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PLANNING BOARD
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

February 17, 2009

7:30 P.M.

in

Second Floor Meeting Room
City Hall Annex -- McKusker Building
Cambridge, Massachusetts 02139

- Pamela Winters, Acting Chair
- Hugh Russell, Member
- Thomas Anninger, Member
- Steve Winter, Member
- H. Theodore Cohen, Member
- Patricia Singer, Member
- Beth Rubenstein
- Les Barber
- Roger Boothe

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P R O C E E D I N G S

PAMELA WINTERS: Welcome to the Planning Board meeting this evening for Tuesday, February 17. And we have a few items of general business this evening.

Planning Board No. 186, 310 Ridge Avenue, we're going to have a design review for use change of building six. Followed by Planning Board No. 190, 325 Fresh Pond Parkway. A discussion of change of approved plans. That will be followed by the BZA cases, and as usual we'll start with an update by Beth Rubenstein.

Beth.

BETH RUBENSTEIN: Thank you, Pam. And thank you for chairing tonight.

PAMELA WINTERS: Sure.

BETH RUBENSTEIN: Upcoming meetings will be meeting on March 3rd and March 17th.

On March 3rd MIT will be back to continue our discussion of the building at 650 Main Street. And right now that's what

1 we have scheduled.

2 And if the Board doesn't mind taking a
3 moment or two, I thought I would give a brief
4 update of the result of the Alexandria
5 rezoning petition that was here more than
6 once and was adopted by the City Council on
7 February 9th. And I've handed out two
8 things. One, a chart, a horizontal chart
9 that summarizes the community benefits that
10 went with the zoning. And then also just a
11 map that had been prepared by Alexandria
12 indicating where the building sites are.
13 This is all familiar to the Board. And I
14 think I'll just take a moment to go very
15 quickly through the benefits that accompanied
16 the adopted zoning.

17 The Council did adopt the substitute
18 petitions that had been the subject of much
19 discussion between folks in the neighborhood,
20 the City Council and some of the city staff.
21 The change allows the developer to pursue a
22 PUD in the Binney Street zone. And actually,

1 technically rezones the vicinity in the area
2 of building sites 1 and building sites 2.
3 They get added to the PUD, I believe it's 3.
4 And then the sites of building sites, 3, 4
5 and 5 get added to a PUD 4C. But I think I
6 just wanted to just focus a little bit on how
7 the phasing worked with this rezoning to give
8 you a sense, as we tried to do with the
9 public, as to what the benefits will be and
10 how they'll be staggered with the building
11 program. So I'm following along from the
12 community benefits page.

13 A number of benefits are going to come
14 to the City if the developer opts to get into
15 the PUD. Once they get permitted as a PUD
16 and start exercising their rights under the
17 PUD, they are committed to this whole package
18 of benefits. This was a question that came
19 up a number of times. Should they not decide
20 to go the PUD route, they don't go with these
21 benefits, then they can only avail themselves
22 of the underlying, you know, existing zoning.

1 So at the time of the first building
2 permit -- and we've been given to understand
3 that the most likely first building site is
4 building site 1, either 1 or 2. But when
5 they pulled their first building permit, the
6 City will get a million dollars towards the
7 design of what will be a new public parks in
8 East Cambridge.

9 PAMELA WINTERS: Excellent.

10 BETH RUBENSTEIN: At the time of the
11 first C of O or the certificate of occupancy,
12 the City will get eight and a half million
13 dollars toward the construction of those
14 public parks. And the first parcel, which
15 has become known as the Roger's Street Park,
16 and is shown as such on your map between
17 Second and Third Streets and Rogers and Ben
18 will be deeded to the City for the purpose of
19 creating a public park. So in other words,
20 if they only build the first building and get
21 a C of O, nine and half million dollars on
22 that parcel of land. And, again, there has

1 been some concern and a number of questions
2 from the public understandably, what happens
3 if they only build one building or two
4 buildings and then the program doesn't go
5 forward or stalls? That's what I'm trying to
6 take us through.

7 But moving on in open space, at the
8 time of getting a C of O that trips the first
9 hundred thousand square feet. The second
10 piece of green space, the triangle park, over
11 between Land Boulevard and First Street and
12 Binney will be deeded to the City for the
13 second park.

14 And then finally, when the development
15 program exceeds one million square feet of
16 commercial space, the developer will in
17 addition be obligated to give to the City at
18 the rate of \$12 at square foot, funds for an
19 additional open space acquisition fund for
20 the eastern part of the city.

21 Moving on to housing. One of the
22 issues that came up as the Board knows, when

1 we looked at this additional commercial
2 development was what does it mean in terms of
3 ECAPS? How is it a departure from ECAPS?
4 One of the concerns was the loss of what had
5 been an incentive system that provided a
6 number of expenses to create housing along
7 the Binney corridor. It was never a
8 guarantee of housing, but the incentive
9 tilted in that direction. So in response to
10 those concerns, the developer has agreed to
11 add 220,000 square feet of housing to the
12 entire building program.

13 And just to give you a sense of where
14 the housing plan is to be located, it's in
15 the kind of orange or amber sections, this
16 building 6 site, and then also along Third
17 Street just to the west of building 4. And
18 the facing is as follows: That when the
19 building permit is issued, that trips over
20 into the 767,000 square feet of commercial
21 development, the first 70,000 square feet of
22 housing, which is the smaller building along

1 Third Street will have to commence. And when
2 they have obtained a building permit that
3 trips over to a million square feet, maybe to
4 commence the 150,000 square feet at building
5 site 6. In addition, the agreement between
6 the City and the developer is that 33,000
7 square feet will be set aside for low-mod
8 income. Low-mod income being up to 80
9 percent of median income and below. Typical
10 for our affordable housing programs in the
11 city. And if you want to think about how
12 many units is that? You know, rough rule of
13 thumb, obviously depending on the size, it's
14 about 33 units. If the units are smaller,
15 it's more. If they're larger, it could be
16 fewer. But that's about what it is.

17 And in addition, 47,000 gross square
18 feet will be set aside for what we call
19 middle income housing, which is for incomes
20 between the 80 percent of median up to 120
21 percent of median.

22 Retail was another point of a lot of

1 di scussi on. I thi nk there was an i nterest
2 agai n, as the Board knows extremel y wel l,
3 that thi s program, i f i t were to be al lowed,
4 woul d do better than the average proj ect i n
5 terms of creati ng i ncenti ves and maki ng an
6 effort to havi ng a successful retail
7 corri dor. And a number of thi ngs are i n both
8 the zoni ng and the accompanyi ng l etter of an
9 agreement, i ncl udi ng a marketi ng and
10 merchandi si ng pl an. There' s a l ot more
11 l anguage, thi s i s j ust extremel y a bri ef
12 summary. But they' re obl i gated to put
13 together a merchandi si ng and marketi ng pl an
14 that tal ks about the ki nd of retail ers
15 they' re tryi ng to attract. How they' re goi ng
16 to acti vate the ground fl oors. They' re
17 requi red to desi gnate a person to be i n
18 charge of thi s. That person' s obl i gated to
19 report to the Ci ty' s Economi c Devel opment
20 Di vi si on annual l y up unti l three years passed
21 the bui l d out of al l the retail . So that
22 coul d be for many, many years. And i n fact,

1 the retail plan is required to include
2 incentives to activate the space including
3 but not, you know, necessarily limited to
4 rent and fit out fit subsidiaries. I think
5 there's some understanding that there's no
6 magic bullet. If there were a magic bullet,
7 we wouldn't have cities all over the country
8 and even the world having that problem with
9 retail. But I think there is some sense that
10 if you help people with their rents and/or
11 you help them bid out their space, that can
12 only be a good thing.

13 Community active uses. Again, there's
14 a minimum number of retail square feet,
15 20,000 square feet minimum. I think if the
16 densities and the size of the project provide
17 enough folks to support more, we'd like to
18 see more. But, you know, we expect to see at
19 least 20,000 square feet.

20 And then in addition, as part of the
21 discussion with the City Council, there was
22 an agreement that the purple historic Foundry

1 Building would be deeded to the City in 2012
2 for a combination of municipal uses and
3 community uses. Community uses also being
4 something of great interest to the folks in
5 East Cambridge. And there's a requirement
6 for a minimum of 10,000 square feet of
7 community use. And, again, the whole
8 building's a little over 50,000 square feet.

9 Sustainability, obviously an issue of
10 much concern. And after a lot of back and
11 forth, the developer has been required in the
12 zoning letter of agreement to build buildings
13 to at least a lead silver standard. And I
14 think understanding that our own green
15 building committee may be imposing a higher
16 standard. It says that should the City adopt
17 a higher standard for commercial buildings
18 50,000 square feet or more, that new standard
19 will kind of -- will be applied to the
20 Alexandria project, which I think was a fair
21 way to proceed.

22 This next list of items are some things

1 that are smaller, but somewhat important.
2 And just to sort of give folks an
3 understanding of how some of the discussions
4 went along, you'll see that along the north
5 side of Binney Street, the buildings 3 and 4
6 have been set back a little bit. And that is
7 to allow the City to look at the possibility
8 of creating some on-street parking on Binney,
9 particularly between Second and Third Street.
10 Again, we'd like more, but we wanted at the
11 very least, knowing we weren't designing the
12 streets today, we did bring in Owen
13 O'Reardon, the city's engineer, and Sue
14 Clippinger, the traffic director to say is it
15 feasible to think about on-street parking. I
16 think they did think it was feasible. We
17 think it would be helpful for the liveliness
18 of the area. It helps the retail. You know,
19 I think we all feel you don't need a sea of
20 parking to create a different mindset, but
21 having a little bit of an ability to pull up
22 and park for a half hour or an hour, may be

1 helpful, as it is along areas of Mass. Avenue
2 between Harvard Square and Porter Square. So
3 that's what those setbacks are about.

4 Likewise, on the Roger Street side of
5 buildings 3 and 4, the buildings are set back
6 four feet to allow a nicer edge adjacent to
7 the park.

8 There was some discussion about where
9 the loading zones would be for buildings 3
10 and 4. And while there's not an out and out
11 prohibition against putting the loading on
12 Roger, there's a strong preference for seeing
13 it not adjacent to the new park. And, again,
14 just as a reminder to folks who know less
15 about this than as you all do, we've reminded
16 everybody that there would still be a PUD
17 process, or a Special Permit process here at
18 the Planning Board. Where there will still
19 be a traffic study, a PTDF plan, additional
20 mitigation if it seems that you all feel
21 that's warranted, and a further analysis of
22 parking ratios. This developer has agreed to

1 a new maximum parking ratio of .9 per
2 thousand, which is lower than what we usually
3 have in the City. And that's a new maximum.
4 But as we stressed throughout the process,
5 there's no reason that that number may not
6 become even smaller. I think it's here that
7 the fine grain work of figuring out what the
8 right ratios are will take place. The
9 parking is required to be underground. A
10 very small portion, in fact, five percent of
11 the spaces, I forget how many spaces it was.

12 LES BARBER: 60.

13 BETH RUBENSTEIN: 60? Thanks, Les.
14 60 spaces are allowed to be at grade for the
15 project, but in the main it's in the
16 underground. The project is still expected
17 to be consistent with the ECAPS design
18 guidelines. And there is a commitment by the
19 developer to preserve the little purple
20 historic buildings throughout the area.

21 On noise, there are more detailed noise
22 provisions, again, throughout the zoning and

1 letter of agreement. But the developer has
2 said that they are committed to making sure
3 that rooftop mechanical noise will not be
4 perceptible a hundred feet from the source of
5 the noise lot line. And they also have
6 agreed that they'll be compliance recording
7 with field measurements. I believe it's at
8 the building permit stage for each building?
9 I think that's right. I'll have to double
10 check.

11 LES BARBER: Right.

12 PAMELA WINTERS: And that was the
13 big issue, too, with the residents if I
14 remember correctly.

15 BETH RUBENSTEIN: Absolutely.

16 PAMELA WINTERS: Good.

17 BETH RUBENSTEIN: And then finally
18 just in summary, you know, for economic
19 impact for the City, we anticipate something
20 like 3,000 permanent new jobs and a real
21 estate contribution. I think this number
22 came from the City Assessor, somewhere in the

1 neighborhood of nine to twelve million at a
2 minimum, if the whole project is built up.
3 And, again, it's really five commercial
4 buildings, 1 through 5. And the square
5 footage is in the neighborhood of 1.58
6 million square feet. I think it was 1585.
7 No, I'm sorry. 1.530, change that. That's
8 what it is. Plus the 220,000 square feet of
9 housing.

10 So we have heard from Alexandria that
11 they hope to move pretty quickly to be here
12 with the PUD. As you all know, that doesn't
13 happen overnight, but it's conceivable that
14 we'll see them here, you know, within the
15 next six months.

16 PAMELA WINTERS: Good.

17 BETH RUBENSTEIN: And I think if
18 folks are interested, really briefly, where
19 the heights ended up, is that of interest?

20 THOMAS ANNINGER: Yes.

21 PAMELA WINTERS: Yes.

22 BETH RUBENSTEIN: That was a

1 question that came up. It's not always easy
2 at a glance, but we have prepared that
3 material. So let me just take you through
4 what the heights were under ECAPS, and then
5 what they are under the new zoning. And some
6 of them are -- it's not completely simple but
7 I'll make it as clear as I can.

8 We'll just go in number order.
9 Building 1, the height that was allowed was
10 85 feet if it was commercial use and 120 if
11 it was residential. Under the new zoning it
12 can go as high as 140 feet.

13 Building 2 is the biggest spread.
14 Building 2 had been at 65 feet for all uses.
15 And it now can go as high as 140.

16 And from here on they get much less --

17 THOMAS ANNINGER: That grew, didn't
18 it?

19 BETH RUBENSTEIN: Building 3 --

20 THOMAS ANNINGER: No, I mean that
21 grew from what we had recommended.

22 BETH RUBENSTEIN: I believe it was

1 120 at one point. That's right.

2 THOMAS ANNINGER: I think it was
3 120.

4 BETH RUBENSTEIN: I think some of
5 these other changes and setbacks and other
6 things moving around that building -- I think
7 it was 120 when they were here.

8 Building 3 under ECAPS had it split
9 down the middle. Buildings 3 and 4, were
10 split down the middle. They were 35 feet if
11 they are commercial. And if they were
12 residential, they could go as high as 55 feet
13 on the Rogers site and 55 on the Binney site.
14 So 45, 55, 65. And under the new zoning,
15 they're allowed to be 65 feet on the Rogers
16 side and 78 on the Binney side. Again,
17 that's 78, those few extra feet were as a
18 result of the setback for the on-street
19 parking.

20 Building -- that was 3 and 4. Building
21 5, again, was a split district of 45 feet if
22 it was commercial. 55 and 65 if it was

1 resi denti al . And bui l di ng 5 now can go as
2 hi gh as 75 feet.

3 And fi nal l y bui l di ng 6, whi ch i s a
4 hou si ng si te was 65 feet, and remai ns at 65.

5 PAMELA WINTERS: It seems as though
6 a lot of negoti ati on went on before they
7 reached thi s resol uti on.

8 BETH RUBENSTEIN: There was a lot of
9 di scussi on and a lot of tryi ng to hone, you
10 know, al l the di fferent areas of concerns.
11 For some fol ks I thi nk i t was about noi se.
12 For others i t was about parki ng i mpact.

13 PAMELA WINTERS: Ri ght.

14 BETH RUBENSTEIN: For others i t was
15 bui l di ng hei ght. You know, there were a lot
16 of di fferent i ssues, and I thi nk that's a
17 fai r statement. There was a lot of
18 di scussi on. And real l y, you know, an attempt
19 to address, you know, most of the i mportant
20 i ssues.

21 But I thi nk that's probabl y j ust a good
22 pl ace to stop for now. I'm happy to answer

1 any questions if I can. And, again, I'm sure
2 when the developer comes back with the PUD,
3 they'll also kind of refresh our memories as
4 to where we ended up.

5 PAMELA WINTERS: Any questions --

6 BETH RUBENSTEIN: Any other thoughts
7 at this point?

8 PAMELA WINTERS: -- from the Board?
9 No.

10 Beth, I just have one question on
11 something that was in our packet. The City
12 Council policy order resolution. I don't
13 know if you had any information on that.

14 BETH RUBENSTEIN: Now, was that the
15 policy order asking you to postpone a
16 decision?

17 PAMELA WINTERS: Yes.

18 BETH RUBENSTEIN: Yes. You know,
19 that's a Council order. Council orders are
20 advisory, and I think the Board can read that
21 and, you know, do -- it's for you to do as
22 you see fit as the Planning Board.

1 PAMELA WINTERS: Okay. Thank you.

2 THOMAS ANNINGER: Well, how do we
3 know that this have been -- this process will
4 have been satisfied by the time of March 3rd
5 when you say MIT is to come before us? That
6 isn't a lot of time.

7 BETH RUBENSTEIN: I'm not sure I
8 understand your question, Tom.

9 THOMAS ANNINGER: This is asking us
10 to postpone any review of the MIT building
11 650.

12 BETH RUBENSTEIN: Right.

13 THOMAS ANNINGER: Your schedule is
14 March 3rd we see that building.

15 BETH RUBENSTEIN: Right.

16 THOMAS ANNINGER: Will this process
17 have taken place by March 3rd?

18 BETH RUBENSTEIN: Will which
19 process?

20 STEVEN WINTER: The one of the
21 conversation with the neighbors and the
22 Board.

1 BETH RUBENSTEIN: I mean, I think
2 that's for MIT to report to you when they
3 come here on the 3rd and let you know. I
4 don't know what the dates are or any meetings
5 they may have had with the neighborhood.
6 Again, this is an advisory opinion by the
7 Council. It's not an obligation on your part
8 to weigh it. I think it's also kind of a
9 message to MIT that the Council would like to
10 see that conversation take place. And, you
11 know, we'll ask MIT to come and report on
12 what conversations, if any, have happened
13 when they come here next time.

14 ROGER BOOTHE: Beth, I think they
15 would have to grant an extension beyond that.

16 PAMELA WINTERS: They may decide to
17 do that, too.

18 ROGER BOOTHE: The deadline is soon,
19 around March 3rd, they would have to grant an
20 extension.

21 BETH RUBENSTEIN: It looks like the
22 deadline for action is the 16th. So you're

1 right, if a decision isn't made on the 3rd,
2 they will have to grant more time. Which
3 obviously I think they would be likely to do.

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1 PAMELA WINTERS: All right.

2 So, 310 Rindge Avenue. Are the
3 proponents here for that?

4 Beth, were you all through with your
5 comments?

6 BETH RUBENSTEIN: Yes, I am.

7 LES BARBER: For some reason they
8 seem not to be here.

9 PAMELA WINTERS: Okay.

10 BETH RUBENSTEIN: Well, can we move
11 on to the next order of business?

12 LES BARBER: Well, I can explain it
13 if you want.

14 PAMELA WINTERS: That would be good.

15 LES BARBER: It's not a terribly
16 complicated proposal. I don't know what Li za
17 sent out to you.

18 THOMAS ANNINGER: Nothing.

19 LES BARBER: Nothing.

20 HUGH RUSSELL: We have plans, lots
21 of calculations.

22 LES BARBER: As you may recall, this

1 is a housing development -- many of you may
2 not recall because you might not have been
3 here.

4 THOMAS ANNINGER: You're right. She
5 did send a plan.

6 LES BARBER: Excuse me, Tom?

7 THOMAS ANNINGER: I'm sorry. We did
8 get something.

9 PAMELA WINTERS: We did. But we
10 didn't get the design.

11 LES BARBER: Okay. This is a
12 project of -- I'm forgetting the number of
13 units now. Maybe 180 units. Mostly
14 multi-family, some townhouse, in a number of
15 buildings in a pork chop lot squeezed between
16 Rindge Towers and the city's housing project
17 whose name I'm currently forgetting.

18 BETH RUBENSTEIN: Jefferson Park.

19 LES BARBER: Jefferson Park.

20 And when first approved, this
21 particular building, it's a small little
22 building set in the corner of the

1 development, had been planned to be the
2 repair facility for the ambulance service
3 which was going to be a tenant in this
4 complex.

5 HUGH RUSSELL: Or had sold all or
6 part of the land as part of the deal, right?

7 LES BARBER: Yes. In the end the
8 service didn't go here. So the proposal here
9 is to simply fit the whole building out as a
10 residential unit. I think it's -- there may
11 be one additional unit. I apologize, I
12 didn't actually read their letter recently.
13 It involves moving a parking space out of --
14 out of the building and relocating it on the
15 site. And making some minor changes to the
16 exterior of the building, and essentially
17 retrofitting the garage door that's there now
18 to reflect the residential use in the
19 interior. They're inserting a floor in that
20 double height space I believe. Yeah, adding
21 about 276 square feet.

22 HUGH RUSSELL: I think that's maybe

1 sitting up on top.

2 LES BARBER: Excuse me, Hugh?

3 HUGH RUSSELL: It looks like it's
4 sitting up on top.

5 LES BARBER: Yes.

6 PAMELA WINTERS: It's the loft area?

7 LES BARBER: Yes, that's there
8 already, that little structure. And they're
9 inserting -- it had to be high for the trucks
10 to go in, I think, was the rationale
11 initially.

12 HUGH RUSSELL: Okay.

13 LES BARBER: And they're simply
14 inserting the floor to make use of it for
15 residential purposes.

16 So, you know, it's a very minor change
17 to the --

18 BETH RUBENSTEIN: Are they adding a
19 unit?

20 LES BARBER: I thought they were
21 adding a unit. Is that clear to people?

22 STEVEN WINTER: No.

1 LES BARBER: I may be wrong. It may
2 be that they're just expanding the
3 residential floor space in the building.

4 PAMELA WINTERS: Right.

5 LES BARBER: It's been quite a while
6 since I talked to the applicant.

7 PAMELA WINTERS: They said the
8 exterior of the building is not being
9 enlarged.

10 LES BARBER: Changed, right. Yes.

11 So, it's minor physical changes to the
12 exterior of the building. A little interior
13 addition well within the square footage
14 allowed on the site. So it seemed to us a
15 fairly benign change in the site plan,
16 planning program.

17 H. THEODORE COHEN: Is this market
18 housing?

19 LES BARBER: There's a considerable
20 component of affordable housing, more than I
21 think is typical, but there is a market
22 component.

1 BETH RUBENSTEIN: I think that's
2 right. They were subject to inclusionary
3 zoning, but I think they gave us an
4 additional share. I don't quite remember how
5 many additional affordable units. It was
6 more than the 15 percent.

7 LES BARBER: Just-A-Start was a
8 partner early on, and at least advising them
9 on the project.

10 PAMELA WINTERS: Well, I feel as
11 though that changes are minimal. Do any
12 Board Members have any comments or criticisms
13 or observations?

14 THOMAS ANNINGER: I think it's
15 pretty hard to put this -- any kind of
16 context based on what you've given us. I
17 mean, it seems minimal but it's hard to
18 understand.

19 LES BARBER: Yes. It's an existing
20 building pretty much as it is. The shift in
21 the -- and, you know, the site plan indicates
22 where it is in the larger plan there. You

1 know, there are much larger buildings on the
2 site. And so it's hard to say that there's
3 going to be a noticeable change in the
4 physical exterior of the complex.

5 STEVEN WINTER: What are our
6 actions?

7 LES BARBER: It's a change to the
8 site plan. So the Board simply needs to
9 approve that.

10 PAMELA WINTERS: To have a vote?

11 LES BARBER: Yes.

12 THOMAS ANNINGER: Have they started
13 to build?

14 LES BARBER: Excuse me?

15 THOMAS ANNINGER: Have they started
16 to build?

17 LES BARBER: Well, the building's
18 there in its physical form pretty much like
19 this. There's just an insertion of the
20 floor. So, no, they should not have started
21 to build yet until they get approval from the
22 Board.

1 H. THEODORE COHEN: But the rest of
2 it --

3 LES BARBER: The whole project is
4 built, yes.

5 BETH RUBENSTEIN: It's been built
6 for a number of years. It's sort of touched
7 back there, you wouldn't necessarily see it.

8 THOMAS ANNINGER: How does it look?

9 HUGH RUSSELL: About what we
10 expected.

11 LES BARBER: It's nice.

12 HUGH RUSSELL: Yeah, it's fine. And
13 then it's kind of weak architecture, but you
14 know, its context where you're up against not
15 particularly nice buildings and it looks
16 nicer. I mean, it's a nice landscape and
17 there's a little open space in the middle.

18 ROGER BOOTHE: Our housing staff
19 says the units are very nice. They get
20 involved in looking at the units with the
21 users and they're pleased with the interiors.

22 PAMELA WINTERS: Good.

1 Well, it seems as though there's no
2 objections to this. So shall we take a vote
3 on the use change of building 6?

4 HUGH RUSSELL: I move that we
5 approve the change to the building site plan.

6 PAMELA WINTERS: Do I hear a second?

7 H. THEODORE COHEN: Second.

8 PAMELA WINTERS: All those in favor.

9 (Show of hands).

10 PAMELA WINTERS: Opposed?

11 (No Response.)

12 PAMELA WINTERS: So it is passed.

13 (Winters, Singer, Cohen, Winter,
14 Anninger, Russell.)

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1 PAMELA WINTERS: So, the next item,
2 I think we'll move right along, is 325 Fresh
3 Pond Parkway and change of approved plans and
4 discussion.

5 Are there proponents here for that.

6 LES BARBER: That's staff again.

7 PAMELA WINTERS: That's staff?

8 Okay.

9 LES BARBER: And actually what we're
10 here to do is seek your advice --

11 PAMELA WINTERS: Okay.

12 LES BARBER: -- as to how to
13 proceed.

14 PAMELA WINTERS: Okay.

15 LES BARBER: As you might -- you
16 will not be surprised to know that the
17 project has turned out to be rather
18 complicated.

19 HUGH RUSSELL: Oh, it's the garage.

20 LES BARBER: Yes.

21 THOMAS ANNINGER: Is this the fish?

22 HUGH RUSSELL: No, no.

1 LES BARBER: No. This is the Mobil
2 station car repair facility.

3 THOMAS ANNINGER: Oh, no, not that
4 again.

5 LES BARBER: Yes.

6 HUGH RUSSELL: They didn't build a
7 nice building like they were supposed to.

8 LES BARBER: Let me set the stage
9 for -- who was here on the Board during this?
10 The three of you perhaps?

11 PAMELA WINTERS: Yes. Tom, I think
12 you were.

13 HUGH RUSSELL: Yes.

14 LES BARBER: This was a Special
15 Permit issued by the Board sometime ago for
16 some waivers of the parkway overlay district.

17 PAMELA WINTERS: Yes.

18 LES BARBER: Fresh Pond Parkway.
19 And to establish by Special Permit this car
20 repair facility.

21 PAMELA WINTERS: This was almost ten
22 years ago. I think this was one of our first

1 cases.

2 LES BARBER: No, not that long ago.

3 PAMELA WINTERS: No? Really? Okay.

4 LES BARBER: The applicants have
5 been before you a number of times. It
6 probably started about ten years ago.

7 PAMELA WINTERS: Okay.

8 HUGH RUSSELL: They were before me
9 when I was on the Zoning Board 25 years ago.
10 And they still haven't filled the conditions
11 of the permit then.

12 PAMELA WINTERS: Oh, boy.

13 LES BARBER: And the set of plans
14 approved -- we can go through them in detail,
15 if you want, are here.

16 It was a fairly unprepossessing
17 building. The most important part of the
18 development was that it was going to be a
19 setback of 25 feet with landscaping around it
20 essentially meeting the requirements of the
21 overlay district, and a building made of
22 concrete block and brick with some windows in

1 it all around, and with the car repair
2 facility inside it. And then parking on the
3 exterior of the building as shown on the
4 plan. And they came in, and these are the
5 plans that were part of the certification for
6 the building permit set by our department,
7 which showed all of those details. And Liza
8 put an elaborate note that before we issued
9 an occupancy permit, we wanted a final set of
10 landscaping plans, we wanted identification
11 of the curb material, we wanted bollards to
12 protect various parts of landscaping.

13 PAMELA WINTERS: Landscaping, yes.

14 LES BARBER: And then we would sign
15 off on the occupancy permit.

16 Well, they never came to seek the
17 occupancy permit. They simply occupied the
18 building and occupied a building which is not
19 as approved here in the plans, but --

20 THOMAS ANNINGER: Not even close.

21 LES BARBER: It's a metal frame --

22 THOMAS ANNINGER: Not even close.

1 brick and concrete block building that the
2 Board approved is to put up a facing of some
3 sort, and then to tackle on tiles which would
4 give the appearance of brick and concrete
5 block building, but would simply be thin
6 tiles on the surface. They haven't put any
7 of the windows, but they have committed to
8 doing that.

9 They initially came in when we told
10 them we couldn't certify occupancy, they
11 asked for a temporary occupancy permit and
12 have submitted a schedule whereby they would
13 complete the building by June and do various
14 things and various steps over time. Even if
15 they completed the building, it's still not
16 as --

17 PAMELA WINTERS: No.

18 LES BARBER: -- approved in the
19 plans. So at a minimum the Board, if you
20 were so inclined, you would have to approve
21 the revised building plan. And then the
22 second question is whether in any case we

1 should approve any temporary occupancy permit
2 while they're continuing to complete the
3 plans.

4 STEVEN WINTER: May I say something?

5 PAMELA WINTERS: Yes.

6 STEVEN WINTER: Has the proponent
7 been in a dialogue with the staff of the CCD
8 throughout this procedure? Have you been
9 meeting regularly with the proponent?

10 LES BARBER: They've been meeting
11 with us regularly once they got the order to
12 vacate.

13 STEVEN WINTER: Which was?

14 LES BARBER: I don't know. A few
15 weeks ago perhaps.

16 ROGER BOOTHE: Six weeks maybe.

17 LES BARBER: Roger, early on in the
18 summertime at some point realized that the
19 building going up didn't appear to be the
20 building that we had approved, called up the
21 contractor. The contractor said oh, that's
22 okay, we're going to be putting in the brick

1 and concrete at the last stage in the
2 process. But in fact, it's something quite
3 different from a brick and concrete building.

4 PAMELA WINTERS: Did they say why?

5 LES BARBER: I was told by the
6 contractor that they just thought it would be
7 cheaper to do this.

8 PAMELA WINTERS: I see.

9 STEVEN WINTER: So that your
10 dialogue with the proponent has not shown
11 under any circumstances that the Board might
12 want to consider that are -- that directly
13 impact why the building looks like this
14 today. There's really no --

15 LES BARBER: No. As some of the
16 Board members have indicated, we haven't had
17 good luck --

18 PAMELA WINTERS: No.

19 LES BARBER: -- with these
20 particular applicants in honoring the
21 commitment that they make when we issue the
22 permits.

1 THOMAS ANNINGER: Why aren't they
2 here tonight?

3 LES BARBER: Well, we wanted to
4 discuss things with you before we -- whatever
5 we decide before we brought them in again.

6 BETH RUBENSTEIN: What are you
7 asking the Board for? What's the --

8 LES BARBER: Well, you know, we can
9 just say we can't approve any of this. That
10 you have to build the plans as approved. I
11 don't know whether they can possibly do that.
12 If they don't want to do that, we would tell
13 them they simply have to come back to the
14 Board and get approval for the revised plans.

15 And then the second question for you
16 will be as they pose it to you, will you let
17 us occupy the building while we build out to
18 some or provide a set of plans.

19 HUGH RUSSELL: Well, I would -- a
20 couple of thoughts on this. One thought is
21 that the idea of using tile to me is beyond
22 the pail. It can be done right. Some very

1 famous architects are doing buildings that
2 look like they're made out of tile. You can
3 use fancy terra cotta mainstream products.
4 While they're not going to use those exact
5 products, it's conceivable that that could,
6 if done properly, could be okay. We -- it
7 wouldn't be as substantial but it might be
8 okay.

9 The second observation is I would
10 recommend that they not get an occupancy
11 permit until the work is done to our
12 satisfaction. That otherwise it won't get
13 done.

14 STEVEN WINTER: Right.

15 HUGH RUSSELL: That will give them
16 the incentive.

17 LES BARBER: Roger and I and others
18 in the department actually thought as another
19 alternative, perhaps the metal building is
20 fairly simple and straight forward and
21 unadorned, but if they put the windows and
22 doors in, you know, maybe that's as good as a

1 building trying to look like a brick and
2 stone building when it isn't really. That's
3 another alternative.

4 BETH RUBENSTEIN: Something that
5 would go along with the landscaping.

6 ROGER BOOTHE: The landscaping. My
7 concern about the tile option is that we're
8 not dealing with architects here. And what
9 they're envisioning is putting up something
10 like blueboard and sticking Brickmaster on to
11 look like bricks. That's what they have in
12 mind. I am very worried that that's going to
13 look worse than, you know, a modest
14 corrugated steel building with windows, you
15 know. But there's no good option.

16 STEVEN WINTER: How can the Board
17 take Hugh's lead and continue to provide good
18 sound advice from the design to the proponent
19 while also not occupying -- not issuing a
20 permit to occupy until it looks the way the
21 Board approves it. How can we help them? Is
22 there a way we can do that?

1 LES BARBER: Well, procedurally I
2 think they have to come back and get your
3 ascension to the revised plans, whatever you
4 think is most appropriate, and the conditions
5 that you suggest.

6 ROGER BOOTHE: I mean, the most
7 draconian thing is to rip off what's put on
8 there and do it per the plans. Now they're
9 probably going to tell us, say that will put
10 them out of business. I don't know what to
11 tell you.

12 THOMAS ANNINGER: Well, I remember
13 them coming to us, I think that was the third
14 time that we saw them.

15 ROGER BOOTHE: We spent a lot of
16 time --

17 THOMAS ANNINGER: And every time,
18 every time they've come to us we've talked
19 about the various things, and we've gone into
20 it in some detail --

21 ROGER BOOTHE: Yes, we have.

22 THOMAS ANNINGER: -- also led by

1 Hugh whose memory led to a prior time.

2 PAMELA WINTERS: Right.

3 THOMAS ANNINGER: And we talked
4 about curbing and landscaping and so on. And
5 we really worked with them. And they have,
6 is the word "poo-pooed" us every time?

7 ROGER BOOTHE: They certainly
8 haven't respected the permit.

9 LES BARBER: That's in Article 2 of
10 the Zoning Ordinance.

11 ROGER BOOTHE: They've shown no
12 respect for the permit.

13 THOMAS ANNINGER: I think at one
14 point we have to worry about whether other
15 people will be tempted to do that verb to us
16 also.

17 ROGER BOOTHE: It's a horrible
18 precedent.

19 THOMAS ANNINGER: And, you know, I
20 can imagine a Mr., if I dare say, Schweigger
21 trying to go his way and then put us in a
22 position where we can do nothing but paper it

1 over with tile so to speak. I find this more
2 troublesome than any case I can remember.

3 ROGER BOOTHE: I don't think we've
4 ever had this flagrant disregard for a
5 permit.

6 PAMELA WINTERS: Right.

7 ROGER BOOTHE: And especially, as
8 you say, we've had -- they've been here like
9 three times and we've spent a lot of time.

10 THOMAS ANNINGER: And these guys
11 have done it every time. I have a real
12 problem with this one.

13 STEVEN WINTER: Where does that take
14 you?

15 THOMAS ANNINGER: It takes me all
16 the way to where Roger was talking about,
17 which is I'm not sure we should even consider
18 letting it be. I think -- I don't see where
19 respect starts and our authority ends. I
20 really have a lot of trouble with trying to
21 even work with them at this point. Going out
22 of business, I mean, I think at a minimum

1 they've got to come and explain to us what
2 they were thinking. And if that explanation
3 doesn't even come close, I'm for starting
4 revoking, if one can do such a thing on a
5 Special Permit, and starting again.

6 BETH RUBENSTEIN: I have a question.
7 They can't occupy --

8 HUGH RUSSELL: Roger, a question
9 back to you. Do you think they would be
10 willing to do these windows in these sizes
11 and shapes?

12 ROGER BOOTHE: In the existing
13 building they put up?

14 HUGH RUSSELL: Yes.

15 ROGER BOOTHE: I would think so.

16 LES BARBER: That seems to be what
17 they're promising.

18 ROGER BOOTHE: That would be by far
19 their lowest cost option. And I wonder if it
20 wouldn't look better than Brickmaster. And
21 the thing is what they've built, if you look
22 in the picture, is this corrugated metal that

1 goes right to the edge of the foundation. So
2 anything they put on is going to be hung on
3 to the corrugated metal. I don't know what
4 you do with the corners. What type of corner
5 are you going to have when you have that
6 stuff stuck up there? I think, you know,
7 they're attractive simple looking windows
8 that you can put in a corrugated metal
9 building. And that might be less offensive
10 than having something that's, like you say,
11 kind of a wallpaper look, that's neither fish
12 nor foul. I don't know. There's nothing
13 satisfying about this.

14 LES BARBER: There's something to be
15 said for a building that doesn't have a lot
16 of investment in it, because I don't think
17 this is a use that over the long term we
18 would like to see continue at that location.
19 So -- but, you know, it certainly doesn't
20 answer Tom's --

21 THOMAS ANNINGER: I don't understand
22 the point about use. If they can do it,

1 they'll do it. Who knows, the temporary
2 situation will last forever.

3 LES BARBER: No, no, I just meant
4 that perhaps in 10 or 15 years we would have
5 something else going on --

6 PAMELA WINTERS: Right.

7 LES BARBER: -- housing or a real
8 commercial building rather than this
9 particular car --

10 THOMAS ANNINGER: When cars don't
11 use gas anymore.

12 LES BARBER: Well, maybe. So that,
13 you know, we wouldn't want to encourage them,
14 if that were our point of view. Encourage
15 substantial investment in the building. But
16 I, you know.

17 H. THEODORE COHEN: Could I, you
18 know, I was not on this before, but I really
19 see no reason why we should be rewarding
20 people who just flaunt the whole permitting
21 process and that, you know, in my private
22 practice in town council and other places,

1 I've dealt with people like this. And my
2 experience is that people who don't want to
3 play by the rules, simply will not ever. And
4 unless you hold the hammer over their head
5 and the court, which already I gather, has
6 ordered them out. They will never comply
7 with, you know -- we will constantly be
8 giving an inch and bending over backwards to
9 try to help them out. And in my experience,
10 I don't know these people at all, I don't
11 know who they are, but my experience is that
12 they simply won't comply with what we then do
13 and it will just get worse and worse and
14 worse. I see no reason for us to do anything
15 other than to tell them they have to come in
16 and explain what they're going to do and how
17 they're going to comply with the permit. And
18 if they want to propose changes to the
19 permit, I think we can review them and make a
20 decision about that.

21 PAMELA WINTERS: That's fine.

22 H. THEODORE COHEN: I mean, it's in

1 a, you know, a very prominent location where
2 we've approved the other project. You know,
3 maybe 50, 100 yards away which I think is
4 quite beautiful. Assuming that goes in.
5 There's a lot of other work going on in the
6 whole area. I mean, 10 or 15 years for a
7 building is still going to be a substantial
8 period of time. And, you know, I'm not
9 saying it has to be brick, but -- and maybe
10 tile would be great if they did it well. But
11 I think it behooves them to come to us with
12 some minimal explanation of why it turned out
13 this way and to show us what they intend to
14 do to fix it. And then, you know, I
15 appreciate you trying to come up with a
16 creative solution for them, but I don't think
17 that's our obligation here. I think they
18 have an obligation to do it right the way it
19 was permitted or to ask permission to change
20 it to something that we are happy with.

21 PAMELA WINTERS: I tend to agree
22 with you, Ted. And I have one question of

1 Hugh.

2 Would your tiles -- how would they look
3 on this building if you -- if we propose that
4 to them? Would that work or not work or? It
5 seems like it's a special type of tile.

6 HUGH RUSSELL: I think if it were
7 done well by somebody skilled, it could look
8 fine. It would not look wonderful.

9 PAMELA WINTERS: But better than
10 Brickmaster or whatever they intended to do?

11 HUGH RUSSELL: I think the
12 probability of that happening is probably
13 pretty low. And if you -- and I'm -- I think
14 Roger's advice, particularly concerning just,
15 you know, living with the metal skin, I think
16 may -- may be perhaps putting words in your
17 mouth, Roger. But this is a prominent
18 location. The most important design feature
19 of the building was in fact the windows. And
20 if you can get the windows and you have a
21 neutral background, I think the brick and the
22 block to me are not lovely. And, you know,

1 maybe five generations before that looked
2 better when Dennis was sketching with them.
3 But which resulted on those drawings is
4 strong windows, weak brick and block thing.
5 And so having a uniform background may be
6 just fine. And having -- and it could be
7 that given with -- given their mindset and
8 their ability to actually deliver the best
9 outcome is just, you know, a little side.
10 What color is it, sort of beige?

11 PAMELA WINTERS: It's grayish. Grey
12 silver.

13 ROGER BOOTHE: Yes, beige. It's
14 fairly neutral. I can imagine if it had the
15 best windows possible, that would work in
16 this kind of building system. Maybe it would
17 look clean and okay. I am really worried
18 about Brickmaster going on here. But I like
19 Ted's notion of having them come explain what
20 they're going to do to fix it, and at least
21 we have in mind what the options are. I
22 would be nervous about trying to get a

1 suggestion for how they fix this thing that
2 they've done here.

3 THOMAS ANNINGER: Just two
4 questions. One, the footprint of the
5 building that we approved, is that the same
6 as the footprint of this building?

7 LES BARBER: We're assuming that. I
8 haven't done any measurements, but it appears
9 to be the same footprint.

10 THOMAS ANNINGER: This seems to me
11 to be bigger and closer to -- with less
12 setbacks than -- you know, it's hard for me
13 to tell.

14 PAMELA WINTERS: It's hard to tell.

15 THOMAS ANNINGER: But this seems
16 higher and bigger to me than what I had
17 managed.

18 LES BARBER: Well, I'm constantly
19 being fooled by plans being translated that
20 three dimensions.

21 ROGER BOOTHE: We should have them
22 certify that. It's a good question. Clearly

1 they' ve done nothing on the Landscapi ng. In
2 fact, they' re parki ng on MDC property -- DCR
3 property. And there was to be a separati on
4 between thi s faci lity and the Mobi l stati on
5 so they woul dn' t be dri vi ng back and forth,
6 the Landscape separati on. I thi nk Roger was
7 very concerned to get that Landscapi ng in
8 before anythi ng el se and cl early get the
9 bui ldi ng and they' ll j ust ignore the
10 Landscapi ng.

11 THOMAS ANNINGER: And my second
12 questi on i s fol lowi ng up on what Ted sai d.
13 Ted sai d somethi ng that here i s a l i t t l e b i t
14 hard for me to reconcil e. On the one hand
15 bring them in to expl ai n how they woul d
16 change and l et us consider the changes. And
17 then on the other hand these are the ki nd of
18 peopl e, and we know that from the record, who
19 wi ll not do whatever we ask them to do. So,
20 we negoti ate somethi ng, l et us say, and then
21 what happens? How does i t pl ay i tsel f out so
22 we get what we negoti ated?

1 ROGER BOOTHE: Well, I think the key
2 thing would be make it very clear to them
3 that there's no certificate of occupancy
4 until they have done what the Board
5 ultimately agrees is acceptable.

6 THOMAS ANNINGER: That doesn't seem
7 to mean much to them until we bring the cops.

8 ROGER BOOTHE: But they were taken
9 to court and they have been shut down now.
10 So perhaps they understand.

11 LES BARBER: And the next step is
12 actually imposing of fines which haven't
13 occurred yet. So I think they're fully on
14 notice that they can't go any further until
15 there is an approval of some sort.

16 STEVEN WINTER: Can you tell me
17 about the fines?

18 LES BARBER: It's \$300 a day.

19 STEVEN WINTER: When does that kick
20 in? When does that happen?

21 LES BARBER: Well, I think you have
22 to go to court again, is my understanding, to

1 start imposing the fines.

2 PAMELA WINTERS: And the City would
3 do that?

4 LES BARBER: Yes.

5 STEVEN WINTER: I'm sorry, I didn't
6 mean to interrupt you. I have another
7 comment.

8 See, you're either in compliance or
9 you're not. There's no in between. You're
10 in compliance or you're not. And this is not
11 in compliance.

12 LES BARBER: Uh-huh.

13 STEVEN WINTER: It's not in
14 compliance. And what we're saying is we're
15 willing to negotiate them into compliance.
16 And I'm not sure that's where we ought to be
17 either frankly. I don't know if that's where
18 we ought to be. But it seems to me that all
19 of these, the not issuing a certificate of
20 occupancy and putting into motion the fines,
21 maybe those things ought to be happening as
22 we negotiate with them. I'm still not

1 convinced that a negotiation is the way to
2 go. I feel like we can say the building is
3 not in compliance, take it down and put the
4 other one up.

5 LES BARBER: Well, I think we have
6 to advise them that they can come in and ask
7 you for a modification of the plans. You are
8 free to deny that. And then we can't begin
9 to fine them for -- because they haven't,
10 they have not been issued anything that would
11 certify one way or the other. They tried,
12 but nothing has been certified yet that's in
13 compliance or out of compliance. So they can
14 sit there for a while if they wanted to.
15 They're anxious obviously to make use of the
16 building. And we can't certify this at all
17 simply because it's not in conformance with
18 the plans.

19 So their only choice is to come in and
20 persuade you that some modification is
21 acceptable to you and then they can proceed
22 to complete that or they sit there and decide

1 whether they go back to these original plans.

2 THOMAS ANNINGER: Do they have
3 counsel? Do they have somebody who
4 represents them?

5 LES BARBER: We've just been dealing
6 with a pleasant contractor who is the fellow
7 who built the building. They do have an
8 attorney. We did have one meeting where they
9 had an attorney.

10 PAMELA WINTERS: So then it sounds
11 like they will be coming back to us then and
12 presenting their plans and describing what
13 they're going to do, and I think that's
14 probably the best -- Ted.

15 H. THEODORE COHEN: That sounds fine
16 to me. I assume in response to somebody
17 else's question, that they were ordered by
18 the court to vacate the building and to cease
19 operation.

20 LES BARBER: They were ordered to
21 vacate and they have vacated.

22 H. THEODORE COHEN: And so if they

1 were to go back in and start operating again,
2 without permission they would be in contempt
3 of court --

4 PAMELA WINTERS: It would be, right.

5 H. THEODORE COHEN: -- and the city
6 solicitor can take them back to court --

7 PAMELA WINTERS: Right.

8 H. THEODORE COHEN: -- to hold them
9 in contempt, and the court can fine them.
10 And in the worst case, criminal contempt.
11 That's down the road. But I mean there are
12 penalties that get attached if they simply
13 ignore it.

14 PAMELA WINTERS: They have
15 motivation to come before us because I assume
16 they're losing money, you know. They're
17 going to go out of business.

18 THOMAS ANNINGER: The only reason I
19 ask --

20 PATRICIA SINGER: Question? And
21 that is, is --

22 PAMELA WINTERS: I'm sorry, Tricia.

1 PATRICIA SINGER: -- is this part of
2 the Mobil station? Is it a subsidiary
3 business or an ancillary business or a
4 separate business?

5 HUGH RUSSELL: I think the way it
6 works is that the Mobil station is actually
7 owned by Mobil, and that the guy who owns the
8 repair business is the tenant of Mobil at the
9 station.

10 PAMELA WINTERS: I think that's
11 correct.

12 PATRICIA SINGER: Thank you.

13 HUGH RUSSELL: So it's an integrated
14 operation which auto repair is really like
15 the major business he wants to be in. But I
16 guess I'll have to stop going there again.
17 It's very convenient.

18 PAMELA WINTERS: Tom?

19 THOMAS ANNINGER: The reason I asked
20 whether they had a representative is this:
21 If they're going to come in and go along this
22 process of asking -- discussing what changes

1 they could make that would satisfy us, I
2 think we need somebody to talk to who is
3 adequate for that discussion. If we get an
4 owner of a garage who is not really competent
5 to talk design and to talk capabilities, I
6 think we're going to have a lot of trouble.
7 And if he just throws his hands at us and
8 says tell me what I have to do and I'll do
9 it, that's not an adequate discussion. We
10 really have to have people who can talk at
11 our level about what's possible and what
12 isn't possible and what they will do and what
13 they won't. Otherwise I don't think it's
14 going to be a satisfactory negotiation. So I
15 think it has to be prepared in other words,
16 otherwise I think we're going to fail.

17 H. THEODORE COHEN: Sorry. My last
18 point is I don't think we should be going
19 into this, that it is a negotiation. That
20 there was a plan that was approved and
21 permitted. And either they comply with that
22 or they convince us that they should be

1 entitled to do something else. So I'm -- I
2 don't think we're negotiating the way of the
3 permit, and I think they have to give us a
4 rationale why they should be allowed to do
5 something else.

6 THOMAS ANNINGER: Right. But I
7 believe it can be give and take. And call it
8 what you will --

9 H. THEODORE COHEN: The reality is
10 that there is something there now and we're
11 either going to insist that they demolish it
12 and start over or they come up with something
13 else that is satisfactory to us that may use
14 the bones of what's there.

15 THOMAS ANNINGER: And call it what
16 you will, but I do think there has to be some
17 give and take at an intelligent level for us
18 to be able to do that.

19 PATRICIA SINGER: And my question
20 about ownership was really going between the
21 two of you and was driving at are we really
22 talking to the responsible party? Because

1 maybe -- I was not there at the beginning of
2 this, but maybe the responsible party is
3 Mobil for all we know.

4 LES BARBER: No, no, it is the
5 operator of the car repair.

6 PATRICIA SINGER: Okay. So we
7 should be talking with him though as well.

8 LES BARBER: Yes.

9 PATRICIA SINGER: Not just with his
10 representative --

11 LES BARBER: We've been talking to
12 him.

13 PATRICIA SINGER: -- or the vendor
14 of the contract.

15 BETH RUBENSTEIN: I think we have
16 the message to send back.

17 PAMELA WINTERS: Good. So you will
18 convey what the Board has discussed to the
19 proponent?

20 BETH RUBENSTEIN: Yes. I'll get it
21 back to them.

22 PAMELA WINTERS: Thank you, Beth.

1 So we are moving on now to the BZA
2 cases. And it looks like we have a
3 telecommunications Special Permit for 700
4 Huron Avenue as one of the items.

5 And if you could, your name and --

6 MICHAEL GIAIMO: Yes, it's Michael
7 Giaimo from Robinson and Cole representing
8 Verizon Wireless.

9 PAMELA WINTERS: And how do you
10 spell your last name, sir, for the --

11 MICHAEL GIAIMO: G-i-a-i-m-o.

12 PAMELA WINTERS: Okay, thank you.

13 MICHAEL GIAIMO: We have been
14 working with Liza who I understand is not in
15 this evening, but we had discussed with her
16 the concerns that the Board had the last time
17 in terms of clutter on the side of this
18 building. Those antennas that we proposed
19 originally would have been exposed the way
20 the existing carrier's antennas are. I know
21 the Board had suggested moving them to a
22 higher height, which is not, from a

1 technological standpoint, possible to do. So
2 what we've done instead is screen the
3 antennas or propose to screen the antennas so
4 you would have at least an elimination of the
5 clutter you were concerned about. We have,
6 and I can --

7 PAMELA WINTERS: You have some
8 visuals?

9 MICHAEL GIAIMO: Yes. I don't know
10 how many of these got circulated. But if I
11 can pass them around.

12 PATRICIA SINGER: Thank you.

13 MICHAEL GIAIMO: And, you know,
14 probably bears some explanation. I'm sorry,
15 the clips seem to have fallen off that one.

16 But what the photos show is the
17 original pictures that were before you the
18 last time, as well as a couple of alternate
19 schemes for the screening, one of which is
20 beveled so it reduces the shadowing. And
21 that's the one we thought was probably the
22 best, the best approach. I'm trying to --

1 this is the view on 3D for example. If you
2 can see, it's beveled at the bottom where
3 there would be a shadow effect or a larger
4 shadow effect without beveling the bottom.
5 But what these are are fiberglass materials
6 so they are transparent. But they can be
7 colored to match the building.

8 STEVEN WINTER: Is that it there?

9 MICHAEL GIAIMO: Yes, correct. I
10 should probably hold that up so folks can be
11 sure we're all looking at the same thing.

12 STEVEN WINTER: It's good that I
13 couldn't see it, right?

14 MICHAEL GIAIMO: It's that screen
15 right there. Next to it, below to the right,
16 is the existing antenna that's actually
17 there. So what we've done is a simulation of
18 what the screening would look like. What you
19 saw the last time --

20 THOMAS ANNINGER: Can you tell us
21 the page numbers that you're looking at?

22 MICHAEL GIAIMO: Yes. I'm holding

1 up 3D.

2 THOMAS ANNINGER: Okay.

3 MICHAEL GIAlMO: And I'm going to
4 compare it now to 3B, B as in boy. B as in
5 boy, what we looked at the last time. That
6 has exposed antennas. And you were concerned
7 with the clutter. 3D is the same antennas
8 but behind the fiberglass screen, the stealth
9 installation. So what that would do is it
10 would affix to the outside of the building.
11 It would be shallow. So that it, you know,
12 covers the antennas but doesn't protrude
13 beyond that, and it would be colored to match
14 the building. One thing Li za had suggested
15 is whether there was another site where we
16 could show you something similar. It's
17 actually -- it was hard for us to find
18 something that was directly comparable in
19 this area, but what we did do was we brought
20 some photos of a building in Brighton. And I
21 can either pass a bunch of these around or
22 just look at them. But this is the situation

1 where that penthouse on the top of this
2 building, which I think is over, I believe
3 it's over near the BC campus. Now you can
4 see up close what was done. It was just done
5 to match the existing penthouse, and the
6 antennas are behind the false wall. When you
7 look at that from ground level because it
8 matches, you really don't see the, you don't
9 see the distinction. This is a little
10 different on the face of the building, but
11 it's the same general idea.

12 STEVEN WINTER: Can we see that one
13 more time?

14 MICHAEL GIAIMO: You try to match
15 the architecture.

16 LES BARBER: I made a bunch of
17 copies.

18 MICHAEL GIAIMO: You have black and
19 white copies. I have some colors if you
20 think --

21 STEVEN WINTER: We have them.

22 MICHAEL GIAIMO: Good.

1 This on the top, what's happened is
2 they have matched -- and you can see there
3 the seam -- but they have matched the
4 existing material with a false wall that the
5 antennas would be behind.

6 HUGH RUSSELL: So it was an elevator
7 penthouse that was already there and so they
8 just made it a little bit bigger?

9 MICHAEL GIAIMO: It's bigger and
10 it's matched in all the detail level with
11 colors and simulation of material.

12 Now, here because that's a, you know, a
13 uniform material on the outside, the
14 proposal would be simply to screen it and
15 enclose it in a way that would, you know, as
16 flush as possible to the wall of the building
17 and colored.

18 The existing antenna, the bottom left
19 that's exposed, that's already there.

20 PAMELA WINTERS: That's already
21 there?

22 MICHAEL GIAIMO: Yes.

1 PAMELA WINTERS: Okay.

2 MICHAEL GIAIMO: You've already
3 approved that. The Zoning Board has. So
4 that one is on the building already.

5 THOMAS ANNINGER: And that's not one
6 of yours?

7 MICHAEL GIAIMO: That's not ours.
8 Nothing we can do about that.

9 PAMELA WINTERS: That's not yours?

10 MICHAEL GIAIMO: Correct. No, a
11 different carrier altogether.

12 THOMAS ANNINGER: Can you wrap it
13 with some of your new stuff already?

14 MICHAEL GIAIMO: Well, I mean, you
15 know, they could I suppose.

16 THOMAS ANNINGER: Just kidding.

17 H. THEODORE COHEN: Can you explain
18 the variant D's? I can't get any sense from
19 the proposals. I take it it seems like a
20 lump coming out.

21 MICHAEL GIAIMO: Yeah, there's
22 really only two different variances proposed

1 I think. Let me just go to the 3's because
2 they're the ones that have -- we've got 3A,
3 B, C and D. And I'll get through it. The A
4 series is the before picture. That's what's
5 up there already. Right? So you can see
6 that lone antenna on the bottom.

7 The B series was what you were
8 presented with the last time which was the
9 idea of having the antennas exposed on the
10 side of the building.

11 The C series --

12 THOMAS ANNINGER: More of the same?

13 MICHAEL GIAlMO: Yes, it's exactly
14 what you saw the last time. Which was we
15 have four antennas -- my client has four
16 antennas on this face. It would be similar
17 to the one that's there and it would just be
18 exposed on the outside. You didn't like that
19 and, you know, addressed it as clutter and we
20 took that advice and tried to make it less
21 clutterly.

22 H. THEODORE COHEN: Is the one

1 that's there Verizon?

2 MICHAEL GIAIMO: No, we're Verizon.
3 The one that's there is a different carrier.

4 Do you know who's up there, George?

5 GEORGE EVSIUK: T-Mobile.

6 MICHAEL GIAIMO: So that's T-Mobile.

7 C is the initial attempt at the
8 screening. The sides are beveled on that,
9 but the bottom is not. And the shadowing was
10 apparent. We thought we would try to see if
11 there's a way to do a screen that maybe
12 addresses that bottom shadowing. And so with
13 some consultation with the designers they
14 proposed this.

15 HUGH RUSSELL: And so what is that?

16 MICHAEL GIAIMO: It's the same thing
17 only with the bottom beveled to tuck under so
18 it doesn't shadow. What you have on C is a
19 sharper edge, and so the shadow would be
20 picked up. And these are obviously just
21 photo simulations, but they try to be
22 accurate with how the sun would play on the

1 the bottom, though, right?

2 GEORGE EVSI OUK: No, no bevel. This
3 cable is coming right here.

4 MICHAEL GIAIMO: D was beveled for
5 the lower profile, right?

6 GEORGE EVSI OUK: You cannot bevel
7 it.

8 MICHAEL GIAIMO: So what's the
9 difference between C and D then? I'm being
10 corrected here that C and D is different.

11 GEORGE EVSI OUK: C is just the
12 beveled edges.

13 MICHAEL GIAIMO: D was addressed on
14 the bottom so it doesn't have the shadow.
15 He's doing something different on D.

16 GEORGE EVSI OUK: The image is he
17 showed it probably you still be able to
18 shadow it.

19 MICHAEL GIAIMO: The idea was to
20 have a lower profile on D, because the cable
21 comes up the side and then the bottom like
22 that.

1 GEORGE EVSI OUK: The cable comes
2 from the bottom. There's no way to avoid
3 that. You have an opening.

4 MICHAEL GIAIMO: The idea is to get
5 this to minimize -- and to minimize the
6 shadowing effect and minimize the profile of
7 the screening. That's the --

8 STEVEN WINTER: That's on D.

9 MICHAEL GIAIMO: Yeah, we're on C
10 and DV. What George is telling me that's not
11 a bevel on the bottom --

12 GEORGE EVSI OUK: It might be just
13 the way that D is portrayed, maybe a just a
14 little computer problem.

15 MICHAEL GIAIMO: I think he tucked
16 it down some is what he tried to do.

17 ROGER BOOTHE: It looks like D has
18 right angles.

19 GEORGE EVSI OUK: It's still going to
20 be a shadow in there.

21 ROGER BOOTHE: Isn't that the
22 difference, the beveled on C and right angled

1 on D?

2 MICHAEL GIAIMO: So the bottom is
3 not shadowed because it doesn't stick out as
4 far.

5 ROGER BOOTHE: Yes, the bottom isn't
6 different on either one I don't think. You
7 have like a 45-degree angle on the side --

8 GEORGE EVSIUK: Respectfully, the
9 bottom's going to be smaller on D instead of
10 being beveled.

11 ROGER BOOTHE: So the idea is you
12 don't have much of a shadow because it's not
13 sticking straight out.

14 MICHAEL GIAIMO: We're trying to
15 minimize -- yeah, we're trying to minimize
16 the shadowing because it was commented on
17 when we showed folks C and so that's what
18 we're trying to do.

19 ROGER BOOTHE: It's better to admit
20 that there's something there and you see a
21 little shadow line kind of like parts of the
22 building have shadow line or part of a bevel

1 that tries to make it go away.

2 MICHAEL GIAIMO: I think that's a
3 good characterizati on.

4 PAMELA WINTERS: And I have another
5 questi on. You can't put the antenna in the
6 shadow -- in the long shadow line on the
7 bui l di ng?

8 MICHAEL GIAIMO: Well, you can't
9 that's the window well for either the
10 stai r way or some of the uni ts, right.

11 PAMELA WINTERS: And so then you
12 won't pick up recepti on, is that the issue?

13 MICHAEL GIAIMO: No, but it's right
14 outsi de of somebody's -- directl y outsi de of
15 somebody's wi ndow. Thi s i s not any place
16 where it's goi ng to interfere wi th anybody or
17 anybody's goi ng to be bothered by i t.

18 PAMELA WINTERS: I see.

19 HUGH RUSSELL: My guess is that the
20 projecti ng feature i s the stai r and that
21 there's a room next to the stai r on both
22 si des of the stai r that has a wi ndow. And

1 that --

2 MICHAEL GIAIMO: I think you're
3 right.

4 HUGH RUSSELL: And there isn't a
5 recess where the window is. It's just a
6 shadow. It's a square end with I think the
7 thing poking out which leads me to think
8 putting another thing that pokes out in the
9 simplest way --

10 ROGER BOOTHE: It's cleaner rather
11 than looking kind of funny.

12 HUGH RUSSELL: I wonder if they
13 should have two boxes that were the same
14 scale as the window.

15 ROGER BOOTHE: To line up with the
16 window?

17 HUGH RUSSELL: Yes.

18 PAMELA WINTERS: That's a thought.

19 HUGH RUSSELL: I think it's probably
20 not a good idea, because it's just --

21 ROGER BOOTHE: Who knows who's going
22 to come in next week.

1 HUGH RUSSELL: I think it makes a
2 big difference to put the screen on. I don't
3 know what the 4 is. Just a slightly
4 different --

5 MICHAEL GIAIMO: Yeah, 4 is --

6 HUGH RUSSELL: A same series but a
7 different place.

8 MICHAEL GIAIMO: Yeah, what happened
9 with these photo sims we tried to take them
10 from different locations further up on Huron
11 Avenue.

12 STEVEN WINTER: Do you want to walk
13 us through the 4's and the 5's or is 3 the
14 preferred option?

15 MICHAEL GIAIMO: Well, no, the
16 numbers are simply different vantage points
17 of the same design. So that 3 and 4 doesn't
18 distinguish between options. I think what we
19 were trying to get at here is the concept --
20 two concepts. One is the screening concept,
21 which is it sounds like everybody is in
22 agreement, is better than the stark antennas.

1 And I think we feel that way, too, from a
2 visual standpoint, although it's harder to
3 do, but we do do it and can do it and it
4 worked hard to try to make it here.

5 The second is the question of the
6 approach in terms of the beveled edges or the
7 squarer alignment.

8 H. THEODORE COHEN: Is there a
9 proposal for 11? The southern facade.

10 MICHAEL GIAIMO: I believe 11 and 10
11 were just --

12 GEORGE EVSI OUK: That's just where
13 the cable runs.

14 MICHAEL GIAIMO: That's the cable
15 run, yeah. Liza had asked I think for us to
16 show the cable run coming up.

17 H. THEODORE COHEN: Yes, but then on
18 11B you've got an array of antennas right in
19 the middle of the brick.

20 MICHAEL GIAIMO: Yeah, it will be
21 screened. That was done -- George?

22 GEORGE EVSI OUK: We just did it

1 because we were asked to show the cable. The
2 cable close up, so that we show that only one
3 view. I mean, we can either --

4 MICHAEL GIAIMO: We can screen this.
5 That's a fair question. It was not intended
6 that we wouldn't screen this side. In other
7 words, if you tell us the screening is what
8 you want, we will screen all the sides not
9 just the one side as shown.

10 H. THEODORE COHEN: How many?

11 MICHAEL GIAIMO: There's three
12 arrays of four. One on each of three
13 different --

14 H. THEODORE COHEN: One for each
15 side?

16 MICHAEL GIAIMO: Yeah.

17 And we have shown you a representative
18 view and that's the 3's and the 4's with the
19 screening.

20 H. THEODORE COHEN: So I take it the
21 facade that faces Huron Ave. doesn't have
22 anything?

1 MICHAEL GIAlMO: The facade that
2 faces -- do you remember --

3 GEORGE EVSI OUK: Yeah, 3 is.

4 MICHAEL GIAlMO: We've got to look
5 at the plan. Which corners of the building
6 have the --

7 GEORGE EVSI OUK: Three is coming
8 from downtown Cambridge if you would say so.
9 I think 2 is from Huron Avenue coming from
10 the Belmont. And I think if you're looking
11 at 11 --

12 MICHAEL GIAlMO: I think he's asking
13 a slightly different question, which is which
14 side of the building does not get an array?

15 GEORGE EVSI OUK: The front side.

16 MICHAEL GIAlMO: The front side has
17 no array.

18 H. THEODORE COHEN: So on the two
19 narrow sides there's array. And that's where
20 the 11 is in the back?

21 MICHAEL GIAlMO: Eleven's the back
22 and the cable goes up the back so it's not on

1 this narrow side that has more of an
2 aesthetic concern.

3 HUGH RUSSELL: Is it possible to
4 move arrays about five feet in from the
5 corner?

6 MICHAEL GIAIMO: Towards the middle
7 of the building more?

8 HUGH RUSSELL: Yes. Enough so that
9 you can see the edge of the building.

10 GEORGE EVSIUK: I don't see a
11 problem with that.

12 MICHAEL GIAIMO: You think that's
13 okay?

14 GEORGE EVSIUK: We can get from the
15 aesthetic point of view.

16 MICHAEL GIAIMO: I think you would
17 rather see the line of the building.

18 HUGH RUSSELL: It's entirely
19 aesthetics that is making me suggest that. I
20 mean, I don't believe this is a terribly
21 important visual work of art, this building.
22 And I guess for most of the Board members

1 don't remember, but we actually went to the
2 mat with some provider over the Sonesta Hotel
3 where there was a similar proposal to put a
4 low down antenna on a brick wall. And it was
5 the only thing on the brick wall and the
6 whole building is about brick walls. And we
7 went to court and we won. But, it's in a
8 different part of the city. It's a much
9 higher quality building. And I think here
10 it's not -- you know, it's not going to ruin
11 anything to do these. My preference would be
12 to have something -- use the D scheme because
13 it's smaller. The straight sides. And move
14 it in enough on the corners so that the
15 volume of the enclosure looks like it's
16 clearly sitting on the wall rather than right
17 at the edge. The same way that the windows
18 are set in a little bit from the edge around
19 the corner.

20 PAMELA WINTERS: And what do you
21 think about the height, Hugh?

22 HUGH RUSSELL: The height is an

1 engi neeri ng deci si on.

2 PAMELA WINTERS: The height i s a
3 gi ven? Okay.

4 MI CHAEL GI AI MO: Yes.

5 HUGH RUSSELL: That woul d be much
6 ni cer i f i t were down a story.

7 MI CHAEL GI AI MO: What does down a
8 story do?

9 HUGH RUSSELL: I t means --

10 STEVEN WINTER: Cl oser to the
11 ground.

12 HUGH RUSSELL: I t gets hidden by the
13 cl utter on the ground more readi ly than the
14 vi ews that you' re showi ng.

15 THOMAS ANNINGER: I t starts to
16 i nterfere wi th the exi sti ng one.

17 GEORGE EVSI OUK: We l ose 20 feet.
18 They don' t want to use 20 feet.

19 MI CHAEL GI AI MO: I t' s 20 feet down?

20 GEORGE EVSI OUK: You have to go 10
21 feet to the next carrier and 10 feet bel ow.
22 I t' s l i ke two stories.

1 HUGH RUSSELL: That's not going to
2 work for them.

3 PAMELA WINTERS: And then you would
4 lose reception, right?

5 GEORGE EVSI OUK: I'm not an
6 engineer -- the southern height we want to --
7 there's reason they're all going on the roof
8 because it's too high. But also being only
9 like four stories on the ground, it's too
10 low.

11 THOMAS ANNINGER: Can I make a
12 follow up on what Hugh said?

13 PAMELA WINTERS: Yes.

14 THOMAS ANNINGER: I think you've
15 done what needed to be done to improve what
16 we had not liked at first calling it clutter.
17 I think as between C and D, I agree with Hugh
18 that D is the one I would choose not because
19 it's smaller, although that may be part of
20 it, but I think C, whether we like it or not,
21 would be seen, and looks to me like a bulbous
22 kind of add on that doesn't fit the edges --

1 the rather right angle edges of the building.
2 I think the shadow in 3D, while it would be
3 nicer not to have it, looks similar to the
4 shadow right along the middle of the
5 building. And so I don't think it will shock
6 anybody to see a little bit of raking light
7 there. Whereas, I think the beveled one
8 looks odd to me and adds a sculpture of
9 element that doesn't fit with anything else.
10 And therefore I would vote for, as between
11 the two, I like D better.

12 PAMELA WINTERS: I agree.

13 MICHAEL GIAlMO: That's certainly
14 fine.

15 PATRICIA SINGER: And I'm sorry, can
16 I repeat again, there was a technological
17 reason why we couldn't put it next to the
18 T-Mobile at the same height?

19 MICHAEL GIAlMO: Well, at the same
20 height as the T-Mobile?

21 PATRICIA SINGER: Yes.

22 GEORGE EVSI OUK: There are -- would

1 be two complications. First, it leaves in
2 the height it probably leaves the --

3 MICHAEL GIAIMO: T-Mobile so they
4 can expand.

5 GEORGE EVSIUK: Yes. And I'm not
6 an engineer. Engineer is not present here.
7 But I guess with antennas too close to each
8 other, the arrays get intersected and it's
9 not really working.

10 MICHAEL GIAIMO: There's an
11 interference question, if it's too close. So
12 it would have to at least be separated. But
13 if you're talking about --

14 GEORGE EVSIUK: And you have to be,
15 from experience usually, when they're doing
16 this kind of designs, they want to be at
17 least 10 or 15 feet on the side of the other
18 carrier. And this way you're interfering
19 with the windows. And I mean, that's
20 basically. That would be the basic reason.
21 Again, I'm not an engineer. He probably
22 going to be present at the Zoning Board

1 hearing, but that would be my answer. I
2 mean, just --

3 MICHAEL GIAIMO: You couldn't put
4 them right next to it I know that.

5 GEORGE EVSIKOUK: That's the
6 question. Yeah.

7 BETH RUBENSTEIN: So a comment to
8 the BZA that is it fair to say that the sense
9 of the Board was that we've seen two options
10 and you have a preference for the D, the
11 non-beveled option --

12 PAMELA WINTERS: Yes.

13 BETH RUBENSTEIN: -- and you have
14 some interest, if possible, to see it moved?
15 I don't know if it's east or to the west, but
16 closer to the elevator core there.

17 MICHAEL GIAIMO: I think you're
18 saying pull it off the corner of the
19 building, right?

20 HUGH RUSSELL: Off of the building
21 so there's a strip of brick exposed.

22 BETH RUBENSTEIN: We would make the

1 recommendations on your behalf.

2 STEVEN WINTER: I would also like to
3 note that the proponent has worked very hard
4 to meet the issues that the Board brought
5 forward and we appreciate that.

6 HUGH RUSSELL: These are our
7 favorite cases.

8 PAMELA WINTERS: Thank you.

9 MICHAEL GIAIMO: We'll take them and
10 give them to the Zoning Board. Thanks very
11 much. That meeting is next week. So if --
12 will your recommendations --

13 PAMELA WINTERS: We'll get our
14 recommendations to them.

15 So we only have one other BZA case if
16 anybody would like to make any comments on
17 that one.

18

19 (No response.)

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PAMELA WINTERS: No? Then I think
the meeting is adjourned.

BETH RUBENSTEIN: Thank you very
much, Pam, appreciate it.

(Whereupon, at 8:55 p.m., the
meeting was concluded.)

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:

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in this matter by blood or marriage and that
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I further certify that the testimony
hereinbefore set forth is a true and accurate
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IN WITNESS WHEREOF, I have hereunto set
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Catherine L. Zelinski
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