHEN: So in a moment I'd like to turn to some of the more technical questions over to Keith who can speak to the architectural questions, to the strengths and possible weaknesses of plan A, and then talk about plan B if you're not satisfied with plan A. Is that fair?

CONSTANTINE ALEXANDER: Sure.

KEITH GIAMPORTONE: So --

CONSTANTINE ALEXANDER: If people can't see, come forward.

JANET GREEN: And take the microphone with you.

CONSTANTINE ALEXANDER: Microphone. You can take it out of the holder.

KEITH GIAMPORTONE: So this is the larger site plan for the neighborhood and Essex Street runs here. Percy

Place is a private lane here. 38 Essex who is applying for here on this corner. And the other various homes on Percy Place are up and down this street. And so this, which is scheme A, this is showing at the small neighborhood scale. I'll flip this around and I'll blow that up so that people can see.

In this scheme the one objection that I recall for this orientation at the last meeting was that there was a concern about headlights into the street, that was the one comment that was made if I remember correctly. And in any case there's a screen wall here that's solid with planting in front of it, and people don't leave their lights on indefinitely. So I don't think the light is a real issue or concern from our point of view. I think the most important thing about the location here is that this is a safe way to back in and out. If there's a car parked here, this gets very tight and there's children that live further down the street, and so I think this becomes the preferred way to get

in and out without having to worry about damaging cars or -- it's easier in and out and you're leaving in a forward position.

CONSTANTINE ALEXANDER: Maybe the easier -- I'm speaking for myself certainly obviously -- the easier way out, but it's the least appealing approach from an aesthetic point of view. You have that car sitting right, taking up most of that, I'm going at that call a side yard, it's technically a front yard from a zoning point of view. From the other approach, sure, you've got to make -- which is against the back wall there, it's not on your plan, but you come in -- yeah, that right there obviously. You're going to come in and make a right-hand turn into the part of the driveway and that's true of every narrow street in Cambridge where you have either a garage or driveway or both, you make a 90-degree turn. And the impact to me visually is far less if you have the parking space against the plan B as you call it, against sort of the rear wall. I mean, you know --

KEITH GIAMPORTE: It's certainly further from the street. You're not gonna see it from Essex this way because of the screen wall. There's a brief moment walking down the street where you can see on an angle. It's mostly about what's seen by the residents here and, again, from our point of view, it was reacting to the concerns of many of the neighbors which was the ability to get in and out in a very tight space. Because if somebody is parked here, this becomes very tight here. And you can't park a car here because of the tree and because of the narrowness of that lane.

DOUGLAS MYERS: Is there any, with regard to your plan A, is there any turnaround area for the car? In other words, you have mentioned that the car will drive out going forward, does that mean it's going to have to back into that parking place? Or is there an area where it will turn around and change its direction.

KEITH GIAMPORTE: It would have to back in.

DOUGLAS MYERS: It would either have to back in or back out?

KEITH GIAMPORTONE: Yes. You can go nose in and or you can go back out and go this way. In both cases, if there's a car here, there's actually, it's wider here at this location than it is here at this location if there's a car parked in that spot. So we were using the wider spot and also reacting to what some of the neighbors had said in terms of their concern for that location. So those are the things that we were looking at.

CONSTANTINE ALEXANDER: Okay.

KEITH GIAMPORTONE: No need to repeat myself. But other questions with regard to this?

I wanted to mention the screen wall was a nice one. It's solid. It's got planting in front so it really will stop that. This portion of the curb is depressed but still up above so the water would continue.

CONSTANTINE ALEXANDER: I do have a question going

back to your plan A. If there are cars parked along the street, you point out there's a problem with plan B if there are cars parked along the street, would there not be the same problem with plan A because you got to back out of the driveway. You can't turn around on the property. And if there are cars there you have to back --

KEITH GIAMPORTEONE: If you backed out, this is the smaller scale, if you backed out here, it would be a three-point turn but there's actually more dimension than if you're -- if there were a car here, which there can be, it's actually tighter to back out here than it is to back out here.

ALISON HAMMER: Yet but on the side you're coming at it directly 90, here you're practically making a U-turn, a universe U-turn so they're not analogous.

DOUGLAS MYERS: While you're pondering that, same idea, as I look at the plan and visualize people backing out on to the plan A setup, the sight distance is going to be

much reduced for anybody who might be turning in from Essex Street at the time. Whereas, if they're backing out of the driveway, the sight distance up and down Percy Place seems to me to be much more extensive. Whereas if they're backing out of your plan A parking space, their rear end is sticking out with regard to people who are just coming around the corner off of Essex Street.

KEITH GIAMPORTONE: That's obviously true.

DOUGLAS MYERS: I am sorry to dwell on the obvious, but there are sometimes advantages to that.

KEITH GIAMPORTONE: I mean that's not refutable. But in general only the people who live here are coming here. It's a very tight corner, they probably will be going some -- we were more concerned about the safes concerns of other neighbors, that was the driver of that.

BRENDAN SULLIVAN: You're saying either the second car or the first car would be blocking other car?

DOUGLAS MYERS: Well, I was saying anyone turning

in off of Essex Street for any reason, any resident of Percy Place or someone who was going on to Percy Place would come hard upon that car backing out of the driveway.

CONSTANTINE ALEXANDER: Or a pedestrian walking around the corner, too.

To me, I don't see why plan A is from a safety point of view is superior to plan B. I just don't see it. And plan B has -- I think aesthetically a better plan in terms of the impact of the neighborhood.

ALISON HAMMER: And plan B is less -- undermines the zoning code less because it's not entirely in the front yard.

CONSTANTINE ALEXANDER: That's right.

ALISON HAMMER: It's minimizing the, you know, the ask on the zoning.

ATTORNEY PETER COHEN: Well, given that you seem to have a preference for plan B in principle --

CONSTANTINE ALEXANDER: We haven't taken a vote

yet.

ATTORNEY PETER COHEN: -- this might be an appropriate moment to bring out plan B which we were hoping wouldn't be necessary but we do have it.

DOUGLAS MYERS: That's why it's called plan B.

ATTORNEY PETER COHEN: That's right.

KEITH GIAMPORTONE: Before I start I'll give you one moment to take a look at the plan and I'll jump right in.

CONSTANTINE ALEXANDER: Sure.

It's not much different than the last time around except there's no second driveway, second parking.

KEITH GIAMPORTONE: Correct. Very similar. And at the request of the Board here, we redid all the calculations for both schemes and we exceed the requirement which is up here. Shown at required 808 which is 40 percent open space, and we're up at 45 percent on the scheme. So we've exceeded what the minimum is -- and we did all the

calculations for all of that. It's the same fence. It's not the fence over here in this particular case, but it's the same -- it's actually five percent over.

CONSTANTINE ALEXANDER: Yeah.

KEITH GIAMPORTONE: But it's very similar to the last time.

CONSTANTINE ALEXANDER: Anything else? Other members of the Board have questions about plan B as put up? I don't.

ATTORNEY PETER COHEN: I just want to say that, you know, we do have a genuine interest in satisfying as many of the neighbors as possible. Having had conversations going back with them for now about a year and a quarter, I've sometimes had the feeling that we're wrestling with jello or something, and that every time we try to address one question, some new thing pops up. If it's -- and if you're going to take, I don't know if you're going to take more testimony, I know the Kings can speak to their

preference. Again, they live directly across the street.

My feeling is that their proximity --

JANET GREEN: I think they're having a little trouble hearing you in the back.

ATTORNEY PETER COHEN: I'm sorry.

I was just saying that the Kings who live directly across the street, perhaps their weight -- view should be given a little extra weight because they do live directly across the street and would be most directly affected by the turning radius. But at the end of the day it's, I believe the Peoples will be satisfied with either scheme that they would like to get. They would not like to have a case continued for any reason.

CONSTANTINE ALEXANDER: We're not going to continue the case tonight I can assure you that.

My only observation is we certainly always welcome neighborhood input. But at the end of the day we're a Zoning Board, and we've got to do what we think is best from

the city's point of view from zoning. And not just count noses in the neighborhood and the majority wins. So I appreciate what you say and we do welcome everyone's comments, but we're not going to be just as I said, taking a vote and whichever proposal, A or B, gets the most votes is what we're going to approve. At least I'm not going to vote that way.

DOUGLAS MYERS: One little question with regard to plan B, do I see something that looks like it could be bushes or some sort of vegetation that's screening on the left side?

KEITH GIAMPORTONE: Right here?

DOUGLAS MYERS: Yeah.

CONSTANTINE ALEXANDER: Yeah.

DOUGLAS MYERS: It's right in the little -- there's a corridor between -- well, no, the answer to the -- is there something shown on the plan?

KEITH GIAMPORTONE: There is planting shown there

to help screen the car a little bit from the street without having to put a big fence up here. So it's an effort.

DOUGLAS MYERS: And that would be your intention?

KEITH GIAMPORTONE: Yeah.

DOUGLAS MYERS: Yeah.

CONSTANTINE ALEXANDER: Anything further? Or questions from members of the Board or comments at this point?

(No Response.)

CONSTANTINE ALEXANDER: I can open the matter up to public testimony if you're ready for me to do so.

ATTORNEY PETER COHEN: We're certainly ready. We might want to respond after.

CONSTANTINE ALEXANDER: Oh, you'll have a chance to respond afterwards.

Okay. I'm going to open the matter up to public testimony. Is there anyone here wishing to be heard on this matter? Since you've never been here before you have to

give your name and address to the stenographer.

ATTORNEY TAD HEUER: Thank you, Mr. Chairman. Tad Heuer from Foley, Hoag, 155 Seaport Boulevard in Boston on behalf of Jeffrey and Melissa Keating and Arlene Henry. Keating is here. Ms. Henry is here.

Certainly we I think appreciate the plan B approach. As we indicated in our letter, we are willing to, while reserving rights, we articulated in our initial letter are willing to compromise on a single spot. I think the petitioners have made efforts, although I would suggest somewhat belatedly. If I recall the Board's rules it's to have materials in the file five o'clock at the Monday before the hearing.

CONSTANTINE ALEXANDER: Right.

ATTORNEY TAD HEUER: Plan B has appeared literally after the hearing has started. So I do have some reservation about this being literally sprung on the Board and the abutters at the last minute.

CONSTANTINE ALEXANDER: Well, let me respond to that.

ATTORNEY TAD HEUER: Indeed.

CONSTANTINE ALEXANDER: First of all, that's not their proposal. Plan B is what we've been pushing them toward.

And No. 2, plan B is basically the same plans that were in our files the last time minus the other parking place. So it's not a new dramatically different proposal. So don't beat them up too badly on that one.

ATTORNEY TAD HEUER: I just wanted to make sure it was on the record.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY TAD HEUER: So I do think that there are a couple of questions I have mostly on the open space, more of a technical question than anything else. Open space on the Zoning Ordinance either is not calculated correctly here or is not relevant at all. You can take your pick. Open

space to be calculated has to be 15 feet by 15 feet.

There's no 15-by-15 area here. So the argument that there's any open space I think is wrong. If the argument is that open space is how much open space is on the lot, it appears at least on the first plan, and again from this plan, that the parking surface and the driveway surface and the walkway surfaces have all been counted. They cannot be counted, it says so at the bottom of the dimensional form and it's in Section 2 of the Ordinance. And so when they say we are increasing the amount of open space through these, I believe that under any calculation they are decreasing the amount of open space which again I think is one reason that the Zoning Board should be looking at granting the minimal amount of use that would allow for the petitioners to get what they wish while derogating the least from the Ordinance. I think that's the reason why the Board has suggested in previous comments that being able to grant fewer variances or variances with less effect is preferable to granting more

variances or those with greater detriment, and I think that, too, goes for open space issues as well.

In terms of the convenience for the petitioners, I certainly think that everyone agrees that, you know, it would be convenient to park your car on this space. I think, again, the position of -- the legal position for the Board is that we're in a Variance posture. The City has suggested or has indicated through its Ordinance that it doesn't believe there should be any parking on this location whatsoever. I think the City's also said we want to make sure that there is no front yard parking. I think plan B goes much more towards that than does plan A because it accommodates the comments from both Mr. Myers and Ms. Hammer from the previous hearing that indicated that it was not just the one space but it was the location of that space on the lot that was also relevant to them. And I think the plan B certainly reflects that much more extensively than plan A does.

One final comment, I know Mr. Cohen mentioned that the initial meetings, the two meetings in between the first hearing and now between the neighbors and the petitioners had discussed some other issues that are not necessarily zoning related. The one concern that the -- my clients have is whether in having this parking space on-site on the petitioner's will still be requesting the right to park on Percy Place itself. So they're concerned that there would be both -- they would have a parking space which they don't have now, and also be claiming the ability to use parking on Percy Place which is, as the Board knows is constricted. So I think they would ask for the Board to consider a condition in the Variance that in granting the off-street parking space to the benefit of the petitioners, that they waive any right to claim to be able to park on Percy Place itself.

CONSTANTINE ALEXANDER: To me that goes too far, way too far. We're not going to regulate where you can legally park on the street or not. We're just about whether

you could have a parking space on-site, plan B or plan A. I appreciate your request, but I for one could not support that.

ATTORNEY TAD HEUER: That's fine.

I would also note that again we are -- a difference between a public way, which you certainly would have jurisdiction over, and a private way which is essentially just private property. And the extent that there's being a claim made about the uses of private property, I do think that's at least within the purview of the Board. Obviously whether the Board feels that's a condition that it should append to a Variance, is entirely in the Board's discretion. But I just say it's not, I don't believe automatically outside the purview of the Board because we're talking about a private way not a public way.

CONSTANTINE ALEXANDER: Okay, fair enough.

Anybody have any questions?

ALISON HAMMER: I just have one comment on the

open space thing, just for what it's worth, in defense of the architect, though, I haven't done the calculation, the Res B Zone does have a section in I believe in Article 5 that says the -- it is not only private open space but also permeable open space is actually a requirement, 50 percent, and that does not meet the dimensional requirements, or it -- also pavers are allowed to be, you know, pavers are allowed to be used on that.

ATTORNEY TAD HEUER: Right. And I guess my question is on the new plan B, there was one that was pervious, I think there was one that was not, I don't know if it indicates on both.

ALISON HAMMER: I think they're all pervious. Some are brick, some seem to be larger pavers. So, again, I haven't done the calculation, but they're not necessarily misrepresenting the open space situation. Certainly there may be no private open space, which is a requirement, but they are meeting some of the open space requirements.

ATTORNEY TAD HEUER: And I'm looking at only plan B which I've obviously only seen for the last six months, where it indicates remove existing asphalt, I don't think there's an indication as to what that is.

ALISON HAMMER: There's a legend.

ATTORNEY TAD HEUER: There's a legend?

ALISON HAMMER: On the first page.

CONSTANTINE ALEXANDER: You got it. Yeah.

ATTORNEY TAD HEUER: I would suggest that the Board ask that in future submissions that are made not last minute, that legends and all other items appear contemporaneously with the documents that they appear to reference.

CONSTANTINE ALEXANDER: Right.

Anyone else wishing to be heard on this matter?

Sir.

JOSH FLAX: Thanks. Good evening. How are you, sir?

CONSTANTINE ALEXANDER: I'm well, and you?

JOSH FLAX: Good evening to the Board. I'm Josh Flax. I am, I am actually right there. Proud owner --

CONSTANTINE ALEXANDER: Other side of the fence?

JOSH FLAX: Yeah, other side of the fence No. 1 Percy Place. So I've got the largest abutter of the Peoples except for these folks over here. I am the proud owner of that vehicle. There is no other parking space there.

CONSTANTINE ALEXANDER: Right.

JOSH FLAX: I think actually the attorney for -- because you've already read my comments and the letter so I don't need to repeat any of that. And with apologies, I was on vacation when the previous meeting was scheduled, otherwise I would have wanted to have been here in person. I kind of do need to take off for a second, though, from where the attorney for 3 Percy Place and 4 Percy Place left off. I think we would be creating a major problem on Percy Place if the Board grants even plan B,

which in the spirit of compromise, my wife and I can get behind. But if you grant plan B and you don't limit their ability to park on Percy Place itself, private property or private way, I think we're gonna have a major problem. So what's happened subsequent to the August hearing that you held here is that one of the neighbors, the Kings at 40 Essex Street at the two other meetings that Peter Cohen mentioned, they've demanded to essentially, I don't know, change all of the private way parking that's been in place for I don't know, 30, 40, 50 years and their basis for it was the interpretation by Ms. Hoffman that the properties on abutting Percy Place own to the center of the property line. This very august board and you indeed, and some of you I recognize, refuted that argument at my own Special Permit hearing on December 2010, and for that very reason you said that the property deeds here don't support owning to the center of the street. My own attorney which was Jim Rafferty at the time, did the title research and found that

he agreed with your suggestion, and we came back with your ruling, and we came back for a Special Permit -- for a Variance. You said the same thing again about three years later for No. 2 Percy Place who had the same question when they wanted to renovate their property, and this Board essentially said that the setback rules will apply because the properties do not own to the center line of Percy Place. So bringing us to present moment the Kings, maybe others, I don't know, have now said based on this new interpretation in August that the properties on Percy Place, abutting Percy Place own to the center line, we're gonna, we're gonna, you know, you're parking on our property essentially. We need to change the entire arrangement. So my point very simply is with this, with this new information -- then they said this verbally at the two meetings in September and October, and then they followed up with a written, a written e-mail essentially demanding that the residents of Percy Place dated October 11th of this year, that the residents of Percy

Place change all the parking that's been in place for decades. So with this move I fear, I fear they have blocked the possibility of the Peoples getting plan B if this Board doesn't make it clear that the Peoples don't also have a claim to park on Percy Place. So it's thrown a giant wrench in the works, and what I would respectfully ask this Board for is sometime. Now I also -- Mr. Heuer doesn't represent me. I must also find an attorney, and we must do the title research again. And Jim Rafferty I'm sure would be happy to go through his notes from 2010 and tell us what he found, and then we will be able to resolve the matter once and for all. Quite frankly, I don't have a long-term opposition to the Peoples having a parking space. What I do have a problem with is the shifting changing environment time after time after time. So whether we own to the center line or whether we do not, I think we just need clarity on the matter, and once it's resolved then everybody will get their parking, including the Peoples, which as you know from the

letter I support.

Thank you for listening.

CONSTANTINE ALEXANDER: Thank you.

JOSH FLAX: Do you guys have any questions? It's a bit of a convoluted history.

CONSTANTINE ALEXANDER: Yes, it is.

JOSH FLAX: Yes. And the minutes from 2000 -- December 2010 and probably January, February 2011 will verify that.

Thanks, guys, appreciate it.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard? Sir.

JONATHAN KIN: Hi. I'm Jonathan King from 40 Essex Street. That's directly....

ATTORNEY PETER COHEN: Where the tree is.

CONSTANTINE ALEXANDER: Where the tree is. You were here last time.

JONATHAN KING: So we are here. Right. And we

are the ones directly across from 38 Essex Street and are most impacted by cars coming in, in and out, you know, absolutely. We had supported the Peoples' efforts to have the two spaces. We support their effort to have one space. We actually would prefer -- as you described, getting in that 90-degree turn without a car there is very tricky, and it's tricky for us because we have to park absolutely flush against the fence or you can't get out on that side to allow enough room. On the other hand, the key thing recognized the point you made, that this is the purview of the Zoning Board and whichever way you vote is fine with us. We think they should have one spot.

Now, Josh talked about other conflicts about the other parking on Percy Place. We had -- you know, we haven't had -- we have had differences over that all the years we've lived there particularly with the prior owners of the two properties. I'm not sure how that will be resolved, but I think it's absolutely inappropriate that the

Peoples' right to park on their property get, gets stopped because of differences around the parking rights of the other residents on Percy Place. And I would hate to see those things conflated. The history is very complex history. We used to have a garage. We actually had a driveway on Percy Place. And what was described as going on for 20 and 30 years. It didn't go on for 20 or 30 years, Josh hasn't lived there anywhere that long, and those issues never got resolved. There's no written documents. God knows how long it will take to resolve them. So we do support that you grant at least one, get at least one car -- get one more car off Essex Street. It's a death parking around there and we'll tolerate, you know, if it's a tight, tight turn so be it. They have been extremely responsible in term of meeting after meeting after meeting after meeting. You couldn't ask for people to be more tolerant and respectful in this situation. I certainly couldn't have dealt with it that long. So good luck with

your deliberations and thank you for hearing us. You have,  
I sent a form -- we sent a formal letter.

CONSTANTINE ALEXANDER: No need for me to read it  
because you've made the comments right now I assume.

Thank you again.

JEFF KEATING: Hi.

CONSTANTINE ALEXANDER: Good evening.

JEFF KEATING: I'm Jeff Keating. I'm a resident  
of 3 Percy Place. I think it's -- obviously very pleased  
about --

JANET GREEN: You just need to be a little bit  
closer to the microphone.

JEFFREY KEATING: Sure. I'm obviously very  
pleased about the prospect that the Peoples are willing to  
pursue the side yard parking which was important to us. The  
only thing I would request is, my wife has not had  
it -- she's not here, she's not had a chance to see the  
plans. They're promising, they're straightforward, but I

would like her to have a chance to see these plans, so I would respectfully ask for a continuance for that.

CONSTANTINE ALEXANDER: First of all, the plan B is not -- it's the same plan that was shown back in August without the other, without the second parking space. If they hadn't made any dramatic changes from what -- vis-a-vis this space from what they showed the last time around. And we're not going to keep continuing this case. I -- now, I understand your wife can't make it, but --

JEFF KEATING: I just saw these plans for the first time.

CONSTANTINE ALEXANDER: I know, and again, one more time, you eliminate the plan A second parking space. You've seen these plans. They are the plans that were given to us in August. Given to you.

JEFF KEATING: I don't know that. Are these the identical plans?

CONSTANTINE ALEXANDER: Virtually. Virtually

identical for only parking space as opposed to two. But this one parking space, plan B to my eye anyway -- Alison, do you disagree?

ALISON HAMMER: It looks very similar. I haven't --

CONSTANTINE ALEXANDER: Okay.

DOUGLAS MYERS: This is the plan from August? And it is substantially identical --

CONSTANTINE ALEXANDER: Yeah, it's virtually --

DOUGLAS MYERS: -- to what is now much more elaborate size and detail plan B, but it is a very fair representation of what plan B looks like in greater detail.

ALISON HAMMER: It is very close.

JEFF KEATING: Well, that's my request. I would -- I do, do I want to second, though, too, that I would like a stipulation that the their -- that the Peoples would waive any right to parking in the alleyway itself. I do believe that that is just creating a potential for future

problems down the road which I think my interest here has been to try to actually limit future problems.

CONSTANTINE ALEXANDER: You say the alleyway, you mean on the street?

DOUGLAS MYERS: Percy Place.

CONSTANTINE ALEXANDER: Percy Place?.

JEFF KEATING: Percy Place.

CONSTANTINE ALEXANDER: Okay.

JEFF KEATING: So we have clarity on that subject so that, again, they sell the house and there's a new owners down the road, that that does not create additional problems.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Anyone else wishing to be heard?

ARLENE HENRY: Yes, me. Hello.

CONSTANTINE ALEXANDER: Hello.

ARLENE HENRY: My name is Arlene Henry. I live at

No. 4. I live at 4 Percy Place and I'm third generation.

My grandfather bought it in 1910.

JANET GREEN: You just need to move it -- pull it down. Tip it down toward you.

ARLENE HENRY: I'm sorry, I'm not very good at this.

CONSTANTINE ALEXANDER: No, you're doing well.

ARLENE HENRY: As I said, I'm third generation. My grandfather bought our property, No. 4, in 1910 and at one time as I understand we owned all six of the houses. I only remember owning all five, and that included the 38 Essex Street. So I'm very familiar with the properties.

There has always been a problem with parking on Percy Place because of the narrow entrance, and it's been very difficult to get by the Kings' car ever since they took down the garage. There's no denying that. I haven't seen these new plans but I like them. I think it's exactly what I think all of us wanted. As far as parking goes on Percy Place, I

know of 60 years -- I'm about to turn 72. So I started driving when I was 16, so I'm pretty well aware of what's been going on as far as the parking goes and who's been what. And we've always managed to park where, where we are actually, and No. 1 always parked across the way because of the telephone pole and we had to have --

(Loud microphone feedback).

CONSTANTINE ALEXANDER: Oh, my goodness.

ARLENE HENRY: I just wanted to say that there are -- there has always been --

(Loud microphone feedback).

CONSTANTINE ALEXANDER: As you were saying before you were rudely interrupted.

ARLENE HENRY: Parking has always been on the even side of Percy Place because of emergency vehicles getting in and out. The beginning of Percy Place is narrow and it opens up the further you go in. So, parking never really became an issue until, as I said, the Kings took down the

garage and then it narrowed the beginning because of where they park. They now parked on Percy Place instead of in their driveway which is off street. Other than that, everybody's always agreed on where they were going to park and it's been -- of course they were all my family so you could say that's why. But nobody got in anybody's way. I don't know. I like this -- I hadn't seen this before but this is what I wanted.

CONSTANTINE ALEXANDER: Thank you.

ARLENE HENRY: That's all I have to say. Thank you.

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

Let me ask if anybody else wants to speak first.  
Anyone else wishes to be heard?

HEATHER HOFFMAN: I just wanted to ask the Board since you were all here and you heard what I said at the last meeting, do you need me to repeat it or do you

understand what I said? I won't go through it if you don't need to hear it again.

CONSTANTINE ALEXANDER: From my perspective, just one member of the Board, I don't need to hear it again not because I understood it because I'm still not convinced it's a relevant issue for tonight.

HEATHER HOFFMAN: And I might well agree with you on that, but I just wanted to ask since I'm here whether it would be of assistance it in your deliberations, and if not get to it.

CONSTANTINE ALEXANDER: Thank you.

HEATHER HOFFMAN: You're welcome.

CONSTANTINE ALEXANDER: Now, just come forward so we can hear you.

JEFF KEATING: Just looking at the plans, could we just clarify exactly the extent of the curb cut? Or I'm looking at this as the plan B.

CONSTANTINE ALEXANDER: Isn't the curb

cut -- doesn't the curb cut come to the jurisdiction of City Council? We don't pass on --

JANET GREEN: Curb cut is City Council.

CONSTANTINE ALEXANDER: Yeah, that's what I thought.

ATTORNEY PETER COHEN: It's a private way.

CONSTANTINE ALEXANDER: Okay. Oh, private way, that's right.

KEITH GIAMPORTONE: But I can show you the extent, it's dimensioned. It's the width between here and here.

JEFF KEATING: Right. And the existing curb will remain?

KEITH GIAMPORTONE: Yes, that will remain.

ELIZABETH PEOPLES: It's lowered.

KEITH GIAMPORTONE: It's not flush. It's lowered. There's still an inch and a half so water would still keep going --

JEFF KEATING: Why would you be lowering the curb?

KEITH GIAMPORTONE: So that if you park here,  
you're not jumping a curb.

JEFF KEATING: So the curb -- so you're lowering  
the curb where?

KEITH GIAMPORTONE: This eleven feet, ten and a  
half inches between here and here --

THE STENOGRAPHER: I'm sorry, could you just speak  
up, please.

CONSTANTINE ALEXANDER: Yeah, you want to take the  
mic?

KEITH GIAMPORTONE: I'm sorry. The curb cut is  
cut just in front of where the driveway is, proposed, right  
here. And so that's eleven feet, ten and a half inches.  
We're not proposing lowering it from here to the corner.  
We're leaving it as is.

JEFF KEATING: You're leaving that. Why are you  
lowering that part of the curb?

ELIZABETH PEOPLES: Because if it gets tight --

THE STENOGRAPHER: Ma'am, I just need to know who you are.

CONSTANTINE ALEXANDER: Give your name and address to the stenographer.

ELIZABETH PEOPLES: Elizabeth Peoples, 38 Essex Street. Thank you.

And so, you know, that will be lowered, but if you're, you know, we're coming out like this, if this is at the exact -- you're gonna like hit it and damage the car. So that's why it will keep the curb but it will be lowered, you know, so that you're not --

CONSTANTINE ALEXANDER: Can you put numbers on that? And how high is it now and what would it be lowered to?

ELIZABETH PEOPLES: Yeah, so it would be at least an inch and a half raised so that there would be a continuous curb -- not curb.

CONSTANTINE ALEXANDER: You're not getting my

comment. The lowering, where you're going to lower it, from what to what?

ELIZABETH PEOPLES: Oh, okay from the --

KEITH GIAMPORTONE: Five and a half inches to one and a half inches above the road bend.

CONSTANTINE ALEXANDER: Okay. So four inches. So reduce it by four inches?

ELIZABETH PEOPLES: So that we don't --

DOUGLAS MYERS: And how far from the driveway toward Essex Street will the curb be lowered?

ELIZABETH PEOPLES: How far?

DOUGLAS MYERS: How far from the driveway toward Essex Street will the curb be lowered?

ELIZABETH PEOPLES: Okay.

DOUGLAS MYERS: You spoke of lowering it for a certain distance --

ELIZABETH PEOPLES: Right.

DOUGLAS MYERS: -- so the turn wouldn't be too

sharp, you wouldn't cut your tire on the curb.

ELIZABETH PEOPLES: Right.

DOUGLAS MYERS: -- how far from the driveway toward Essex Street --

ELIZABETH PEOPLES: Well, we would want to, you know --

THE STENOGRAPHER: One at a time, please. Let him finish his question. Go ahead.

ELIZABETH PEOPLES: So we would be lowering the curb for the radius of the turn. So I would, you know, at least going further.

CONSTANTINE ALEXANDER: Yeah.

DOUGLAS MYERS: How far?

ELIZABETH PEOPLES: How far?

DOUGLAS MYERS: I mean, are you talking two feet, ten feet?

CONSTANTINE ALEXANDER: I would think you should only need a few inches frankly. That's all you need to

provide --

ELIZABETH PEOPLES: I would say -- well, then at least 12, 24 inches.

CONSTANTINE ALEXANDER: No way, not in my opinion.

JEFF KEATING: May I, it matters roughly -- this is why I would.

ELIZABETH PEOPLES: Then I would say we would lower it a smaller amount, but yeah, because it's right there, it's, you know, tight.

CONSTANTINE ALEXANDER: I'm not going to continue this case further.

ELIZABETH PEOPLES: Okay.

CONSTANTINE ALEXANDER: No. 1.

ELIZABETH PEOPLES: Okay.

CONSTANTINE ALEXANDER: No. 2, I'm proposing we make an arbitrary decision, this Board, as to how many inches beyond the driveway you're going to lower it. It's not going to be in my opinion 12 or 24 inches.

ELIZABETH PEOPLES: Okay.

BRENDAN SULLIVAN: Let me ask a question. What is the significance of the eleven foot, ten-and-a-half inches dimension on the plan? That's the width of the driveway?

KEITH GIAMPORTONE: It's the width of the driveway.

BRENDAN SULLIVAN: Yeah. So that would be the curb cut or the lowering of the curbing.

JEFF KEATING: We can live with lowering the curb for the eleven feet, ten-and-a-half inches. That seems reasonable. But we strongly feel that the rest of the curb should be left at the height, the current height.

CONSTANTINE ALEXANDER: I think you're right. All set?

ELIZABETH PEOPLES: We do need it a couple inches to do.

CONSTANTINE ALEXANDER: This is a hearing. If you want to speak, address the stenographer so she can take it

down and use the phone or -- or you can use that phone there so everybody can hear you.

ELIZABETH PEOPLES: So to make, you know, a couple inches to make that turn with a car so that we don't hit in that turning and damage the tires.

CONSTANTINE ALEXANDER: I understand.

ELIZABETH PEOPLES: Or the fender.

CONSTANTINE ALEXANDER: We understand why you want to do it, but you don't need -- move on.

ELIZABETH PEOPLES: Okay.

CONSTANTINE ALEXANDER: 12 to 24 inches to avoid damaging --

ELIZABETH PEOPLES: Okay.

CONSTANTINE ALEXANDER: -- your tires. Okay?

ELIZABETH PEOPLES: All right.

CONSTANTINE ALEXANDER: Thank you.

ELIZABETH PEOPLES: You're welcome.

BRENDAN SULLIVAN: Well, let me just interject.

Normally on a curb cut at the extreme edges, the curbing there is flared out at a 45-degree angle so you're not hitting a very sharp edge. So I would assume that the width of the driveway is eleven foot, ten-and-a-half to that lowered part. The very edges of that can be flared back --

ELIZABETH PEOPLES: Okay.

BRENDAN SULLIVAN: -- to that five-and-a-half inches, which is a normal curb cut detail.

KEITH GIAMPORTONE: Can I clarify?

CONSTANTINE ALEXANDER: Sure.

KEITH GIAMPORTONE: So the flare would start at the eleven feet, ten and you can start flaring from there?

BRENDAN SULLIVAN: Correct.

ELIZABETH PEOPLES: Okay.

BRENDAN SULLIVAN: The lower part, the inch-and-a-half, if you will, will --

ELIZABETH PEOPLES: Yeah.

BRENDAN SULLIVAN: -- be at eleven foot,

ten-and-a-half and then the normal flare back up.

ELIZABETH PEOPLES: Okay.

Thank you for the mechanics.

CONSTANTINE ALEXANDER: Anyone --

KEITH GIAMPORTONE: So the other concern that she's referring to is that one, I wasn't at the meeting where this was discussed so I wasn't aware of it, but the other notion is that in case there's an emergency vehicle that needs to get down the street, the lowered curb cut would again not flush with the ground but lower so it would be allowed emergency vehicle to get by if it's tight on that street, for some reason a fire truck or something like that.

That's what you're saying, right?

CONSTANTINE ALEXANDER: Okay, thank you.

BRENDAN SULLIVAN: The more we talk the curiouser and curiouser it gets.

CONSTANTINE ALEXANDER: Exactly. One last comment, Mr. Heuer.

ATTORNEY TAD HEUER: Tad Heuer on behalf of the neighbors. Two comments:

One, this is exactly why we don't allow plans to be submitted at the last minute.

CONSTANTINE ALEXANDER: I knew you were going to say that.

ATTORNEY TAD HEUER: I think it's important to say, because it's exactly why we don't allow plans to be submitted last minute. That being said, I think this curb, at least according to Miss Henry, has been in this place since at least her parents were there since 1910. I presume fire trucks go up and down this street when necessary. I don't think there's a necessity for this to be any -- reduced to any distance except at the place where the curb cut is being made with a 45-degree flare for eleven feet and however many inches for the width of the driveway.

I think the last thing I would request that the Board, I presume this is implicit in its decision if it

votes for one space, that this space is to be used for only one car being parked. That it is not a space that if you wish to park multiple vehicles on you can squeeze them in, you can do so. This is for a single car, not an amount of space that's being designated for parking. I realize it seems like an odd request and maybe it's implicit, but if it's implicit I would ask that it be made explicit.

CONSTANTINE ALEXANDER: Goes further than I -- first of all, can you really -- is the driveway long enough you can get even two Mini Coopers in there? I mean, is there a risk that there's going to be two cars or tandem parking on a parking area that large?

ATTORNEY TAD HEUER: I don't know.

CONSTANTINE ALEXANDER: Neither do I. And we granted parking in driveways in passed cases, we've never ever worried about that. So I guess what's the worry from the neighbors' point of view? From a zoning point of view, what's the worry?

ATTORNEY TAD HEUER: That multiple cars where the Zoning Ordinance speaks about spaces.

CONSTANTINE ALEXANDER: Okay, thank you.

ATTORNEY TAD HEUER: Thank you.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard? You'll have a chance. I'm going to read letters first.

We are in receipt of a number of letters, but I think the persons who have written the letters have spoken tonight so I don't think there's a need for me to read any letters into the file.

We have a letter from the Keatings of course.

A letter from the Kings.

And a letter from Laura Kilcommons. I don't think she spoke tonight. It says -- not that long of a letter so I am going to read it into the file. Since she took the time to write it we should take the time to read it.

It is from Laura Kilcommons K-I-L-C-O-N-M-O-N-S

who resides at 342 Norfolk Street.

Where is that in relation to --

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Turn on Harvard and then turn on Norfolk. It's the first street.

CONSTANTINE ALEXANDER: So it's not an abutter. Not on the Percy Place. (Reading) I would like to object to the establishment of parking spaces in the small side yard of 38 Essex Street where it borders on Percy Place. I'm attaching photos which show how small and congested this area is. Essex Street is a main path for children walking to Prospect Hill and I can't see how cars connects at these spaces without having a potential danger to pedestrians.

The cars in these spaces won't be able to pull straight out as in a conventional driveway. They will have to make a maneuver similar to parallel parking which could bring a vehicle out on to the sidewalk. The photos also show blah, blah, blah. The population of Cambridge will continue to grow for many years and it's important to manage this growth

to keep our city's character and comfort. We can't keep squeezing residential parking into every possible nook and cranny. The zoning regulations require setbacks exist to help maintain comfort, safety, and aesthetic appeal for all city residents. I urge you to both deny this petition and to request regulation enforcement for the petitioner's current noncompliant use. And that's it.

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

Mr. Cohen, you said you wanted to have some final comments. The floor is yours.

ATTORNEY PETER COHEN: Just a few things. With respect to the letter that you just read, in the opening sentence it mentions the establishment of "parking spaces." I believe that this writer of this may have been thinking of the proposal of two spaces rather than one space. There is some kind of neighborhood talk list.

CONSTANTINE ALEXANDER: Your point is well taken.

The letter is dated October 24th.

ATTORNEY PETER COHEN: But I only learned today that on the neighborhood talk list there was some reference to the case being continued and it having to do with two parking spaces. So that's one point.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY PETER COHEN: The other thing is it refers to a current noncompliant use and I don't believe there is any current noncompliant use. We've been trying to comply by going through the process of applying through a Variance. That's one point.

The other point is with respect to the anxiety that I'm basically hearing for the first time today mentioned by Mr. Flax and Mr. Keating about somehow the Peoples are going to try to start a parking elsewhere on the Percy Place. I have no reason to believe that that's so. Nothing that Heather Hoffman's title work gave us ever said oh, goody we can now do something we're not doing now. This

is all about parking their car on their spot.

CONSTANTINE ALEXANDER: Okay, thank you.

I guess it's time for deliberation by members of this Board. Let me if I can summarize the issues that we have to decide:

One, plan A or plan B?

Two, do we get into this issue about prohibiting the owners of the property in question on Essex Street from parking other vehicles on Percy Place?

I guess three is this question, does the title extend to the middle of the street because it's a private way? And I think those are the main issues.

Oh, and four is the driveway itself. Should it be, should the lowering of the border, whatever you want to call it, be wider than the 11 feet, the width of the driveway or should not the driveway have the usual dimension as on the plan with a typical flaring of the driveway as it hits the street? So those are the issues I think that we

should have in mind in discussing the case.

Anyone want to start?

JANET GREEN: I had a question. Actually looking -- in looking at this drawing, now there are cars parked in the street. Whose cars are those and who's decided why those cars are there?

CONSTANTINE ALEXANDER: As I recall, I'll ask someone else. Mr. Keating you can answer.

JOSH FLAX: You can see them on the other side maybe.

JEFF KEATING: Yeah.

JOSH FLAX: No, it appears it doesn't have it.

KEITH GIAMPORTONE: It does.

JOSH FLAX: Yeah, do it, please.

JEFF KEATING: Just generally the parking patterns, by my understanding, go back decades, Ms. Henry has lived all her life in the alleyway can speak more to that. Speaking from my own parking area, because we're at

the end of the alleyway, there is no access issue for anyone behind. We have photos of a car being parked there by the owner on Percy going back to the 1950s clearly predating the 1961.

JANET GREEN: So you have one of those cars?

JEFF KEATING: Yeah, we have one spot. We have two cars. We park one on Essex Street and, you know, we have one car that we park in front of our place. I believe Miss Henry is in the same situation. She can speak more to her parking situation if she wishes, but she has -- a car's been parking there going back decades. No access issues.

The owners of No. 2, they park partly on the way and, again, I believe that's a usage that goes back decades. And then two spots have gone, the two spots on 40 Essex, that goes back I believe at least 30 years -- this predates my time on the alleyway. And then just for clarification, and this has been mentioned a number of times, that does not exist as a parking spot because that's the access lane.

That does not exist as a parking spot because that's the access lane. And that's not really a parking spot. I think occasionally like a guest comes, they may park there or whatnot, but there is not a car that is regularly parked there. And I think the understanding is that the two cars there, the two cars in the back and the one in front of Two Percy is basically the maximum extent of what the alleyway can really feasibly accommodate.

JANET GREEN: Thank you.

CONSTANTINE ALEXANDER: Thank you. All right.

Back to deliberations.

I've identified four issues that I think that I've heard coming out of the discussion, and just get the discussion going I'll give you my views on the four.

I think plan B is the plan to go, otherwise share Mr. Heuer's comments about this should have been in our files before. Although technically it didn't have to be because you were proposing plan A, you weren't proposing

plan B, and we did have a benefit of what plan B was going to look like at the earlier hearing, but it would have been better if you had done that. I would vote for plan B.

I would, I would not lower the -- I would not get into the issue of prohibiting parking by the owner of the property at 38 Essex Street beyond the parking lot or the parking space. That's, that's for the neighbors to work out. I don't think we should get into regulating on-street parking. I don't think that's a zoning issue for us to get involved, at least without more information than we have.

I'm not, I don't want to begin to understand the issues about where the property goes to the middle of the Percy Place despite Heather's good description, and I just will pass on that one.

And in terms of the driveway, no lowering of the curb. It's only for the cut, for the curb cut with a typical flaring out with the end of the parking place. But no lowering, otherwise lowering of the curb. That's how I

would come out on the floor, on the issues.

DOUGLAS MYERS: I would agree. I would just say, I would just say that my view was just decide this case as much as possible and in a straightforward standard way; approve plan B just as the Chair said.

As far as not do anything to comment about the right of the owner of the property to park on Percy Place. We're deciding the propriety of off-street of additional off-street or on premises parking.

Not do anything other than just completely standard about the type of cars to be placed on the driveway. We don't specify any numbers when we grant the right for on premises off-street parking.

And as far as lowering the curb, I think Brendan's comment is extremely helpful, exactly as per the plan except for whatever flaring is standard in the immediately adjacent curb. But otherwise to decide this as standard as possible.

CONSTANTINE ALEXANDER: Thank you. Anyone else

wish to speak.

BRENDAN SULLIVAN: Alison, were you able to determine a length?

ALISON HAMMER: It looks like it's about 24 feet, but it does neck down to like seven feet in the back.

BRENDAN SULLIVAN: Okay. Again, I think possibly being helpful we have the dimension of the width, the length would have been somewhat of a key dimension for me. It's absent, but --

KEITH GIAMPORTE: It's the B dimension.

BRENDAN SULLIVAN: The B dimension.

KEITH GIAMPORTE: It's listed on there.

ALISON HAMMER: Right. That's the -- but not the extent of the driveway paving. It kind of goes a little bit further back.

BRENDAN SULLIVAN: Basically the extent of the pervious pavers.

KEITH GIAMPORTE: You were looking for this

dimension, too.

ALISON HAMMER: Looking at a previous plan I see it's -- mine says 24 on the previous dimension.

BRENDAN SULLIVAN: And that dimension is?

ALISON HAMMER: And that dimension is the extent of the permeable paving.

BRENDAN SULLIVAN: Right. Except what was that number?

ALISON HAMMER: 24 feet.

BRENDAN SULLIVAN: 24.

So my understanding is that the driveway will be eleven-foot, ten-and-a-half inches by 24 feet. The extent of the cut down, if you will, will be eleven-foot, ten-and-a-half inches with the standard flaring up not to have a sharp 90-degree edge at that point. Plan B.

CONSTANTINE ALEXANDER: Right.

Anyone else wish to speak? We can go for a vote.

Alison, I'm just giving you the opportunity if you

want to speak.

ALISON HAMMER: Sure. I mean I guess the only thing I feel like maybe it seems like some of the people on the opposition are worried about certain things getting taken advantage of, so I just want to make sure that we're very clear on what happens with the curbing, and you know, how big that curb can get, you know, what is one man's standard is another man's, you know, Titanic. And so, you know, whether it's just is the -- does the curb startup and go down like this? Or does it actually turn a radius corner? And a radius, where does that radius start? Because there's a start at the property line and it's just a, you know, just a radius from there? And so that would just be -- I would like us to be a little bit more specific than that than saying standard.

DOUGLAS MYERS: I'd ask Brendan, not part of the decision really, just as an exchange of opinion among board members. Does the flaring extend if it extends away from

the driveway, does it usually extend a matter of inches?

BRENDAN SULLIVAN: It's usually like a 45-degree angle.

DOUGLAS MYERS: The angle? And how that angle extends for a matter of inches?

BRENDAN SULLIVAN: Well, it depends on the height of the curb which determines, you know, the length of that. But if you were to take that eleven-foot, ten-and-a-half inches. I'm sorry, is it eleven-foot, ten-and-a-half?

KEITH GIAMPORTONE: Yes.

BRENDAN SULLIVAN: If you were to take that eleven-foot, ten-and-a-half inches as the base and you just flare up from there. 45-degree angle there and a 45-degree angle there, you're going up five inches or something, three-and-a-half inches, whatever it may be. It just takes the sharp edge off of it.

ALISON HAMMER: So to be clear, we're not talking about radiusing here?

BRENDAN SULLIVAN: No, no.

ALISON HAMMER: We're just talking about actually putting a diagonal on the curb so that you're not -- it doesn't stop like that?

BRENDAN SULLIVAN: Correct.

ALISON HAMMER: Okay, great.

CONSTANTINE ALEXANDER: And, Alison, how far -- how deep is the driveway? 28 feet?

ALISON HAMMER: It's 24 feet is the extent of the permeable paving although it does not go the full width all the way back. It necks down because of the stairs I believe.

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: Anyone else wishing to speak or start to frame a motion?

(No Response.)

CONSTANTINE ALEXANDER: I guess I'll start to frame a motion and please chime in and help me as we go.

This is to my fellow board members, not to the audience.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that this is a very narrow, very congested area of Cambridge so that all people who live in the vicinity have parking issues and they're exacerbated when we have a narrow, private or -- I'm going to strike the word narrow, private way coming off Essex Street onto Percy Place. And so whoever would occupy the premises at 38 Essex would have issues with regard to parking.

That the hardship is owing to the shape of the lot, it being a corner lot, with little area for -- corner lot that's mostly occupied by the residential structure.

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

Being in this case that hopefully our decision will maybe, maybe not, maybe alleviate some of the parking issues and stresses that seem to be endemic to Percy Place and Essex Street.

So on the basis of these findings the chair moves that we grant the Variance requested, and the Variance being requested is for one parking place off Percy Place. That parking place will be as set forth on a plan submitted by the petitioner initialled by the Chair, prepared by Next Phase Studios. I'm looking for a date. Dated September 15th.

Further, that with regard to this parking space that it will be -- the curb cut will be 11 feet -- no more than eleven feet, ten-and-a-half inches with a typical normal flare out, 45-degree angle flare out when the parking space meets the street and no more than 24 feet deep.

Anything else?

All those in favor of granting the Variance on

this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance  
granted.

(Alexander, Sullivan, Green, Myers, Hammer.)

\* \* \* \* \*

(8:25 p.m.)

(Sitting Members Case BZA-013923-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will resume the hearing and the next case we're going to hear is case No. 013923, 43 Essex Street.

Is there anyone here wishing to be heard on this matter? Give your name and address to the stenographer.

CHRISTOPHER SHACHOY: Good evening, Mr. Chairman. My name is Christopher Shachoy, I'm the trustee of 43 Essex Street, nominee trust. And we are requesting a continuance tonight so that we can continue to work with our abutters to the rear.

CONSTANTINE ALEXANDER: Do I understand that you haven't reached an agreement yet?

CHRISTOPHER SHACHOY: We're working on it.

CONSTANTINE ALEXANDER: Working on it.

CHRISTOPHER SHACHOY: We're making progress.

CONSTANTINE ALEXANDER: That's all I need to know.

CHRISTOPHER SHACHOY: Yeah.

CONSTANTINE ALEXANDER: Okay. But when you do,  
hopefully you reach a solution and you've got new plans,  
which I guess will be a result, you know they've got to be  
by five p.m. on the Monday before.

CHRISTOPHER SHACHOY: Yes.

CONSTANTINE ALEXANDER: We have to get the five of  
us together the date you want.

CHRISTOPHER SHACHOY: You tell us when you can get  
the five together.

CONSTANTINE ALEXANDER: Okay. The text  
continuance, that will be your second continuance.

CHRISTOPHER SHACHOY: Yes.

CONSTANTINE ALEXANDER: We typically, except for  
extreme circumstances, do not further continue. So you need  
to pick a date that you think you can solve your problems or  
not if you want to go forward. So think about that. Next

month? I mean, what's the second hearing in November?

JANET GREEN: I can't do that.

CONSTANTINE ALEXANDER: How about the first one in December?

SISIA DAGLIAN: The 14th. We only have one December the 14th. You already have two cases.

CONSTANTINE ALEXANDER: 14th work for everybody here?

ANDREA HICKEY: 14th I can do.

CONSTANTINE ALEXANDER: I can do it.

JANET GREEN: I can do that.

CONSTANTINE ALEXANDER: December 14th work for you?

CHRISTOPHER SHACHOY: Yes, December 14th will work for us. Thank you very much, Mr. Chairman.

CONSTANTINE ALEXANDER: And also, I have to say because you didn't do it this time, you've got to change the sign. I don't think you were told. I went to check the

premises and we were going to continue the case anyway because you didn't update the sign.

CHRISTOPHER SHACHOY: Oh, it wasn't?

CONSTANTINE ALEXANDER: No.

Okay, well, it doesn't make a difference tonight. But next time if you do that, if it's not updated, we're not going to hear the case, we'll throw it out.

All right, the Chair moves that we continue this case as a case heard until seven p.m. on December 14th subject to the following conditions:

The petitioner sign a waiver for a time of decision. And you've already done that.

Two, that the posting sign, you either get a new one or take the old one, has to be modified. If you modify the old one, get a magic marker; new date, December 14th and the new time, seven p.m. And that sign has to be maintained for the 14 days before the December 14th hearing.

And then lastly to the extent that there are new

plans, and I guess there will be, I think, they must be in our files no later than five p.m. on the Monday before December 14th. Got it?

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(8:30 p.m.)

(Sitting Members Case BZA-014585-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: We're now turning to our regular agenda a little bit late but nevertheless. The Chair will call case No. 014585, 1350 Mass. Avenue involving Bon Me Foods, LLC.

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

MICHAEL FEENEY: Good evening.

CONSTANTINE ALEXANDER: Good evening.

MICHAEL FEENEY: Good evening. My name is Michael Feeney. I am the operations manager of Bon Me Foods, LLC, the applicant. To my right is Patrick Lynch, the CEO of Bon Me. We are here tonight to seek a fast order food establishment Special Permit for our proposed venue at 1350 Massachusetts Avenue. Our venue will be located along the

interior arcade of the renovated Smith Campus Center.

CONSTANTINE ALEXANDER: No exterior signs?

MICHAEL FEENEY: Correct. And our venue will be open from seven a.m. to ten p.m.

So Bon Me takes its name from a traditional Vietnamese sandwich, but our food is decidedly non-traditional. We -- our food incorporates bold flavors from a variety of Asian cuisines and it's packed with fresh vegetables, and we also sell our food at a pretty affordable price point. So our average ticket is between nine and ten dollars, so it's appealing to a wide range of the community.

CONSTANTINE ALEXANDER: Is there any other establishments in the Harvard Square area that offer a menu similar to yours?

MICHAEL FEENEY: Not really. I think we're -- our concept is unique and I think it's something that will bring vibrancy to the newly revitalized public space that is the Smith Campus Center.

CONSTANTINE ALEXANDER: So that's the need you're going to be serving for the Harvard Square area, a different kind of cuisine which is not otherwise available in the square.

MICHAEL FEENEY: Absolutely.

CONSTANTINE ALEXANDER: One of the requirements for the Special Permit, that's one of the reasons why I mention it.

MICHAEL FEENEY: Right. And to address some of the other specific criteria in 11.31, business will be driven by walk-in trade. It's a -- from the Harvard Square community and it's also just steps from the T. So I'd like to think we can spare you further discussion of parking in this case at least.

CONSTANTINE ALEXANDER: Please.

MICHAEL FEENEY: Enthralling as it may be. As I said, it will be in the interior of the building, and it will be designed by our architecture firm

that has done all of our restaurants. It will be tasteful, in keeping with the design of the building.

CONSTANTINE ALEXANDER: You have two other establishments in Cambridge beside the food truck, in the ground kind of thing?

MICHAEL FEENEY: Yes. We actually have three other establishments in Cambridge. There's one in Kendall Square.

CONSTANTINE ALEXANDER: Kendall Square, Alewife. And where's the third?

ANDREA HICKEY: Binney.

CONSTANTINE ALEXANDER: Where?

MICHAEL FEENEY: Binney Street.

CONSTANTINE ALEXANDER: Oh, Binney Street. Okay.

MICHAEL FEENEY: And sustainability is a core goal of our company. And to that end we use compostable packaging for the food we serve to customers and we strive to reduce waste to the extent possible.

The building arcade will have well marked trash receptacles and receptacles for composting, and they will be near the seating for customers which is provided and maintained by the landlord.

CONSTANTINE ALEXANDER: How many food offers -- establishments will there be in the arcade? We approved one last session. You are two. Next case is going to be three. How many more are going to be in that area?

MICHAEL FEENEY: I believe there are seven in the building total.

CONSTANTINE ALEXANDER: There are seven? We don't know who the other four -- you don't know who the other four are yet?

MICHAEL FEENEY: I don't.

CONSTANTINE ALEXANDER: Just curious.

MICHAEL FEENEY: And lastly, the building will be handicapped accessible. So I hope that satisfies what you need, but if there are any questions, please let me know.

ANDREA HICKEY: Is it handicapped accessible from the Mass. Ave. side or only from the back, do you know?

MICHAEL FEENEY: I have to defer to the representative of the Harvard. Alexandra.

ALEXANDRA OFFIONG: Good evening. Alexandra Offiong, Harvard University.

So the building is, as you know, the building is under full renovation and it will be accessible from all of the facades.

ANDREA HICKEY: Oh, great. That's good. Thank you.

CONSTANTINE ALEXANDER: Thank you.

Other questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony. Is there anyone here wishing to be heard in this matter?

JAMES WILLIAMSON: Can I start -- I have a question, information question.

CONSTANTINE ALEXANDER: Sure.

JAMES WILLIAMSON: Thank you. James Williamson, 1000 Jackson Place. I just -- two questions for the gentlemen from Bon Me.

My, my first experience was with a food truck, and I don't know what your plan, are you planning to discontinue the food truck? Are you going to still have the food truck component of the business? And what are your overall expansion plans? Are you kind of rolling out lots and lots of Bon Mes, you know, or what's your ambition as far as expansion?

CONSTANTINE ALEXANDER: James, I'm not sure that second question is necessarily relevant to whether we should grant a Special Permit in Harvard Square in this space. I mean, if can you answer quickly, fine.

JAMES WILLIAMSON: Well, maybe bring it in a

little closer into the Cambridge or the Harvard Square area in terms of -- understanding the scope of the business I think would probably be relevant to the question of one of the criteria, but that's -- it's more of a general information if that's fair.

CONSTANTINE ALEXANDER: I know, I just I want to move the hearing along that's all.

MICHAEL FEENEY: Sure. So, yes, we did start as -- with a food truck in 2011 and we do have several food trucks. We will continue to operate a food truck on the -- outside the science center of Harvard.

JANET GREEN: The plaza.

MICHAEL FEENEY: The science center plaza exactly. And we feel that those won't compete with each other particularly. They're sort of on either side of the yard. As far as, you know, expansion, we have expanded a little bit. We are a local company. We live here. We -- and so we plan to continue to do that. We, you know, there may be

some expansion, but it's not, it's not a big sort of corporate entity I guess.

CONSTANTINE ALEXANDER: Not going to be McDonald's in other words?

MICHAEL FEENEY: Right, right.

CONSTANTINE ALEXANDER: Anything else, James?

JAMES WILLIAMSON: Well, just as a comment, I just -- thank you. Because I worked on the issue of what was happening with the expansion of the -- and renovation of the center, it's my understanding that Harvard, in the way that they're going about this, are looking for partly just in brief conversation I just had with some representatives from Harvard, that they are looking for people who are local. And, you know, sustainable and, you know, good food and all of that. And so I just want to support them in continuing with that approach and commitment and also an interest in hearing from insofar as they haven't yet maybe necessarily secured agreements with every possible kiosk as

they're calling it, that there's openness to hearing from people in the community which I think is a positive aspect of this which I just want to support them in that. So thank you.

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

Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of a letter or a memo I should say from the Harvard Square Advisory Committee. I'm just going to get to the bottom line. Most of it just related to reciting the facts of what we are talking about and some of which you've already presented. And all of the members who attended the meeting voted in favor except for Ms. Offiong who represents the landlord Harvard College. So there is support from the Harvard Square Advisory Committee. And that's all we have in our files.

So I'm going to close public testimony. Any final words you want to say?

MICHAEL FEENEY: No.

CONSTANTINE ALEXANDER: Okay. Ready for a vote?

JANET GREEN: Yes.

ANDREA HICKEY: I just had one question.

CONSTANTINE ALEXANDER: Oh, I'm sorry, go ahead.

ANDREA HICKEY: Am I correct there will be no exterior signage?

MICHAEL FEENEY: That's correct.

ANDREA HICKEY: Okay.

CONSTANTINE ALEXANDER: I asked that.

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

That the petitioner's presentation indicates that all of the requirements of Section 11.31 will be satisfied.

And that further, we have to make more general findings with regard to any Special Permit we grant. So let

me deal with them next.

That the requirements of the Ordinance cannot be met without a Special Permit per our Ordinance. This is Section 10.43.

That traffic generated or patterns of access or egress resulting from your proposal will not cause congestion, hazard, or substantial change in established neighborhood character. As you presented to us, you will be operating what is being called a kiosk solely within the building with no external signage or other appearances.

That the continued operation of or the development of adjacent uses as permitted in the Ordinance will not be adversely affected by what is proposed. In fact, in terms of the neighborhood generally you are not only not adversely affect, you could possibly beneficially affect by creating more foot traffic which will be down to the benefit of all the stores in the area.

That no nuisance or hazard will be created to the

detriment of the health, safety, and/or welfare of the occupant or the citizens of the city.

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

In this regard the Chair would note what is being proposed furthers the goals of this renovation, one of the goals of the renovation of the what is now the Smith Center in Harvard Square.

So based on all of these findings the Chair moves that we grant the petitioner the Special Permit it is requesting.

All those in favor?

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(8:40 p.m.)

(Sitting Members Case: BZA-014611-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 014611, 1350 Massachusetts Avenue. This involves a Pavement Coffeehouse.

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

LAWRENCE MARGULIES: Hello. My name is Lawrence Margulies. I'm President and owner of Pavement CoffeeHouse. We've been baking bagels for 20 years locally. We're speaking a Special Permit for a food service establishment within this Smith Center.

CONSTANTINE ALEXANDER: Do you operate any other establishments like this?

LAWRENCE MARGULIES: In Cambridge, no. This will be our first one.

CONSTANTINE ALEXANDER: First one in Cambridge.

LAWRENCE MARGULIES: Yeah.

CONSTANTINE ALEXANDER: You operate outside of Cambridge?

LAWRENCE MARGULIES: Yes. We have six stores in Boston on the other side of the river.

CONSTANTINE ALEXANDER: Okay.

LAWRENCE MARGULIES: So we make homemade bagels. We roast our own coffee. In addition we serve sandwiches, soups, salads, pastries, and we feel that what we have to offer fulfills the need of the building and the general surrounding community.

We are located within the welcome center. You could see here. This is the plaza, right, and these two points.

CONSTANTINE ALEXANDER: You're aware of course that we've already approved the Swiss bakery in the same area.

LAWRENCE MARGULIES: They're just right here.

CONSTANTINE ALEXANDER: Which it seems to offer product offering somewhat similar to yours.

LAWRENCE MARGULIES: So, yeah, they don't make homemade bagels.

CONSTANTINE ALEXANDER: Swiss.

LAWRENCE MARGULIES: They make Swiss pastries. So I don't know anything about that.

We're expecting the vast majority of customers to be coming from within the welcome center or just the surrounding area. I'm not thinking that anybody's going to be driving to the store.

CONSTANTINE ALEXANDER: You mean the bagels are not that good that people wouldn't drive.

LAWRENCE MARGULIES: Maybe my mom and dad.

JANET GREEN: Drive by?

LAWRENCE MARGULIES: Besides that, yeah. So like the previous petitioner, we don't have any exterior signage.

We will be using the trash and recycle containers that are provided by the facility.

As the last petitioner said, the entire building is handicapped accessible.

So we also intend to be as environmentally conscious as possible. That's a value of mine as an individual, and I think that we will pass along to our business operations.

Our hours of operation will be Sunday to Thursday seven a.m. to eleven p.m. And then Friday and Saturday night seven a.m. to one a.m. And that is my story and I'm sticking to it.

CONSTANTINE ALEXANDER: Short and sweet.

LAWRENCE MARGULIES: Yes. Any questions?

ANDREA HICKEY: Will you be doing any baking on-site?

LAWRENCE MARGULIES: No, no. We do all of our baking about two miles away at our bakery and we will be

delivering every morning about 6:30 a.m.

ANDREA HICKEY: And what is the arrangement for delivery vehicles? When do you expect them to be coming?

LAWRENCE MARGULIES: Right.

ANDREA HICKEY: Will it be on a daily basis?

LAWRENCE MARGULIES: Daily basis. 6:30 in the morning prior to open at seven. And the parking would be the same as it's always been historically for building on Dunster or on Mount Auburn in the designated spaces.

ANDREA HICKEY: In the back, okay.

LAWRENCE MARGULIES: Yeah.

CONSTANTINE ALEXANDER: Anything further, Andrea?

ANDREA HICKEY: In terms of trash pick up, is that something the building handles?

LAWRENCE MARGULIES: Yes.

ANDREA HICKEY: Does each individual store handle their own?

LAWRENCE MARGULIES: We handle what is in our

private little kitchen and then that goes in the common facility of the building, but then Harvard facilitates all the common area trash removal and recycling, bathrooms, the cleaning, all that.

PATRICK TEDESCO: So this may or may not be relevant to the case, but your store in the Fenway at Northeastern --

LAWRENCE MARGULIES: Yes.

PATRICK TEDESCO: -- is furnished in a way that seems to encourage people to linger --

LAWRENCE MARGULIES: Right.

PATRICK TEDESCO: -- with their laptops and do work. Is that the intention with the second floor here or is this more of a kind of grab a cup of coffee and go?

LAWRENCE MARGULIES: Our intention is to move customers grab and go. The seating for the building at large is communal in nature, that a customer who goes to Bon Me or Swiss Bakers can sit anywhere. Or if you're just a

regular citizen of the area, you could just come in and sit wherever you want and not buy anything.

PATRICK TEDESCO: So the second story is not limited to just paying customers?

LAWRENCE MARGULIES: No, no.

PATRICK TEDESCO: So it's connected to the --

LAWRENCE MARGULIES: No. Anybody can go anywhere. I think that's what's actually appealing about the plan in general versus what the old plan was.

PATRICK TEDESCO: And is there signage? Because this is part of the exterior. It's accessed -- well, you access it from the welcome center but there is also a door from the --

LAWRENCE MARGULIES: No. There's no direct access from outside. So it is visible from the outside, but most of the renovations are glass and a lot of things are visible. So we have no exterior signage. The only signage that we have is part of a controlled environment that

Harvard has given to us that says you can put your sign, you know, right here above your menu and that's pretty much the extent of it.

CONSTANTINE ALEXANDER: The arrangement generally is sort of like a food court in a big shopping center where you have --

LAWRENCE MARGULIES: Yes.

CONSTANTINE ALEXANDER: -- seating in the center, the food places around the side --

LAWRENCE MARGULIES: Right.

CONSTANTINE ALEXANDER: -- and the owner, the shopping center owner in this case is Harvard, takes care of cleaning the tables and maintaining them, providing the restrooms, etcetera.

LAWRENCE MARGULIES: Yes.

CONSTANTINE ALEXANDER: Is that right?

LAWRENCE MARGULIES: Exactly.

BRENDAN SULLIVAN: I have a question for

Alexandra. Each vendor will distinguish themselves by their product, but how do they identify themselves in the plaza? Is it a signage over -- well, you tell me. How will they identify themselves?

ALEXANDRA OFFIONG: So the building itself will be identified as the Smith Campus Center, will have signage consistent with our zoning approvals that will make sure that it's clear that it's open to the public, and the design itself is very welcoming. Each of the food venues will have signage at their own venue and, you know, when you walk into the welcome center, you will be able to see through the building. It's much more permeable so you'll be able to look down and see, see all the different vendors. So the signage and the identification will be at the physical location.

BRENDAN SULLIVAN: So it's not like a shingle hanging out over their doorway or anything that you look down ala Faneuil Hall Marketplace or anything, not to that

extent? They will have it on their own --

ALEXANDRA OFFIONG: Now I can't remember exactly what, for example, with Bakers if they had a blade sign or a wall sign. It's -- I can't remember exactly. But I think the viewscape, you'll see that there are operations in throughout the building.

BRENDAN SULLIVAN: Okay.

And so the delivery, I know it's Dunster Street, so it will be curbside delivery? They're not going to be able to use the garage at all for deliveries?

ALEXANDRA OFFIONG: So the building will continue to be serviced by -- there's a loading zone on Dunster Street and a loading zone on Mount Auburn Street.

BRENDAN SULLIVAN: Right.

ALEXANDRA OFFIONG: Yeah.

BRENDAN SULLIVAN: And that's how they service --

ALEXANDRA OFFIONG: Yeah.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Any other questions?

BRENDAN SULLIVAN: No, thanks.

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

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

JAMES WILLIAMSON: Questions.

CONSTANTINE ALEXANDER: Sure.

JAMES WILLIAMSON: I guess first thing is just to clarify there's no access from the outside to this space? In other words, I mean I'm remembering and I'm not a trained architect, and I thought there was gonna be access from the outside from the plaza to the --

LAWRENCE MARGULIES: Well, there's access, sure, yes. There's access through the common access to the whole building and we are located within a common public space.

JAMES WILLIAMSON: But no side entrance in, off Dunster or on that side?

ALEXANDRA OFFIONG: I could just speak to that.

So in the welcome area there are actually two main entries:

There's the one that's aligned with the arcade and that's the sort of the main ceremonial entry. And there -- you may remember there's another entry in the corner, and that entry is next to a stair that will also get you up to the second floor space so that there's easy access for that part of the public space as well.

JAMES WILLIAMSON: So, thank you.

So, as I'm remembering the discussion, the colloquy about public access to the Smith Center, I may be mistaken but I got, I'm carrying the impression that there was an intention to have it be open later -- I don't know if this is not fair to put a burden on your particular business for this, but my impression was that there would be opportunity for people to get a coffee or a whatever later than eleven o'clock. And maybe I just didn't understand that. So to understand better the, you know, the planning

around, you know, access to a building and what is and what isn't going to be available until what time at night.

ALEXANDRA OFFIONG: Sure. So we looked very closely at what we agreed to two years ago when we worked with you to design the whole building. And the way it was is in the welcome center it -- the hours are very similar to what they used to be in that they do go to late at night. And as was described, the hours of operation for Pavement and the welcome area overall will be on the weekends until one in the morning, during the week until eleven o'clock at night. Correct.

For the more interior to the building that will be, again, similar to how it used to be in that it's open until ten o'clock at night. So that's -- we definitely paid close attention to that and made sure that we are, we want not only the space to be open but the operators to be open as well.

JAMES WILLIAMSON: And the public access to the

interior of the building would end at ten o'clock?

ALEXANDRA OFFIONG: Yeah.

JAMES WILLIAMSON: That's not quite how I remember some of that, but okay.

The last thing is that with Au Bon Pain there was a tremendous problem with people who are homeless in and around Harvard Square sort of occupying it for lack of anywhere else to be, especially during colder months, and to the point where Harvard I think felt obliged to provide a Harvard police officer on weekends anyway up until closing. And I just wonder if you could speak to either or both of you how you plan to manage, given that I think many of us really want it to be open to the public, and a welcoming place for the public but at the same time understand that there can be difficulties associated with that. Can you speak to how you, how you thought about how to manage that dimension of this, which is going to be a significant aspect of this site I think. Given that there are homeless people

on every bench in Harvard Square and every doorway.

Thank you.

CONSTANTINE ALEXANDER: Thank you.

ALEXANDRA OFFIONG: So we, you know, we worked with you. We know that this is going to be a building within Harvard Square that has a significant public component. It's something like 35,000 square feet. We've provided public restrooms. We're providing lots of seating. We want to make it very welcoming to the community, that includes all members of the community. We realize that it has to, it has to operate well. We don't want, you know, we can't -- we have to make sure that it works for all people who want to enter the space. And so I don't think we are coming up with an operations plan. We know that there are tricky things that we need to work through. We're still working on that, but we are committed to making it a public space.

CONSTANTINE ALEXANDER: Okay.

Anything else James? You all -- okay.

Anyone else wishes to be heard on this matter?

JAMES WILLIAMSON: Well, I'll just add one thing.

Sorry. The thing that I hear most from people who went to Au Bon Pain is that it was an affordable, you know, affordable food. So to the extent that this can remain affordable for people, a range of people, I think that would be a really welcome thing.

So, thank you.

CONSTANTINE ALEXANDER: Sounds to me like your price point is going to be similar to Au Bon Pain.

LAWRENCE MARGULIES: Yes, at a higher quality.

CONSTANTINE ALEXANDER: I wasn't talking about quality. I was talking about price.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in

receipt of a memorandum again from the Harvard Square Advisory Committee. And the conclusion is is that the committee -- all members in attendance at the meeting where they discussed this proposed fast order food establishment, all members in attendance supported your request for a Special Permit. And find it in conformance with the Harvard Square Overlay District guidelines. And that's all we have.

I'll close the matter up to public comment unless you have anything further you want to say.

LAWRENCE MARGULIES: No.

CONSTANTINE ALEXANDER: Discussion or ready for a vote?

JANET GREEN: Ready.

ANDREA HICKEY: Ready.

CONSTANTINE ALEXANDER: Ready for a vote. The Chair moves that we make the following findings with regard to the Special Permit being sought:

That the petitioner has submitted evidence or

testimony indicating that all other requirements of Section 11.31 of our Ordinance will be satisfied, including with regard to signage, and since there will be no exterior signage, and with regard to fulfilling a need in the neighborhood.

And that further, turning to the general requirements for a Special Permit, we make the further findings:

That the requirements of the Ordinance cannot be met without the Special Permit you are seeking.

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

Again, the operations will be confined within the building and no exterior signage and little, if any, exterior impact.

That the continued operation or development of

adjacent uses as permitted in the Ordinance will not be adversely affected by the nature of what is being proposed.

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

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

In this regard what is proposed will hopefully improve the quality of street life and just general use of Harvard Square together with the other fast order food establishments that are going to be located in the Smith Center.

So on the basis of all these findings, the Chair moves that we grant the Special Permit that you are seeking.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

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(9:00 p.m.)

(Sitting Members Case: BZA-014466-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 014466, 207 and 227 Cambridge Street.

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

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chair.

For the record, James Rafferty on behalf of the applicant

Mark Lechmere, LLC. Seated to my right is Robert Korff,

K-O-R-F-F. Mr. Korff is the principal of our -- of the

entity that owns the site. He's the petitioner this

evening. Seated to Mr. Korff's right is Kevin Paton,

P-A-T-T-O-N?

KEVIN PATON: P-A-T-O-N.

ATTORNEY JAMES RAFFERTY: Mr. Paton is the

architect.

So this is an application, as I'm sure the Board is aware, for a Special Permit to allow for the reduction in the required amount of parking for a proposed retail store on the corner of Third Street and Cambridge Street. The site is currently and has long been the home of what most recently was the Citizens Bank, but was originally built as the Lechmere National Bank, and we've had a --

CONSTANTINE ALEXANDER: Really?

ATTORNEY JAMES RAFFERTY: Yep.

And we have a long history learning about -- we have a long experience learning about the history of the bank because Mr. Korff has promptly been at this exercise now for the better part of nearly three years would be my estimate. And so when Mr. Korff first acquired the site, he did so with the expectation that the local druggist had closed operations, Chamfort Drug and he thought this would be an ideal opportunity to site a CVS. So he acquired the building. It's allowed use, and he set upon meeting the neighbors and talking about building.

CONSTANTINE ALEXANDER: Little did he know.

ATTORNEY JAMES RAFFERTY: Yes.

And so it has been an education on many levels, but initially Mr. Korff's proposal involved taking down the two existing buildings on the site; one being the bank building, and at the other of the site, the bank is considered 227 Cambridge Street and the other end of the

site is 207 Cambridge Street, which is a wood frame building. The initial proposal, not designed by Mr. Paton, but I believe it was someone else that designed it, but at any rate it was a building that was not well received because of its scale. It took down both -- I had an image of it a minute ago. It took down both of the structures and simply put a large new building. Here I have a copy of it. And the idea was to have this building kind of have some of the elements of the bank that was there. So that was the original proposal to build a single --

JANET GREEN: What were the elements that were the same?

ATTORNEY JAMES RAFFERTY: Well, it kind of has a masonry look to it.

CONSTANTINE ALEXANDER: The front doors.

ANDREA HICKEY: It has windows.

ATTORNEY JAMES RAFFERTY: Yeah. And it had that monumental -- it was much bigger than it needed to be,

though, frankly. It was intended to perhaps mimic some of the grandeur of the bank building. The bank building was like this 1920s building that had the appearance of a safe place for a deposit. Right? So banks of that era were built in a certain style. So the attempt here was to perhaps pay some type of homage to that look. That did not fair well. That building. We spent a number of times -- and there were a number of iterations on that plan. And I'd say we'd spent many, many months. And I'm giving this long history because I'm sure you know from reading the file, that a lot of the sentiment and comment being expressed here is a preference for a different project. And I think it is of some relevance, and just wanted to educate the Board.

So after many months and a series of designs which included a whole bunch of different facades, and we weren't making much progress, it was suggested by the neighborhood association, and which had been working with us

cooperatively actively for years, would Mr. Korff be willing to consider an alternative development here and not simply a CVS? And he expressed a willingness to do so and was very candid early on that, okay, if there's a willingness here, I'll work with people. And the thinking was that he would, the opportunity might exist to build a mixed use project with small retail on the ground floor and 45 units of housing above. That's the number of units that the current zoning would allow from a density perspective. But the FAR on the site and the setback requirements in this site, because in this business district as the Board may know, when you choose to build residential, you have to build pursuant to the Residence C-2B Zoning. And they have these formulas setbacks and you can't, you can't build it. I mean by the time you're done meeting the setbacks and you don't get the retail on the ground floor.

So the idea was well, we would -- Mr. Korff would be prepared to explore a different outcome, hire an

architect, explore that, and a working group was formed for which we were very grateful. Volunteers from the neighborhood association worked with a new architectural team, with Prellwitz Chilinski, a Cambridge firm located in Inman Square, that was very attune to kind of the urban design features that are considered favored in Cambridge. And they came up with a very handsome design. And I do feel kind of unusual here talking about what we don't have before you, but just by way of historical reference, they designed a building that had the 45 units of housing, it had ground floor retail, it had all parking below grade. And it required -- but to get there it required a rezoning exercise. It would have to change the zoning to accommodate that.

And we met with the neighborhood association with the final proposal. We got an affirmative vote of 18 to 8 to go forward. Drafted the zoning petition. We met with the City Councillors. We, as you know in the zoning

petition process, two concurrent public hearings are conducted; one by the Planning Board, which makes a recommendation to the City Council, the other by the Council's Ordinance Committee which holds public hearings and decides whether to recommend to the full Council to adopt the zoning amendment.

Despite a lot of good will and a lot of what we thought was support, we ran into a very strong level of opposition, most notably from the most immediate abutters to the project. They were very, very opposed to the project as we had designed it. And we spent a fair bit of time trying to persuade people that this was a good outcome, this was good urban design, that this housing would be good.

We went to the Planning Board. We had those hearings. We did not fair well at the Planning Board. The Planning Board recommended against it.

We then went to the Ordinance Committee, and the Chair of the Ordinance Committee Councillor Caralone was very

active, believed in the project and the design. We had a series of hearings. We could not garner the necessary support from the Ordinance Committee to move the petition out of the committee and on to the Council. So the petition expired.

We're probably now two years into the exercise if you can have an appreciation. So it was kind of back to the drawing board. Mr. Korff looked again at the site and began intensive discussions with the immediate abutters, many of whom are here today, who expressed a very strong preference for the CVS. So the CVS that's proposed here is different than what had been proposed before.

Based on decisions by the Historical Commission, the proposed building retains the bank and the bank gets incorporated -- now I don't know if you've -- and I know Mr. Paton has a couple of larger -- we have three sets maybe we can pass around to share.

CONSTANTINE ALEXANDER: They're in the file too,

right?

ATTORNEY JAMES RAFFERTY: They're in the file.

Same one.

You can see in the renderings in particular, the design approach to the facades here was largely informed by the feedback we got during the whole process, which was the first proposal here was out of scale with the context of Cambridge Street. It was, you know, it was over 200 feet in length. It was a single facade. It didn't fit in, it didn't look right. And so the facade scheme here was to create a series of storefronts that would be consistent with the context of the streetscape, and this was the design. And this design, however, did include the removal of the demolition of the wood frame building at 207 Cambridge Street. So we returned to the Historical Commission seeking approval to take down that building. And we were granted that approval in the form of a Certificate of Appropriateness on the condition that the bank building be

retained and restored, and the replacement building be in the form that you see right here. So it's a -- the Historical Commission's jurisdiction is under what's called the Demolition Delay Ordinance. It is in a Conservation District. It's not a historic district. But as you know, any building more than 50-years-old is subject to a demolition delay proceeding. And the Historical Commission has to find that the existing structure is not preferably preserved in the context of the replacement structure. So such a finding was made here with regard to 207. It was found not to be preferably preserved in the context of that proposal.

So the design proceeded, and the last thing left with regard to design, the building as proposed at slightly over 13,000 square feet, is well over the allowable FAR. Its density is within the dimensional limits, but what is not compliant in the building is the parking. And the parking requirements in this district frankly are a bit

high. They require one parking space for every 500 square feet of retail. Now, even though the Ordinance requires that, that Ordinance hasn't been really adjusted in quite a long time. And I know from experience in other projects that if you were to come in to the Planning Board, the Traffic Department, Community Development, and seek such a parking ratio, you would have a difficult time getting that because the city's policy on the transportation side believes that constraining the parking supply is one of the more effective ways to reduce vehicle trips. So I had recently completed a project around the corner on First Street where buildings of this size were 12,000 square foot building on the proposed building on the corner of First Street and Spring Street was urged, considered to reduce the parking to 12 parking spaces. And so in this case Mr. Paton went about applying all the requirements of Article 6 with regard to the layout of the parking lot. The, you know, the landscaping requirements, the dimensional requirements in

the size of space, the bicycle parking requirements, the loading requirements, all of those are present in this site plan. And we met with the Traffic Department on several times to review that. But what was clear is that we were going to be short the number of spaces. So it was discussed that the way we might go about making the case for reducing the spaces would be to conduct a traffic study, particularly a parking analysis, to demonstrate what the actual parking need would be for a store of this size.

Now, it's worth noting that the store, the proposed store, as you'll see in the dimensional form, is 13,950 square feet give or take a few feet. When you look at the Ordinance, the square footage -- the parking requirement is allocated on square footage. Now, one might assume that that square footage would be related to selling space, but there's no distinction. So this store, like many CVSSs, proposes to have a storage area in the Mezzanine. It's nearly --

KEVIN PATON: 1480.

ATTORNEY JAMES RAFFERTY: 1,400 square feet. That alone would require three parking spaces for storage area. So as you try to think about, how can we shorten the gap, because what we're requesting here is a reduction in 12 spaces. You say, well, if you didn't have a storage area, you wouldn't need a reduction in 12, you'd only need a reduction in nine because you've got to count the square footage of storage. And it's interesting as we went through this exercise and I learned about from Mr. Paton who does a lot of stores for CVS, they said actually the storage is beneficial in reducing deliveries to the store. The more storage they have, the fewer times the vehicles have to come to the store. And we did the analysis, the parking analysis based on the loading needs and sizes of comparable stores that CVS has in urban locations and in other stores, well, not just CVS stores. So we hired a traffic engineer, prepared a traffic study, and then spent several sessions

with the city's Traffic Department.

CONSTANTINE ALEXANDER: I don't mean to interrupt a very good presentation, but that's who VHB is? I couldn't figure out who was VHB.

ATTORNEY JAMES RAFFERTY: VHB is a traffic engineer. They probably, they probably -- the traffic engineer that does most traffic work in cases involving project review Special Permits where a traffic impact study is required. They're very familiar with Cambridge, with Cambridge's transportation and traffic policies. We thought it was helpful, so the traffic engineer David Black who worked on this has appeared before the Planning Board many, many times, has served as a consultant to the City of Cambridge at Alewife and other planning locations.

CONSTANTINE ALEXANDER: He's not in-house traffic engineer for CVS?

ATTORNEY JAMES RAFFERTY: Oh, no, no, no. VHB is at 99 High Street in Boston. They are a full scale

engineering firm, but with a recognized expertise in traffic.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: And so, so it wasn't a casual selection. We chose a traffic engineer that we knew the city's Traffic Department had confidence in and had familiarity with, and most important they understood what the priorities within Cambridge were regarding transportation and traffic issues.

So rather than rely upon our consultant, who one might suggest is not -- may not be neutral.

CONSTANTINE ALEXANDER: Those are my questions.

ATTORNEY JAMES RAFFERTY: We did so. And so having done this once or twice before, I advised my client well, now let's go to the Traffic Department and let's share the traffic study with the Traffic Department and get their reaction to the study and what we're proposing. And we had several sessions with the Traffic Department. And there's a

two-page memo offered by Joseph Barr who is the director of Traffic and Parking where they -- and these memos are typically sent to the Planning Board in nearly all cases where traffic studies are involved. I know it's not always the case here that you see traffic studies, but of course the authority of the Board to adjust or reduce the required amount of parking as set forth in Article 6, has in its criteria an ability, a finding by the Board to understand what the impact or reduction might have on the surrounding, the surrounding traffic, the surrounding and the like. So it's a very critical component of your decision-making is whether or not the reduction is warranted and whether the criteria under Article 6 can be met.

The typical way in which the Traffic Department makes recommendations in cases such as this at the Planning Board and elsewhere, is to require that the applicant employ what are called TDM measures, Transportation Demand Management Measures, things that are geared, proven

practices that are designed to reduce the single occupant vehicles. So they tend to range from things bicycle storage, creating opportunities for employees to avail themselves of transit, in a range of mitigation measures.

So in this case we went through with the Traffic Department and Mr. Paton and Mr. Korff can do it tonight, what the staffing is of the store of this size the employees. Whether the employees -- it happens that CVS does not allow their employees to park in their parking lot. So this is strictly for customer parking. But you'll note in the plan and in the memo they recommend some additional things that the bicycle parking, which is a requirement, is a covered bicycle parking which is designed, which is a more effective form of bicycle parking. That's considered the short-term bicycle parking. The long-term bicycle parking, they encouraged us, well, could you put it in the building because we think employees would prefer to have their vehicle in the building. So there's been an area designated

for employees. Can we have a locker room so employees who bicycle to work can change into bicycle attire. These are measures that are typically employed in larger buildings but they've proven to be effective.

In this case at the end of the day the thing that I think recognize and is set forth in the memo is the determination of the study that found that comparable locations were satisfying their parking demands with 0.83 parking spaces per thousand square feet. And more importantly they affirm the finding that peak demand parking in these other locations was at 1.16. So when you apply that type of formula, we actually have I think one more space than the data would suggest. So we come before the Board tonight recognizing that we're, we're seeking a Special Permit, that the Board is authorized to grant, but we didn't come here without really exploring through traffic professionals recognized by the city as well as the city's own transportation staff, what is the right size for this

parking lot.

So there are a couple of things worth noting: For some people, many of whom have been closely aligned with this project and supportive of Mr. Korff's efforts, and I think even people -- I don't know that you'll hear from anyone tonight that Mr. Korff didn't spend years trying to get an outcome and a consensus around this project. That's a prediction on my part, and I may be proven wrong, but I think unlikely. But at any rate, there are some people who really prefer the project we talked about before, the mixed use project. And I think from a design, urban design perspective, it's very appealing and one so much of the commentary here suggests that, you know, they're opposed to the Special Permit because they prefer the other project. But as the Chair well knows, as the Board knows, that isn't really before the Board tonight, the question of raise your hand if you like this or raise your hand if you like the CVS.

CONSTANTINE ALEXANDER: Plan A or plan B if you were here earlier tonight.

ATTORNEY JAMES RAFFERTY: No.

And as powerful and as far reaching as the Board's authority is, we know that in this case, that isn't what's before the Board. So I -- we've made a case tonight. We believe that the right size of the parking lot is what we have proposed, and we've provided affirmation of that by the city's transportation professionals. And we're requesting that the Board be able to make the requisite findings under Article 6 that the measures here, not the least of adjacency and proximity of this to the transit, the Green Line. The fact that this retail use is allowed. And that the alternative to not granting the relief -- I mean, there are two ways to get here. If the size of the store were reduced and the size of the parking lot were increased, you could narrow that gap and get to an as-of-right project. And it doesn't, that strikes us, me as a lose/lose situation. I

haven't heard from too many people that what's missing here is more parking. But I think many of the critics suggest that they wouldn't -- they'd prefer there not be parking.

In the prior scheme, the one that we attempted, all the parking was below grade and that had an understandable appeal. It's a costly exercise. In large measure it drove the fact that in order to make the economics of that below grade parking work. It's been suggested that why don't Mr. Korff, why don't you do the CVS and put the housing above the CVS and we'll have the win/win? There's nowhere to park that housing. You got to get underneath. CVS needs certain parking.

So it's an allowed use. It's an allowed retail use. CVS is well known, and I've come to realize there are a range of views on CVS. We have a number of neighbors and close abutters that are here tonight who've expressed strong, strong views in favor. We presented the project probably for about our sixth or seventh meeting at the East

Cambridge Planning Team recently. We left after the presentation as is the practice, and we received a communication afterwards that the East Cambridge Planning Team, I know they've sent a correspondence to the effect, that there was a vote, and the vote was --

CONSTANTINE ALEXANDER: 18 to 8 I think in favor.

ROBERT KORFF: That was 22 to 6.

ATTORNEY JAMES RAFFERTY: 18 to 8 was a vote on this.

CONSTANTINE ALEXANDER: Oh, okay.

ATTORNEY JAMES RAFFERTY: But the vote on tonight's application was 22 to 6. So -- and I'll let East Cambridge speak for it, but the communication's in the file. But the point being is that there were strong voices, which we started hearing in the middle of this process, that said we actually want this CVS. We think it's a good use. We think it's compatible. We think it's within walking distance of the neighborhood. And I think all of those

attributes about the project are true. And you'll hear a range of views tonight, I would anticipate, but as I said, I think that the conclusion of the Board should really be largely based on the data, the parking analysis, and the determination whether it's required. The reality is and it might be suggested, and it's talked about often, well, the parking requirements in this district haven't been modified in a very, very long time. And the city's thinking around parking, the transportation policy around parking, has changed considerably. And in PUD districts if you were building a new, you wouldn't get ratios much different than this.

So I hope I've covered enough, and I -- there's a Mr. Paton could address anything about the design that you might have. As you can see, it's designed to have a certain style and appeal, and we are going to be subject to ongoing review and restoration of the details of the bank. So the approval from the Historical Commission requires us to

obtain design approval of the details, the masonry, the re-pointing, trying to preserve as many features of the bank building as possible. So that's essentially the application.

CONSTANTINE ALEXANDER: Thank you. Nice presentation.

I've got a couple of simple if not simplistic questions. The plan we have before us, which preserves the bank building and the construction of the new buildings to the other side of CVS, what's the parking for that? What are the parking requirements? Where are the people who occupy those structures going to park? They can't park in the CVS lot, because that's going to be exclusively --

ANDREA HICKEY: Isn't it all CVS?

PATRICK TEDESCO: It's designed to look like different storefronts.

CONSTANTINE ALEXANDER: Oh, my goodness. The CVS is going to be the entire length of the building? It's

right here.

PATRICK TEDESCO: Can I ask a follow-up question?

CONSTANTINE ALEXANDER: Go right ahead.

PATRICK TEDESCO: Related to that, though, and this is a design question, it may not be the purview of the Board but the second story windows are false windows?

KEVIN PATON: Correct.

ATTORNEY JAMES RAFFERTY: Yeah. They were, they were done in response to a design suggestion that the building needed to have a little mass and to more closely mimic the massing along Cambridge Street, but you're quite correct, they are faux windows in that space there.

PATRICK TEDESCO: And likewise the windows across the facade, not the entry itself, are transparent and will be open to the store?

KEVIN PATON: Right. So the CVS has agreed not to do any store fixtures along the windows so they will be fully transparent into the store.

PATRICK TEDESCO: I think that's important because the one in Central Square clearly does not have that agreement in the windows which I'm sure were designed to look like this, are, you know, filled with displays and advertising, and even worse the back of the store displays. So it might not be advantageous to a store like yours, but I appreciate the fact that they remain transparent.

ATTORNEY JAMES RAFFERTY: I think such a condition could find its way into a Special Permit in a way that perhaps other CVS locations that may be as of right don't have that.

The other thing that's worth noting is the question was asked well, you know, it does -- why not, why not build out those floors? Why not use that space for something? And the answer is, parking. Because as we create more square footage, there would be a greater need for parking. So it is, it is the rub here that the parking is needed. So it has the appearance of separate

storefronts, but it is a single space that's able to take advantage of existing curb cuts. And the current surface parking is really quite unappealing. It goes right to the Cambridge Street edge, the area between this. There isn't any vegetation on the lot at all. So from, you know, we've met with the engineering department, with the Public Works in terms of the pervious nature of this, the runoff, all of the issues that Mr. Paton will work on, a vast improvement. The suggestion in one of our later design meetings with the city was well an ornamental fence along the edging would be appropriate. It was a good suggestion. It made it in a supplement, the Monday filing we added the fence in response to the suggestion that the landscaping could benefit from creating an edge on Third Street. So you'll see that in the file. If you're looking at the Monday filing, I don't know if that is that you can see the fence.

CONSTANTINE ALEXANDER: I'm not sure we should get into the -- I appreciate you bringing it to our attention,

but the issue is for parking. So it's not --

ATTORNEY JAMES RAFFERTY: Yes, yes.

CONSTANTINE ALEXANDER: I don't want to get too much involved in the landscaping other than the around the parking area. Around the front of the building.

But I wanted to also ask the Transportation -- Traffic and Parking Transportation committee made various recommendations as you alluded to relating to, to bicycles. Do you -- if we wanted to, if we chose to put these to conditions to our decision, thinking about the \$2500 payment to the city, what would your comment be about that?

ATTORNEY JAMES RAFFERTY: I think it would be wholly appropriate, and I think it was fully expected, as is often done, that the, that the memo is referred to and the recommendations are incorporated as conditions in the relief.

CONSTANTINE ALEXANDER: Okay. I don't think it's

appropriate personally to require you as one of the conditions that you make a \$2500 contribution to the City of Cambridge. I don't think we should be giving zoning relief in return for payments to the city. You could do it on your own. I don't think I'm going to put that in -- I'll recommend that we put that as a condition in our decision.

ATTORNEY JAMES RAFFERTY: I only say this: The city under Article 6 and the bicycle parking requirements for short-term bicycle parking, you can meet that requirement by -- and the requirement's based on the square footage, you can meet that requirement, but if you can't make it on your site the city will install bicycle racks along the sidewalk. And the cost of those bicycle racks is around \$800. So it's not a slush fund per se. It's a mechanism that exists within the zoning. So we committed to additional temporary parking, and we didn't have room for it on the site. And the suggestion was well, it's not so much that we need it on the site, but along Cambridge Street we

may choose to employ. So either way the commitment exists and the commitment will be made. I understand your point, but I would say that it is the case in many Special Permits that for purposes of mitigation or otherwise this is very targeted at a program that exists within the city for applicants to satisfy their short-term bicycle parking not on their lot if they can't do it, but on the city sidewalk. So that's what that program's about.

CONSTANTINE ALEXANDER: Okay.

Other questions from members of the Board at this point?

BRENDAN SULLIVAN: Well, this is all about comings and goings, and what are the hours of those comings and goings? The hours of operation?

KEVIN PATON: Right, so right now --

ATTORNEY JAMES RAFFERTY: I don't know if people can hear you. You've got to speak right up to it.

ROBERT KORFF: I'm Robert Korff. I'm petitioner

by the way. So the store hours, generally speaking when CVS goes into a new location, that's something that, you know, that they require flexibility for what those set hours will be, and it's, you know, primarily going to be based on the needs of the neighborhood.

BRENDAN SULLIVAN: I thought it was a simple question.

ROBERT KORFF: So --

BRENDAN SULLIVAN: Is it 24 hours a day?

ROBERT KORFF: I can't say it's 24. One way or the other.

BRENDAN SULLIVAN: Well, that's an important point for me.

ROBERT KORFF: Okay. Because?

BRENDAN SULLIVAN: In other words, they're going to decide the economics of whether it's feasible to stay open 24 hours; is that correct?

ROBERT KORFF: Yeah. If the so-called trade area

were to dictate a need to the community, then they would like the ability to --

BRENDAN SULLIVAN: One of our checking points is the impact on surrounding areas, and I think that something that's open 24 hours has more of an impact than an establishment that is not open 24 hours. Something that closes at night, eleven o'clock, twelve o'clock or something like that. So that's why I was sort of, to me, it's important the hours of operation.

ROBERT KORFF: Can I ask how the Ordinance works?

ATTORNEY JAMES RAFFERTY: Well, I'm just going to speak, and I understand the legitimacy, and it has come up with conversation with neighbors and abutters. The use is an allowed use. So the question is if it were to be a late night store, would -- I think the role for the Board is would the reduction in the parking have an adverse effect on late night shopping perhaps? But I think what Mr. Korff has some experience in dealing with CVS, is that at this stage

of the process, they do not have a definitive sense of the hours, but this is a location. So their practice is to, and the city doesn't regulate hours of retail stores. We do in Licensing and Common Victualler licenses and alcohol licenses. So to the extent a retail use along Cambridge Street wanted to stay open well into the morning, that is, that's their right. Now we're here for a Special Permit for parking and we recognize that and we're not suggesting that it's not an appropriate point of inquiry, but I really think in the context of the parking, we have talked to neighbors about it and I think we've heard mixed reactions to it to be candid.

CONSTANTINE ALEXANDER: Actually I think I agree with your point, the issue is parking. And unless reduced parking to be sure 24 hours open can have an adverse impact on a neighborhood or any late hours, but the question is whether the reduced parking will have an adverse impact on the neighborhood. And should you choose to be open 24 hours

a day, I don't think the fact that it's going to be less parking than the Zoning Ordinance requires is a factor. I mean, it's not going to draw people there. And you're going to have people spilling over into the neighborhood. I think the parking lot will be probably very rarely -- minimally used during these three o'clock in the morning visits. But it's a very valid point in terms of the bigger picture in terms of 24 hour a day businesses. Can it adversely impact the neighborhood?

ROBERT KORFF: I couldn't disagree but I could clearly make an argument that, you know, in certain cases 24-hour pharmacy providing prescription services, you know, creates a positive impact for a community. I mean, I have seen situations like that where, you know, community benefits tremendously from having that service. So it could go either way is my point.

CONSTANTINE ALEXANDER: We've got to return to the point this is not about a CVS can go in the neighborhood,

it's about whether reduced parking should be permitted.

That's the issue from our point of view.

Any other questions from the members of the Board?

ANDREA HICKEY: Why does this store have to be  
this big?

ROBERT KORFF: You know, again, somewhat off guard here with the operation on CVS questions, but based on experience, I think it's safe to say that they put a lot of thought and effort, you know, when they go into a new location, they actually map out the identify or trade area, and they want to merchandise to what their projections are and whatnot in all particular locations, and you know modelling out this particular location, you know, I know they feel very strongly that, you know, to be, you know successful, and provide services that they think there will be a demand for, this is, you know, the appropriate size.

ATTORNEY JAMES RAFFERTY: We were asked this question and I know Mr. Paton -- and there's an analysis of

the range of sizes as an urban locations. Maybe you can speak to where this falls on the spectrum of CVS's.

KEVIN PATON: Actually if I could, I've been doing CVS stores for nearly 20 years. So I've watched the evolution of the typical store over that time, and a store today carries very similar amount of product that it did 15 years ago, but where CVS has changed, I don't know if you've been in a store that old, is they've lowered all their shelving heights. They're down to about 60 inches on the floor. They used to be up around 80, 87 inches. They were towering above you. It was like a food store. They've also widened all of their aisles. And all this this is in an effort to serve a population that needs a CVS store. So wider aisles, lower shelving. You don't end up with more product, you just end up with a better shopable store.

ROBERT KORFF: And I might add that, you know, in this situation I don't know what you were thinking in terms of the question but --

ANDREA HICKEY: Yeah, I was just thinking a smaller store requires, you know, fewer parking spaces. Just simple math.

ROBERT KORFF: Right, but here's the irony I think in the situation that we have here today. I think that if you were to say oh, is it possible that they could take a smaller store say, you know, I'm just shooting for maybe 10,000 square feet? So from a practical standpoint what would happen because of the way the parking requirements happen to work here, all that space they lost they would take most of it from the storage area not from the sales. So what we would be doing in that instance is creating a situation where they're gonna get the same sales, they're gonna have a higher -- because they're gonna have the same sales area, but they're going to have a higher cost of doing business due to the fact that they need much more frequent delivery service. And we're gonna -- we're just gonna create more, you know, deliveries at the site. So it's, in

this particular situation I'm not sure, you know, it would depend, I don't know what's going through, you know, your mind in terms of what type of reduction, but I'm not sure it would serve any good purpose in this particular situation with these dynamics.

CONSTANTINE ALEXANDER: And my observation is that the drugstores of today are much different than the drugstores when I grew up. Drugstores today are mini food marts as well as selling the usual drugstore items, which means you need more space if you're going to offer food products. And then in particularly if you've lowered the shelves size and higher the shelves and widening the aisles, means you need more square footage. Right or wrong or good or bad that's just the way the world works today in the drugstore industry.

Any other questions?

PATRICK TEDESCO: I have one more design question and I apologize because it may not be again relevant, but it

does relate to the windows. And I just want clarification on the bank building, which is the primary entrance to the store?

ATTORNEY JAMES RAFFERTY: Yes.

PATRICK TEDESCO: Okay. The tall windows on the side street and in the front appear to be above what I presume is a suspended ceiling. So how does that get handled and how is that treated in terms of transparency and lighting and so forth?

KEVIN PATON: Right. So our intention because we didn't want to darken any part of those windows would actually would be to create a ceiling window well so that you would have store --

PATRICK TEDESCO: To pull the suspended ceiling back?

KEVIN PATON: Right, and then do a gipped well inside that.

PATRICK TEDESCO: I'm sure that the Historic

Commission will make those kinds of comments because it's an important part of architecture.

ATTORNEY JAMES RAFFERTY: Agreed.

CONSTANTINE ALEXANDER: Any other questions at this point?

(No Response.)

CONSTANTINE ALEXANDER: Now, I'll open the matter up to public testimony. Is there anyone wishing to be heard on this matter?

Okay, fine. I think we're going to have multiple comments. So I'm going to start with those in favor of the relief that is being sought, and then after we finish those, I'll go to those in opposition. So, sir, you had your hand up. You're in favor I take it.

CHARLES HINDS: Hi. My name is Charles Hinds, H-I-N-D-S. I live at 207 1/2 Charles Street in East Cambridge, and I'm here on behalf of the East Cambridge Planning Team as their President. And I'd like to read a

letter into the record. It does go history, not into the detail that Mr. Rafferty did, but it goes through a little history.

(Reading) Originally a CVS was proposed at 207-227 Cambridge Street by the proponent on January 27, 2016. After several iterations of the CVS design presented over several months, the CVS was rejected in favor of housing by the East Cambridge Planning Team on July 13, 2016. The proponent then proposed a 56,000 square foot mixed use development with 46 units of housing and ground floor retail. The ECPT voted to approve.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Speak to the mic, please.

CHARLES HINDS: The ECPT then voted to approve the concept on --

CONSTANTINE ALEXANDER: Can you hear?

JANET GREEN: Get very close.

CHARLES HINDS: It looks like a lollipop.

They then proposed 56,000 square feet mixed use development with 45 units of housing and ground floor retail. The ECPT voted to approve the concept on October 26, 2016. In June 2017 the proponent proposed a rezoning of the site to allow construction of the mixed use development. The abutters rejected -- objected to the rezoning resulting in a petition expiring without a vote by the City Council. The current proposal on September 27, 2017, a new proposal for a CVS at 207-227 Cambridge Street was presented to the ECPT. The presenters were attorney Jim Rafferty, Robert Korff, and Damien Cabral of Lechmere Development and Kevin Paton of BKA Architects. 42 members of the East Cambridge Planning Team were in attendance. At the end of the presentation Attorney Rafferty stated that they applied for -- the needs -- they were applying for a Special Permit to reduce the parking from 28 spaces to 16 spaces. After the presentation, questions were asked by members present and were be answered by the Lechmere team. Questions

regarding traffic, parking, window banners, loading zones, trash management, employee parking, snow removal, and trees and a few others. We did take a vote after the discussion. Many of the abutters were in attendance. Many whom do not regularly attend the ECPT meetings. There are attendance requirements to vote which many abutters did not have because they don't regularly attend. The East Cambridge Planning Team did take a vote to suspend our rules to allow the abutters to vote. After short discussion, a motion was made to approve the CVS proposal as presented, I have the attachment, and the vote was 22 in favor of the proposed CVS, six against and one abstaining.

And thank you. I have this for the record. I think you might already have it.

CONSTANTINE ALEXANDER: I don't need that. Your letter was read into the file so it's fine. Thank you. Thank you for coming down.

In favor now. Sir.

CHARLES POIRIER: Yes, my name is Charles Poirier, P-O-I-R-I-E-R. I live at 18 Gore Street. I am one of the abutters. I am literally the other end of the block. I'm here quickly because I want to bring attention to the Board the President of the East Cambridge Planning Team brought up about the suspension of rules claims that a lot of the people who were there were weren't eligible to vote so we suspend the rules. But in order to suspend the rules the members, the voting members had a vote on it. And it was the voting members of the committee that were there voted for the suspension and that allowed the people that weren't there, which were neighbors, abutters I'm talking within 200 feet. A majority of the people that are opposed for it are four, six, eight blocks away. I am one block away. Most of the abutters that are here are literally closer than us and we're it. I think if there is gonna be a problem down there, I think it's the abutters that are gonna take it. So with this in mind I hope the Board approves the Variance.

Thank you for your time.

CONSTANTINE ALEXANDER: Thank you for coming down.

Anyone else speaking in favor? Ma'am.

CAROL BELLEW: Carol Bellew, B-E-L-L-E-W. I live at 257 Charles Street, and I am for the project. I've been watching it all along and I think we voted for it and I think we're fine with it. That's my opinion.

Thank you.

CONSTANTINE ALEXANDER: Thank you.

JANET GREEN: Thank you.

CONSTANTINE ALEXANDER: Anyone else wishing to speak in favor? Ma'am.

MARIE SACCOCCIO: Good evening. I'm actually an abutter. My name is Marie Saccoccio. I live at 55 Otis Street, and I'm an attorney and I actually represent Agnus Dodaro (phonetic) who owns the two homes immediately adjacent to this property. I am fourth generation East Cambridge. When I was growing up, we had five pharmacies on

Cambridge Street from Seventh to Second. No pharmacy ever had parking.

When I was growing up, we had the First National, which was a supermarket and it had no parking.

When I was growing up, we had two department stores, Dines and The Globe and it had no parking.

We had two full service furniture stores, Ruffa's (phonetic) and Headin's (phonetic), no parking. The only thing on Cambridge Street that I can find with parking unfortunately is East Cambridge Savings Bank and they threw down a beautiful Methodist Church to make their parking. So that whatever happened with the zoning in the 60s or 70s, I even remember what was in that parking lot. It just doesn't fit today. I mean we have Miller's River is on Lambert Street, so three blocks away you have 300 units for seniors and elderly people. You have Truman Apartments is about 80, 100 units another three blocks away. You have One First one block away which has 400 units. You have Putnam Apartments

for seniors and elderly, two blocks away. So what you're really gonna get is mostly pedestrian customers without a doubt. So I'm totally in favor of it on behalf of myself and on behalf of Agnus Dodaro who is the immediate abutter and she owns the two homes there.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Thank you for coming down.

Yes, sir.

DENNIS FERRICK: Good evening, everybody. My name is Dennis Ferrick. I actually live on 25 Gore Street and I'm right across from the CVS where the located. I'm actually for it. And I've learned a lot over this process going on. We were, myself and a lot of the abutters were the type of people, we heard a CVS was going in there, and we just took it as concrete that it was going to be a CVS. And then all of a sudden we found out it was going to this other thing. And a lot of people in the neighborhood were

devastated, because it's really being overwhelmed with housing and it would have been just so convenient for us to have something there to go to. So I'm really, you know, hoping that you can go for the parking here for it and I think he's really -- I kind of feel sorry for Mr. Korff in a way because he's really gone both ways for us. And at one of the meetings he asked me if I would help him speak with the abutters. He went to that woman that's only house was right next-door and she's got an autistic son and she's in her 90s and it was gonna to devastate her to do this underground parking and all this. And everybody had their heart set on the CVS. And he's really worked with the neighbors. And I like the way everything has turned out as far as the bicycle parking, because we're hoping are for a lot of foot traffic because of North Point being there and the courthouse, whatever is gonna come out of that, and all of the development going on at First Street. David Shoes is gonna be gone eventually, and it just seems like a great

place for, you know, walk-in. And we know that bike lanes took out a lot of parking on Cambridge Street, so I really hope we can get this to go through and I appreciate you guys.

CONSTANTINE ALEXANDER: Thank you. Thank you again for coming down.

In favor.

AUDREY CUNNINGHAM: Hi. My name is Audrey Cunningham and I live at 49 Gore Street which is kitty-corner to where this is going to be. And this issue with the parking, I mean, I was saying to my friends, I don't even know how it can be an issue with all of the parking spaces that the city eliminated. I mean why would you care if he can eliminate a few parking spaces in a parking lot. It doesn't make any sense. You know, I mean -- and the fact it might be open late, I think is a plus. I have a Dunkin' Donuts behind me and the fact that that's open all night long, and I like the idea because it's

a security thing. And if the CVS was open until ten o'clock, eleven o'clock, there's going to be lights there. It's going to make the area safer. And people want someplace they can walk to. You've got a lot of senior citizens. You want a place that if you run out of milk, if you run out of whatever, you can go to the CVS and get it. And prescriptions, you can't get prescriptions down the CVS down at the mall. So people -- we miss the pharmacy that we used to have. So I'm in total favor. And the parking I think to me is just a total nonissue with the way the city's gone crazy with eliminating all the parking spaces. I mean, this would be really ridiculous. So that's my thoughts.

CONSTANTINE ALEXANDER: Thank you very much.

Sir.

BILL DINES: I'll be brief. My name is Bill Dines. No relation to the store on Cambridge Street.

CONSTANTINE ALEXANDER: You might want to spell it.

BILL DINES: D-I-N-E-S. Bill.

I grew up in East Cambridge, my parents grew up in East Cambridge, and my grandparents grew up in East Cambridge, and we're in total support of this project. This has been a very difficult decision dealing with the Korffs and the neighborhood on coming up with a productive use of that empty space there. The bank has been kind of empty, that parking lot has been empty. Looking at the previous proposal for the housing, it was underground parking, but there was no parking allocated for any of the retail space which approximately 10,000, I think you were saying. It's 10,000 square feet of retail space with no parking requirements at all. I think we tried to come up with a plan that would be beneficial to the neighborhood and bring some life to that corner and be convenient for all the seniors that are in the neighborhood. And taken into consideration all the housing development in the area, we're talking 2,400 units in Cambridge Commons. We've got 400

units at Zinc right down the block, a block and a half away.

We got housing going up at the Volpe Center. People are gonna be able to walk to this facility and satisfy their retail and prescription requirements. And I'm in total support of the project.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Thank you for coming down.

Anyone else wishes to speak in favor? Heather.

HEATHER HOFFMAN: Hello. Heather Hoffman, 213 Hurley Street, and I would like to agree with my neighbors who see very little need for parking at this site. I would point out that there is a Rite Aid just a couple of blocks away. If you need to park, you can park at the Rite Aid. Apparently they, they have a problem walking because that's in Somerville, but that's cool. So what I would prefer to see is even less parking here and some landscaping because that parking lot is pretty stark and has been for the 33

years that I've lived in the neighborhood and walked by it.

So I would be in favor of having the proponent actually keep track of how much of the parking lot used and have the ability to apply for a further reduction and some green growing things in place of some of the spaces in the future.

CONSTANTINE ALEXANDER: Thank you.

JANET GREEN: Thank you.

CONSTANTINE ALEXANDER: Anyone else wish to speak in favor? In favor? Ma'am.

BETTY SACCOCIO: Good evening. My name is Betty Saccoccio and I actually live at 55 Otis Street which is one block over from where the CVS is being proposed. I actually look out my back windows and can see the bank building, etcetera. So we're really are the abutters. I support the CVS fully. You know, the petition needs to be granted for the reduction in the parking spaces. Please note that we had a number of pharmacies on Cambridge Street before, you know, 20 years ago and then we recently lost our last one as

Mr. Rafferty and Mr. Korff had said. And this created quite a need. When I need medication, I have to go into Boston. Sometimes, you know, Skenderian has helped me out a great deal, but let's face it, you can't park near there. So that doesn't work out either now does it? But there's, you know, for the parking and whatnot, we have bus lines, four bus lines that run out of Lechmere. We have the Green Line, the MBTA. We also have the shuttle service that goes from North Station down to Kendall and whatnot. So there are a lot of bus routes in this. There's also a bike path which people have mentioned on Cambridge Street and people do use their bicycles quite a bit these days. You know, so the need to expand the parking is like, well, we really don't need it that much anymore. There's metered parking on Third Street across from my house which is Otis and Third, so there's metered parking there. There's also handicapped parking there. So that creates, you know, spaces available.

So, in that reason I really do support Mr. Korff's

efforts, and he's worked with the community. He's worked with the neighborhood people. He's really worked with the main abutter whose house probably would be really, really compromised. You know, she's an elderly person. She just put in a handicapped ramp to enter her house that's why she can't be here tonight, and she does have autistic son. And we have taken, the real abutters have taken her and said we will help you do this. We will help you remain in your house. And so for this reason alone, and then we just have the parking to talk about tonight and I don't think we really need that much parking there. People do walk a great deal.

Thank you.

CONSTANTINE ALEXANDER: Thank you for coming down.

Anyone else wishes to be speak in favor? Sir.

ILAN LEVY: ILan levy, 148 Spring Street. So I'm not a direct abutter. I think that although there could be many possible use for this land, I guess that money is the

reason that drives the usage, and I think that we've been on this project long enough, that it has created enough stir that I believe although good intentions initially for this conversation forward, I think that the end result hasn't been very positive. So I think that the best way to move forward is to get this project out of the table of the Planning Board. I don't think that parking is an issue and I think that actually we should listen to Heather Hoffman and look for green space and reduce the amount of parking that you have there so that we actually have more green space because that's what is being taken away from us in East Cambridge. We just got five acres taken away with a development so it's going to continue.

CONSTANTINE ALEXANDER: Thank you. I'm going to now cut off any further comments in favor. Now turn to any who are objecting. So, Ma'am, you wanted to speak?

ABIGAIL LEWIS-BOWEN: Thank you. Abigail Lewis-Bowen at 30 Thorndike Street in East Cambridge. I

submitted a letter that bullet pointed responses to the developer response so it's probably not --

CONSTANTINE ALEXANDER: I'm not going to read the letter into the file so why don't you summarize the points of the letter.

ABIGAIL LEWIS-BOWEN: To the first point about traffic generated, patterns of egress and access would not cause congestion hazard. I guess I, I have a hard time because I know that by right there's a certain amount of parking, and so the case that I'm supposed to say is that the reduction wouldn't cause any change. But the fact of the CVS there, if you're familiar -- have you all been to that area? You're all familiar with the area. It's a chronically congested area right now. There's a Dunkin' Donuts where people are literally backing out into as people are turning off of O'Brien Highway. And then there's just an endless stream of traffic coming out of Kendall Square as you know very, very congested area. I actually have photos

that I can show you right now of active blocking the box. That happens all the time from about four p.m. until about seven p.m. at night. So that means that traffic is sitting in the intersection at Cambridge and Third Street. And so those cars going in and out of CVS, I mean because this is an empty lot, 50 plus years empty lot plus an empty parking lot for many years, so it's been very, very empty. It's been non-used. So now everybody's coming in and out of CVS, which isn't necessarily a short-term retail use, that's people pulling right into a long line of backed up traffic, and then they're having to wait so further blocking the box. So it's just -- I mean I'm just so surprised that the city is not looking at this as a congestion area and a safety hazard. I have a picture of bicyclist cutting through two cars, one in the box, one waiting to -- you know what I mean. So it's a really hazard. I think to the point of the not parking but just to the use in general. CVS is a great use for there, but you're in a little bit of a conundrum

here because it's -- the more people on the street the more people walk to the CVS the more pedestrian-friendly it is. Everybody wants that. But this is a suburban CVS design with parking. The zoning has you caught in the wrong place, right, because you can't allow this fellow to design a pedestrian-friendly, urban-friendly design so we're sort of caught in this terrible conundrum. We can't get enough people and multiple retail spots along this, you know, along the street to really encourage pedestrian-friendly use and then most people walking.

And I would just say finally, my points are in the petition, but if you look at the time Mass. Ave., one of the CVS's that was quoted, I think it was maybe a Rite Aid and the Mass. Ave.-- on Mass. Ave. that was 8,000 square feet with eight spots. I mean you could make the case that that's a more reasonable fit for this type of a neighborhood. But Mass. Ave. has got lots and lots of small retail. So, you know, it's a smaller retail establishment

bigger than the small small, but it's in keeping with the design and then it's less parking, because, yes, a lot of people walk. But if you have this giant faux, Disney -- you know, Disney World facade, and the whole block is one giant CVS with fake, you know, fakey entrances and fakey second floors, then you're not going to liven up that streetscape. There's not going to be pedestrians encouraged. And by the way, no housing means less people to use those retail. So we're not getting anywhere in terms of our urban vision. We're not moving the ball ahead. We're just -- it's not, and it's clearly as you heard from Mr. Rafferty's testimony, I mean it's clearly the wrong direction. I know you can't act on that. But it's just a big disappointment that the city is not supporting us in a more urban-friendly direction than we should be going.

CONSTANTINE ALEXANDER: Anyone wishing to speak in opposition? Sir.

PETER CRAWLEY: Thank you. My name is Peter

Crawley. I live at 88 Thorndike Street. Thorndike is two streets over from Cambridge Street. I have comments that address a couple of issues. First, I'd like to commend Mark Investment and Mr. Korff and Mr. Rafferty for investing a lot of time working with the neighborhood through the East Cambridge Planning Team. I should also mention that during that first iteration and kind of collaboration where we went from a CVS proposal to a mixed use proposal, I was the President of the East Cambridge Planning Team. We formed a subcommittee that was duly ratified by the membership, and that subcommittee worked for about nine months in good faith with the developer on an alternative to the CVS, and that is because when the CVS was first proposed, it was close to a unanimous feelings amongst the East Cambridge Planning Team membership that a mixed use development was more appropriate for the area. It had tied in with the historic nature of Cambridge Street which is more neighborhood retail on the first floor and housing or office above, and so we moved in

that direction. Indeed the project, the mixed use project got very large I guess for economic reasons and it is understandable that the -- some abutters had some issues with the project because it did exceed the zoning. And so I have sympathy for that. However, on the process level I think it was a problem that once the mixed use project was not successful with the Planning Board primarily because of -- not because of the design, but because of the rejection by the neighbors due to it exceeding the zoning and the requirement that zoning change would have had to have been approved for the entire block to avoid spot zoning.

CONSTANTINE ALEXANDER: Excuse me, sir. I think we've heard an awful lot about why the earlier project didn't get here.

PETER CRAWLEY: Okay. I'll speak to just the issues. Okay. So on the traffic issue. I -- the --

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Parking is

the issue, not traffic.

PETER CRAWLEY: It's also traffic generated or patterns of access or egress. There is a lot of blocking the box on Third Street. I served on the Kendall Square mobility task force and we had some traffic studies done showing that actually on Third Street there are two intersections that scored an F. And this particular traffic study done for this project probably didn't go down that far. But Broadway and Third and Binney and Third are extremely, extremely backed up. Okay. And during rush hour it is bumper to bumper from Binney Street all the way up to Monsignor O'Brien. So trying to make any access in and out of Third Street is very problematic. So that's on the traffic.

On the, on the negative impact on the neighborhood and the other uses, I would point out that the other drugstores and the Chamfort (phonetic) Drugstore that this replaces --

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Chamfort.

PETER CRAWLEY: -- it was only 3,000 square feet  
and it was a pharmacy.

THE STENOGRAPHER: Excuse me, please, it's very,  
very difficult to try to take down what he's trying to say  
if you're yelling things out. Thank you.

PETER CRAWLEY: Was only 3,000 square feet. You  
can have a pharmacy in 3,000 square feet. Skenderian was is  
about that size. Chamfort was a -- this is four times the  
size, and that's because as you mentioned it's not really  
just a pharmacy, it is how housewares. It's food. There's  
a lot of food. And that goes to the point that it will have  
a serious effect on some of the other smaller retail  
establishments on the street from -- we have three  
convenient stores very close by. You have Brothers  
Convenience. You have Luigi's Convenience. All  
locally-owned small convenience stores. And Albert's.  
There is no question that a 12,500 square foot CVS is going

to have a negative impact on some of the retailers on the street. And not only that, this is a size, a destination type of establishment. People will come in cars. And the elderly typically do drive. They can, they can have a real tough time walking. So my neighbor is an 82-year-old woman and I asked her about this, and she said I would absolutely drive to pick up my drugs because I can't walk with my cane even -- she's only two and a half blocks away. So I think it's unrealistic to think you're not gonna have cars being driven or elderly in relatives' cars driving over there.

In terms of the parking, if there isn't adequate parking there, the other small retailers are gonna suffer because they're gonna start using up the metered parking. And the other issue that's gonna impact this is the bike lanes. The vision of the city is for the bike lanes that have already started on Cambridge Street in front of the Skenderian for instance to travel the full extent of Cambridge Street. That is the long-term vision. So not

having off-street parking is gonna be problematic there in  
the long term.

So, you know, it does trouble me that this project  
and the shift from one use to the other has caused a lot of  
kind of conflict in our neighborhood. I feel very bad about  
that. And when I was President of the ECPT, we made a very  
good faith effort to work with the, this team to come up  
with a project that we felt had less negative impact on the  
neighborhood. I think, I think there is definitely a  
development proposal in between the two projects that could  
reduce the negative impacts on the neighborhood and be  
worthy of some zoning relief. My feeling is that without  
restrictions on the loading, the trucks that are gonna try  
to get in and out of there off Third Street, the -- and the  
employees. I want to say that the mode splits, when I've  
been on traffic study groups in this area, is about 50  
percent cars and 50 percent non-cars. Okay. By bike,  
walking, etcetera, public transportation. So if you have 12

employees and the mode split is 50 percent, that's six people coming by cars a day. Now those six cars are not allowed to park in the CVS parking lot. Where are those six cars going to park? They're going to park at the meters. Perhaps they'll find a way to park in the residential areas. But in any event, I think at least those six cars need to be accommodated. So, again, I would love to see something be built there. I think it's a baron parking area, and like I say, we invested a lot of time in a direction that I think we'd be totally flexible with revisiting and maybe integrating a CVS on the first floor, perhaps it would have to be smaller. Remember, Mass. Ave. is a much denser area. That has an 8,000 square foot CVS I'm told. That population density is far higher. So why East Cambridge is 12,500 square foot CVS to your point, Ms. Hickey, I don't really understand. So I would, I would love the opportunity for different constituencies in our neighborhood to try to work together better this time and to seek zoning relief from you

for a proposal that has less negative impacts and more benefits for our little community.

So thank you very much.

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

Anyone else wishes to speak? I'm going to -- are you going to add something that -- I saw you, Mr. Brandon. Anything that hasn't been said before? I mean, the hour is getting late. We get it, you know.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Okay.

CONSTANTINE ALEXANDER: You got to come forward.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I think maybe a show of hands would be great to just everyone who agrees with everything that was just said, so we don't have to say anything else. Because I agree with everything he just said, but I want to be recognized as having agreed.

CONSTANTINE ALEXANDER: No, you've got to come forward, Ma'am, and give your name to the stenographer,

please.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Then I'm next, too, then.

ELLEN ADELSON: My name is Ellen Adelson. I live at 92 Thorndike, and I just want to say that I agree with everything that Abigail and Peter has just said. This store feels way too suburban for this neighborhood. I think a drugstore is great, a small one. I don't understand why everyone's ignoring this Rite Aid that is literally four blocks up the street. I agree with everything Peter just said.

CONSTANTINE ALEXANDER: Okay, thank you.

ANDREA HICKEY: Thank you.

JENNIFER McCONNELL: Jennifer McConnell, 94 Thorndike Street and I'm here to say the same thing, that I do agree with everything that Abigail and Peter said. I feel like what we're trying to put is put a suburban CVS into an urban setting. And I've seen the traffic come

through. I think it will be -- predominantly people will be going in their cars because that's what a box store is meant for. You're not gonna carry the 12-pack of paper towels out on your bicycle. So I really think that it's going to eventually be that. I'm not against a CVS. I think a CVS would be a great thing. I think it would be wonderful to get your gallon of milk if you run out, but I don't know why we have to change the parking zoning. Why don't we make a smaller CVS and instead of passing the zoning change and have more parking, and maybe that will be used for some of the small retail in Cambridge Street also especially for when the bike lanes go down.

CONSTANTINE ALEXANDER: Thank you.

I saw, sir, you had your hand up I think. You have nothing more to add, you don't have to say did it.

DAVID FOLEY: I will say one brief thing.

CONSTANTINE ALEXANDER: Your name.

DAVID FOLEY: My name is David Foley. I live at

98 Otis Street in East Cambridge, and I work at 316 -- 98 Otis Street and I work at 316 Cambridge Street which is across the street from the proposed project. I also agree with many of the things said by Peter and Abigail. So I will add my support for that. And Mr. Rafferty began this by saying that the project was inspired by Chamfort Apothecary which truly was our neighborhood apothecary and I miss that. And as Peter mentioned, that was a 3,000 square foot establishment at best. So I will support the suggestion that since we have to deal with the issues at hand, which is parking, that rather than granting a relief in parking, we would suggest a reduction in scale to one that's appropriate to the neighborhood and wouldn't require relief.

CONSTANTINE ALEXANDER: Thank you.

I'm going to now close public testimony unless there's somebody who has an urgent need to speak? I gather not.

BRENDAN SULLIVAN: There's a letter there from Tim Toomey.

CONSTANTINE ALEXANDER: Say again?

ATTORNEY JAMES RAFFERTY: Councillor Toomey.

CONSTANTINE ALEXANDER: Oh, I'm going to get to that next.

We are in receipt of a number of written communications, most of which have been covered by -- most of them are from speakers who we've heard from, so I find no need to read their letters. As Mr. Rafferty pointed out, we do have a memorandum from the City of Cambridge Traffic, Parking and Transportation Board and they found that the reduced parking would be approp -- appropriate's the wrong word. Would not cause congestion or the like. So they're in favor.

And we also have a memo from the East Cambridge Planning Team which you've summarized, sir. We don't need that.

There are some letters of opposition. But we've heard from the speakers who summarized the points that are in those letters.

And lastly, we do have a letter from Timothy J. Toomey, Jr., one of our City Councillors. (Reading) I am writing to lend my support for the application BZA, such and such, submitted by Mark Lechmere, LLC at 207 and 227 Cambridge Street requesting a reduction in the required amount of parking. The applicant has been in a number of meetings with the neighborhood to discuss and plan for this site. After many iterations of the design, the proponent secured the support of the East Cambridge Planning Team who are supportive of this project going forward. There are also an overwhelming amount of direct abutters who are supportive of this project over other alternative uses. Additionally, it is my also my understanding that the director of Traffic and Parking has weighed in with his support of the parking reduction in a memo also outlining

some additional requests that will lessen the impact of the parking waiver. And that's that letter.

Okay, any final comments, Mr. Rafferty, before we --

ATTORNEY JAMES RAFFERTY: We've taken a lot of your time. I do know that Mr. Korff did want an opportunity to express his sincere appreciation for the months and months, years frankly that have gone on here, he has stated at the outset, but I'm wondering in the light of the hour you might be willing to --

ROBERT KORFF: I could forego.

ATTORNEY JAMES RAFFERTY: Forego, yeah. Okay.

CONSTANTINE ALEXANDER: Wise man. Thank you.

Now all public testimony has been closed.

Discussion by members of the Board?

I will start if no one else wants to start. I am in support. The people most directly affected, i.e. the direct abutters almost unanimously are in favor of this.

The city traffic department is supportive.

The East Cambridge Planning Team, and I can know from my years on this Board, they're a tough group. And they're in support. Often they're not in support of project.

I'm sensitive and I'm sympathetic to those who in opposition. This is the world as it is today. The nice small drugstores can't survive. It's now a matter of scale. You offer products besides drugs or drug-related items like food and beverages and what have you, and that's how it is. I don't think the -- I have to defer to the experts, namely, the traffic department, the VHB the engineers, and the like, all of whom have support the notion that it's not going to destroy the fabric of the neighborhood in terms of traffic congestion or the like. So it seems to me at the end of the day, I think we should grant the relief.

PATRICK TEDESCO: I would agree. I think the testimony -- I appreciate the frustrations by members of the

community who would like to see something else here or would like to see a mixed use project because let's face it, East Cambridge is a great example of a mixed use neighborhood, but that's not the purview of the Board. This is as of right by use. It's as of right by dimension. And I agree with the findings of the Traffic Department that the best way to reduce traffic is to reduce available supply of parking. And I think in this case adding more spaces would increase traffic. And I don't disagree with folks who would like to see less parking here, but I also understand that there's a business model and a balance that needs to be struck. So I'm in favor of granting the relief as well.

CONSTANTINE ALEXANDER: Thank you, Patrick.

Anyone else wish to speak or we can go to a vote.

JANET GREEN: I'm in favor.

CONSTANTINE ALEXANDER: Okay.

Let's go to a vote. The Chair moves that we make the following findings with regard to the Special Permit

being sought, which is to reduce the required parking from 29 spaces to proposed 16 spaces.

That based on the testimony we have heard again from the Traffic Department in particular and from neighbors, abutters and the East Cambridge Planning Team, lesser amount of parking will not cause excessive congestion, endanger public safety, substantially reduce parking availability for other uses, or otherwise adversely impact the neighborhood.

And in this regard the Chair will note that there is availability, there is nearby public transportation in the form of the MBTA station at Lechmere. There is parking on city, on Cambridge Street and the like.

Furthermore, we have to make more general findings under our Ordinance. That the Chair moves that we make the further findings that the requirements of the Ordinance cannot be met without the Special Permit that's being sought. Again, that traffic generated or patterns of access

or egress resulting from the reduced number of parking spaces will not cause congestion, hazard, or substantial change in established neighborhood character.

We're talking about, again, in terms of change in substantial change in established neighborhood character, we're talking about a reduction of 13 parking spaces from what is otherwise required.

ATTORNEY JAMES RAFFERTY: Excuse me, I think it's 12. It's 28 to 16.

CONSTANTINE ALEXANDER: You're right, 28 to 16.  
Thank you.

That the continued operation of or development of adjacent uses as permitted in the Ordinance will not be adversely affected by the reduction of parking.

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

And that generally what is proposed will not impair the integrity of the district or otherwise derogate from the intent and purpose of the Ordinance.

In this regard the Chair would note that the city in recent years has adopted a very affirmative policy of discouraging excessive off-street parking with a view to encouraging other forms of transportation or transportation.

So based on all of these findings, the Chair moves that we grant the Special Permit requested with regard to the reduction of parking.

All those in favor please say "Aye."

BRENDAN SULLIVAN: With the plan submitted which includes the landscaping.

CONSTANTINE ALEXANDER: Well, there's no -- I didn't want to get into the conditions that are in there. You said you were going to comply with them.

ATTORNEY JAMES RAFFERTY: Okay.

CONSTANTINE ALEXANDER: It gets -- a lot of what's

in there is not relevant to reduction of parking spaces.

They're providing lockers for employees, for example.

BRENDAN SULLIVAN: It wasn't that. It was the exterior with the reduction.

CONSTANTINE ALEXANDER: Again, they can -- well, okay. I'll be happy to address what the Board wants to do.

BRENDAN SULLIVAN: Is anybody concerned about that?

CONSTANTINE ALEXANDER: We're talking about reduction of parking. What the relevance of the exterior --

BRENDAN SULLIVAN: Well, then strike that.

CONSTANTINE ALEXANDER: If people feel otherwise, I'm happy -- that's why I didn't mention it, Brendan. Okay?

BRENDAN SULLIVAN: Yeah, that's fine.

ATTORNEY JAMES RAFFERTY: And I could say we're happy to represent to the Board that we have acknowledged to the Traffic Department that we intend to implement all of the conditions and recommendations contained in Mr. Barr's

memo of October 19th --

CONSTANTINE ALEXANDER: You made that point earlier in your presentation, and that's the reason I didn't repeat it. And I didn't think given the nature of what's proposed, these are the kinds of conditions that we should put in the zoning relief that we're granting.

So based -- we're all set now?

All those in favor of granting the Special Permit to reduce the parking as proposed say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: One, two, three -- four in favor.

(Alexander, Sullivan, Green, Tedesco.)

CONSTANTINE ALEXANDER: Opposed?

(Hickey).

CONSTANTINE ALEXANDER: One opposed. Motion carries.

\* \* \* \* \*

(10:30 p.m.)

(Sitting Members Case: BZA-014466-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case numb No. 014464, 156 Rindge Avenue.

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

ATTORNEY SEAN HOPE: Good evening, Mr. Chairman, members of the Board. For the record, attorney Sean Hope, Hope Legal Law Offices in Cambridge. I'm here tonight on behalf of the petitioner Mr. Robert Harris. He's the owner and proprietor of NOCA Provisions. We are requesting a Use Variance to operate a restaurant cafe with 20 seats as well as beer and wine at 156 Rindge Ave.

Just by way of background, this is a one-story brick building on a corner lot on the corner of Rindge and Middlesex. This is a building that has had a history of

nonresidential uses. This is a use that is proposed to add, to add dinner to an already existing breakfast and lunch establishment. The beer and wine also is a change from the food-related use triggering a Variance. Mr. Harris has owned and operated restaurant uses in North Cambridge; namely, Season to Taste. We had to come before the Board at that point to get that approved. Mr. Harris has also operated that restaurant with the beer and wine, so he's an experienced operator in that establishment.

Part of the nature of the Variance is that this is a one-story brick building. It's not suitable for residential uses. And so that any use outside of the allowed uses would require zoning relief.

Just the way to clarify, so this is operating under a temporary Certificate of Occupancy. The applicant applied for a Building Permit to operate the existing use and was granted temporary Certificate of Occupancy. There was a Zoning Variance back in the 70s that allowed for a

range of uses. Operating in good faith, he applied to the Building Department and operated the current restaurant use. There was some ambiguity of what nonresidential uses were allowed at that time. The record was a little bit unclear, not knowing that until after the time. Once he decided to add the offerings of beer and wine and dinner, it made sense to kind of clarify the record and apply for the Variance so there was no ambiguity. So there's -- if you go by, the Board may know there is NOCA Provisions. It has become a popular destination in the neighborhood. We're relying mostly on foot traffic. And Mr. Harris can tell the Board if the Board's interested, they have breakfast and lunch. They have 20 seats. And they do believe to be successful. They wanted to add a dinner offering. This is one of the spaces in North Cambridge where you have these retail buildings, but there is not really another small type, locally-owned place to get dinner in this particular area. So this is, it is serving a need, which is not one of the

requirements, but it does lend to the practicality.

Just briefly in terms of outreach, we did outreach to the direct abutters who were gracious enough to stay and are here to speak in support. We also have the landlord who is also here. And then we also have a host of signatures which we submitted in the file. I know the hour is late so we're happy to answer any questions you may have.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Okay. I'll open the matter up to public testimony. Is there anyone here wishing to be heard?

Sir.

GRANT EMERSON: Sure. My name is Grant Emerson. I'm a resident of 146 Rindge Avenue. We're next-door to NOCA Provisions. The change in use is -- from my perspective an advantage to me and to the neighborhood not

only for the service it provides but for the improvement in the range of use of traffic within the neighborhood. It reduces the extent to which the place is a modern culture and just residences, makes the place a nicer place to be.

CONSTANTINE ALEXANDER: Thank you. Anyone else wishing to be heard?

Ma'am.

KATHLEEN McCARTHY: Hi, good evening.

CONSTANTINE ALEXANDER: Good evening.

KATHLEEN McCARTHY: My name is Kathleen McCarthy.  
Can you hear me okay?

CONSTANTINE ALEXANDER: Yes.

KATHLEEN McCARTHY: I live at 144 Rindge Avenue  
and I am an abutter. I look out my window and I see NOCA  
Coffee Cafe. And I think it's a very positive addition to  
the neighborhood. It's a beautiful place. And a lot of  
young people and older people like to meet there and enjoy  
coffee and whatever. And I am in agreement with increasing

to dinners and the serving of alcoholic beverages as long as it's not too late in the evening.

CONSTANTINE ALEXANDER: Thank you.

KATHLEEN McCARTHY: Thank you.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard?

Mr. Brandon.

MICHAEL BRANDON: Thank you. I'm Michael Brandon, 27 Seven Pines Avenue, and I'm the clerk for the North Cambridge Stabilization Committee. Robert Harris kindly came to our monthly neighborhood forum to present his plans and discuss concerns that we've heard raised and addressed them. They fell in the range of -- well, can I first add about the temporary CO.? Is that still in effect? Or is that expired?

ATTORNEY SEAN HOPE: It's still in effect and the operation is still open.

MICHAEL BRANDON: Okay. And also did the Chair or

did the Board receive any comments from the Planning Board or letters of opposition?

CONSTANTINE ALEXANDER: No letters of opposition.

Some letters of support.

MICHAEL BRANDON: And I understand there's a petition, too.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Of support, yes.

CONSTANTINE ALEXANDER: Oh, yeah, there's a petition signed by hundreds of people in support.

MICHAEL BRANDON: At our meeting the issues -- the matters that were discussed were sort of procedural matters and then substantive issues. The procedural matters had to do with this whole question of that the current coffee shop is operating -- cafe is operating without a Variance which in my view, anyway, and I think Ranjit's view when he read the Variance, that was issued by this Board in I think it was 2006 maybe? That specifically allowed the previous

tenant which was a hair salon --

CONSTANTINE ALEXANDER: More of a barber shop.

MICHAEL BRANDON: Right. Well, yeah.

And it operated there for maybe a decade, something like that, and then went out. But the Board on the recommendation of the Planning Board back then, the property owner applied for a broad Variance for all sorts of commercial uses, including fast food. And so the Board did not grant that. They limited it specifically to the use that was there on the grounds that any different kind of use would have different impacts and it's a Use Variance in a low scale residential neighborhood, Res B. So I called this to Robert's attention and he said Sean Hope his attorney was handling it. You know, and it went in and it's still operating. In my view it's good that they're now before you to seek it. But if you read that decision, there's really no ambiguity. I was told well, it's a grandfathered use. It wasn't --

CONSTANTINE ALEXANDER: That's history. They're here before us tonight.

MICHAEL BRANDON: So, fine.

The other issue that we were a little concerned about was to what extent -- because it is a Use Variance, the surrounding neighborhood had been notified. And Robert explained he had reached out to certainly the immediate abutters, you know, beyond those that would receive formal notice, and he had spoken to the church. And now there are two schools nearby, too. I don't know if he got to them, but we had suggested that he in particular notified, leaflet especially Middlesex Street and the surrounding streets. If you're familiar with Sheridan Square, it's not just that one corner, it's a confluence of streets, residential mostly. Rice, Rindle, Middlesex, Cedar. And so that sort of gave rise to the main concern that we've heard and continue to have, which is the impacts that a business in this residential space will have on that problematic intersection

in terms of traffic generation, circulation, parking impacts, pedestrian safety.

The City Council last month unanimously passed an order asking the City Manager to have the Traffic Department examine the intersection. There's terrible gridlock at the rush hours. There are concerns about crosswalk turning movements. Robert mentioned that he puts an A-frame sign out on the sidewalk in front of the place pointing to the parking. By the way, I hope you applied to the Council to get permission to do that if you're going to keep doing it. But he mentioned that because the turning radius is very difficult there, it used to be uncontrolled. The city came in and tried to channel the turns there and it's especially with the increased volume over the years, it's created additional difficulties, but apparently if I understand it, cars turning right from Middlesex onto Rindge Ave. come over the sidewalk and destroyed his sign five times.

So the City Council will be looking at the

situation. One solution might be a bollard on that corner or possibly even a traffic signal at some point. But it's kind of an accident waiting to happen. So we wouldn't want this project to impact it negatively.

So another concern was about cooking methods, and Robert, when he first went in, did meet with us and explained that he'd be doing basically low impact cooking, not grilling, no fryolator, and that because of the proximity to houses, that he wouldn't have significant ventilation equipment, exhaust equipment. And so he says even though he will now be serving dinner, that will still be the -- he can talk about specifics if you want, but it will be no more intense than what happens now.

In terms of the hours, and somebody mentioned it, that is a concern that now he will be staying open and serving dinner until 9:30 I think.

ROBERT HARRIS: 9:30 that's correct.

MICHAEL BRANDON: And then I don't know if it's

half an hour to close up, but that could be a potential impact if it turns into a late night place. So we would hope that you would consider that in your deliberations.

The parking lot was the only other aspect that we talked about, and we'd like to be sure that it complies with -- provides sufficient number of parking spaces. One of the advantages of this, as with the barber shop that was there, was that it basically served the local neighborhood and mostly people walked. And the concern is as NOCA Provisions becomes more and more popular, and even in our meetings saying oh, I didn't know you had a parking lot, I'll drive over. Well, it's good if people are driving that they don't try to parking in the residential parking spaces, but we don't want to encourage people to drive there, you know, if enough business can be generated within the neighborhood. So also the design of the parking lot, we would hope could be beefed up in terms of closer compliance with the City's requirements in terms of screening,

landscaping, handicapped access. We talked about the entrance from the parking lot to the restaurant. There's a step there and it's kind of difficult. And if some sort of a ramp, even if it's not fully compliant, because I think the front door of the restaurant on Rindge complies with access requirements. But if something could be done there, another maybe explore screening the -- I don't think there was a dumpster, there was a receptacles that you use for recycling, if there's any way to screen that and make that more attractive to the neighbors, that would be good.

So basically our sense is that the neighborhood welcomes this kind of a neighborhood meeting place and that, you know, Robert has been a good neighbor and will continue to be a good neighbor. We would ask that you put conditions similar to what the Board previously did when there was another use so that this is strictly for the operation, as Robert describes in his application and for any further questions that you may have, that it definitely not become a

fast order food dispensary at least without coming back and obtaining a separate --

CONSTANTINE ALEXANDER: They haven't applied for that.

MICHAEL BRANDON: I know.

CONSTANTINE ALEXANDER: They have to come back if they choose.

MICHAEL BRANDON: I know.

The cooking methods be as he describes. The number of seats capped at 20. And if he does decide, because he talked about possibly expanding in the adjacent storefront, that there be a process for that to come back and see if there are concerns about increasing the number of seats which will increase traffic and so forth.

I guess that's it. And perhaps something that if the Traffic Department makes recommendations about improving the traffic and parking situation, that he would comply with their recommendations.

CONSTANTINE ALEXANDER: If the Traffic Department wants changes, they will deal directly with the Mr. Harris. We're not involved. We're not going to -- don't drag the Zoning Board back in for something that might happen.

I think the point you make in all the things you said, in my opinion, it makes some sense, if you increase the size of the restaurant, then I think you need to come back before us. But I mean in terms of cooking methods -- I've been in the establishment. I was there last night. I don't live in the neighborhood. It's not cooking -- I can tell, cooking -- it's a very limited menu I think for dinner. And the nature of the food offerings is such that you're not going to have big grills or fryolators or all that kind of stuff. It's a very simple cooking methods. Simple products and I don't think we need to over legislate, in my opinion, with regard to granting zoning relief. Again, the only issue where I have, if you do expand the size of the restaurant, it could have an impact

on the neighborhood, you have to come back before us. I don't know how other people would feel about this, but that's how I would come out.

Thank you, Mr. Brandon.

MICHAEL BRANDON: Thank you. And I would say, you know, we agree with the present operation and the expanded operation as described. The concern is just that once you're given a Variance that it be very clear because it apparently wasn't clear last time this happened, and it is a sensitive spot in the neighborhood. Thanks very much.

CONSTANTINE ALEXANDER: Thank you. Anyone else wishing to be heard?

(No Response.)

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

I would report that the petitioner has submitted a petition supporting the relief being sought that's signed by well over 100 people I would estimate.

We also have a letter, and I'm not going to read it given the hour because it's just -- most of points have been covered already. But a letter of recommendation or support from a William Robert who lives at 113 Rindge Avenue and also from Commissioner Craig Kelley who lives at 6 St. Gerard Terrace. There's no correspondence, nothing in the file that would indicate opposition to the relief being sought.

So I'm going to close public testimony.

Discussion or ready for a vote?

JANET GREEN: I'm ready.

ANDREA HICKEY: I'm ready.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: Mr. Chair, so one question you mentioned in terms of expansion of the restaurant. So if the petitioner expanded into the adjacent space but kept the number of seats available, I think the idea is the adjacent space is also very limited. So there could be an

opportunity where they may want to have more room space but keep the cooking methods, the number of seats all the same. And just to clarify, if they kept everything the same and the number of seats but did decide to --

CONSTANTINE ALEXANDER: I think that's a fair point.

ATTORNEY SEAN HOPE: I just wanted to make sure that we clarify that point.

CONSTANTINE ALEXANDER: In terms of expansion, expansion in terms of numbers of seats in the restaurant. So if you keep the, the more space but the same 20 tables, that would be okay. You wouldn't have to come back to see us.

ATTORNEY SEAN HOPE: Thank you.

CONSTANTINE ALEXANDER: Okay. I'll make -- ready for a motion?

ANDREA HICKEY: Yes.

CONSTANTINE ALEXANDER: The Chair would move that

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that this building can only be used for business purposes. It's not at all suitable for residential purposes, which is what the zoning for the area is.

That the hardship is owing to the nature -- the shape and nature of the structure itself. Again, being designed for business uses and not residential.

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

In this regard the Chair would note that the establishment is by virtue of the testimony we've received or the letters provides a necessary service to the neighborhood and is a positive for the neighborhood despite the fact that it's not a residential use as the neighborhood

is zoned for.

So on the basis of all these findings, the Chair moves that we grant the Use Variance requested on the condition that the petitioner should expand the space, floor space of the restaurant, cannot increase the number of tables for service to be served at the restaurant, and that there, again, unless they come back before our Board and get further relief.

And similarly that the nature of the cooking activities on the premises be as they are now and not be increased or intensified again without coming back before this Board.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(10:55 p.m.)

(Sitting Members Case BZA-014564-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 014564, 310 and 316 Hurley Street.

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

KELLEY SPEAKMAN: My name is Kelley Speakman, 30 Bowes Street in Somerville.

DANIEL ADELSON: Hi, good evening. Daniel Adelson, A-D-E-L-S-O-N, ADCO, A-D-C-O Realty.

JEFF CAPELLO: And I'm Jeff Capello C-A-P-E-L-L-O

from Concept Building.

CONSTANTINE ALEXANDER: Okay. Floor is yours.

KELLEY SPEAKMAN: So we're here today to ask permission -- the little background on the project. It's located at 308-318 Hurley Street. 308 Hurley is an existing single-family as is 318, so the two properties in the front are existing singles that have been restored with -- in accordance with Cambridge Historic and there is a two-family in the back structure duplex and another single-family for a total of five units. And we're asking permission for the new units in the back to have basements higher than seven feet. Typically they are a one and two-family house and would not be required to have a short basement, but because they are attached to the parking garage, Ranjit's made the determination that we come and ask permission to do so. Sorry.

So the front two units already have taller basements. There's a parking garage in the back that's tall

and it's not GFA because it's only five parking spaces, and we're asking permission for one of the duplexes that has basement space in the single-family located at 310 and 316 Hurley Street.

CONSTANTINE ALEXANDER: And if we grant you the relief, you're going to use this space for additional living habitability purposes for the ground floor unit; is that the idea?

KELLEY SPEAKMAN: Yes, yup. It's for the single-family to have a media room downstairs in the basement or however they choose to use their space.

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

(No Response.)

CONSTANTINE ALEXANDER: This is the result of our City Council encouraging the use of basements for additional living space. I'm just looking at the requirements of the statute. First of all, anybody here wishing to be heard on

the matter? Oh, my goodness. One at a time.

Sir.

ROBERT BENCH: I'm an abutter. My name is Robert Bench B-E-N-C-H at 153 Fifth Street. I think I have several points here.

The first is there is a question of the abutters. This was -- would structurally materially changed the neighborhood.

CONSTANTINE ALEXANDER: Say it again.

ROBERT BENCH: It materially changed the neighborhood. I say that with certainty.

We spoke to the developer earlier today, and he said he informed the neighborhood. I can only take him at his word, but as a direct abutter who lost all sunlight in his home, we were never contacted in the 400 days of development. But my main point here is that this is a very deep pocketed developer who is doing a very large project. As you know, the City Council did request an increase in

heights in basements, but I think the intent there was for a family in-laws, not multimillion dollar projects that are intended to be single-family media rooms. Mr. Toomey who sponsored that amendment was very clear that that was for more for affordable housing, not multimillion dollar units. So the question here is do we grant legal relief to a deep pocket developer who failed to succeed in making their appropriate heights? And is this a pattern we want to provide to developers in Cambridge who fail to meet their height goals and give them post-facto relief? I requested that we do not and that we set a standard that developers who fail to meet the height requirements that are set forth by our rules, are held to those standards, particularly ones with deep pockets.

CONSTANTINE ALEXANDER: Let me just comment. I understand where you're coming from and I'm sympathetic actually to your comments. But whatever Mr. Toomey proposed to the City Council is not what the City Council adopted.

The standard is very, very low and it has nothing to do with basements. It says -- I'm reading the definition, you exclude from GFA basement or cellar living space by means of a Special Permit. The only standard is provided the permit granting authority, that's us, finds that the uses occupying such exempted GFA, that's the basement, support the character of the neighborhood or district in which the applicant -- where it's located. I mean this is going to promote more residential use. It's going to be more intensive residential use to be sure, but I don't see how given the way the Ordinance was adopted how we can deny the Special Permit.

ROBERT BENCH: Well, one, it is a Special Permit. It is your right to deny said Special Permit.

Two, in any type of legislation the Supreme Court has always looked back to the intent of the frameworks of the rules.

CONSTANTINE ALEXANDER: No, no.

ROBERT BENCH: That is -- sir.

CONSTANTINE ALEXANDER: No, no. You look back at the intent if there's an ambiguity in the statute. There's no ambiguity here. I don't mean to argue with you, but this is quite clear what the -- it may have been not drafted the way you would have liked it or Mr. Toomey may have liked it --

ROBERT BENCH: Sure.

CONSTANTINE ALEXANDER: But this is what the Ordinance says.

ROBERT BENCH: Well, certainly and certainly. But my request here, and I completely understand as public servants staying up till eleven o'clock on an 8:30 matter, you guys are the epitome of public service, and so I thank you. I don't mean to be argumentive here. But as an abutter that's my request. And I ask that it be considered it in your evaluation. And I thank you and your time. And I will say Mr. Adelson and his team have been excellent

building neighbors. The builders have been wonderful partners in the neighborhood, and I am very pro development in Cambridge. This is -- we need more houses. We need more places for people to live so they can afford their homes. I will end my speech there because everyone needs to get home and get back to their families.

Thank you for your consideration.

CONSTANTINE ALEXANDER: Thank you.

Sir, you wanted to speak?

BRENDAN SULLIVAN: Can I see the dimensional form?

CONSTANTINE ALEXANDER: Sure.

TOM BISHOP: My name is Tom Bishop, 157 Fifth Street. I'm also an abutter.

So I agree with what Bob said. And also I'm a little confused with some of the supporting statements here. For example, it says proposed ceiling height in the basement level in units 310-316 is located underground, not visible from the exterior. That is not true. It's also not visible

to the public, which is also not true. I can see it. I actually live right next to it. So the building's quite high. And also because of the low, the basement is significantly above the ground level. So I oppose this.

CONSTANTINE ALEXANDER: Okay. Thank you and staying this late to express your views, we appreciate it. Thank you.

Heather.

HEATHER HOFFMAN: Hi, Heather Hoffman, 213 Hurley Street and I would agree with the first speaker that I mean -- I live down the street, and I generally pay attention to what's going on in my neighborhood and there was certainly no effort that I was ever aware of to talk to the neighbors for what that's worth. But I actually have an issue that's related to this issue about things that appear to be wrong in the application and wrong in perhaps material ways.

The and this is sections of Zoning Ordinance

cited. It says Article 2, footnote 16. That's just flat out wrong. It is actually Article 2, the definition of gross floor area. If you went looking for a footnote 16 in Article 2, you wouldn't find it. And yeah, it didn't -- I knew what I was looking for when saw, you know, exempt basement GFA, I knew where to look, but that's because I go to all the meetings and I know this stuff. But it's really not proper notice to people who don't know this and who weren't around when this was adopted and all of that. It's not proper notice.

CONSTANTINE ALEXANDER: Wait a minute, Heather, I think you're going a little too far. It does cite Article 2. It talks about GFA. Wouldn't you if you were looking to Article 2, it's all definitions, let me find the definition of gross floor area. And you find that and you get to footnote 16.

HEATHER HOFFMAN: But it's not a footnote.

CONSTANTINE ALEXANDER: It's part of the

definition to be sure --

HEATHER HOFFMAN: It's under 16 --

CONSTANTINE ALEXANDER: To be sure.

(Both speaking at the same time, inaudible).

HEATHER HOFFMAN: Under exemptions. I'm just saying that --

CONSTANTINE ALEXANDER: 16.

HEATHER HOFFMAN: I know that Carol O'Hare has certainly talked a lot about proper notice to the public of what exactly is under consideration, and I just want to say that in addition to this, we have, when I looked at the narrative and said the basement space is completely underground? I thought that was kind of weird. And so I'm, I'm glad to hear that it actually is not that way. That it's not like a root cellar or something. But, again, it is -- for the kind of money we're talking about here, we could have accurate citations and we could have accurate descriptions of what we're talking about I think.

Thanks.

CONSTANTINE ALEXANDER: Thank you.

Sir.

ILAN LEVY: Thank you. Ilan Levy, 148 spring Street. I think I also want to come back to the what Robert said, the first speaker said. I think that doing things post-facto is troubling to me. The developer knew where he was going. He was, he had the facts in hand. The fact that now that everything is done, we have to deal with this issue is a problem. It should have then been dealt with at the very beginning. I don't understand how come halfway through.

CONSTANTINE ALEXANDER: Let me try to explain this to you as I see it. They were going -- they started the project, they were complying with the zoning as it was drafted. All of a sudden, Mr. Toomey or someone put this, and I think poorly drafted, to me not very -- I don't like it, provision in our Ordinance. They saw that, and a-ha we

have a chance to increase the amount of living space in this building by taking advantage of this new section. That's what they're doing. That's not against the law. They're taking advantage --

ILAN LEVY: I didn't say it was against the law. They did it. They took a risk and they're here asking for relief --

CONSTANTINE ALEXANDER: So, you know, that's the problem. This Board's going to have a lot -- already having a lot of these cases. They don't make my day, I'll tell you that. But I got to take the Ordinance that was given to us by the City Council.

ILAN LEVY: By the way, they didn't come in front of the East Cambridge Planning Team.

RHONDA MASSIE: No, they didn't.

ILAN LEVY: Let's be clear about that.

RHONDA LEVY: I tried to arrange for that.

My name is Rhonda Massie, M-A-S-S-I-E, 211 Charles

Street. We're the direct abutter behind Mr. Adelson's project.

The two people who spoke at the beginning were perfectly correct. Mr. Adelson introduced himself to my husband after the project started. Now I know it's not mandatory for a developer to contact the abutters before the project starts, but it's a courtesy. A couple of people who have come to the East Cambridge Planning Team have actually invited the whole neighborhood to the project site or to the building that's being renovated. I then had to ask the abutters on our street to meet with Mr. Adelson. Had I known, I would have invited you also. When we met with him and tried to ask questions, he -- and a couple of times you were quite rude about it. This is as of right. Don't ask questions. This is as of right.

Now, we may not be able to persuade you to change any of your plans, but if you listened to us and took note of our concerns, it would at least have made us feel better.

And no, none of your basement is underground. As a matter of fact, there are quite large windows at the back. I asked -- I forget what transpired but -- oh, the trees, which is fine, you promised to replace the trees. They will grow. I don't know if I'll be old enough -- as my grandmother used to put it when she started getting old, if I be life next year. I don't know if I'll live long enough to get my privacy back. There was a wonderful string of rain trees back there. And they all came out. And I understand why the project was put back far enough so that the trees would be dangerous with the work.

Now, we got this notice asking for whatever. I don't know if it's a Variance, not a Variance.

CONSTANTINE ALEXANDER: Special Permit.

RHONDA MASSIE: Special Permit. I waited a week and then I sent an e-mail to Mr. Adelson asking what the heck is this? And what I got back was, thank you for reaching out. It was my intention to mail the group after I

put my children to bed this evening. Well, that tells me I wasn't going to get in touch with you people unless you asked me. And I asked in plain English, you know, for him to explain in plain English. So I don't know -- it's up to you whether this happens or not. I don't know if this is, like you said, a question of the rules being changed or if this is a developer who tried to get away with something and is being caught. That's not unheard of in Cambridge.

CONSTANTINE ALEXANDER: It's not being caught.  
It's a developer who sees the  
loophole --

RHONDA MASSIE: Sess the loophole and tries to profit.

CONSTANTINE ALEXANDER: -- and takes advantage of it.

ANDREA HICKEY: Or an opportunity, you know.  
RHONDA MASSIE: It depends on which side of the fence you're on.

JANET GREEN: That's right.

RHONDA MASSIE: Anyway, the Building Department is questioning whether the top deck is considered shared or not. It is truly a matter of interpretation. And all of this was brought up a month ago. Who was it brought up with? You didn't tell us. If you really wanted to be when you said further on in your e-mail, I feel we have gone above and beyond to make this seamless for everyone. I do admit the parking has been a challenge at times. Well, the parking is going to continue to be a challenge, because the people who own the lot rented it out for parking. All of those people are out in the street.

I guess I just did not find you forthcoming. And when we've asked you questions we've been shot down is what I'm doing is as of right. Well, don't do that with your neighbors. I mean, Mr. Adelson, you're gonna count your money, you're gonna swine out of the neighborhood, and the rest of us are going to be left living with what you built.

So in future could you please treat your neighbors better?

Be forthcoming when things come up, let them know right away. When you're starting a project meet with them before the construction crew, you know, arrives for the first day. I mean, we were completely blind sided.

CONSTANTINE ALEXANDER: Okay, thank you. You made your point and it was a good point.

RHONDA MASSIE: Thank you.

CONSTANTINE ALEXANDER: If you ever going to appear before us again, you better behave a little bit better to the neighborhood than you did in this case.

RHONDA MASSIE: Oh, and I did ask, Mr. Adelson agreed to meet with the planning team, but by the time we got that arranged their schedule was full.

DANIEL ADELSON: Can I just respond and know whether it's relevance to this subject or not. It is true that we did start construction two days before I gave abutters notice. The reasons that being is my son was in

the hospital and he just was a newborn literally ten days old and I just wasn't able to get out prior. We waited over 90 days, over 90 days to get a permit. And it was a long process for me with my family as well as it was a long process for getting the process. I've reached out to the neighbors. The neighbors did arrange for me to sit down with them. I sat down with them. I did express it was as of right, but I would be willing to talk about trees, fences, whatever you wanted to talk about. On several occasions I've asked to come join me at the site and take a walk through of the property to see it. In your case specifically, Rhonda, we had a tree that accidentally hit their shed. We went through the process of trying to repair it, and it was unable to be repaired. We replaced the entire shed. I've also talked with the neighbors, there's several different layers of fencing between my property and their property. I have purposefully reached out to the abutters and said listen, do you want me to tear all the

fence down? Have one continuous fence? Would you like me to leave part of the fence up? Certainly understand for everybody's frustration, but I'm trying to be --

CONSTANTINE ALEXANDER: I want to get -- I think there's some neighborhood tension here I'm trying to let it air out. All of this is not relevant --

DANIEL ADELSON: I agree.

CONSTANTINE ALEXANDER: -- to the relief being sought --

DANIEL ADELSON: I agree.

CONSTANTINE ALEXANDER: That's why I don't want to recognize you, sir.

DANIEL ADELSON: I agree.

CONSTANTINE ALEXANDER: Our job, our task is a very narrow one that's been given to us by the City Council. And again I emphasize that what is adopted by the City Council is not perhaps what had been represented to people. I think it was designed to increase affordable housing by

allowing basement space to be used. That's not what was put in the Ordinance though. It's much broader and they're taking advantage of it. That's life. Unfortunately that's life.

Questions or comments?

BRENDAN SULLIVAN: Kelley, what is the floor to ceiling height in this area?

KELLEY SPEAKMAN: Right now?

BRENDAN SULLIVAN: Well, proposed when it's all finished.

KELLEY SPEAKMAN: I think it's seven-foot, six. Maybe a little smaller when we get all the mechanicals in which has not been done yet.

PATRICK TEDESCO: Can I just ask a question? You mentioned in your description of the project that it was Ranjit's interpretation because of the properties are attached vis-a-vis the garage.

KELLEY SPEAKMAN: It's because the single-family

and the two-family are connected by a garage that --

PATRICK TEDESCO: That it's interpreted as a three-family.

KELLEY SPEAKMAN: That's because the basement is, you know, next to the garage.

PATRICK TEDESCO: Which is the source of the need for the Special Permit.

KELLEY SPEAKMAN: Yes.

PATRICK TEDESCO: If the garage weren't there, it's as of right?

KELLEY SPEAKMAN: If the garage weren't there, it's fully as of right and it already is the case in the front two houses already.

PATRICK TEDESCO: And the garage is new to the project.

KELLEY SPEAKMAN: The garage is new and the garage does have more than a seven-foot ceiling height, and it's exempted from GFA from the zoning already.

CONSTANTINE ALEXANDER: Okay. Any other questions?

We've had public testimony. I think we'll close public testimony.

Discussion or we ready for a vote? Again, this is a vote to grant a Special Permit to allow the basement the space to be used for -- or exempt this basement space from GFA.

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

That the proposed basement involved with regard to the calculation of GFA, what is being proposed will support the character of the neighborhood or district in which the applicable lot is located. It supports it in the sense that it is further residential housing in a pure residential district. I think we've got to make the general findings for Special Permits.

That the requirements of the Ordinance cannot be

met without the Special Permit per the definition of GFA that I just referred to. That traffic generated or patterns of access or egress resulting from the relief being sought will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses as permitted by the Ordinance will not be adversely affected by if we grant the relief being sought.

No nuisance or hazard will be 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 generally what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

Again, what the petitioner is doing is taking advantage of a provision, new provision in our Ordinance which allows -- exempts from a basement area from the GFA

calculation for one or two-family homes which in turn allows for more living space in the structure and increases the value of the structure.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(11:20 p.m.)

(Sitting Members Case BZA-014587-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 014587, 246 Norfolk Street.

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

CAMPBELL ELLSWORTH: Good evening. My name is Campbell Ellsworth, architect. My address is 267 Norfolk Street. I am joined with the owner of 246 Norfolk Street Kristen Lynch. Her husband Paris Wallace was not able to be here tonight.

We are here before you to seek a Special Permit for relief of creating openings in a wall that is within the

required side yard setback. Just a little brief history, Paris and Kristen bought the house in 2015, September. They started work on March 2016. This is a pre-existing non-conforming two-family house. I should point out it's on a narrow lot, 42 feet wide. It's a C-1 zone. We have a minimum, minimum side setback of seven-and-a-half feet. You probably have seen in your package the site plan. That left side is only about two feet, 1.9 feet.

The relief that we're seeking tonight, just also to point out is only one half of what would be needed. If the Board is able to grant the Special Permit, then Paris and Kristen then have to apply to the State Building Code Appeals Board as well to be allowed to create openings in a wall that is within three feet of the property line. It's another level.

CONSTANTINE ALEXANDER: Right.

CAMPBELL ELLSWORTH: But we're here tonight.

They took on a major renovation, restructured

basically everything. You can see in the dimensional form this was permitted as an as-of-right project. We are a little bit under the allowable GFA. And I will let Kristen discuss -- well, actually so what you can see, that left-hand side which also has an accompanying photograph in there, you can see here that there were a number of openings obviously in that side. One of them -- two of them were actually closed up, and additional openings were created that it was later discovered were obviously in violation of this part of the Ordinance.

So we're here. We have, and Paris and Kristen have reached out to the community. They sent letters to all of the approximately 50 names on Maria Pacheco's abutters' list. We have -- you have those. We have six letters of support. They have --

CONSTANTINE ALEXANDER: Does one of them include the person that's most directly affected by your new openings?

KRISTEN LYNCH: No, but we have a verbal support from that person. I spoke with them on several occasions.

CONSTANTINE ALEXANDER: And your representation is they do not object to what you want to do?

KRISTEN LYNCH: Correct, they do not object. They've actually been fantastic. The project has taken longer than expected. They've just been really wonderful.

CONSTANTINE ALEXANDER: Okay. Thank you.  
CAMPBELL ELLSWORTH: And so that's, that's basically it. The request for these new windows, they were created because of the rearrangement of the spaces. I wasn't -- though I was participating in the beginning on the permitting of the process, I wasn't participating during that when modifications were made, and it was sort of later discovered that that was in fact the case.

KRISTEN LYNCH: Yeah, and I'll just say based on what I now understand, obviously we messed up and should have come to you prior to inserting these windows, and this

is the first time we've done a project and we had a zealous contractor and we were really excited to move in. So I completely get that this is not the appropriate approach, and I'm here tonight to try to rectify that. Campbell was not at all involved and has been kind enough to help me rectify the situation.

CONSTANTINE ALEXANDER: Okay. Thank you.

Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: There's no one in the audience so I don't need to take comments.

I would report that there are letters of support that you've delivered to us tonight. And no letters of opposition.

Ready for a motion?

JANET GREEN: Yeah.

CONSTANTINE ALEXANDER: The Chair moves that we make the following findings with regard to the Special

Permit being sought:

That the requirements of the Ordinance as such that you cannot, you cannot do the work you want to do without a Special Permit.

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

That the continued operation of or development of adjacent uses will not be adversely affected. And you've represented to us that the neighbor most directly affected by what you want to do has not, is not in opposition.

No nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant, that's you, or the citizens of the city.

And generally what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this

Ordinance.

So on the basis of all these findings, the Chair moves we grant the Special Permit requested on the condition that the work proceed accordance with the plans prepared by Ellsworth Associates, Inc. and which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* .

(Whereupon, at 11:25 p.m., the

Board of Zoning Appeals 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.

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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 10th day of November, 2017.

---

Catherine L. Zelinski  
Notary Public  
Certified Shorthand Reporter  
License No. 147703

My Commission Expires:  
April 29, 2022

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