

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING
THURSDAY, OCTOBER 25, 2012
7:05 p.m.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Constantine Alexander, Vice Chair
Timothy Hughes, Member
Thomas Scott, Member
Janet Green, Member
Douglas Myers, Member
Slater Anderson, Associate Member
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PROCEEDINGS

(7:05 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Thomas Scott, Janet Green.)

BRENDAN SULLIVAN: Let me call the Board of Zoning Appeal for October 25, 2012, to order.

The first case that we will hear 175 Huron Avenue, case No. 10247, 10114, 10051. Counsel.

ATTORNEY SEAN HOPE: Good evening, Mr. Chair, members of the Board. For the record, attorney Sean Hope. I'm here on behalf of Mr. James Rafferty. He could not be here tonight but wanted me to come and present a letter which I believe you may have in the file.

This is an official request to continue. I'd like to hand this to the Chair and have it read into the record. This was a long ago planned trip and so -- but recognizing that these cases have been continued several times, I said that I would show up in his absence, speak on his behalf and answer any questions, but the letter is self-explanatory.

CONSTANTINE ALEXANDER: Sean, I didn't read the letter. It wasn't in the file when I read the file. Thank you.

BRENDAN SULLIVAN: For the record, the Board is in receipt of correspondence dated October 25th on the letterhead of Adams and Rafferty, BZA Case No. 10051, 10114 and 10247, 175 Huron Avenue. (Reading) Dear Mr. Sullivan, and members of the Board: I regret that due to long-established travel plans, I am not available to attend this evening's hearing on the above-captioned cases. Please be assured that I am mindful that there have been several continuances regarding these cases, and that case No. 10057 involving a Variance for a commercial use and case No. 10114 involving a Variance for a three-family dwelling have been continued for quite sometime in order to avoid running afoul of the procedural requirement contained in Section 1051 concerning the definition of unfavorable action. Case No. 10247 involves a three-unit townhouse and is in fact the case

that the Petitioner is intending to proceed with. However that case will require the public hearing to begin anew since Mr. Heuer is no longer a resident of the city and thus does not qualify to serve as a member of the Board. I recognize the Board's desire to dispose of the first two cases that are not likely to proceed, but I would respectfully request a brief continuance to allow me to participate in the hearing that will decide their fate. Thank you for your thoughtful consideration of this request, James Rafferty.

I guess my thought on this is that this case No. 10247 was -- I'm sorry, case No. 10051, which was the first case, was scheduled to be heard on January 27, 2011. So we are running many, many, many, many, months. That cumulatively the three cases on this residence have a total of 16 continuances, and I think that the courtesy that the Board has extended has, in my way of thinking to me, has expired and that on each of these cases they were continued to allow

the Petitioner, as per the request, to either tweak some things, to continue to try to come to some other alternative scheme, and the alternative scheme was to file a new case. And that the three cases before us on that address are each quite distinct from each other. I think that the public has been exasperated by the whole process. I think that the Board has been indulgent enough, and that it is imposing a great hardship on the Board to reassemble the four members who have sat on it, to come back each time to hear a continuance, and that I think that the whole process has -- I will use the word abused to be quite honest with you. And I will acknowledge the fact that Mr. Heuer who sat on the case is not here, cannot sit, and that I'm awaiting a decision from the Law Department as to the proper way to proceed. There are a couple of different avenues so that yes, it cannot proceed tonight, I think, from the Board's standpoint unless the Petitioner wishes to be heard by four, but then also on another fact that because the

Petitioner failed to change the posting sign to reflect tonight's date, that we cannot go forward at the request of the Petitioner because of that. I think the fact that they did not change the posting date is fatal to their requesting to go forward. So it's almost a point, counterpoint type of thing.

CONSTANTINE ALEXANDER: No, I don't think I agree with that, Mr. Sullivan. The fact that if we could, if we wanted to, and I don't want to, we could hear the case -- we could dismiss the cases tonight for failure to comply with the Ordinance for the signage. We tend to extend the courtesy to people and not dismiss the case, but instead give them a chance to get the signage right. But we don't have to not hear the case tonight if we didn't want to.

BRENDAN SULLIVAN: We could hear the case. We could open the case. I won't say hear it. We could open the case and there would be a material defect in it.

CONSTANTINE ALEXANDER: Yes, and dismiss it.

BRENDAN SULLIVAN: And dismiss it. That's right.

What I'm saying is that if the Petitioner came before us and said I'm willing to go forward, and we really can't because of the defect in the posting.

CONSTANTINE ALEXANDER: Exactly.

BRENDAN SULLIVAN: That was my point there.

My thought is that I would like to, as Mr. Rafferty said, a short continuance, and I would like to mark this up for November and to have the Petitioner ready to proceed that night on the last case which was the townhouses. I had raised some issues, and I thought that were significant defects in their plan, which could not honor a building permit, did not comply with the Townhouse Ordinance. And Mr. Rafferty asked for a continuance in order to explore that with the Commissioner. I think that has been fully vetted with the Commissioner, and yet we have not had any correspondence back from Mr. Rafferty whether he agrees or disagrees

with the nature of that hearing and the issues that I raised that evening.

So consequentially, and he also indicates now in this letter that it's that last case that he's now prepared to go forward with. My thought is that I would like to mark this up for the November 15th hearing and have the Petitioner ready to proceed that evening. But I will open it up to discussion by the Board.

CONSTANTINE ALEXANDER: I have a -- I agree with you in concept, but I have a different set of time frame. One of the -- if I were the Petitioner's counsel, I would only go forward with this case after re-advertising. I think any other advice -- and, therefore, a new Board, a new panel, whoever the panel would be. There would be five members. Any other approach strikes me it leaves the Petitioner, if he gets relief, vulnerable to collateral attack on the grounds of procedural irregularity. And particularly since this case has been somewhat controversial, at least it was when

it started, I don't think we should sort of tilt the table one way or another with regard to procedural irregularities. I do agree that this case has been continued too many times. I think we should have it one more time. I think that we do November one, first one in November, and Mr. Rafferty does what I think he will do --

BRENDAN SULLIVAN: December.

CONSTANTINE ALEXANDER: December?

BRENDAN SULLIVAN: December.

CONSTANTINE ALEXANDER: December?

MARIA PACHECO: December 6th.

CONSTANTINE ALEXANDER: I thought you said you were going to do it November 15th.

BRENDAN SULLIVAN: I'm saying November 15th.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: But the December one after that would be December 6th would be the first one in December.

CONSTANTINE ALEXANDER: Why don't we just have one hearing in December -- why

don't we just continue this case --

BRENDAN SULLIVAN: Well, because we as of yet a new case has not --

CONSTANTINE ALEXANDER: I know that. That's up to the Petitioner. If they don't file a new case, we'll hear the three cases in December and so be it. I would say I won't continue it beyond December. This is going to be it. But it allows the Petitioner to re-file, get a new panel, and we can hear that case and decide and then the other cases can get withdrawn. If the Petitioner chooses not to file a new case, we'll hear the case on December 15th, three existing cases in December. But I think to say we're going to continue to November almost assures we're going to have another continuance. Because if I'm the Petitioner, I'm going to say I would like to be able to re-advertise this case to be assured that if I get relief, the relief is not open to attack. And I think he would -- and that's what I would do if I were his counsel for the Petitioner. So I don't see what is gained by setting a November 15th

date when we know there's a very good chance that that's going to be a need to continue it again. Let's pick a farther date out. That's the date. I would agree with you, no more continuances. And the Petitioner can re-advertise and we'll hear the re-advertised case by that date or he'll choose not to, and we'll hear the cases on that date. But what's to be gained by pushing it so quickly when we know it doesn't work.

BRENDAN SULLIVAN: Tom.

THOMAS SCOTT: If these cases are heard they would only be heard with four members or a fifth member would be assigned?

BRENDAN SULLIVAN: One of the avenues that we could go down is to have a fifth member assigned to the case, and they would then have to review the transcripts of all three of those hearings regarding those three cases. One is actually not heard. The first case was never heard. And then there's the second case and the third case. They would have to review that provided that

the Law Department said that that would bring then somebody up to speed on it.

THOMAS SCOTT: So that, the Law Department makes that decision?

BRENDAN SULLIVAN: I have asked the Law Department if that was a proper road to go.

THOMAS SCOTT: So if they say no, then the case -- if they proceed with these, the cases are -- will be heard with four members?

BRENDAN SULLIVAN: The case can be heard with four members or if the Petitioner's counsel can make a strong enough argument not to proceed with just the four members, then it could be rescheduled again.

THOMAS SCOTT: As Gus said, it could be re-advertised?

BRENDAN SULLIVAN: Correct.

CONSTANTINE ALEXANDER: Let me make another comment, too, the Legal Department will hopefully render a decision on this or an opinion. That opinion is only for our benefit. Petitioners can't rely on that.

And if the legal opinion is wrong or deemed to be wrong by a Court, the Petitioners suffer. We don't suffer, they do. So why not give them a chance to do it right and don't have to be subject to a legal opinion that isn't binding of them.

BRENDAN SULLIVAN: Okay.

THOMAS SCOTT: Okay, I agree with that.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: For what purpose?

BRENDAN SULLIVAN: Tim.

TIMOTHY HUGHES: I agree. I think the two options are to either dump all three of the cases tonight or continue them way out where they're never going to be heard anyway. Because they're never going to be heard anyway. Not under the circumstances that we're under right now. They have to be --

BRENDAN SULLIVAN: There was a cloud over the -- okay.

TIMOTHY HUGHES: Yes.

JANET GREEN: I have a question

about whether the Legal Department has a time when they say they're going to give any kind of information about this or not sure?

BRENDAN SULLIVAN: I spoke to them yesterday, and I said to them I really needed a decision on the first part of next week. Because they probably would be rushed to render a decision on how to proceed tonight. It was -- I said would continue it. I suspected a request for a continuance was going to come down, but I really needed a decision on their part the early part of next week so that I would then have time to go the route that they suggest. That's all.

JANET GREEN: All right, you know, as I listen to the various things, I'm inclined to agree with Gus about, about the way to go forward and about whether the case is going to hold up if we don't proceed with re-advertising it and that sort of thing.

BRENDAN SULLIVAN: Okay. Would you like to -- you were ready to jump in at one point.

ATTORNEY SEAN HOPE: I was. I would

only say that because of the defects, there is both. There are two defects, but because of that I think allowing the Petitioner the opportunity to re-advertise, whether or not Attorney Rafferty chooses to do that, but allowing them to do that would allow a legally sound decision to be rendered whether it was in favor or against. I would also say that choosing to go forward only four members, I also believe, too, the Petitioner does have a right to proceed or not but then because of the lack of re-advertising, so I do think December 6th would afford enough time to re-advertise and to consolidated the cases. I also think that because members of the public have come several times, that that was a stop gap date for the Board, that any interested parties would come then, they would have their say, and then they would be able to have some resolution. So I would ask that the December 16th would be more preferable than the November 15th.

BRENDAN SULLIVAN: December 6th.

ATTORNEY SEAN HOPE: Excuse me,

December 6th would be preferable and I will let Attorney Rafferty know and the Petitioner that that is the last date for all of the cases and we would hopefully be able to proceed forward.

BRENDAN SULLIVAN: There will be a final disposition on December 6th.

CONSTANTINE ALEXANDER: One way or another we will decide that.

BRENDAN SULLIVAN: Okay.

On the motion, then, to continue this matter to December 6, 2012, at seven p.m. on the proviso that the Petitioner change the posting sign to reflect the new date of December 6th on all three cases, and that any new materials, submissions on any one of these three cases be in the file by five p.m. on the Monday prior to the December 6th hearing.

And again I really reiterate that the Petitioner must bring those posting signs up to comply with the requirement of the Ordinance regarding the posting. He has failed to do that for this particular night.

And that if the Petitioner fails to do that, then I think that I as a member would consider that an unfriendly action on the Petitioner's part.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: And not being respectful of the Board and/or the general public.

Anything else to add to it?

CONSTANTINE ALEXANDER: No, you're fine.

BRENDAN SULLIVAN: On the, motion then, to continue this matter to December 6th?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

ATTORNEY SEAN HOPE: Thank you

(7:20 p.m.)

(Sitting Members: Brendan Sullivan,

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

BRENDAN SULLIVAN: The next case will be 1-3 Traymore Street.

THEODORE PECK: I'm Theodore Peck of Three Traymore Street. Good evening, thanks for hearing my case.

BRENDAN SULLIVAN: Now, if you could just run us through, Mr. Peck, exactly what you had on the original one and why we asked you to go back? You were adding three dormers.

THEODORE PECK: That's right. The main objection that I heard from the Board at the previous hearing, which was the original one, was that my shed dormer was requested to be 29 feet long and you said that's just way out of bounds. So I've come back with a revised design with a much shortened version of that dormer. The other two dormers are gable dormers on the Eustis Street side of the house and those I haven't changed.

CONSTANTINE ALEXANDER: But they were non-compliant with the dormer

guidelines and we pointed it out to you the last time around.

THEODORE PECK: They --

CONSTANTINE ALEXANDER: They're not compliant because they're too close to the center one and there's not as much glass as is supposed to be. And I'm not sure there might be an issue with regard to the -- they're flush with the side of the house rather than being set back.

THEODORE PECK: They are flush with the side of the house, yes.

CONSTANTINE ALEXANDER: Any reason why you didn't deal with those? You dealt with the shed although you're still not in compliance on the shed. On the other side you haven't done anything, and you weren't in compliance and you were told you were not in compliance?

THEODORE PECK: Well, my recollection from the last meeting is that there were mixed feelings in the Board. I don't recall the issue about the amount of glass. They are flush with the side of the

house although there's, you know, the roof line is maintained as the guidelines recommend. The reason they're flush with the side of the house is just for two reasons:

One is, you know, my subjective feeling was that it was aesthetically preferable that way because it lines up with the lower story windows. And also just as a matter of construction, it's a lot easier to support a dormer on the wall than it is from the middle of the roof.

CONSTANTINE ALEXANDER: Have you had an architect involved in this? I know we seem to have in the files are your own computer -- I think your own.

THEODORE PECK: Yes. I did a Google sketch-up model to try to show the views from various angles and I've redone that with the reduced dormer.

CONSTANTINE ALEXANDER: But the question, though, is have you thought about getting an architect to see if there are architectural solutions that you would as a layman may not to get where you want to

accomplish and get us closer to the dormer guidelines, that's my question.

THEODORE PECK: Well, I have consulted with several architects just in a brainstorming mode. I haven't engaged one to do designs for me. You know -- yeah, that's the -- so the original one that you have there is the house is orange, and the new ones, it's blue because we've painted it in the meantime.

To continue answering your question, you know, frankly it was my feeling that I wanted to try to get the Board's approval first before engaging an architect because I knew there would likely be revisions, and I just didn't feel like I could afford that much architect time. So I hope you're not offended by that, but that's --

CONSTANTINE ALEXANDER: No, no. That's your choice.

BRENDAN SULLIVAN: No, but one of the things, Mr. Peck, is that whatever we approve, the architect is going to abide by it. In other words, if you make any changes

to it, the interior layout, we don't really care. But if, you know, we approve this, we're going to approve size, shape, dimension, so on and so forth.

THEODORE PECK: Yeah, I understand that.

BRENDAN SULLIVAN: So you're bound by that. Or should an architect come in and say well, we can do something different, maybe it's going to be less costly to you, it will be more efficient, give you better space, but we need to tweak this, so on and so forth. Then you may very well have to come back here again. And it would be a de-novo case.

THEODORE PECK: I've read your instructions very carefully on that point.

BRENDAN SULLIVAN: Okay, right.

THEODORE PECK: But I also understand and have some sympathy that if you approve something everything has to be exactly as you approve it.

BRENDAN SULLIVAN: Right, right.

But I also understand and have sympathy

with you didn't want to pay a whole lot of money to an architect if it wasn't going to get some favorable --

THEODORE PECK: Yeah, that's my feeling. And, you know, my brother's an architect and a structural engineer in California, so I asked his advice on it also mostly on the structural issues. But, you know, the Building Inspector when I brought the application in, he told me a lot of applications that get approved never get built because of unanticipated structural issues. So I'm cognizant of that and I feel that I will be able to do something affordable in the structural area.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: Tom, what is your thought as far as this goes?

THOMAS SCOTT: Well, it's closer to the guidelines. The flat roof of the shed dormer looks awfully flat. Like, it's almost, I don't know what the pitch is, but it's probably, you know --

THEODORE PECK: Yeah, I think it's one and a half over eight.

THOMAS SCOTT: One and a half over eight.

THEODORE PECK: Yeah. So, you know, if --

THOMAS SCOTT: It looks like you couldn't even get a shingle for that roof that would be warranted. I think they won't warrantee anything over one and three.

THEODORE PECK: Well, you know, when I asked about that, I was told one and eight.

BRENDAN SULLIVAN: It could be a rubber roof.

THOMAS SCOTT: This would have to be a rubber roof.

THEODORE PECK: I mean, I have no problem with the rubber roof, but I was under the impression I wouldn't need that. If I do, that's fine with me.

THOMAS SCOTT: I don't think you'll get a warrantee on a roof that flat. It looks a little odd that it's so flat.

THEODORE PECK: Well, if you look at

the next-door house which I've attempted to render faithfully, you know, it's very similar and all the other houses in the neighborhood also have similar dormers. You know, many of them do.

THOMAS SCOTT: And then you're still slightly over you're 17 feet whereas the guideline says 15.

THEODORE PECK: Yes.

THOMAS SCOTT: Is that because you just can't get all of the program in that you'd like to?

THEODORE PECK: Well, what I've tried to do in this --

THOMAS SCOTT: I mean, the back seems to fit.

THEODORE PECK: Yes.

THOMAS SCOTT: And then what's that other room, is it a laundry room?

THEODORE PECK: By the stairwell?

THOMAS SCOTT: Yes.

THEODORE PECK: There's a little laundry room, yes. That's reduced by three and a half feet from the original plan just

to shorten the dormer. And on the other end, I think it's eight feet or seven and a half that I reduced it, you know. We had been asking to raise the ceiling in the bedroom and now we've only asked to raise the ceiling in the closet so that we can have a full height closet there. So, the reason that it's 17 is I want to put a structural wall in between the bathroom and the closet and it's aligned with the wall of the dormer on the opposite side so we can have a full triangle there and then build the closet out from that, and so we asked for four feet of closet just because that seems like a usable amount of closet space. So that's, you know, the way my thinking went on that.

BRENDAN SULLIVAN: There are three bedrooms up there now; is that correct?

THEODORE PECK: That's correct, yeah. One in the dormer and one at each end.

BRENDAN SULLIVAN: Okay. And so, basically this is just an attempt to get more usable space, more walking space before you hit your head on the rafters.

THEODORE PECK: That's right.

BRENDAN SULLIVAN: And is there a bathroom up there now?

THEODORE PECK: There's -- it's just, you know, a toilet with a little spout on it for washing your hands. But I have photos of that if you'd like to see, but it's in a very cramped little crawl space.

BRENDAN SULLIVAN: Okay. It's very primitive I think. It functions as one, but it's not in great form.

THEODORE PECK: Right. It saved us from having to go down the stairs in the dark in the middle of the night. But it's really not aesthetically pleasing.

BRENDAN SULLIVAN: Any other thing, Tom?

THOMAS SCOTT: No, just that the shed dormer seems so foreign to the house. I mean, I know it's on several of your neighbor's houses, but I'm not particularly enamored with that.

THEODORE PECK: Well, I can -- can I give further thinking on that?

THOMAS SCOTT: Sure, absolutely.

CONSTANTINE ALEXANDER: That's why you're here.

THEODORE PECK: Well, the rumor in the neighborhood was that the Board didn't like shed dormers and would ask me to make it a gable dormer instead or something.

BRENDAN SULLIVAN: Who's spreading these rumors?

THEODORE PECK: Well.

BRENDAN SULLIVAN: We're the object of rumors? Wow.

THEODORE PECK: But then other people said no, that was the old Board, the new Board doesn't feel that way anymore, and in the guidelines, there were guidelines for shed dormers so I thought I would try for that since that's what everybody else has except for one in the neighborhood who has kind of a hybrid gable shed going on back there, which is from that era, that's where the rumor originated. But, you know, being as the guidelines included shed dormers, I thought I would give it a try and, you know, frankly

it works better for me just in terms of interior space and structure.

BRENDAN SULLIVAN: Tim, what are your thoughts?

TIMOTHY HUGHES: I'm not bothered at all by the gable side. The two gabled dormers. That side of the house doesn't bother me. I personally don't like shed dormers, but there's nothing in the Ordinance that prescribes them and they are guidelines for the shed so I'm -- if the shed dormer was within the guidelines, then I really wouldn't have any beef with it at all, but it's not --

THOMAS SCOTT: But where the sheds almost has a flat roof. It's almost like they're adding a story and not really, you know what I mean?

TIMOTHY HUGHES: No, I agree with you.

THOMAS SCOTT: The pitch of roof that has no slope to it. This roof has almost no slope to it.

TIMOTHY HUGHES: They would probably have to contravene one of the

guidelines in order to get a decent pitch in it, which would be to raise it to the ridge line.

THEODORE PECK: Which is something that some of our neighbors have done. Personally I don't find that as appealing. You know, my main defense of that is it's in between two other neighboring houses and it's really practically invisible from any vantage point other than from the interior windows of our neighbors. And I've tried to illustrate that with the rendering that I did.

JANET GREEN: Mr. Peck, it's a two-family house? Who are -- how is it, it's co-owned?

THEODORE PECK: Yes. It's co-owned. So it's a two-family house. We have two units. We're three owners, tenants in common. My wife and I live upstairs and our friend, co-owner lives downstairs. So, you know, we all put our signatures to the application and obviously she's supporting this as well. It's all the neighbors that we

contacted about it. I mean, we got all the abutters to write letters supporting this.

JANET GREEN: And did you read the dormer guidelines before you started your ideas?

THEODORE PECK: Yes, absolutely.

JANET GREEN: I mean, that was familiar to you which one -- what they said and what they suggested?

THEODORE PECK: Yes. You know, frankly, a few of the provisions seemed a little impractical. You know, mainly about the part not aligning with the -- the wall underneath. So I was, you know, I was hoping that to take the guidelines, in the sense of guidelines, rather than strict prescriptions, and that's why I'm here with this design as it is. Yeah, but I did, I did pay close attention to what was written there, and, you know, followed some but not all of the prescriptions in there. For example, going below the roof line and, you know, maintaining the line of the roof below and flush with the dormer. There are flush

dormers that are represented in the guidelines as acceptable and unacceptable.

JANET GREEN: There are quite a few dormers in your neighborhood.

THEODORE PECK: Yes, there are. I have a Google maps photo of that if you'd like to see it.

JANET GREEN: Yes, I've seen the neighborhood. That's good. But, you know, I just have to say I agree with what Tom about the flat dormer, it's less like a dormer and more like a lifting of the roof when it's done that way. And it is, it's very much like, it seems from looking at the drawing and looking at the one on the house next-door, it is very much like that, that dormer that's there --

THEODORE PECK: Yes.

JANET GREEN: -- which does look like the lifting of a roof more than a dormer.

THEODORE PECK: Well --

BRENDAN SULLIVAN: You're referring to that right there?

JANET GREEN: Yes.

THEODORE PECK: The reason I took

the shot of the satellite view is because it's really hard to see what the other dormers in the neighborhood are actually like from the street level.

JANET GREEN: It is. I don't think I would have known that this dormer is that much shorter than the dormer you're suggesting.

THEODORE PECK: Right, yeah. And on the other hand, many of our other neighbors have ones that are longer.

BRENDAN SULLIVAN: Do you think any of that is going to -- well, this is on the open corner. Shadow? I think it will have some affect.

THOMAS SCOTT: I think it will, too. Your neighbor has no problem with the design? You checked with them?

THEODORE PECK: Yeah, I did. I mean, I have a letter from them giving their approval and we did discuss the issues.

THOMAS SCOTT: This is pushed back a little from this scheme which helps a little bit. So you're going to get a little more

natural light down in there.

THEODORE PECK: Another factor in the guidelines if you're going to put a shed dormer on the house, it should be situated towards the rear of the house which is the case here also.

JANET GREEN: Is it, I can't remember if it has windows on the vertical surface or not.

THEODORE PECK: I've proposed one sort of narrow high window for bathroom light there, you know. I could strike that.

JANET GREEN: It's just a solid wall in the front.

THOMAS SCOTT: Now, you have skylights shown. Are they, are they in the setback? Like, you must have a setback problem with the skylights there that you're showing. Do they require a Special Permit?

CONSTANTINE ALEXANDER: Yes, skylight in a setback would require a Special Permit, exactly.

THOMAS SCOTT: So you've got three skylights on the edge of that building now

that look like they're within the setback, but I -- have you checked that out?

THEODORE PECK: I wasn't aware that that would be a potential problem.

CONSTANTINE ALEXANDER: If that is true, I think what the Ordinance says, if you're non-conforming on the setbacks, side yard setback, and in that non-conformance you want to put a skylight, you have to get what's called a Special Permit from us which is easier than a Variance, but you still have to get relief, which means if we were to grant you relief tonight, and in fact your skylights are going to be in the setback and you're non-conforming as to setback, you're going to have to spend another Thursday night with us. You know, I just have to warn you.

THEODORE PECK: One more is better than two more. Not that I don't enjoy your company.

CONSTANTINE ALEXANDER: And we enjoy yours, but....

BRENDAN SULLIVAN: Yes, I think skylights are a window. And actually other

side is facing the street so that appears to be okay. It's the one that would be on the right side of the house.

THEODORE PECK: Yes.

BRENDAN SULLIVAN: Is that the shed dormer on the right side?

THEODORE PECK: Yes.

BRENDAN SULLIVAN: Okay.

The requirement there is a 15', 4" setback from your lot line.

THEODORE PECK: From the lot line, yeah.

BRENDAN SULLIVAN: Okay?

THEODORE PECK: That takes us just about to the middle of the house.

BRENDAN SULLIVAN: Right. So that the dormer is subject to relief, but then also those skylights would require a Special Permit because they're within the side yard setback, an opening, a window. So --

THEODORE PECK: As a procedural matter, if you were to approve this Petition tonight, then I would have to -- it would be subject to future granting of a Special

Permit for the skylights?

CONSTANTINE ALEXANDER: You couldn't pull a Building Permit. If we grant you THE relief tonight on the sheds for what you propose --

THEODORE PECK: Yes.

CONSTANTINE ALEXANDER: -- and you went down to get a Building Permit, they would turn you down. And they'd say you have to come back and get a Special Permit as well.

BRENDAN SULLIVAN: Or as an alternative what you could do is X out the skylights, proceed, and then come down and ask for us to approve it and then you can reinsert them.

THEODORE PECK: Right, right. So that way I can construct it first and then add skylights?

BRENDAN SULLIVAN: You can add skylights.

THEODORE PECK: Assuming I was approved for the Special Permit?

BRENDAN SULLIVAN: Correct. I mean, that's just the hurdles you would have

to jump over.

THEODORE PECK: Yeah, well --

BRENDAN SULLIVAN: The alternative would be to, here we go again, continue this matter, and then you would have to reapply for this and the Special Permit which may seem ominous to you.

THEODORE PECK: Well, you know, I would dearly love to go home with an approval tonight and for this matter, and I wouldn't mind applying for a Special Permit. And I assume if the Special Permit were denied, I can just build it without the skylights at that point. Is that true?

BRENDAN SULLIVAN: That is correct.

THEODORE PECK: Yeah.

BRENDAN SULLIVAN: That's correct.

THEODORE PECK: So that would be my preferred avenue.

BRENDAN SULLIVAN: Even if it's half a loaf, you'd rather go home with a loaf.

CONSTANTINE ALEXANDER: Some bread.

THEODORE PECK: Yeah, but X-ing them out and applying for it later would also be

acceptable?

TIMOTHY HUGHES: What's the rationale for the split roof on the dormer?

THEODORE PECK: Well, the main rationale was discussions with my neighbor on the back side. My previous design had a split roof on the dormer in order to allow for more sunlight to reach his kitchen. Since we basically knocked off that whole lowered portion, it wasn't really relevant, but I just -- I had two things in mind:

One, is with a greater pitch. It wouldn't require as much structural support for snow loads, and also I just thought it looked nice in the back elevation to have those two lines there instead of one. And it kind of, in my opinion, diminishes the mass of the dormer when you look at it. So those are the three reasons why I chose to do it that way.

BRENDAN SULLIVAN: Okay.

TIMOTHY HUGHES: I have one more question.

BRENDAN SULLIVAN: Yes.

TIMOTHY HUGHES: Did you think about reorienting the closet, get the dormer down to 15 feet and put the doors on the closet going out into the room instead of facing across the house? You would have a deep enough closet. And if you raised the dormer roof to the same height, you would have more usable space in that closet all the way out to the end wall.

THEODORE PECK: Well, I did think about that but --

TIMOTHY HUGHES: And then you would be closer to the dormer guidelines with a 15 foot dormer. And the only thing wrong with it then is that it's built on the side wall.

THEODORE PECK: But, because the pitch of the roof is closing off the closet, I couldn't put a full door in there. You know, it's cut in half by the diagonal descent of the pitch of the existing roof.

THOMAS SCOTT: Right.

THEODORE PECK: So that's the reason why I didn't go that way. Although I did, it did occur to me.

BRENDAN SULLIVAN: Okay.

TIMOTHY HUGHES: I'm done.

BRENDAN SULLIVAN: Janet, any other comments?

JANET GREEN: No.

CONSTANTINE ALEXANDER: I'm done with questions.

BRENDAN SULLIVAN: Let me open to public comments.

Is there anybody here who would like to speak on the matter, case No. 10316, 1-3 Traymore Street.

(No Response.)

BRENDAN SULLIVAN: I don't see anyone in the attendance.

The previous correspondence was read at the last hearing.

You don't have anything else to add to the file as far as letters of support?

THEODORE PECK: I did make another petition, and I got a few more neighbors to sign it. I don't know if that's pertinent to you.

BRENDAN SULLIVAN: If you want to

submit it, that's fine.

CONSTANTINE ALEXANDER: It can't hurt to submit it.

BRENDAN SULLIVAN: You took the effort to get it and we'll --

THEODORE PECK: It's only four more signatures. And I do have the original letters here.

CONSTANTINE ALEXANDER: Did you approach anyone who refused to sign?

THEODORE PECK: No, I didn't. Everybody, I have to admit, I approached people who I expected to be friendly.

BRENDAN SULLIVAN: You heard rumors don't ask so-and-so?

THEODORE PECK: No, I really honestly did not encounter anybody who was negative to the project.

BRENDAN SULLIVAN: The Board is in receipt of correspondence. It is from the Petitioner to people in the neighborhood and it is: (Reading) We, the undersigned neighbors, support the proposed dormer addition at 1-3 Traymore Street as described

by the attached drawings. And signed by four people. The addresses are 10 Traymore, 84 Eustis, 8 Harris, and 15A Traymore.

And we will enter that into the record. All right, let me close the public comment part.

Any questions from the Board?

Anything else to add?

CONSTANTINE ALEXANDER: No questions, just a comment. I mean, I -- I'm very sympathetic to granting you relief. On the other hand, the relief you're seeking is substantial both in terms of the former guidelines and in terms of the Ordinance. You're way over your FAR now, and we haven't even talked about that, and you're going to go over more or maybe not as much as you would have gone with your original petition. I go back to the question I ask, I would be more persuaded to granting you relief if we had a professional architect come here and say this is the only way we can do it for what you want to accomplish or get something reasonably accomplished. I have a lot of respect for

what you've done, but you're not a professional. And I've got to take it on faith that what you propose is the only way to go, because there's not a better way that would comply with the former guidelines. And I recognize it costs you money to get an architect, but you're going to spend a lot of money to build this, and at the end of the day --

THEODORE PECK: That's fair.

CONSTANTINE

ALEXANDER: -- sometimes you have to get professionals. Sometimes you have to get a lawyer, God forbid. I'm a lawyer so I can say that. And, you know, that's what's missing here for me. That's what troubles me. I don't know whether there's a better solution, that one that would come closer to complying or in fact comply with the guidelines and give you what you want. I'm a little bit -- that's my problem. Again, I start with a desire to grant you some relief, grant you relief, but I just don't know what I can do at this point.

THEODORE PECK: Well, that was a

statement and not a question, so should I respond to it?

CONSTANTINE ALEXANDER: No, no, it wasn't meant to be a question. That was a statement. We're at the statement point.

THEODORE PECK: I did in my statement of hardship address some of those issues, I think, particularly the FAR, but --

CONSTANTINE ALEXANDER: You did. No, you did. And the former guidelines are what we're focusing on right now.

THEODORE PECK: Yes.

CONSTANTINE ALEXANDER: And, again, you've heard a lot of the members of the Board comment could you do this and could you do that, and all very good questions and observations and I'm left with what do I do? I mean, if I had a professional here who gave me some guidance who is your professional and gave me his professional opinions about things, I would have a lot more comfort than I have right now. That's my dilemma anyway.

BRENDAN SULLIVAN: Tom, what are your comments?

THOMAS SCOTT: Yes, I'm troubled by the fact that the dormers are out to the face of the building, and the guidelines specifically talks about that. I think there's a good reason for that, you know, of what they're trying to do is maintain the integrity of this eave line along the roof and by bringing the wall all the way out to the face, you're almost eliminating it. All that's left is literally a gutter and a soffit of some kind. And I'd really would prefer to see that wall pushed back the way the guideline is suggesting it, and all three dormer locations. But --

THEODORE PECK: I believe that issue's addressed in the dormer guidelines' document and it says, you know, we like to see them back from the face, but it also says if it's gonna be at the face, we'd like to see the roof line continued.

THOMAS SCOTT: Continued, right.

THEODORE PECK: Yeah. And, you know, I think the -- on the visual aspect of it is --

THOMAS SCOTT: When a carpenter does this, you're going to lose this element right here and you're going to end up with a big flat plane here and here.

THEODORE PECK: Well, I promise you that won't happen because I'll make sure it doesn't and I wouldn't like it that way either.

BRENDAN SULLIVAN: Tim?

TIMOTHY HUGHES: I agree with Tom about the shed side. I don't see that as a big problem on the gable side because the existing gable sticks out farther than the roof line anyway and I don't see that that, you know, I don't think there's any danger of the roof line being interrupted there and I don't, I don't think that it looks odd there. But on the shed side, you know, I can see where -- I'm the first one to admit, it's easier to build if you can come out and build right on top of your wall. I know it is, because I'm a builder. And that's, that's one of the guidelines I most often am willing to let slide. But I understand Tom's concern

with it. At least on the shed side of that, you know.

BRENDAN SULLIVAN: Janet?

JANET GREEN: I guess my concern has to do with it coming down to the edge of the roof as well, especially given the odd nature of the windows that are on that presented side. You know, just with the little strip windows at the top. It doesn't have a real window in it which is what you think of a gable having.

THEODORE PECK: We're talking about the shed here?

JANET GREEN: The shed dormer. I'm looking at the shed dormer and just saying it does look, it comes out all the way. It just looks like, you know, flat surface going up, and it really -- it's just those little strips right there at the top. Am I right?

THEODORE PECK: Well, yeah, I mean I made the windows small because I was sensitive to the issue of privacy of the neighbors and I didn't want a window from our bathroom looking right into their bathroom.

But, you know, honestly I wouldn't mind X-ing that whole window out. It's probably also subject to Special Permit if I understood the setback issue correctly.

TIMOTHY HUGHES: Possible. But isn't one of the dormer guidelines that the dormers would have windows in them?

JANET GREEN: I thought so.

THEODORE PECK: Well --

JANET GREEN: I thought so.

TIMOTHY HUGHES: We don't want to build blank walls. That's one of the reasons we don't want to, you know, come out to the end wall, interrupt the soffit line.

THEODORE PECK: Yes. Well, I mean I would be happy to comply with the guideline on the percentage of glass on the face there but it wouldn't really make a lot of sense to me but I would be happy to install frosted glass that wouldn't be a privacy concern for anybody.

TIMOTHY HUGHES: I think that's doable.

BRENDAN SULLIVAN: And that is on

the shed --

TIMOTHY HUGHES: On the shed side.

BRENDAN SULLIVAN: -- the shed dormer side which would be in the side yard setback and he's flying up against that.

JANET GREEN: It would be instead, it would be on this wall instead of these tall small windows across the top like that.

BRENDAN SULLIVAN: Yes.

JANET GREEN: One small window actually because this is a -- these are skylights up here.

TIMOTHY HUGHES: Right.

JANET GREEN: So it would be just this one window.

BRENDAN SULLIVAN: I think going back to our earlier discussion about the windows and skylights, it would appear then now that's going to run afoul of the side yard setback, changing it. First of all, approving that with windows in it, and then any changes to it, it seems to start to get messy.

CONSTANTINE ALEXANDER: That's

right, it does.

THEODORE PECK: I feel like I'm in a catch 22, because the guideline requires a certain percentage of glass area because of the dormer but, I can't put glass in the area because of the setback.

BRENDAN SULLIVAN: It should have been asked for I guess. Unfortunately you asked for the Variance, No. 1.

THEODORE PECK: But really I don't feel it would be make sense to ask for a large glass area on the dormer facing a neighbor's house across an alley.

BRENDAN SULLIVAN: Well, right now you have to ask for any; large, small, medium. And I think what's happening now is that we're running afoul of the side yard setback and the windows.

THEODORE PECK: Yes.

BRENDAN SULLIVAN: On that shed dormer. I think what you're hearing is that there's some resistance to approving that with the narrow slit of glass, you're amenable to making it larger but also it's

frosted so you can't see in and out, so on and so forth, but then that begets a Special Permit.

THEODORE PECK: Well, yes.

BRENDAN SULLIVAN: To do that or to do any of that. So right now we're almost approving, if we were to approve this, a shed dormer with no windows in it.

JANET GREEN: No windows and no skylights.

BRENDAN SULLIVAN: Unless you get a Special Permit for that. And that's probably something that we wouldn't approve. So that, it's yes, it's getting more -- getting boxed into a corner.

THEODORE PECK: Yeah. I mean the fact is these things do exist, you know, all around the neighborhood. So what -- what's the way out of the conundrum?

BRENDAN SULLIVAN: Well, I think that the application should have asked for the relief for the dormers, and then also a Special Permit for the skylights/windows.

THEODORE PECK: Yes. Well, you

know, pursuant to our earlier discussion, you know, it's acceptable to me either way, you know, if you were to approve the dormers, I would be happy to either go -- come back for a Special Permit for suitable glass or to get the dormer approved without glass and then come back for a permit for that. But, I sense the sentiment has changed since that earlier discussion.

BRENDAN SULLIVAN: Well, now that we've delved into it a little bit more, it appears that any of that is running afoul of the side yard setback requirement which then begets a Special Permit.

THEODORE PECK: Right, right. Okay. But I feel already resigned to coming back for a Special Permit should I get this relief granted, but now I'm the one who feels, I don't know, you know, what, I can't understand what I would do to satisfy the Board of this situation.

BRENDAN SULLIVAN: It may require a re-file --

CONSTANTINE ALEXANDER: It will

require a re-filing.

BRENDAN SULLIVAN: -- for this relief and the Special Permit for the skylights and the windows on that shed dormer.

CONSTANTINE ALEXANDER: Or we can continue -- I hate to use that word, continue this case again. The point, though is -- let me maybe give you some relief. One, you have to file another petition for the Special Permit and advertise it. The same procedures you did for the Variance. That you've got to do.

THEODORE PECK: Yes.

CONSTANTINE ALEXANDER: It's a different animal than a Variance which you were here for originally. Is what you're going to do, it's presumed you're going to get it, provided, as opposed to convincing us that you are within some guidelines. So the concern about -- you know, almost every time in my tenure here we've granted Special Permits for windows in a setback. Well, just about every time. But I think what the

Chairman is telling you and I think is correct, is that we like to -- when we're going to take action, we like to take action on everything, not take action half now and a half later or however you want to slice it. So the idea is to -- I don't know if that's what you're suggesting, but continue the case, advertise for a Special Permit for the windows, and then we'll take up everything at one time and it will be all yes or all no. I think that's right.

Is that what you're suggesting, Brendan?

BRENDAN SULLIVAN: There may be a cleaner way to do it because otherwise we would be -- we could almost -- we could approve the dormers on the street side, the three gabled dormers. Or consider a shed dormer without any glass in it, without any windows.

CONSTANTINE ALEXANDER: Yes, we can do that.

BRENDAN SULLIVAN: Or in the alternative, approve -- vote on the three

gable dormers, excluding the shed dormer because that's running afoul of that, again, windows/glass in a side yard setback.

Or possibly the cleanest way to go would be a re-file asking for what you're asking for here, and the Special Permit for the windows. And that gives you the chance then to modify the shed dormer and to insert possibly more glass in it or possibly tweak the design of it. And that could be heard in December 6th.

MARIA PACHECO: It depends how fast he wants to file. It will be the 6th or the 20th.

BRENDAN SULLIVAN: And that could be December 6th. And when's the close date for that?

MARIA PACHECO: There is no close. It's filling up quickly, though. I would need it by the end of next week.

THEODORE PECK: Well, I feel that we've all invested a lot of time and effort already in coming to understand each other and I'm, you know, my strong preference will be to get relief granted tonight if possible

and so I think if the Board is, you know, amenable, I would prefer to amend my application to be a shed dormer with no glass and then come back for the Special Permit for that. To me as a, you know, as a citizen, a Petitioner, you know, this is a scary matter and if I can get it over with, I would like that a lot.

BRENDAN SULLIVAN: Okay. I for one probably would not approve a shed dormer, any dormer with any glass at all.

TIMOTHY HUGHES: I think considering what you've heard here tonight, that the prudent way to go would be to file for the Special Permit and have this heard, the Variance heard with the Special Permit and give some consideration to tweaking this shed dormer in a direction that you've heard some criticisms about and come back with a plan that we can be comfortable with. Because right now we'd be contravening another dormer guideline if we were to grant relief with no glass in it.

CONSTANTINE ALEXANDER: I agree

with what Tim and Brendan have said as well. The only thing I would add to it is I would really urge you to get some professional help in the design of the shed dormer. I can go along with the gable dormer, non-compliance with the dormer guidelines with the reasons others have expressed, but I'm not convinced yet that this is the only way to get you what you want. And I'd get a lot more comfort if I had, just me, as a voting member, if I had something more concrete prepared by a professional than what you've given us so far. That's just one person speaking. It doesn't mean I'll turn you down if you don't do that, but that's what I would urge you to do.

BRENDAN SULLIVAN: Tom, what are your comments?

THOMAS SCOTT: Yes, I mean, if you ask us to go forward tonight, there's a good chance because of that shed dormer and the fact that it has no windows in it, you would be voted down. And I think you need to be aware of that. And it just seems prudent to

re-advertise and get everything into the same case and have it heard all at once. It's easier for us to make a decision if we know what you're doing in terms of the glass. You could come back at a later time and put little tiny windows in and, you know, what if we rejected that? Then we would have approved a dormer with no windows and reject the Special Permit and then we're stuck with a dormer with no windows forever and you know....

BRENDAN SULLIVAN: It doesn't serve you and it doesn't serve us.

THOMAS SCOTT: It doesn't serve us, I guess, and I don't think it serves you either.

THEODORE PECK: Okay. Well, I take your point about the glass. I'm still confused about what sort of glass would be suitable in that particular location because, you know, the guidelines for dormers with a percentage of glass showing seem to be oriented towards, you know, public facing things and this is a very constrained area

and --

BRENDAN SULLIVAN: Is it 50 percent of the wall -- are the dormer guidelines --

CONSTANTINE ALEXANDER: I have mine here. I thought it was only for the gable side that you had to have 50 percent glass frankly. I didn't think it applied to the shed. Maybe I'm wrong.

BRENDAN SULLIVAN: I think, Mr. Peck, the prudent thing would be to do a, again, probably do a re-file. Put it all together, let us evaluate the whole thing in toto. And also -- and you may come back -- as far as the amount of glass, you may come back with okay, this is what the dormer guidelines say, this is what I'm showing as a design.

TIMOTHY HUGHES: You get 50 percent on the shed side.

BRENDAN SULLIVAN: Yes.

This is what I have designed. However, it doesn't work for the following reasons: My next-door neighbor, whatever it may be. I mean, you could put glass in there. You could put -- it can be frosted, it can be

whatever to comply with the guideline, and then you may come in with an alternative scheme rather than the 50 percent which is what the guideline is asking for.

THEODORE PECK: Yes.

BRENDAN SULLIVAN: You may come back with something else and say -- and give us a couple of different schemes on that night for consideration. And then, you know, let us use our judgment as to, you know, scheme two is better than scheme one or scheme three or something like that. But you could, I guess the prudent way for you is to design it as per the former guidelines. And if you don't want that, if your next-door neighbor doesn't want it for the reasons given, you don't want to be looking at each other, then come back with an alternative.

THEODORE PECK: Okay.

BRENDAN SULLIVAN: Somewhere between that, I guess, and the narrow ones that are shown I would think. So this is one end of the spectrum and what you propose is at the other end of the spectrum. So I think

it's going to have to be somewhere in between that.

THEODORE PECK: Okay.

BRENDAN SULLIVAN: And, again, it may be another -- a little bit of a time delay and another hurdle, but I think the end result may be worth it. May be worth it. Because tonight it's going to get -- it's --

THEODORE PECK: We're not there yet.

BRENDAN SULLIVAN: We're not there yet and it's uncomfortable for the Board. And hence when the Board gets uncomfortable, then it may not be favorable I would think.

THEODORE PECK: Okay.

BRENDAN SULLIVAN: So....

THEODORE PECK: So....

BRENDAN SULLIVAN: I think I hear a motion, then, to possibly continue this matter. Let us continue it to -- and if you feel that you could possibly get a re-file in by the end of next week. Is that doable? Or, the alternative would be to the end of December. The 6th or the 20th.

THEODORE PECK: December 20th. So

when we're talking a re-file, we're talking about new plans for the Variance and also a Special Permit application?

BRENDAN SULLIVAN: Correct.

TIMOTHY HUGHES: Correct.

BRENDAN SULLIVAN: Correct.

TIMOTHY HUGHES: Do you have to re-file the whole Variance one or just add a Special Permit?

CONSTANTINE ALEXANDER: He just -- the new filing is just for the Special Permit, but he's also going to have to, as part of the continued case as a Variance put in new plans. So the same set of plans.

TIMOTHY HUGHES: He's going to have to have plans for the Special Permit that are also --

CONSTANTINE ALEXANDER: That would also be good for these, yes.

BRENDAN SULLIVAN: Right.

You can submit these except again for the gable side you can resubmit those. That's whatever, unless you, again, want to tweak it or change it. On the shed dormer

side, that's going to have to be changed a bit.

THEODORE PECK: Yes.

BRENDAN SULLIVAN: And in the redesigning of the outside of the glass and whatever and also the skylights, then you may want to, you could possibly tweak those. But the gable side, you may be steadfast on that, that's fine. And then it's the shed side that you may want to change that a bit.

THEODORE PECK: Yes.

BRENDAN SULLIVAN: But any changes should reflect a new dimensional form.

THEODORE PECK: Yes.

BRENDAN SULLIVAN: But you're also going to ask for a Variance for the FAR, and you're going to ask, then, for a Special Permit for the windows within a side yard setback.

THEODORE PECK: Right.

BRENDAN SULLIVAN: Okay? And then Sean could probably walk you through that if you had any questions as far as am I doing this right?

So I guess then the question is if you could get this all done by the end of next week --

THEODORE PECK: Yes.

BRENDAN SULLIVAN: -- the end of next week being by noon on Friday, then you could possibly set up for the 6th of December. If you felt you really needed time and you don't want to rush it, then you could be December 20th.

THEODORE PECK: Well, I don't feel that I can engage a professional architect and get plans --

BRENDAN SULLIVAN: Or, I'll give you another option, if you just want to take a time out, go off to the side and think about what am I getting myself into here, I could hear the next case and then you can come back and then I can reopen and you can say okay, this is what I've decided. Because I'm sure you feel like you're sitting there with a light bulb over your head.

THEODORE PECK: Right. I just, you know, this week is Halloween. I have a lot

to do for Halloween.

TIMOTHY HUGHES: What's your construction schedule?

THEODORE PECK: Well, I haven't scheduled any construction because I don't know if I'm going to be approved or what is going to be approved.

TIMOTHY HUGHES: Why don't you take the 20th and not put yourself under the gun?

THEODORE PECK: I think that's a good suggestion.

BRENDAN SULLIVAN: Let me make a motion, then, to continue this matter to December 20, 2012, at seven p.m. on the condition that the Petitioner change the existing posting sign to reflect the new date of December 20, 2012, at seven p.m. And that be maintained as per the requirements of the Ordinance.

That any new submissions to this particular case be in the file no later than five p.m. on the Monday prior to the December 20th hearing. So that if you're going to make -- in reality this case will just sort

of stand there by itself. The new case will then supersede this particular case, that's all. But I'm doing a pro forma thing.

THEODORE PECK: I understand.

BRENDAN SULLIVAN: That's all.

Anything else to add to that?

THEODORE PECK: So can you clarify for me when the deadline is for the submission of the Special Permit application for the December 20th hearing?

BRENDAN SULLIVAN: You can call Maria tomorrow or ask her now, she may tell you. She may not know right now.

MARIA PACHECO: There's really no deadline. It's first come first served. I'll pencil you in and remind you.

CONSTANTINE ALEXANDER: What's the latest date?

MARIA PACHECO: I could get eight cases next week and fill up the whole agenda.

CONSTANTINE ALEXANDER: If we set aside a slot for him that th guarantees the 20th --

MARIA PACHECO: That's what I just

said.

CONSTANTINE ALEXANDER: What's the latest date he can file?

MARIA PACHECO: I'll probably say mid-November.

CONSTANTINE ALEXANDER: There's your deadline, mid-November.

THEODORE PECK: Okay.

BRENDAN SULLIVAN: And, again, then check with Maria as you go forward and you can check with Sean.

On the motion to continue?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

CONSTANTINE ALEXANDER: Don't forget to change the sign.

THEODORE PECK: I won't forget, yes.

CONSTANTINE ALEXANDER: And the time, too.

THEODORE PECK: It's seven o'clock.

CONSTANTINE ALEXANDER: Make sure it still says seven o'clock, otherwise you'll

be here later in the night like other people in the audience.

THEODORE PECK: All right. Thanks for your consideration.

BRENDAN SULLIVAN: Anybody here interested at 249 Walden Street?

(No Response.)

BRENDAN SULLIVAN: That was an antenna wireless communication facility. Nobody here on that matter.

(8:10 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Thomas Scott, Janet Green.)

BRENDAN SULLIVAN: The Board will hear case No. 10314, 26 Sixth Street.

You can tell us what has transpired from the last time we met.

JOHN LODGE: John Lodge.

So since the last time we took your suggestion under advisement, reduced the size of the dormers down -- we're three inches probably over the dormer guidelines, and sort of reconfigured the plan to make that work.

CONSTANTINE ALEXANDER: What about the pitch of the dormers?

JOHN LODGE: So, clearly that was coming. So, the basic sort of design limitation that we've been working against for a long time is that one of the abutters wants to keep the ridge as low as we possibly can so she doesn't lose, so she doesn't lose sunlight this her backyard. So, I mean, we, you know, with the pitch is basically defined by keeping the ceiling height in that bedroom at seven feet. And I think -- I think we can probably get the pitch to be a little bit steeper.

CONSTANTINE ALEXANDER: Is there

any pitch at all right now? From the plans --

JOHN LODGE: Yes, it's de minimus.

CONSTANTINE ALEXANDER: How much?

JOHN LODGE: I think it's an inch and 12 or something like that.

CONSTANTINE ALEXANDER: How much?

JOHN LODGE: An inch and 12 feet. It's de minimus. I mean an inch and 12. So, you know, I mean, the thing I'm worried about is I just want to make sure that we stay within the new code guidelines to make sure these are habitable rooms. And so seven feet is the minimum headroom. So, you know, yes, if we -- if we had a sloped roof and just sort of sheetrocked right to the bottom of the rafters, you know, we could keep a lot of it as seven feet, but it's -- I mean, I have to figure out the calculations. So, you know, we understood that, you know, there would be some issues that you might have. We're presenting these so we could have this discussion essentially.

And so, you know, the -- for example, the windows that we're showing in the dormers

end up being totalling roughly 37 percent of the overall sort of facing the dormer. And we're willing to, I mean, we're willing to go 50 percent. However, you're looking at a roof, you know, and so it -- you know, if you sort of agree, you know, sign off on how this, you know, the windows look within the dormers, that would be great. If you want us to go to 50 percent, that's certainly something we're willing to consider. So anyways.

The -- and then the question of the dormers being in the face of the wall, one of the reasons we wanted to do that is because in order to get the headroom to get the stairs to work without the dormer in the middle, what we actually did was is we changed the pitch on the roof in between the dormer. So that -- we raised that about ten inches. So the dormer basically sort of hides of the fact that there's a slight bump in the pitch of the roof, in the middle. And we -- if we push the dormers back off the roof slightly, you'll pick up the fact that there's sort of a jog

in the eave. Fortunately if you look at the picture here, the alleyway that we're talking about is about six feet wide. So a lot of this stuff is masked by the fact that we don't have a much of a view corridor. Notwithstanding, we don't have to try to sort of work the dormer as well as we could to sort of, to, you know, hide that sort of jog.

CONSTANTINE ALEXANDER: I'm sorry, I'm not sure -- back to the pitch of the dormers. I'm not sure exactly what you said to me. Are you planning to change the pitch and in which case the plans are not --

JOHN LODGE: We would like not to change the pitch. But if that's an issue, that, you know, if that's an issue you can't get passed, then I mean --

CONSTANTINE ALEXANDER: I understand that. Fine. Okay.

JOHN LODGE: Yeah.

BRENDAN SULLIVAN: A total width of the house is 17', 9'?

JOHN LODGE: Yeah.

BRENDAN SULLIVAN: So basically

from the original design to now is if you can just briefly run through the difference.

JOHN LODGE: Okay, well, so what we did is we reduced the size of the dormer so that we're now, you know, basically -- we're at 15, 3. And then in between the two dormers, we raised the -- we raised the roof height as little as we possibly could to get enough headroom in the stair. We reconfigured the stair. We reconfigured a lot of the interior stuff to deal with having less, you know, having less headroom within the dormers to come from the second floor to the third floor. And I mean -- but most of the work we did was on the south facade basically. We did change, we did change some of the window layouts on the facade facing the street. And actually we changed the window layout on the facade facing the rear yard. That's not within the side yard setback. So I'm sorry.

TIMOTHY HUGHES: Don't answer that.

CHRISTOPHER MATTHEWS: Previously we had one long dormer which was the bedroom

which also gave us the headroom in the central stairway. And by reconfiguring the stairs, it allowed us to get rid of that central section.

CONSTANTINE ALEXANDER: I understand that.

JOHN LODGE: So now the walkway is right in the middle of the house which is the one place where we actually have the headroom.

CONSTANTINE ALEXANDER: I understand what you're doing.

BRENDAN SULLIVAN: You reduced the -- you've taken eight square feet I guess from the original plan, out.

JOHN LODGE: Yeah.

BRENDAN SULLIVAN: But the FAR was never an issue anyhow, because it was always --

JOHN LODGE: Yeah, it was under the --

BRENDAN SULLIVAN: It was always under 0.75 anyhow. Okay.

THOMAS SCOTT: Can I see that photo?

JOHN LODGE: Oh, sure.

THOMAS SCOTT: That's the front of the house?

JOHN LODGE: Yeah.

THOMAS SCOTT: And the house on the right has a gable and the house on the left has a --

JOHN LODGE: A mansard.

THOMAS SCOTT: -- a mansard that's facing the street?

JOHN LODGE: Yeah.

BRENDAN SULLIVAN: Where's the original, original -- this is the re-file --

TIMOTHY HUGHES: I just want the --

BRENDAN SULLIVAN: This is the re-file original if you will. And this is subsequent to this.

JANET GREEN: Okay.

BRENDAN SULLIVAN: Gus, have you any questions at this point?

CONSTANTINE ALEXANDER: I have no questions. I'm sorry, I'd like to hear Tom's point of view about the pitch of the shed dormer. Other than that I'm --

THOMAS SCOTT: So what restricts the height of the ridge? Because you're pushing the whole house up a whole story, right?

JOHN LODGE: Well, we -- I mean -- what we came to an agreement with the neighbor on is we put up a pole and sort of created a shadow line, and she basically agreed with 7', 9 as you know, as being the height increase that she would accept in terms of it not sort of creating a shadow line across her backyard.

THOMAS SCOTT: Oh, okay.

TIMOTHY HUGHES: Which is kind of too bad.

JOHN LODGE: Yes.

TIMOTHY HUGHES: Because you could solve a lot of problems if you went up a little higher at the ridge.

JOHN LODGE: We, you know, yes, we all agree with that. And I, you know, I know that you don't like dormers coming off the ridge line so this is sort of you could substitute one problem with another problem.

THOMAS SCOTT: I just remember

another case that we had where it was kind of similar and --

JOHN LODGE: The last one?

THOMAS SCOTT: No, no.

JOHN LODGE: Sorry.

THOMAS SCOTT: It was a while ago. But it seemed like the couple was forcing kind of the same issue. They were trying to grab this third-story space by adding these dormers and it almost seemed like the house should just have a third story and be a flat roof house. And I think we kind of sent them away and had them rethink it and had them come back and agreed. And it just seemed to make more sense instead of forcing this Greek revival kind of a design. Could the same thing be done with a flat roof scheme and get rid of the dormers?

JOHN LODGE: I guess what we would have said is our first scheme was sort of -- it wasn't a flat roof, because obviously there was a slope on one side. But, you know, that was sort of what we were, what we were aiming for. The point of that was that it, you know,

by having the slope on one side, it didn't, it didn't, it didn't sort of create a, you know, bigger shadow line in the backyard.

THOMAS SCOTT: Yes. In the backyard?

JOHN LODGE: Yeah, backyard.

THOMAS SCOTT: It's not an issue with the size of the adjoining houses? Because it doesn't seem to be windows on one side.

JOHN LODGE: There's no windows on the south house's side. There's -- how many windows are there on the --

CHRISTOPHER MATTHEWS: She's got two up on the third floor. And then one I think it's in the stairway.

JOHN LODGE: Yeah, there's one. I mean, there aren't a lot of windows, that's true.

BRENDAN SULLIVAN: I think by raising it as you say to just create that third story plus, I think it would greatly impact the house on the left.

THOMAS SCOTT: On the left, I agree.

I agree.

BRENDAN SULLIVAN: Yes.

JOHN LODGE: And I mean there were a lot of negotiations back and forth with her to try to, you know, meet her concerns.

BRENDAN SULLIVAN: The house is challengingly flat.

THOMAS SCOTT: It's really challenging. Again, that dormer just seems so forced to me and it -- the roof is essentially flat. You know, one in 12 pitch again, it's going to have a rubber roof on it. It's not truly --

BRENDAN SULLIVAN: I stood out in the street and looked at it. If you're really going to see it.

THOMAS SCOTT: You think it's back far enough?

BRENDAN SULLIVAN: I do. I think that's not your focus. I mean, if you really strain you could, but I --

JOHN LODGE: I mean the density of that part of Cambridge is such that you don't have a lot of long views of things.

BRENDAN SULLIVAN: Yes.

Not to have a narrow view of things, but anyhow that is -- that's really quite a constricted view and restrictive angle to look at that house.

THOMAS SCOTT: Right. If that's the perception from the street.

BRENDAN SULLIVAN: I think that's what you're going to see to me anyhow.

Tim, any questions?

TIMOTHY HUGHES: Not really.

BRENDAN SULLIVAN: Janet, any questions?

JANET GREEN: No.

BRENDAN SULLIVAN: Let me open it to public comments.

Is there anybody here who would like to speak on the matter of 26 Sixth Street?

(No Response.)

BRENDAN SULLIVAN: I see nobody.

Are there letters in the file of support?

CHRISTOPHER MATTHEWS: Yes, we had abutters' letters. East Cambridge Planning

Team, and one City Councillor who wrote in favor.

BRENDAN SULLIVAN: That was read at the last time I believe.

CHRISTOPHER MATTHEWS: I'm sorry.

JOHN LODGE: Nothing new. Nothing new. Although we did show the current scheme to the two neighbors, but given that it was less, you know, it wasn't an issue for them.

BRENDAN SULLIVAN: That was read in the record the last time. And there was nothing new to add to it.

CHRISTOPHER MATTHEWS: I'm sorry, no.

BRENDAN SULLIVAN: All right. Let me close the public comment part.

Anything else to add?

JOHN LODGE: Only if you have questions, we'll answer them.

BRENDAN SULLIVAN: Okay.

Let me close the presentation part except for possible question/answer.

And, Gus, your thoughts?

CONSTANTINE ALEXANDER: I'm not

thrilled by what is proposed. I think Tom has got a better solution, but I will hear out other members. I'm not prepared to vote against it yet until I hear everybody else.

BRENDAN SULLIVAN: Okay.

Tom?

THOMAS SCOTT: So it's under the FAR. I mean, there are two dormers and one of them actually is fairly close to the front of the house although it doesn't seem to appear in elevation, the front elevation of the house.

JOHN LODGE: It should be there.

THOMAS SCOTT: Is that true? On A-4?

JOHN LODGE: Yeah.

THOMAS SCOTT: Okay. So why doesn't it show up -- okay, I get it now. Okay.

I mean, again I have trouble with the flatness of the shed dormer. It's not really a shed dormer. It's just adding a story to the building. The fact that it's set back substantially, maybe not as substantially as

it could be, but I mean, I have reservations but I probably -- because we're under the FAR, I probably would be okay with it.

BRENDAN SULLIVAN: Okay.

Tim?

TIMOTHY HUGHES: I feel basically the same way. I mean, I have reservations. I think there are better ways to go. Obviously you thought about them, and you negotiated with your neighbors about them and it wasn't going to fly that way. And I think you came up with, you know, the best thing you could come up with under the circumstances. You know, it's a little troubling, but I'm -- you know, if you could have raised your ridge line more, we wouldn't be having this discussion, you know, but it's too bad that that didn't happen. That's what I think. But I'm not going to stand in the way of this project.

BRENDAN SULLIVAN: Janet.

JANET GREEN: I agree with what Tim says. I particularly think the constraint -- taking the constraint of the

neighbor and putting the pole up and looking at the shadows and really be cognizant of that is really the important part of it. And that you went back and worked on the dormers to make them compliant, I'm inclined to support it.

BRENDAN SULLIVAN: The number of square feet you're adding is 768; is that correct?

JOHN LODGE: It's 760 I think.

BRENDAN SULLIVAN: Okay.

So shall I make a motion then?

CONSTANTINE ALEXANDER: Sure.

BRENDAN SULLIVAN: I'll make a motion, then, to grant the relief requested to raise the roof ridge with the dormer to provide for a two bedrooms and a third floor as per the plans submitted, initialed by the Chair, and also the dimensional form which will be a part thereof.

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

preclude the Petitioner from adding as much needed a realignment of the space at the third floor level.

The Board finds that the hardship is owing to the existing non-conforming nature of the structure, and the substandard size of the lot which predates the existing Ordinance, and that any addition to provide for adequate sleeping areas, safe stairway passage, ventilation, and sunlight which this petition allows for, would require some relief from this Board.

The Board finds that the addition of 768 square feet as per the proposal is still within the FAR allowed on current Zoning.

That the relief that is required is triggered by an addition of more than 25 percent to the original square footage of the house.

And the Board finds that the narrowness of the house on this particular lot is quite challenging and that the scheme as presented is somewhat de minimus in nature to allow for adequate sleeping facilities and stairway

access and egress, and also adequate ventilation and sunlight into that particular area of the house.

The Board finds that desirable relief may be granted without substantial detriment to the public good.

And relief may be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance.

The Board finds that in pre-existing non-conforming structures, the Board may grant relief provided that the alteration be not substantially more detrimental to the neighborhood than the existing structure, and the Board finds that this be the case for this particular proposal.

Anything else to add to that?

CONSTANTINE ALEXANDER: Did you tie it to the plans?

BRENDAN SULLIVAN: I did.

CONSTANTINE ALEXANDER: I'm all set.

BRENDAN SULLIVAN: All those in favor of granting the Variance as per the

proposal?

(Show of hands.)

BRENDAN SULLIVAN: Five. Five in favor. The Variance is granted.

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

BRENDAN SULLIVAN: Now on the Special Permit to add five windows within the setback to reconfigure the window layout on the front facade is not subject to a Special Permit, and to add four new skylights which may be within the side yard setback, the Board finds that the requirements of the Ordinance can be met.

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

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

The Board finds that there would not be any nuisance or hazard created to the detriment of the health, safety, or welfare of the occupant of the proposed use or to the citizens of the city.

The Board also notes that the Petitioner has taken great pains to take into consideration the concerns from an abutting neighbor, has designed the proposed project to address those concerns, and that as such would comply with a requirement of granting this relief.

Anything else to add to that?

All those in favor of granting the Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

CONSTANTINE ALEXANDER: Good luck.

JOHN LODGE: Thank you very much.

MARIA PACHECO: There's another one, Mr. Chairman.

(8:30 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Timothy Hughes,
Thomas Scott, Janet Green.)

BRENDAN SULLIVAN: And the Board

will now open case No. 10277, 26 Sixth Street.

And your request is to withdraw this application?

CHRISTOPHER MATTHEWS: Correct.

BRENDAN SULLIVAN: Okay. On the motion, then, to accept the withdrawal of this application?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

(8:30 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Thomas Scott, Janet Green, Douglas Myers.)

BRENDAN SULLIVAN: We're going to the regular agenda. The Board will hear case

No. 10338, 85 Fayerweather.

Introduce yourself for the record and spell your last name.

ERICA TENNYSON: My name is Erica Tennyson, T-e-n-n-y-s-o-n, and I have with me my mother Debra Tennyson Feinstein who has been overseeing some of the construction.

BRENDAN SULLIVAN: Okay. And what is it you would like to do?

ERICA TENNYSON: So we are interested in expanding an existing porch roof. When the porch was -- when the roof was built, it only covers a portion of the existing porch and we are interested in covering the entire porch. The reason for this is largely due to weather, you know, protection from the elements. As it is right now, the porch goes to the very end of the front door and no further. So when it rains, we have to go into the rain in order to get into the door. When it snows, there's snow that builds up in front of the door. And we actually just had two baby who have joined our family, and it would be impossible to get them

in without subjecting them to the elements. So that's why we are interested in having the roof cover the whole porch.

BRENDAN SULLIVAN: Okay. And what triggers this is the fact that the house is non-conforming --

ERICA TENNYSON: Right.

BRENDAN SULLIVAN: -- with regard to floor area. And you're adding 91 square feet by this addition of a roof?

ERICA TENNYSON: That's correct. It's less than one percent, but we're already over the 50 percent.

BRENDAN SULLIVAN: Have you spoken to your neighbors, have you?

ERICA TENNYSON: We have. Both of the other units in the building have signed off on this.

BRENDAN SULLIVAN: Okay.

Do they have the same address or different address?

ERICA TENNYSON: It's different addresses. It's 81 and 83 Fayerweather. But it's also known as A and B. We're 85 at

Unit C.

BRENDAN SULLIVAN: Okay, all right.
Any questions?

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: Tom?

THOMAS SCOTT: No. Couldn't find a
Massachusetts architect?

ERICA TENNYSON: It's actually my
aunt.

DEBRA TENNYSON FEINSTEIN: Not for
free.

THOMAS SCOTT: I don't know if that
holds any weight in Massachusetts.

ERICA TENNYSON: She did a better
job with the plans than I would have.

BRENDAN SULLIVAN: Mr. Myers, any
questions?

DOUGLAS MYERS: So there's no change
to the square footage of the porch itself?

ERICA TENNYSON: No.

BRENDAN SULLIVAN: Of the porch?
No. The landing you're saying? Yes.

DOUGLAS MYERS: Yes. Just of the
roof to cover it?

ERICA TENNYSON: We are actually expanding, but we are building the porch but that's a permit that we've already received. And the new roof is -- the existing roof is smaller than the porch that was there before. It's only four feet wide. The porch itself is ten feet wide. And so we're just trying to basically extend to the end of the building. Or actually I guess it's one foot over for overhang, but essentially the end of the building.

JANET GREEN: I have no questions.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on the matter case No. 10338, 85 Fayerweather Street.

(No Response.)

BRENDAN SULLIVAN: There's nobody in attendance.

Should we take that that nobody cares?

ERICA TENNYSON: Nobody minds.

BRENDAN SULLIVAN: You care.

DEBRA TENNYSON FEINSTEIN: A lot of

people read the --

BRENDAN SULLIVAN: Just introduce yourself for the record.

DEBRA TENNYSON FEINSTEIN: Debra Tennyson Feinstein.

BRENDAN SULLIVAN: I'm sorry, your comment was what?

DEBRA TENNYSON FEINSTEIN: A lot of people looked at the sign but nobody objected.

BRENDAN SULLIVAN: Oh, okay.

The Board is in receipt of correspondence. (Reading) I, Marsha Zucker?

ERICA TENNYSON: Zucker.

BRENDAN SULLIVAN: Zucker, Z-u-c-k-e-r, owner and occupant at 81 Fayerweather approve the porch roof extension and renovation that Erica Tennyson at 85 Fayerweather Street is applying for a lot covered Variance.

The Board is in receipt of correspondence from Ann Brody, owner and occupant of 83 Fayerweather Street approving

of the porch roof extension and the renovation.

The Board is in receipt of -- it's Marsha again, and sort of repeating herself and Ann repeating herself.

Okay.

So the other co-owners have approved it. Is it a condo?

ERICA TENNYSON: It's a three-unit condo.

BRENDAN SULLIVAN: Okay.
Anything to add or refute?

ERICA TENNYSON: No.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: I'm fine.

THOMAS SCOTT: I'm good with it.

JANET GREEN: I'm good.

DOUGLAS MYERS: Fine.

BRENDAN SULLIVAN: Let me make a motion to grant the relief requested. As per the drawings -- you're not going to change any of that?

ERICA TENNYSON: No.

BRENDAN SULLIVAN: Let me make a

motion to grant the relief requested.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude the Petitioner from constructing a much needed covering over a back entryway.

ERICA TENNYSON: Front.

BRENDAN SULLIVAN: Rear entryway.

ERICA TENNYSON: It's actually the front entryway.

BRENDAN SULLIVAN: Over an entryway. A sum total of --

ERICA TENNYSON: About 91 square feet.

BRENDAN SULLIVAN: -- 91 square feet.

The Board finds that the hardship is owing to the fact that the existing structure is a non-conforming, and as such, any addition of this nature would involve some relief from this Board.

The Board finds that desirable relief may be granted without substantial detriment

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

The Board finds that the relief being requested is quite de minimus. It would assist the enhancement of the safe entry and exit from the structure, provide for energy efficiency immediately inside of the structure, and as such is something that the Board and Zoning Ordinance was enacted to help foster.

On the condition that the work be complied with the drawings initialed by the Chair, and also the dimensional form contained as part of this application.

All those in favor of granting the relief?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

DEBRA TENNYSON FEINSTEIN:

Technicality. So when can the guys start

working on this?

BRENDAN SULLIVAN: It may take three weeks possibly for a decision to get typed up, and then it has to go to the Law Department to be reviewed. They bring it back, I sign it, and then it -- there's a 20-day appeal period. To answer -- that's a long explanation for possibly six weeks.

DEBRA TENNYSON FEINSTEIN: Okay.

BRENDAN SULLIVAN: Is that about right?

MARIA PACHECO: Give or take.

DEBRA TENNYSON FEINSTEIN: And then we can take the sign down from the front the hearing sign?

BRENDAN SULLIVAN: Actually not until after it's been filed. All right? So....

DEBRA TENNYSON FEINSTEIN: That's fine.

ERICA TENNYSON: A few weeks.

BRENDAN SULLIVAN: It blows down, it's blows down.

ERICA TENNYSON: It's nailed in

pretty good.

BRENDAN SULLIVAN: Halloween kids
get it, I don't know.

ERICA TENNYSON: Thank you.

(8:35 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Thomas Scott, Janet
Green, Douglas Myers.)

BRENDAN SULLIVAN: The Board will

hear case No. 10339, 7 Chalk Street.

If you would introduce yourself for the record, please spell your last name it's being recorded, and tell us what you would like to do.

SHERWOOD MARSHALL: Sherwood Marshall, M-a-r-s-h-a-l-l.

JAMES BECK: I'm James Beck, B-e-c-k.

BRENDAN SULLIVAN: Okay. And what is it you would like to do?

SHERWOOD MARSHALL: We're proposing a dormer --

BRENDAN SULLIVAN: You may have to speak up.

CONSTANTINE ALEXANDER: Can you speak up?

SHERWOOD MARSHALL: Okay. We're proposing a dormer on the third floor to match, basically mirror image the other half of the house 5 Chalk Street. We did the same dormer last year around this time as well as making living space in the basement adding about 50 square feet by digging down to

achieve the ceiling height for code requirements.

CONSTANTINE ALEXANDER: You're also putting a deck on the back, aren't you, as well?

SHERWOOD MARSHALL: The decks were -- they're smaller decks on the back. They were granted to us by Sean as an -- oh, God, use of right. Right of use, sorry.

CONSTANTINE ALEXANDER: Okay, so you don't need Zoning relief for those?

SHERWOOD MARSHALL: No. They met the setback requirements that we needed to so it ended up being the right of use.

CONSTANTINE ALEXANDER: And now you're aware of our dormer guidelines or maybe you've heard --

SHERWOOD MARSHALL: Yes, yes. I've been paying attention and I do know.

CONSTANTINE ALEXANDER: And you're not even close. On the other hand what your -- I don't know, I guess we allowed the dormers on the other side that you want to match.

SHERWOOD MARSHALL: Right.

CONSTANTINE ALEXANDER: So these dormers to me, just thinking, the greatest justification for granting you relief would make this building look --

SHERWOOD MARSHALL: Symmetrical.

CONSTANTINE ALEXANDER: Right, symmetrical.

SHERWOOD MARSHALL: I do have pictures of the dormer.

CONSTANTINE ALEXANDER: Are you proposing to build your dormer to be exact?

SHERWOOD MARSHALL: Identical to the --

CONSTANTINE ALEXANDER: Identical to the other side.

SHERWOOD MARSHALL: And I do have pictures of their completed dormer.

CONSTANTINE ALEXANDER: Okay.

SHERWOOD MARSHALL: Five feet over.

THOMAS SCOTT: I'll see it.

CONSTANTINE ALEXANDER: I don't know where we were to granting the permission on five. I guess we were asleep.

SHERWOOD MARSHALL: That's the dormer from the street.

BRENDAN SULLIVAN: You're adding a sum total of 550 square feet; is that correct?

SHERWOOD MARSHALL: Correct.

CONSTANTINE ALEXANDER: And the reason you're here before us tonight, I mean for the Variance, putting aside the dormer guidelines, you're over the FAR right now and you're going to go even further over. Just for the record --

SHERWOOD MARSHALL: Right.

CONSTANTINE ALEXANDER: -- you're at 0.95 and you're going to 1.16.

SHERWOOD MARSHALL: Yes.

CONSTANTINE ALEXANDER: And the requirements for the district are 0.5. So you're roughly twice as much today as our Zoning Ordinance permits, and you're going to go slightly more than twice if we grant you the relief you're seeking tonight.

SHERWOOD MARSHALL: Correct.

CONSTANTINE ALEXANDER: There's that and the dormer guidelines, which is only

guidelines we have to deal with tonight.

BRENDAN SULLIVAN: In the basement you're excavating that.

SHERWOOD MARSHALL: Yes.

BRENDAN SULLIVAN: What is the intended purpose of the basement?

SHERWOOD MARSHALL: A Home Office.

BRENDAN SULLIVAN: And what kind of an office?

JAMES BECK: Something ideally -- I'm a psychotherapist. It's an office for a psychotherapist.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: The additional area, floor area you're adding, how much of that is the basement and how much of that is dormer roughly?

SHERWOOD MARSHALL: It's -- I don't even know how to really describe that. I guess you guys don't count if it's five feet or under on the roof line. You don't count that? So we're asking to add 500 square feet in the basement, and that ends up being about 100 square feet in the attic.

CONSTANTINE ALEXANDER: So most of the additional FAR is in the basement I guess what I'm trying to get at.

SHERWOOD MARSHALL: Correct.

BRENDAN SULLIVAN: Mr. Beck, are you going to live in the house?

JAMES BECK: No.

BRENDAN SULLIVAN: And so you're asking for a Home Office or the ability to have a Home Office in the basement, but it's not for your purpose?

JAMES BECK: That's correct.

BRENDAN SULLIVAN: So your intent with the property is that you bought it back in May; is that correct?

JAMES BECK: Yes.

BRENDAN SULLIVAN: Is to renovate the property, to add the dormers on the third floor, excavate the basement, and is it to rent, to sell?

JAMES BECK: To sell.

BRENDAN SULLIVAN: Is it -- it's at single-family?

JAMES BECK: It's a half of a

two-family. But it will be sold to one family. It's a one-family unit.

BRENDAN SULLIVAN: So is it 7-9 Chalk.

SHERWOOD MARSHALL: 5 and 7.

BRENDAN SULLIVAN: 5 and 7, sorry. That's right, it's the other way.

JAMES BECK: And it was vacant for a number of years before I bought it.

CONSTANTINE ALEXANDER: I'm sorry.

DOUGLAS MYERS: Are you the owner of 5 Chalk Street?

CONSTANTINE ALEXANDER: I'm sorry. I got a little lost on that. Right now the property is vacant, and you don't live it?

JAMES BECK: Correct.

CONSTANTINE ALEXANDER: If we grant you relief tonight, you're going to go and do the work you're proposing to do, including creating a Home Office?

JAMES BECK: Correct.

CONSTANTINE ALEXANDER: And then you're going to turn around and sell the property?

JAMES BECK: Space for a Home Office. I mean, we're not gonna turn it -- it's -- we're gonna make the basement usable space.

CONSTANTINE ALEXANDER: Usable, right, got it.

JAMES BECK: My own idea as a person, I mean, who has an office at home, is that I know for people who do psychotherapy, a Home Office is a very useful thing to have and I can imagine that that will make the property more appealing to somebody -- when the family's a psychotherapist. But it could be another bedroom, it could be anything.

CONSTANTINE ALEXANDER: But it's not going to be for your purposes?

JAMES BECK: That's correct. I am going to indeed going to turn around and sell it.

CONSTANTINE ALEXANDER: If we grant you relief tonight, the property will become more valuable to you in terms of resale purposes?

JAMES BECK: Yes.

CONSTANTINE ALEXANDER: Okay.

DOUGLAS MYERS: I have a question about the dormer. You said you're going to try to match the dormer that was approved for Unit No. 5?

SHERWOOD MARSHALL: Correct.

DOUGLAS MYERS: Correct?

SHERWOOD MARSHALL: Yeah.

DOUGLAS MYERS: I'm looking at the proposed front elevation. You have your dormer extending to the very edge of the gable; correct?

SHERWOOD MARSHALL: Correct.

DOUGLAS MYERS: So it's going to extend passed what I would call the wall line of the house. You call it as the new knee wall?

SHERWOOD MARSHALL: Right, which sits exactly on top of the old exterior wall of the house. And there's like a two-foot overhang.

THOMAS SCOTT: It's in the same plane. It's just these eaves that extend out a foot. That's what you're seeing here.

This is just an extension of the roof.

DOUGLAS MYERS: So the dormer will not extend that full distance under the -- not extend.

THOMAS SCOTT: No.

DOUGLAS MYERS: That was my question. Beyond the wall line.

THOMAS SCOTT: This wall line is for this.

SHERWOOD MARSHALL: Right, it's the same wall line one over the other. We've already done work to the first and second floor in proposal for the structural work for this.

THOMAS SCOTT: This work that you're seeing here is this roof plane that's out beyond --

DOUGLAS MYERS: I see.

THOMAS SCOTT: See in here?

DOUGLAS MYERS: Okay. That was my question.

CONSTANTINE ALEXANDER: What is your hardship? To get a Variance you need to demonstrate hardship as you know. What is

the hardship?

SHERWOOD MARSHALL: It's really the ceiling height up there. It's just really unusable space without, without the ceiling height.

CONSTANTINE ALEXANDER: Usually when people come before us in cases like that, you have a growing family, they need more space and they need to get more ceiling height so they can put bedrooms and whatever up there.

SHERWOOD MARSHALL: Right.

CONSTANTINE ALEXANDER: I don't hear that tonight.

SHERWOOD MARSHALL: Well --

CONSTANTINE ALEXANDER: You're looking to increase the value of the house so you can make a profit on the resale.

JAMES BECK: But it's certainly to.

SHERWOOD MARSHALL: That's the ultimate goal, yes.

CONSTANTINE ALEXANDER: Yes, obviously.

JAMES BECK: Yeah.

SHERWOOD MARSHALL: But we're trying to make it a nice master suite up on that third floor for a new owner to enjoy.

BRENDAN SULLIVAN: What's up there now for a living space?

SHERWOOD MARSHALL: There's a bathroom and a bedroom up there now.

BRENDAN SULLIVAN: And the age of the house, do we know?

SHERWOOD MARSHALL: 1874, '5.

BRENDAN SULLIVAN: Okay. I guess one of the questions as I sit here on Thursday nights is, and I hear, you know, houses that are 100 years old and now all of a sudden they're totally inadequate. And I say well, for the last 100 years people have lived in the houses, have enjoyed the houses, come and gone and so on and so forth. And, you know, I live in a house that was built in 1885 and raised three children and, you know, did they bump their head coming down the stairs? Yeah, but they did it once or twice and then they learned to move over a little bit. I mean, you learn to adjust. And was the house

small at the time with three kids and a dog and so on and so forth? Yes. And now that the three kids are gone. The house seems to be rather large for the two of us on certain days and on other days it's not big enough. There's no place to run and there's no place to hide. But I guess if somebody comes down and says, you know, we have purchased this house, we have two or three children, and as I think where Mr. Alexander is going, and we have sort of a specific need to change this because of our situation, then I think we look on it because it's a case specific relief that we're being asked to grant. But for a, you know, developer to come down and say well, you know, I bought this house, but it doesn't work. You know, it's in tough condition. I need to improve it. But I think you purchase it, your price is relative to the condition. And, again, I'll go back to my usual line is that your purchase price reflects your cost, but not the value. The value is what you can do with it as of right without having to come down before the Board and say, you know, okay,

I purchased this for X number of dollars, whatever those X number of dollars, but if I spend 150,000, I can then sell it for a whole lot more than that. I don't care if it's a dollar or a million dollars beyond that. And yet that's not really what the function of the Board is here is to -- whether you make a dollar or a million dollars. That's not -- it makes no difference to me. It's a roll of the dice no matter what you do. But to me it's not case specific as far as expanding the house beyond what the existing Ordinance allows.

CONSTANTINE ALEXANDER: Well said.

BRENDAN SULLIVAN: I guess is sort of --

CONSTANTINE ALEXANDER: Well said.

BRENDAN SULLIVAN: Where I'm going with that, you know, that doesn't mean that, you know, you sell it to somebody and, you know, well, we've got four kids and we look at that a little bit differently than someone coming down and saying, you know, I need to increase the floor area to make it more

attractive or more saleable or more worth more. You purchased it, and you took all of those things into consideration, the condition of the house, and what can I do with it now just by putting, you know, fixing it up on the inside. And, you know, by my going in and fixing it up and reading your pleadings it says it's in a delapidated condition. Okay, well how much money am I going to have to spend to bring it up to a saleable condition? And then you add that to your sale price -- your purchase price. And you say okay, I can sell it for X number of dollars. But if I do a whole lot more, than I can, again, garner a lot more. And that's where we sort of maybe part company on it. Not that we want to see properties fall into a derelict condition and not have anybody do anything with it, but somebody could take this property, restore it back to its grander days and live there and live there quite -- because it's been going on for 100 years or plus. That's sort of where I'm at.

CONSTANTINE ALEXANDER: You're much

more eloquent on this issue. I'm going to be very blunt. I don't come here on Thursday nights to increase the value of your investment. I'm here to deal with specific hardships and unusual situations where we have to make exceptions to a Zoning Variance. I have -- nothing has been presented to justify that. Again, you want to make more money on your investment, I'm not here to help you do that. Period, end of story.

BRENDAN SULLIVAN: Tom, any questions at this point?

THOMAS SCOTT: Well, I mean I understand that, you know, somebody did that to the house and the house is symmetrical. That doesn't make that right I guess. And I have problem with, you know, varying substantially from the dormer guidelines to approve something that really -- I mean, we've been telling other people, you know, you've got to come in here and try to conform to the guidelines. And to allow this I think would be an injustice to the people that we just told that they have to conform to the

guidelines. The other thing, you're adding space to the basement. I don't see any windows in that area. You're calling it living space, but I think there's a requirement under the Building Code to have natural light and windows.

SHERWOOD MARSHALL: Right.

THOMAS SCOTT: And ventilation.

And I don't see how that's achieved either with area ways or anything like that. And so I'm a little bit concerned about just how that would be accomplished. I understand you wouldn't actually develop it yourself, but kind of building it that way and then trying to market it as something that really isn't, I have a little bit of a problem with. So I've got several issues with the whole concept here.

BRENDAN SULLIVAN: Mr. Myers.

DOUGLAS MYERS: What is the length of the dormer as you propose it?

SHERWOOD MARSHALL: It's 20 foot wide.

DOUGLAS MYERS: In length?

SHERWOOD MARSHALL: Yeah, in length.

DOUGLAS MYERS: From the ridge line to the end of the gable?

SHERWOOD MARSHALL: It would be 10 feet.

DOUGLAS MYERS: Ten feet.

Well, without elaborating at length on what's already been said, I mean, I think the question about the dormer is really whether or not this Board is prepared to match what's already there. I think there's obvious non-compliance. Some non-compliance with the dormer guidelines, but there's a case to be made for symmetry and for matching, and so that's a close case I think taken by itself. But I think the hardship argument is a strong one, especially because the increase in FAR is not insignificant here. It's a 20 percent increase in FAR. You know, in some cases we've even heard tonight that we can overlook things that are non-compliant with dormer guidelines where there was no violation of FAR, but in addition to everything we're

saying tonight, is a rather significant increase in an already non-conforming FAR. So taken all that together, I think there's some problems here.

BRENDAN SULLIVAN: Do you have any questions?

JANET GREEN: Yes, I do have some questions. Why was the house empty for so long?

SHERWOOD MARSHALL: I guess the original story is that the owner I believe his name was Henry. The house was raided by the Cambridge Police Department. He had several hundred guns and ammunition basically more than the City of Cambridge just in that one house. So he decided to -- well, didn't want to live in Cambridge and closed it up and left it abandoned. Jim bought it. We went in, and there's mold, there were 13 squirrels living in the house. Mice beyond belief. Holes. Just animals in and out everyday. You'd go in the morning, cats would scare you because they would jump out. So I mean really within some of the new pictures, we

brought the property back to what it should be, you know, fixing all the rot, replacing all the windows, the window trim, deleading in the process.

JANET GREEN: So those things you've been doing?

SHERWOOD MARSHALL: Yes, been working the first and second floor and the bathroom on the third floor waiting for the Variance for the dormer and the basement work. So that's --

JANET GREEN: They must be glad to see that work done.

SHERWOOD MARSHALL: It was really rundown.

JANET GREEN: But the, you know, I think there are significant questions about the size of the house and enlarging it. Does this make it a lot larger than the other houses? Does the other house have a basement area as well?

SHERWOOD MARSHALL: The other house, their basement isn't as -- it's 6', 4 which is what your ceiling height is

presently. Their's is 6', 4 as well. They've added the square foot on the third floor doing the dormer. So the basements would be the -- I feel would be the big thing in addition to the square footage. I mean, if we basically dropped the basement out of the equation, would we be allowed to do at least the dormer to then at least have the house matching and make it a nice, usable space on that floor?

JANET GREEN: And would you estimate since you have talked about wanting to sell the house at the end of the renovation time, would it still be in keeping with the cost of houses in the neighborhood? It seems like this might substantially make it more, a nicer one of the nicer houses in the neighborhood?

SHERWOOD MARSHALL: There are two. What's it, 9, 11, 13, I believe all of those have been well maintained or remodeled to the point where they're in the price range of what we're proposing. It's a nice neighborhood. I think most of them are redoing.

JANET GREEN: I guess I agree with Doug about the question of matching the dormer that was already approved by this Board on the other side of the house. I mean, it's a little hard to sort of come against that, but I do think that the basement changes the equation quite a bit, and it's where you add most of the square feet --

SHERWOOD MARSHALL: Right.

JANET GREEN: -- to the house.

BRENDAN SULLIVAN: A Home Office is permitted, but I'm somewhat hesitant to allow somebody to carve out a space for a Home Office. If the space is already there, fine. You know, there's no review, and it can go forward. But for us to carve out a space and say okay, you know, you can do a Home Office of some unknown quantity, quality, and how is that going to impact the neighbors? Well, and, again, about valid about having somebody -- psychiatrist or whatever it may be, but there was a whole other -- that begets a whole other series of questions as to, you know, office hours, comings and going of

people, parking. It's just a whole bunch of stuff that I think could be -- it's an unknown. And when it's an unknown and it's uncomfortable. And when it's uncomfortable, you sort of step back from that, that's all. And so that's, again, I think a continuation of what you were thinking.

JANET GREEN: Yes.

BRENDAN SULLIVAN: Any other thoughts?

JANET GREEN: No, that's it.

BRENDAN SULLIVAN: All right. Let me open it to public comment.

Is there anybody here who would like to speak on matter of 7 Chalk Street?

JAMES BECK: Can I talk?

BRENDAN SULLIVAN: Yes, I'll give you a chance.

ALICE DEGENNARO: Alice Degennaro, D-e-g-e-n-n-a-r-o and I live at 9 Chalk Street, next to it. And I'm not really here to oppose any of the requests, though, I didn't know we were voting on the basement

whether it would be a business, a Home Office or not? I thought it was just going to be bigger space, higher ceiling level. The one thing I just wanted to say, and I know I spoke with Sherwood yesterday about it, and it seemed fine. My complaint was just about the air conditioning units outside. I'm like ten feet away from the house and there's already another house behind us that has two big units and this house now has two big units, and you really, when you're outside on our porch on the second floor porch where we live at night, you really hear the noise. And I spoke with Sherwood, and he was going to maybe move them around and put an enclosure around it. And I kind of, I just feel like I want to put it out there to make sure that it does, you know, get down because that's my biggest complaint is noise back there. It's really dense where we live on Chalk Street. We have a, you know, a lot of four-, five-unit housings in our backyard. But the basement, now that it's just brought up, I mean, don't you have to get -- isn't that a Variance to

operate a business out of that?

BRENDAN SULLIVAN: A Home Office, no. And, again, there's sort of regulations on that. You cannot employ more than three people I believe without any kind of approval.

There are designated Home, Offices though, and again you can cannot employ more than three people, but what we're being asked is to basically carve out a space to allow for a Home Office of unknown.

ALICE DEGENNARO: Right.

BRENDAN SULLIVAN: So.

ALICE DEGENNARO: I think my biggest issue is really the noise level. It's really -- those units are really loud. And I know that by law they have to hit a certain, is it, Sherwood, decibel?

SHERWOOD MARSHALL: Decibel.

ALICE DEGENNARO: And he ran them for me yesterday.

BRENDAN SULLIVAN: There is a Noise Ordinance that they would have to comply with, No. 1. But sometimes you can go right

up to that limit and it could still be annoying.

ALICE DEGENNARO: Yep. But Sherwood had said he'd build an enclosure, some shrubs, padding, and maybe look for a fan base that was a four blade that cuts down on the sound.

BRENDAN SULLIVAN: Okay.

Is there anybody else who would like to speak on the matter?

(No Response.)

BRENDAN SULLIVAN: I see nobody. Are there any letters of correspondence in the file?

SHERWOOD MARSHALL: Not that I know of.

BRENDAN SULLIVAN: Okay. So I will close public comment part of it.

And if you would like to respond to that.

SHERWOOD MARSHALL: I am more than willing to cooperate to bring the decibel noise down with the owner at 9 Chalk Street. I did discuss with her the other morning, we

met at seven o'clock, we turned them on, took a reading on my phone which isn't a very accurate reading. We're still not to code. I knew that because we haven't finished the units nor have we had inspection.

BRENDAN SULLIVAN: Is that the only location that it can go?

SHERWOOD MARSHALL: No. We're actually going to move them around the deck so it's another three feet away from her property.

BRENDAN SULLIVAN: Oh, okay.

SHERWOOD MARSHALL: Fence them in, put shrubs around them, put the blankets on the side of the --

BRENDAN SULLIVAN: Some kind of continuation system?

SHERWOOD MARSHALL: Yeah, we're going to try to quiet them down is the goal.

BRENDAN SULLIVAN: Okay.

SHERWOOD MARSHALL: I know the Ordinance is 50 at night at the property line. I'd like to beat that is my goal.

BRENDAN SULLIVAN: Yes, okay.

SHERWOOD MARSHALL: Obviously in selling the house people want AC, we want to keep the neighborhood happy as well.

BRENDAN SULLIVAN: Okay, good.

Mr. Beck, yes, you wanted to speak?

JAMES BECK: Thank you. I do.

This is the first time I've been before this Board and it's just because I'm interested in people and organizations, the first thing I'll say this is very interesting for me to be a part of this. And I just wanted to take a minute to talk to you about where I'm coming from which may or may not make any difference to you, but I want you to hear it before you vote. I didn't propose or we didn't propose these renovations primarily in order to make more money. Although it was perfectly true, that if you guys approve this, we think we'll make more money I imagine that we will. But I -- we proposed to do this because we thought it would change the property in a way that would make it more attractive to many people. I, like you, grew up in a house -- I raised two daughters in a house with one bathroom and

two sinks and the idea that everybody has to have N-plus one bathrooms in their house where N is the number of bedrooms, I mean, we did fine in what we had. And the current tastes are frankly not my tastes, but there are, I think if we can do the dormer thing -- oh, and I guess the other thing I wanted to say was that I didn't see that any of the things that we proposed to do would in any way damage anybody. That they would be improvements to the building that would be so to say to the building. And I mean, we weren't asking to expand the footprint or do something that would make an impact on anybody else, but that it would simply change the building in a way that would make it more attractive to many people. And that's, that's all I really wanted you to understand about this. And I mean the other thing I thought was since there is the same dormer on the other side, it seemed, you know, reasonable that we would have a dormer on this side. Because it would make a real difference in what that third floor is gonna

be for a space for people. I mean if we could be -- because it means that you -- as I understand, it's a bigger space. It's a bigger ceiling. And it's gonna be a very attractive space. And without the dormer, it's a marginal space really. So anyway that's where I was coming from and I just wanted you to know that.

BRENDAN SULLIVAN: Sure.

CONSTANTINE ALEXANDER: Thank you.

BRENDAN SULLIVAN: That's reasonable.

CONSTANTINE ALEXANDER: Thank you.

BRENDAN SULLIVAN: So what you're proposing is to replicate what's on the other side basically. So it would be a mirror image?

SHERWOOD MARSHALL: Yes.

BRENDAN SULLIVAN: All right.

JAMES BECK: And we certainly can separate the two things. I mean, it -- I guess the other thing is I know from my -- I'm a psychiatrist, and I've had a Home Office for gees almost 40 years now, and I know what

that's like. You don't employ. At least I never employed anybody. People come one car at a time. The impact on the neighborhood is minimal. When I've looked at charts, when I came over to see what the guys are doing, there's parking there. Around the corner on Magazine Street there's always parking. So it is at least, but you're right, the fact that I imagined it doesn't mean that somebody who bought the place might not imagine something different. But again, just in terms of my own sense of what I was proposing and not harming anybody, that was the kind of thing that I imagined that a younger person like myself who -- because a Home Office is critical for psychotherapists, especially for mothers.

BRENDAN SULLIVAN: What is the proposed size of the room in the basement, the excavation? The size of the room?

SHERWOOD MARSHALL: It's 500 square feet. It's 14 by 20? I forget the actual dimensions.

JAMES BECK: I mean, it's the same

space that's there. The size of it isn't going to change.

SHERWOOD MARSHALL: It's 21 feet and that's 14, 2, I believe.

BRENDAN SULLIVAN: So 14, 2 by?

SHERWOOD MARSHALL: It's 13 in the basement because of the foundation wall.

BRENDAN SULLIVAN: 14 by 21 or something?

SHERWOOD MARSHALL: Yeah.

BRENDAN SULLIVAN: What's the size of the office you have currently in your house?

JAMES BECK: I live at 34 Bay Street which is on the other side of town. The, I don't know, it's small.

BRENDAN SULLIVAN: And it works?

JAMES BECK: Oh, it works very well.

BRENDAN SULLIVAN: Okay, thank you.

JAMES BECK: No, I can have a one patient. I can have a couple in there.

BRENDAN SULLIVAN: I don't mean to be the devil's advocate, but I've got the answer I was looking for. All right.

CONSTANTINE ALEXANDER: I can't support this petition. There's no substantial -- you've got to demonstrate -- to get a Variance you have to demonstrate hardship. You've demonstrated no hardship. What you're asking us to do, and it's -- and the issue is not whether you're causing harm to your neighbors. You're asking us to basically change the Zoning Ordinance as it applies to you, because you don't meet the requirements for a Variance. And we don't have the authority to do nor am I interested to do that. So I'm going to vote against it.

BRENDAN SULLIVAN: Can you separate the dormer from the basement work?

CONSTANTINE ALEXANDER: Well, I'd want to see -- I'd want to think about that. I don't want to answer off the top of my head.

BRENDAN SULLIVAN: Okay.

Tom?

THOMAS SCOTT: So, I'm kind of in agreement with Gus. I have less of a problem with the basement space because it's within

the confines of the existing perimeter of the house. So although there would be a significant change for whoever owns the house, it's a de minimus change for anybody who's viewing the house from the outside, they have a bigger problem with the dormer and repeating the same mistakes that occurred here. So I couldn't support the dormer in this case.

CONSTANTINE ALEXANDER: Question, Brendan. Am I right, that if we were to grant relief tonight, including for the Home Office, there's no assurance or requirement that whoever buys the property immediately or down the road would use it for a Home Office? They could use it for other purposes.

BRENDAN SULLIVAN: It could be a playroom.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: We're carving out a space.

CONSTANTINE ALEXANDER: It could be another apartment downstairs if they want to put a kitchen. I think we should keep in mind

that we're assuming it's going to be -- the basement excavation is going to be a Home Office, but there could be no assurance that that will in fact happen.

BRENDAN SULLIVAN: We're carving out a room to be --

SHERWOOD MARSHALL: Yeah, for whatever.

BRENDAN SULLIVAN: -- used as of right.

SHERWOOD MARSHALL: Exactly.

BRENDAN SULLIVAN: Mr. Myers.

DOUGLAS MYERS: Well, I'm -- the present state of affairs I don't see that I can support it. But for the reasons I said earlier, I mean I do -- we often do everything we can to avoid applying the hardship requirement of the Ordinance in an extremely stringent way when there's an applicant in front of us that has a specific need. But this is a case, really, is there a hardship requirement at the bottom of the Cambridge Ordinance that isn't there? And I have to really believe that we are, we are derelict

in our duties if we say ultimately there's a hardship requirement in the Cambridge Ordinance. And that being so, I really don't -- this is a case where there really is no hardship requirement. And plus other factors that are less important. The increase in FAR to me persuades me this is not a case, one of the many cases where we can trim and maneuver a little bit with the hardship requirement. This is real. This is a 20 percent increase in FAR and in an already non-conforming building. So I would have to vote against it.

BRENDAN SULLIVAN: Janet.

JANET GREEN: I'm not inclined to voted for it, but because of the space in the basement the increase in the FAR, I actually feel that the dormer looking at that house in that situation I can feel comfortable with that dormer especially given that we approved a dormer exactly like it on the other side of the house, but I do feel that it takes it too far over the FAR which is meant to keep the houses in a certain area at a certain size.

BRENDAN SULLIVAN: Okay. I could support the dormer only to mirror what's on the other side, I think for aesthetic value between the two to grant the dormer, but not the basement. And now we have difference of opinion there. So but it appears that what is presented before us is not going to garner the necessary four votes, and it would appear that splitting it possibly would not garner the necessary four votes.

So let me make a motion, then, to grant the relief.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude the Petitioner from adding much needed space at the roof level, hence this dormer. And that to also -- it would preclude the Petitioner from excavating the basement and providing some much needed and usable living space in the basement area.

The Board finds that the hardship is owing to the non-conforming nature of the

existing structure, and hence any addition of additional floor area space would require some relief from this Board.

The Board may grant the relief -- the Board can grant this relief would not be a substantial detriment to the public good, and that we may grant this relief without nullifying or substantially derogating from the intent and purpose of the Ordinance.

All those in favor of granting the relief requested, please raise your hand.

(No Response.)

BRENDAN SULLIVAN: There are no votes in support. Four votes -- five votes in opposition.

Not receiving the necessary four affirmative votes, the Variance is denied.

The relief for the Special Permit would be mute at this point -- well, maybe not.

SHERWOOD MARSHALL: It's on the first floor of the House.

BRENDAN SULLIVAN: To enlarge four first floor windows back to the original and historic accurate proportions. We haven't

really got into that. So if you could just briefly run through that, the existing and proposed.

CONSTANTINE ALEXANDER: And going through that, the neighbor who spoke tonight would be affected by these windows?

SHERWOOD MARSHALL: She would be.

CONSTANTINE ALEXANDER: You might have an interest.

ALICE DEGENNARO: I'm fine with the enlarging of the windows.

SHERWOOD MARSHALL: I've walked her through the property.

CONSTANTINE ALEXANDER: Okay.

SHERWOOD MARSHALL: I have a picture of what we're proposing currently. And the windows on the first floor were all that short originally. And they've already been -- Sean allowed us to do that. We met the setback requirements to do some of the ones on the first floor but not these four.

BRENDAN SULLIVAN: Okay. We've seen those windows.

DOUGLAS MYERS: Yes.

CONSTANTINE ALEXANDER: I'm fine.

BRENDAN SULLIVAN: All right.

Let me ask again if anybody regarding the Special Permit, is there anybody who would like to comment on the Special Permit to enlarge the windows?

(No Response.)

BRENDAN SULLIVAN: The abutting neighbor has expressed support for the Special Permit.

Let me make a motion to grant the Special Permit as per the application to enlarge four first floor windows back to the original and historic accurate proportions as per the plans submitted.

The Board finds that the requirements of the Ordinance can be met, and that traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character.

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

not be adversely affected by the nature of the proposed use. There would not be any nuisance or hazard created to the detriment of the health, safety, or welfare of the occupants of the proposed use or to the citizens of the city. And the proposed use would not impair the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of the Ordinance.

All those in favor of granting the Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor of granting the Special permit.

Okay.

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

JAMES BECK: Can I please ask you something else?

BRENDAN SULLIVAN: Sure.

JAMES BECK: Because I'm really -- let me say that I'm personally disappointed, but given the law, I understand

where you're coming from, and I can't, I can't disagree with you. But what's interesting to me is that last year you approved the Variance for the dormer, for the other people and presumably because they came in -- I mean, obviously I wasn't here, and they said something about we really need this space and it's some kind of a hardship to us if you don't approve the dormer. So that on that basis you were able to decide that it was within the law and you approved that dormer. So from a physical standpoint there's no difference between our dormer and their dormer. What's different is that this house is empty at this point. So if somebody were living there and came in to you and said we really need more space up on the third floor and made some kind of a case for a hardship, then presumably you all would look at differently. And I'm not asking you to say how you would vote. But am I correctly identifying what the issues are for involving the decision in relation to the dormer? And we'll leave the basement aside. I mean presumably somebody could make the

same argument about that, but I mean even for management of I think it's too bad about the dormer, because I think it would have been nice. So but that's just -- I mean have I got that more your less right?

THOMAS SCOTT: So as far as I'm concerned, I wouldn't change my opinion about the dormer. So I don't know how my Board members would vote, but I wouldn't change my opinion.

JAMES BECK: Okay, all right. What's the difference between this year and last year or is that a dumb question?

THOMAS SCOTT: I wasn't here so I don't know.

JAMES BECK: All right, fair enough.

JANET GREEN: I wasn't here either.

JAMES BECK: Okay, fair enough.

SHERWOOD MARSHALL: Different Board?

THOMAS SCOTT: We didn't sit on that case.

DOUGLAS MYERS: I'll try to answer your question. This is -- we have been

informed by the Law Department of the City of Cambridge, not in an official way, but it's been discussed, it's been a source of discussion, that this Board is not to regard its previous decisions as binding or precedent. That we have been advised that because of -- we're not a court. We simply try to decide each case before us in a fair way. Board members feel we should try to avoid glaring inconsistencies. But in fact such advice that we receive from the Law Department is simply to try to decide each case in accordance with the Ordinance that we think is fair.

JAMES BECK: Thank you.

BRENDAN SULLIVAN: I think each case is specific and it's difficult to say, you know, you did this and, you know, because I think that each one has its own merits or lack thereof, I guess, to satisfy your answer. But anyhow.

JAMES BECK: That's fine. Thank you for your time and attention.

(9:20 p.m.)

(Sitting Members: Brendan Sullivan, Janet Green, Douglas Myers, Slater Anderson, Mahmood R. Firouzbakht.)

BRENDAN SULLIVAN: The Board is now going to hear case No. 10328, 249 Walden

Street.

BRIAN WILSON: Good evening, Mr. Chairman, members of the Board, my name is Brian Wilson representing MetroPCS in a continuation. I came before this Board on September 27th requesting a Special Permit on behalf of MetroPCS to modify an existing wireless communication facility by the addition of one dish antenna to be located in what we proposed to be a two-foot extension of an existing stealth feature on the rooftop at 249 Walden.

The Board had requested that we look at some alternative designs that would not increase the height of the existing enclosure, and I'm happy to say that we have some design alternatives that I think the Board will be pleased with.

The first design alternative involves increasing the width -- I have one for everyone -- increasing the width of the existing stealth chimney instead of increasing the height such that the additional antenna could be enclosed within

the existing stealth chimney with just the addition of six inches to the width of that chimney. And as you can see in the plans and photo simulations of that proposed modification, the alteration is barely visible. However, we also have another option that invisible may be better than barely visible.

And the in the second alternative we have lowered the height of the proposed antenna such that it will attach to the existing chimney structure, but the outside of the existing chimney structure can be low enough so that it will not be visible on the street level. And these plans and photo simulations show that design alternative. And, again, this is an antenna that is not enclosed within any kind of stealthing but just by its placement on the rooftop is not visible to passersby.

If the Board sees these alternatives as equally desirable, it would certainly be MetroPCS's request that the Board approve the design where the antenna is located outside

of the existing stealth enclosure.

DOUGLAS MYERS: That is the alternative where the dish is barely visible?

BRIAN WILSON: That's correct.

BRENDAN SULLIVAN: And the reason for that is just ease of maintenance, ease of better transmission? I guess my question what does that do for you guys?

BRIAN WILSON: What it does for us is it saves us cost for construction. The stealthing material is substantial, is a substantial cost, approximately \$5,000 for MetroPCS. And when the stealthing material gets wet, it does diminish the signal transmission as opposed to when the dish is outside of the stealthing material, it does not diminish the transmission. And our goal through the addition of this antenna is to improve service to residents of Cambridge and our customers who are passing through Cambridge. So we're trying to maximize our signal input and transmission speeds for all of the citizens.

BRENDAN SULLIVAN: So if I look at

sheet A-2 on your second scheme --

BRIAN WILSON: Yes.

BRENDAN SULLIVAN: -- and you're at five feet; is that correct, to the top of the dish off the roof?

BRIAN WILSON: Yes, that is -- no, that's three feet. I'm sorry.

BRENDAN SULLIVAN: Oh, is it three?

BRIAN WILSON: Yes. If it's hard to read it on there perhaps it would be easier on the larger plan which I can give you. That's three feet.

BRENDAN SULLIVAN: Okay. I'll ask you for a magnifying glass next.

BRIAN WILSON: The total structure is currently nine feet I believe.

BRENDAN SULLIVAN: 5', 10' off the roof line. 8', 1' off the parapet. And your testimony is that if I'm driving down Walden Street, if I'm coming down Sherman Street, I'm not going to see the dish at all?

BRIAN WILSON: Yes, and that's the --

BRENDAN SULLIVAN: So if you go

ahead and do this, and I drive down Walden Street or I drive down Sherman Street and see this --

SLATER ANDERSON: I drive this everyday.

MAHMOOD FIROUZBAKHT: I do, too.

DOUGLAS MYERS: Your phone might be ringing.

BRIAN WILSON: That's fine. We are, you know, we want to please the Board and make representations that are true to our word. So if the Board determines that after the installation that we have not met our representations made tonight, then we would certainly consider that a violation of what we've represented and would modify it accordingly.

BRENDAN SULLIVAN: Okay. I suppose also painting it the background color of the brick would -- might camouflage it even more.

BRIAN WILSON: Yeah, and that's no hardship on us.

BRENDAN SULLIVAN: Right, okay. So your presentation is to have it on the

exterior, is it's an easier installation. It's a -- it would make for a better facility.

BRIAN WILSON: Yes.

BRENDAN SULLIVAN: And given the elements, the weather.

BRIAN WILSON: Yes, please.

BRENDAN SULLIVAN: Okay.

SLATER ANDERSON: Forgive my -- if I'm not clear on this. This is being attached to the existing -- not the faux chimney but the existing chimney, is that not right?

BRIAN WILSON: Okay. It's being attached -- the way this installation works is there is a structural stand that's built on the roof with a pipe that goes up to center and then the faux chimney gets put over the outside of that pipe. So what we are proposing is that we'll put a standoff on that structural member that supports the chimney that would come out horizontally to support this antenna. And that would allow us to locate the antenna in an optimal position for radio transmission without having to

increase the mass of the chimney, and would also eliminate visibility of this antenna from passersby.

BRENDAN SULLIVAN: So the faux chimney does not change its size?

BRIAN WILSON: Correct.

SLATER ANDERSON: There is the existing chimney next to it that's confusing me.

BRIAN WILSON: We are not making any changes to the existing chimney.

BRENDAN SULLIVAN: The existing chimney is a functioning chimney?

SLATER ANDERSON: Which you can't see from the ground here it looks like.

BRIAN WILSON: Right. Which is more evidence that you won't be able to see our antenna.

SLATER ANDERSON: What's confusing in this picture is I thought this, which I think is actually part of this building was on this building.

BRIAN WILSON: Yes, correct. It is sort of a confusing angle.

SLATER ANDERSON: Okay.

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

Is there anybody here who would like to speak on the matter 249 Walden Street.

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance. There is no correspondence in the file. The Planning Board has left it up to the -- expresses no comments on this application. Leaves it up to the Board. So I will close the public comment part. Anything to add or say?

BRIAN WILSON: No. Again, of the two alternatives put before the Board this evening, it would be our preference to have the antenna located outside of the stealth chimney.

DOUGLAS MYERS: Have you heard any further contact with the Planning Board in regard to the alternatives you're suggesting this evening?

BRIAN WILSON: No, I have not.

DOUGLAS MYERS: What about -- do

both of these alternatives obviate previous questions by this Board about profile brackets and pole mounts?

BRIAN WILSON: I'm sorry, I don't recall those questions.

DOUGLAS MYERS: I thought that the --

BRENDAN SULLIVAN: Well, I think in --

DOUGLAS MYERS: I think I'm mistaken.

BRIAN WILSON: Was that for the Lesley College site perhaps? Which we also heard on the evening of the 27th.

DOUGLAS MYERS: Let's withdraw that question.

BRIAN WILSON: Okay.

BRENDAN SULLIVAN: Yes, the initial discussion on this was that the equipment was going to be located into an expanded --

DOUGLAS MYERS: Correct.

BRENDAN SULLIVAN: -- faux chimney.

DOUGLAS MYERS: Either a cluster --

JANET GREEN: And there was a

question of two chimneys or one bigger chimney.

BRENDAN SULLIVAN: And whether we can eliminate the height by going wider. And now the proposal is we can go wider, it would be inside or we could keep the faux chimney the exact same dimension but locate the equipment on the outside.

BRIAN WILSON: Yes.

BRENDAN SULLIVAN: And make it totally not visible from the public way. Okay.

Any questions?

MAHMOOD FIROUZBAKHT: You know, I'm actually fine with either alternative you propose, so that's my position. Out of curiosity to the extent that this is an option to mount this exterior dish, is it possible to do that same kind of installation or induce the height of the existing faux chimney?

BRIAN WILSON: No, because of the nature -- this is not apples to apples antenna technology. So that the existing chimneys that are on the site with the panel style

antennas enclosed within are to provide 360-degree service to residents and travellers of the City of Cambridge. The antenna that we're proposing to add is for point-to-point communication between and among our existing facilities within the City of Cambridge to increase throughput speed where the cutting edge of wireless competition and technology is in speed of transmission. The technology for increasing speed has involved beyond that technology to increase speed on land lines. So this is strictly a point of site from this facility to another facility which allows us to put it lower. We can still have that point of site to the connecting communication facility, whereas if we lowered our panel antennas, we would get too much shadowing from the roof and we wouldn't be able to provide adequate coverage to the street level.

MAHMOOD FIROUZBAKHT: Thank you.

BRENDAN SULLIVAN: Slater, any questions at all?

SLATER ANDERSON: No. I think I'm fine with the external mount if that's the preferred approach. It is -- it's always -- it's a lesson in how architectural plans are very deceptive. And you look at this and you find it hard believe that you can't see, you wouldn't be able to see this second chimney.

BRIAN WILSON: If you were in a bucket truck.

SLATER ANDERSON: Yes, I know. But, you know, you have the pictures here and I can't see that second chimney and the dish is below that, so I'm confident in your representation that it won't be visible so I'm fine with it.

BRIAN WILSON: Okay.

BRENDAN SULLIVAN: Any questions?

DOUGLAS MYERS: Did you say something about painting the dish or trying to make the dish so it would be more compatible in appearance?

BRIAN WILSON: The Chairman suggested that as an option and I have no

objection to that if the Board would like that.

DOUGLAS MYERS: Otherwise I'm comfortable with either alternative. I agree with other Board members. I listened to what Board members said between the two alternatives, but either is acceptable to me.

JANET GREEN: I'm fine with either one.

BRENDAN SULLIVAN: Let me just go through some pro forma. In reviewing a Special Permit application for mobile communication facility, the Board shall consider the following in reaching a determination:

The scope of or limitation imposed by any licensed secured from any state or federal agency having jurisdiction over such matters. You are duly licensed but there are no limitations imposed that would preclude you from this application.

BRIAN WILSON: That's correct.

BRENDAN SULLIVAN: The extent to which the visual impact of the various

elements of the proposed facility is minimized, the presentation is that it is not visible from the public way. It will be externally mounted.

The color of the dish, the antenna, will match the background color of the faux chimney which will camouflage it even more.

It is not being proposed in a residential district. The district is Business A.

And in granting the Special Permit the Board shall set forth in its decision under which circumstances the Permittee shall be allowed to replace or upgrade its equipment without the necessity of seeking a new Special Permit.

Note that the Board is granting this particular Special Permit would require the Petitioner to come back should he change the equipment different than the size and shape to which is being granted now.

And also on the further condition that should the equipment be rendered obsolete or not in use, shall be removed within a period

of 60 days, and that the building element facade shall be restored to its original condition prior to the installation of such facility should be restored to its original condition prior to the installation of this facility.

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

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

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

The Board finds that there is already an existing telecommunication facility on the premises.

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

The Board finds that upgrading

equipment would enhance the operation of adjacent uses.

There would not be any nuisance or hazard created to the detriment of the health, safety, or/or welfare of the occupant of the proposed use or to the citizens of the city. And the proposed use would not impair the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of the Ordinance.

I make a motion to grant -- I may need a little guidance on this. We are granting, is it BOS0163-D?

BRIAN WILSON: That is correct. That is our site designation. So that would reflect all of the options presented to this Board. The option -- let's see, what would be --

BRENDAN SULLIVAN: And there are drawings which will be initialed by the Chair. I'm seeing T-1, N-1, C-1, A-1, A-2, S-1, E-1.

SLATER ANDERSON: Take a look at A-1 and A-2.

BRENDAN SULLIVAN: So from T-1 and to E-1 and those in between.

I'm sorry, which one is it now? The pertinent one is A-1 and A-2?

SLATER ANDERSON: Yes, A-1 and A-2 unfortunately are labelled A-1 and A-2 in both scenarios.

BRIAN WILSON: The plans that -- excuse me.

BRENDAN SULLIVAN: Okay, A-2 in this packet here is the one I'm going to initial.

SLATER ANDERSON: That has the dish on the outside.

BRENDAN SULLIVAN: That has the dish on the outside.

BRIAN WILSON: In terms of the differentiation between the two proposals, Revision 2 dated 10/25 is with the antennas within the chimney. And Revision 1 dated October 18th is the exterior. This is the one that I am requesting that the Board approve and the Board has agreed to vote on.

DOUGLAS MYERS: The dish?

BRIAN WILSON: Yes.

BRENDAN SULLIVAN: Okay, that's correct.

An exterior mount.

All on the motion to grant the Special Permit.

DOUGLAS MYERS: Mr. Chairman, on the condition that the dish be painted to match the adjacent faux chimney?

BRENDAN SULLIVAN: I thought I put that in there, but we will reinforce that.

On the motion?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

(9:40 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Thomas Scott, Janet Green, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case No. 10340, 127 Smith Place.

Just as an aside before we get going. I have a Little League team and I asked one of my players or something what they do because they do different things, and some actually did ballet, which I thought was great and he thought it was not cool but his mother made him do it. Also one of the other -- we had a practice and one of the father came up to me and said he can't make that practice because he has something else. I said, what he does he do? And they said he does fencing. And I thought that was --

CONSTANTINE ALEXANDER: Does he go to that fencing school?

BRENDAN SULLIVAN: No, no, not at all. But I thought it was great for an 11-year-old kid to start. And the father went into this whole thing. I thought it was great. So anyhow.

JANET GREEN: I fenced in college.

DANIEL HONDOR: You did?

JANET GREEN: Yes.

BRENDAN SULLIVAN: Okay, that was just an aside.

If you would introduce yourself for the record.

DANIEL HONDOR: My name is Daniel Hondor. I am basically a fencing coach for 37, 38 years now. I coached in Somerville for the last ten years. I want to bring fencing to Cambridge. We have a lot of families that actually are training with me in Somerville, they are from Cambridge. So basically she's one of them. And we just want to move the whole fencing to Cambridge. The place that we found at 127 Smith Place it's probably best for us.

It's -- fencing requires a lot of space so basically our strips, our fencing requires on 50' by 6' strips.

CONSTANTINE ALEXANDER: Where would be the entrance to your -- would you go through the gymnasium door?

DANIEL HONDOR: It's actually on the back.

CONSTANTINE ALEXANDER: The back?

DANIEL HONDOR: The gym, they have their own entrance and right on the corner it

will be --

CONSTANTINE ALEXANDER: So you have a separate entrance?

DANIEL HONDOR: Yes.

BRENDAN SULLIVAN: Where are you located now?

DANIEL HONDOR: Somerville on Windsor Street. It's not my club. I just work there.

BRENDAN SULLIVAN: I'm sorry?

DANIEL HONDOR: I don't own that club. I'm the head coach there.

BRENDAN SULLIVAN: Okay.

And the difference between that facility and this facility; size, space?

DANIEL HONDOR: This is probably like a thousand square foot larger.

BRENDAN SULLIVAN: Okay.

DANIEL HONDOR: No, maybe less. Maybe 600.

BRENDAN SULLIVAN: And the occupancy and the number of people?

DANIEL HONDOR: We have actually we're running classes, classes of 12. We

don't like to have more than 12 kids per coach. So probably that time will be 12 kids plus parents.

CONSTANTINE ALEXANDER: Is it just kids?

DANIEL HONDOR: No, we do have mainly kids. I mean, basically I run the competitive program so my kids are anywhere from 9 to -- until they go to college, 16, 17. We do have adults programs. We found actually there are a lot of adults that didn't know what fencing is. They just fell in love with the sport.

CONSTANTINE ALEXANDER: What are the hours of operation if we grant you relief?

DANIEL HONDOR: 4:00 to 7:30.

CONSTANTINE ALEXANDER: Seven days a week?

DANIEL HONDOR: Five days a week. Saturday, Sunday we do have some opening.

CONSTANTINE ALEXANDER: So late afternoon, early evening?

DANIEL HONDOR: Yeah, pretty much. The kids got to go to school early in the

morning so we try not to keep it too late.

BRENDAN SULLIVAN: I'm sorry, so it's four o'clock in the afternoon, is that what you said?

DANIEL HONDOR: We start fencing four o'clock in the afternoon.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Sounds like Little League practice, same hours.

DANIEL HONDOR: Well, the kids come from after school and basically they come to class, most of them do homework in there and then we start the classes then.

BRENDAN SULLIVAN: You're asking for a Special Permit to operate a fencing studio with occasional classes. An educational use under 4.33.b.6 is allowed by Special Permit. So it's not a Use Variance.

CONSTANTINE ALEXANDER: Right, right.

BRENDAN SULLIVAN: And just it has to be by way of a Special Permit.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: Okay.

DANIEL HONDOR: And that --

BRENDAN SULLIVAN: Okay. Any further questions at this point?

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: Tom?

THOMAS SCOTT: No.

BRENDAN SULLIVAN: Janet? Doug?

Let me open it public comments. Is there anybody who would like to speak on the matter of 127 Smith Place?

ANGELICA BRISK: I would. My name's Angelica, A-n-g-e-l-i-c-a Brisk, B-r-i-s-k and I live at 45 Walden Street in Cambridge. Both my daughters were here, fell in love with fencing. We don't really know how it all started. And then they got me fencing as well. And I'm also a teacher in the public schools at the high school. And one of the things I've noticed is that it is a growing sport, and all the kids that are fencing that are at -- there are now 10 kids in the building that fence and they're all fencing outside of Cambridge. As -- some as far as Needham.

And the other thing that it just, you know, in terms of as a -- it's a growing sport. When we started -- when my oldest daughter started, the events, the national events would be maybe 100, 125 girls in the event. Now there are 175, 200 girls in an event. Women's ages just got bronze in the Olympics. It's becoming a viable sport, and I also think it's -- I mean I don't know how much that goes into your deliberations, but I think it's growing not waning. And I think there's a lot of interest with kids. And I've been asked by deans at the high school to consider starting a club at the school, but they can't bring swords into school so it would have to be coordinated some other way. So there is definitely interest, and I -- it's funny how many people come up and say, you know, I used to fence. So they start getting more interested.

BRENDAN SULLIVAN: Okay, thank you.

There is correspondence in the file from the Gymnastic Academy of Boston.

(Reading) To Whom This May Concern: Here at

the Gymnastics Academy of Boston we are pleased to have Daniel Hondor as our neighbor. We respect what he is doing and hope all works out for him. We do not think this will be a distraction of any kind. We thank you for letting us know in advance. Please contact us with any questions or concerns. Thank you, Jennifer Stone, Office Manager, Gymnastics Academy of Boston, Cambridge, 128 Smith Place.

And that is the sum substance of correspondence.

Okay, I will close the public comment part of it. Nothing else to add?

DANIEL HONDOR: I actually, I went ahead and talked to one of my other neighbors which is in the building. You should have that one also. I just wanted to make sure that everybody is okay with what we're going to do in there.

BRENDAN SULLIVAN: There is correspondence from Doctor Ramsey Gilbert, G-i-l-b-e-r-t, 127 Smith Place. Business out of that address. (Reading) I have

recently heard that Mr. Daniel Hondor is interested in opening a fencing club next-door. I couldn't be more supportive. Having more businesses in the area is good for all of us and for the City. Aside from that I believe that a club dedicated to a sport will be a good fit for our business and our building since in addition to my practice we also house a gym. I've had the opportunity to meet Mr. Hondor in person and I'm convinced he's determined to make his fencing club a success. I fully endorse his request for a license and look forward to welcoming his club to the neighborhood.

ANGELICA BRISK: Can I add one thing?

BRENDAN SULLIVAN: Yes.

ANGELICA BRISK: Because of the specifics. I met Daniel when my oldest wanted to start fencing, and one of the things that's impressed me about him is just that he is extremely generous with his time in helping students just call their talent. And so I just think he's a very generous

person and has always been a good friend as well as, you know, in this pursuit for my kids.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Good.

BRENDAN SULLIVAN: Any other questions? Concerns?

DOUGLAS MYERS: No, I'll just say I fall into that category of someone who is a former fencer. My college fencing coach told me, Mr. Myers, he said, you have absolutely no talent for fencing. So the least I could do is help others invoke --

DANIEL HONDOR: Believe me I was told the same thing when I started, when I was 7, when I was 8, and it turned out to be my life.

BRENDAN SULLIVAN: I'll make a motion to grant the Special Permit to allow a fencing studio to operate at 127 Smith Place as per the application.

It appears the requirements of the Ordinance can be met.

It appears that traffic generated or

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

The Board finds that the continued operation of or development of adjacent uses would not be adversely affected by the nature of the proposed use.

The Board notes the letter of support from abutters and adjoining businesses.

The Board finds that there would not any nuisance or hazard created to the detriment of the health, safety, and/or welfare of the occupants of the proposed use.

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

All those in favor of granting the Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

BRENDAN SULLIVAN: Great.

What is the earliest, the minimal age that you would allow?

DANIEL HONDOR: We just started bringing six years old.

BRENDAN SULLIVAN: Six?
Interesting. Good luck.

DANIEL HONDOR: I have a question. When are we actually allowed to start the gym classes?

BRENDAN SULLIVAN: It will take about six weeks for it to become effective and three weeks probably the decision will come out, go to the Law Department. They review it. It gets typed up into a formal legal document. I sign it. It gets filed and then there's a 20-day appeal period. So it's probably six weeks.

CONSTANTINE ALEXANDER: Brendan, I think in these kind of cases, I may be wrong, but they allow them to start their operations during the appeal period. They may not have to wait for the appeal period. I'm not sure. Check with Sean O'Grady.

BRENDAN SULLIVAN: I was going say

depending upon the use, sometimes for Special Permits, the Department will allow you to proceed at your own risk. But you should check with the Commissioner on that or the Building Department anyhow.

DANIEL HONDOR: Okay.

BRENDAN SULLIVAN: I can't answer that for you. But the long answer is six weeks. The short answer is maybe a lot sooner than that. And they can answer that for you. So I would wait until possibly next Wednesday, Thursday when the Commissioner will be in.

MARIA PACHECO: Yes.

BRENDAN SULLIVAN: He's on special assignment this week at an undisclosed location and will be back then. I would ask him next week.

DANIEL HONDOR: Thank you very much.

(9:55 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Thomas Scott, Janet
Green, Douglas Myers.)

BRENDAN SULLIVAN: Okay, the next
case will be Hurlbut Street. The Board will

hear case No. 1341, 3 Hurlbut Street.

ATTORNEY SEAN HOPE: Good evening, Mr. Chair, Members of the Board, Attorney Sean Hope of Cambridge. Tonight I have the owners of 3 Hurlbut Street Mr. Michael Goldstein.

MICHAEL GOLDSTEIN:
G-o-l-d-s-t-e-i-n.

ATTORNEY SEAN HOPE: And Jennifer Rapaport.

JENNIFER RAPAPORT: Hi.
R-a-p-a-p-o-r-t. Jennifer.

ATTORNEY SEAN HOPE: And on behalf of Peter Quinn Architects, we have Milton Yu.

MILTON YU: Y-u.

ATTORNEY SEAN HOPE: So this is an application to pivot or raise the roof of an existing bulkhead to allow for a passageway between an existing garage and house. This is located in the Res B District and it's located on the corner lot. The nature of the relief is Variance relief by decision of Inspectional Services.

The existing garage and the house are

corrected, so although the existing house is not within the setback, the garage is abutting the rear property line so that any change along that line would be require relief. Additionally by raising the roof height allowing for a passageway, they are building a floor which is approximately 20 square feet. The existing house is over the allowed FAR so that additional 20 square feet would be also dimensional relief as well.

The Petitioners are a growing family. They have three young children. The youngest is five-years-old. And right now the garage in order to access the house, you have to come outside and go into a side entrance. Because this is on a corner lot, the actual front entrance to the property on Hurlbut Street is actually quite some distance. And so the rationale behind the change is to really allow safe access from the garage into the house.

And now they are doing renovations to the house and primarily it's through the kitchen -- and Milton can walk you through

those renovations. But the renovations through center around creating a large eat-in kitchen as well as going into the family room that's going to be the primary living space area so there's a level of functionality to allow for access from that garage into the kitchen. So as you can see from the drawings, and part of the challenge is if you don't go there to see it, it's hard to imagine. But if you go on to the east elevation that's along Martin Street, you can see the existing brick garage and you'll see the top of the bulkhead that slants down towards the west property line. So what are they are they're doing is actually just raising the back side of the bulkhead to allow for a passageway. And then I'll note for the Board there's already an existing door that's on the garage, but it's too far back to use that. So the idea is to have a door centered in the middle of the garage to have easy access. I'd also say because of the two car garage, by allowing a passageway, it actually allows for an appropriate pedestrian way

that's separate from the driveway so that if you have a car coming and going, so there would be a way for pedestrians to traverse without going outside.

But back to the nature of the relief, if the two buildings weren't connected, it would be conceivably possible to be able to create a passageway uncovered without relief. But because these two buildings were actually connected, in order to create this passageway and then to make it covered, then we would need relief.

So I would say it's really the size of the lot and the fact that these two structures -- one was a Victorian that was built in I think 1883 and then 40 years later this non-conforming brick garage was created. So these houses were created long ago and didn't have functionality. We also reached out to the abutters in terms of the impact. You'll see there are letters in the file. The actual roof height is not going to be any -- it's going to be lower than the existing garage. So there's no visibility

in line of site issue. It's actually probably not noticeable from the front of the street, but we had reached out to the neighbors in terms of support. I don't know if there's any questions if you wanted Milton to walk through, but the renovations are primarily interior, so there's really not much there. But the nature of the relief is really about this existing roof height and raising that to allow for a passageway.

BRENDAN SULLIVAN: I see the floor plan. Is there an elevation at all?

MILTON YU: We have the photos and the section on A-13 if you want to look at some height information.

BRENDAN SULLIVAN: I don't see one in the file.

CONSTANTINE ALEXANDER: I didn't see one.

DOUGLAS MYERS: I didn't see it either.

MILTON YU: You don't have a section drawing?

BRENDAN SULLIVAN: No. Yes, that's

what we're looking for. No, there's nothing in the file. The only thing in the file was this and this. And that's it.

MILTON YU: You can take a look at that.

BRENDAN SULLIVAN: Yes, none of this is in the file.

CONSTANTINE ALEXANDER: You're supposed to have these filed by five p.m. -- before the hearing. That's the reason the Chairman is bringing this out.

MILTON YU: I had a date on the -- from an earlier submission from earlier in the month.

BRENDAN SULLIVAN: Yes. This is not -- this was not in the file.

MILTON YU: I'll get that to you. So that's what this dotted line represents the existing bulkhead downstairs.

BRENDAN SULLIVAN: Is here and then you go down here. And then what you're proposing to do is --

MILTON YU: To have the passageway coming from the garage into the kitchen.

BRENDAN SULLIVAN: Is to open up a door in the garage which will then allow you entry in the house.

MILTON YU: Right. So the roof is already there. It's raising the existing roof so to speak.

MICHAEL GOLDSTEIN: And they would still be able to go into the basement and this is the new landing that's proposed here so you'll be able to walk below that to access.

BRENDAN SULLIVAN: Okay, so the area below this existing roof --

MILTON YU: Right.

BRENDAN SULLIVAN: -- is comparable to the area that is going to be below this roof?

MILTON YU: Actually a little bit less.

BRENDAN SULLIVAN: Except that the five foot -- I don't know if that's included or not. But anyway, does that add up to 20 square feet?

ATTORNEY SEAN HOPE: Yes.

MILTON YU: That drawing shows the

height does not exceed.

BRENDAN SULLIVAN: You filed it, the petition?

ATTORNEY SEAN HOPE: Yes.

BRENDAN SULLIVAN: Did you notice if those drawings were in the file when it was filed?

ATTORNEY SEAN HOPE: To be honest, I don't remember. That was part of the drawing packets. It had the plot plan as well as the elevations in it.

DOUGLAS MYERS: So the raised roof would be raised to what height?

MILTON YU: From the grade about 11 feet.

DOUGLAS MYERS: That would be the aggregate total height?

MILTON YU: From the grade.

DOUGLAS MYERS: From the ground level.

MILTON YU: But it's still below the existing garage.

DOUGLAS MYERS: And what is the height of the existing garage?

MILTON YU: It's another six, six inches or so.

DOUGLAS MYERS: Six inches above the 11 feet you just mentioned.

MILTON YU: Right.

ATTORNEY SEAN HOPE: And also the bulkhead door right now is nine feet above grade so when you raise the slant, it's an additional two to three feet.

MILTON YU: So from the garage side you probably wouldn't be able to see -- from the garage side you wouldn't be able to see the back end as it's higher than the front end.

JANET GREEN: It's a complicated problem.

ATTORNEY SEAN HOPE: It is.

MICHAEL GOLDSTEIN: It seems like it would be simple.

JANET GREEN: It does seem like it would be simple, but I went over and looked at it.

MICHAEL GOLDSTEIN: Oh, you did?

JANET GREEN: Yes.

MILTON YU: I think this photo would help understand the geometry. So this is from the --

JANET GREEN: Okay. That's the roof; right?

MILTON YU: This is the roof of the bulkhead going down. So this is the proportion that will be.

BRENDAN SULLIVAN: So you're taking this and going like that?

JENNIFER RAPAPORT: Exactly.

MILTON YU: Right.

BRENDAN SULLIVAN: Okay, any questions at this point?

CONSTANTINE ALEXANDER: No. I would say that were the relief being sought not so innocuous, I would require this case be continued. And you just can't come in tonight and show us plans and photographs. They should be in the file. And, Sean, you know better. That should be the case. But it strikes me as a no-brainer. The impact on the visual impact, the nature of the change is just nothing. So I'm in favor of granting

the relief. But I am disappointed in the condition of the file.

BRENDAN SULLIVAN: Tom, any questions?

THOMAS SCOTT: Yes, I kind of agree with Gus. I would have liked to have seen these in the file. Can these be added to the file? And there's no elevation showing what this looks like from the back or the front. There's no elevations?

MILTON YU: Not as of yet.

ATTORNEY SEAN HOPE: Those are the only plans that were going to be part of the presentation.

BRENDAN SULLIVAN: But this is a doorway here obviously going down the stairs?

MILTON YU: Right.

BRENDAN SULLIVAN: That's a door?

MILTON YU: That's existing.

BRENDAN SULLIVAN: Okay, a door. And this wall is going to be a blank wall, I guess or maybe is there a window in this?

MILTON YU: No.

BRENDAN SULLIVAN: No? Okay.

Any questions?

DOUGLAS MYERS: No, no, just if you want to avoid repetition of this evening, these have to be date stamped plans timely in the file. I'll certainly vote for it even in the present state of the record.

BRENDAN SULLIVAN: Janet?

JANET GREEN: I have no problem with it.

BRENDAN SULLIVAN: Let me open it public comment.

Is there anybody here who would like to speak on the matter case No. 10341, 3 Hurlbut?

(No Response.)

BRENDAN SULLIVAN: There's nobody in attendance.

There is correspondence in the file. (Reading) Dear Mr. Chairman: I'm writing in support of the Variance application to connect the existing garage to the main house at 3 Hurlbut. The requested relief is modest in nature and will be of great benefit to Jennifer and Michael and their three school-aged children. We abut 3 Hurlbut and

I believe granting the requested relief will provide safe access from the garage and it would not be a detriment or nuisance to the neighborhood. Signed Rick Bayly, B-a-y-l-y, 31 Martin Street.

Correspondence from Susan Winickoff, W-i-n-i-c-k-o-f-f. (Reading) We reside at 9 Hurlbut Street and are abutters of 3 Hurlbut. I'm writing in support of the Variance application to connect the existing garage to the main house at 3 Hurlbut. I believe that the slight change requested would be very helpful to a family with small children and would not impact the neighborhood.

And that's the sum substance of the correspondence. Nothing else to add to it?

ATTORNEY SEAN HOPE: No.

BRENDAN SULLIVAN: Let me close public comment.

Anything else to add, Mr. Hope, before we decide your fate?

ATTORNEY SEAN HOPE: That was it.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: I'm in

favor.

THOMAS SCOTT: I'm good.

DOUGLAS MYERS: I have spoken.

JANET GREEN: I'm good.

BRENDAN SULLIVAN: Let me make a motion, then, to grant the relief requested, granting of a Variance to raise the roof height of a roofed area connecting the existing house to the non-conforming garage.

Now is this your only set of drawings?

MILTON YU: Yes, but I can e-mail PDF's to every member.

BRENDAN SULLIVAN: Why don't we do --

CONSTANTINE ALEXANDER: Why don't we keep these.

ATTORNEY SEAN HOPE: Yes.

BRENDAN SULLIVAN: I'm going to sign those.

ATTORNEY SEAN HOPE: We have duplicates.

BRENDAN SULLIVAN: PDF all you want.

DOUGLAS MYERS: You can complete your own file.

BRENDAN SULLIVAN: And you can send yourself a copy.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude them from altering this entryway into the basement, and also providing a safe entrance from the garage to the house is owing to the non-conforming nature of the two structures and a more aesthetically pleasing one.

The Board finds that the hardship is owing to the non-conforming nature of the two structures, garage vis-a-vis the house and this connecting link which predates the existing Ordinance.

The Board finds that desirable relief may be granted without substantial detriment to the public good.

The Board notes the letters of abutters in support of the application, and relief may be granted without nullifying or substantially derogating from the intent and

purpose of the Ordinance.

The Board notes that the requested Variance and the work to be done is de minimus in nature, would be far more aesthetically pleasing than what the existing condition is, and that also provides for a much safer and far more adequate entrance to the basement and also into the house.

On the condition that the work conform to the drawings as submitted and the dimensional form apart thereof and dated by the Chair.

All those in favor of granting the relief?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

BRENDAN SULLIVAN: Good luck.

(10:10 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Thomas Scott, Janet Green, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case No. 10342, 71 Fresh Pond Lane. Neither one of you are Judith. If you would introduce yourself, then, for the record.

FRANK LoGERFO: I'm Frank LoGerfo.

I'm the owner.

DAVID POWERS: David Powers,
P-o-w-e-r-s.

BRENDAN SULLIVAN: Tell us what you
would like to do.

FRANK LoGERFO: So we want to
replace our garage which I think was built in
1916 and it's useless a garage for two
reasons:

One, is it's narrow and it's at a sharp
angle to the driveway. So it's impossible to
get a modern full-sized car. We're not
talking about a huge car, a usual six foot
car. It's not good for storage because it
floods and, for example, this weekend the
water will go almost all the way to the back
of that garage. So anything I use, plastic
shelves that's stored there, I put up on that.
So we'd like to build a new garage. It's a
tricky space as you can see. So David has
come up with this plan that you see and I don't
know about the Variances, but I think this
violates the --

DAVID POWERS: It violates setback

distance from the house for accessory building, and there's a spot on this property where you could put a garage doesn't hit up against some of the Ordinances. So we sort of shoehorned the corner. Putting in basically -- it's on top of what is now the end of the concrete driveway. So it's essentially moving the garage function on to the driveway and eliminating the existing garage which provides a little bit more open space in the backyard.

BRENDAN SULLIVAN: You're adding 130 square feet?

DAVID POWERS: Yes. We were hoping to recapture some of the de facto function in the existing garage which is really only storage. And have a small loft, attic loft for storage.

DOUGLAS MYERS: Is that shown in your plan? The attic loft?

DAVID POWERS: No, it isn't.

CONSTANTINE ALEXANDER: I didn't think it is. That's a good question.

DOUGLAS MYERS: I saw one kind of

one -- maybe this is not the right word. I saw a bird's-eye view of kind of what would be the ground level if you were looking down from on high. But I didn't get any sense of the like an interior floor plan or any dimensional division of the interior of the structure. I ask because it's a big structure. It's a big increase over what you have there now and how the interior space would be allocated, especially anything that wasn't truly shown as on the first floor.

CONSTANTINE ALEXANDER: I like to elaborate before you answer Mr. Myers' very good question. I would like some elaboration of why you need the loft, how much loft space there's going to be.

DAVID POWERS: On the rear section of the garage, basically it's a low space. I mean, just about stand up inside.

CONSTANTINE ALEXANDER: Is this a current garage?

DAVID POWERS: No, no. In the proposed one. There's just enough room to stand up in order to put, you know, the garden

tools in the winter and the lawn furniture. It's not intended to be any other use up there other than just some minor storage space.

DOUGLAS MYERS: Can you give us an idea since there's no plan, could you give us an idea of the dimensions?

THOMAS SCOTT: There is a plan, Doug.

DOUGLAS MYERS: There is?

THOMAS SCOTT: Is that what you're looking for?

DOUGLAS MYERS: But I didn't get any sense of an elevation.

THOMAS SCOTT: Oh, the elevation.

DOUGLAS MYERS: That's why I said this is a bird's-eye view.

THOMAS SCOTT: It's quite a bit taller than that.

DOUGLAS MYERS: I meant to be specific as best I can referring to the proposed view on the simulation. What's underneath these pediments or inside that gable?

DAVID POWERS: In the front section

of it nothing, because the garage door would be rolling up into that space. It's the rear section from here, from this corner back to here.

DOUGLAS MYERS: So that's going to be approximately 13 feet.

DAVID POWERS: About 13 feet, yes.

DOUGLAS MYERS: Of second floor space you might say?

DAVID POWERS: Yes.

DOUGLAS MYERS: 13 feet in length.

BRENDAN SULLIVAN: The --

DOUGLAS MYERS: An enclosed wall in the front part of that 13-foot space after the garage door ends?

DAVID POWERS: We weren't considering a closed wall there, no.

DOUGLAS MYERS: It's just not shown, that's all.

THOMAS SCOTT: I like the roof line of the old garage, the hip style roof. And this roof seems to be higher now than the adjacent roof in the next property.

DOUGLAS MYERS: I noticed that, too.

THOMAS SCOTT: It seems like a scale issue. It seems like it's totally out of scale.

DOUGLAS MYERS: I noticed the same thing, Tom, and it seems to be -- of course it's hard to interpolate from the simulation. I would say to be fair, it's like several feet higher. Three or four, something like that.

DAVID POWERS: I wouldn't say it's three or four, but I don't know exactly.

DOUGLAS MYERS: You said two or three.

FRANK LOGERFO: I don't know if it helps, but the three neighbors, directly impacts them, have sent me notes. And particularly the guy across the street who looks straight out at this, they've all seen the plans and he loves the plan. The plan looks great. That's definite improvement than the existing garage. Nice work. So that's the guy that looks right at it.

DOUGLAS MYERS: I would have taken that into account had it been in the file. That would be my next question.

BRENDAN SULLIVAN: I guess here's the thought that I had is I don't necessarily mind the location of the garage. I was wondering if it could not sort of come off the side yard a little bit to help with the side yard setback which is at 2', 3. And I didn't know if it could come this way, because it's really encroaching the -- it's 2', 3 and at 10 foot. Now is that correct? Yeah, it's supposed to be 10 foot from the side yard. You're proposing two and a quarter feet I guess it is. And so that would be one observation. I didn't know if we could help with that or not. I understand what it's going to do. Then it's going to take away from probably usable open space in the backyard.

DAVID POWERS: It abuts the other garage on that side. The neighbor's garage. So pretty much in line with their garage wall on that side.

BRENDAN SULLIVAN: But the real thought that I had was that it is now going to sort of dominate and be a lot higher than

that. And I think it's -- visually I think it somewhat harsh as opposed to having it at that same height. And, you know, you say you're looking for storage space, but yet the existing house is 3,000 square feet. It's a single-family home.

You live there with your wife, do you?

FRANK LOGERFO: Yes. We have in our garage now a lot of tricycles, children's toys. I have a son in the foreign service, so when they come here, we have all this stuff because they stay for quite a while. Once a year they come and then of course we're away visiting them, so I like to have maybe get my car in the garage. I put the other car at work. But we do have a lot of stuff in that garage.

BRENDAN SULLIVAN: And there's no room in the basement to --

FRANK LOGERFO: That's pretty full.

BRENDAN SULLIVAN: Well, I for one would like to see it the same height as the adjoining one seeing how we're going to be so close to it.

CONSTANTINE ALEXANDER: I agree.

BRENDAN SULLIVAN: Because I think by being so close to it, it only exacerbates the dimensional difference.

DAVID POWERS: Well, we did do a scheme that had it lower by about two feet lower than what we proposed, which there's a copy of it there if you want to see that.

BRENDAN SULLIVAN: Have you measured the adjoining garage?

DAVID POWERS: I have not. It's a little tough because it's hip roof.

BRENDAN SULLIVAN: And what is the proposed height of this one?

DAVID POWERS: The taller part of that is about 16, 8. Oh, that one is about 14, 8 in the rear section. And a little less than the front section.

THOMAS SCOTT: It seems like the floor plan is designed so that you can get the car in there and then there's still quite a bit of space kind of at the nose of the car here where you can add shelving and lots of storage here, potentially and here. I'm not

sure why you need the loft space I guess.

DAVID POWERS: Well, if we lowered the pitch of the roof and it's space up in the loft is pretty much gone anyway.

BRENDAN SULLIVAN: And you're just going to do a pull-down stairway?

DAVID POWERS: Yes.

JANET GREEN: This is where simulations are so hard to read. I mean, it's, you know, it's a computer drawing and you don't know really what the height of the other building is actually so I don't know how you can do a simulation that tells you really how it would look next to it, you know.

THOMAS SCOTT: I mean, I definitely think your garage shouldn't be any taller than your neighbor's garage. It should be at least same height or less. It's a lot smaller structure than his structure. His structure looks like it's a two car structure.

DAVID POWERS: It is.

THOMAS SCOTT: It just seems like it's a little out of scale and maybe that's

because you forced this loft space into it.

BRENDAN SULLIVAN: Well, that is sort of my thought also.

DAVID POWERS: Well, we can make it conform to that height without much difficulty.

DOUGLAS MYERS: I mean, I understand. I've worked as a U.S. Government contractor overseas and I understand what it's like to have, you know, living overseas and having all your possessions either overseas and having tons of storage in the United States. And I understand it's your children. I completely sympathize with that. But from the point of view of where I sit here, these other considerations have validity for me, otherwise I wouldn't have raised them and I would like to explore a solution. I think there is a solution that I'd like to explore along these lines bearing in mind some flexibility on both sides.

BRENDAN SULLIVAN: And, again, not being insensitive but the present need for

more storage space and, again, you mentioned, you know, grandchildren's toys and tricycles, what have you. Again, I have the same thing -- I have I still have a toy room. My kids have long gone, but now it's the grandchildren that occupy it in the house. And I have a backyard full of stuff. But that is somewhat temporary in the long scheme of things. The garage will always be here, and that's sort of where I'm at is that when that present need is no longer there, and hopefully you have many years of many grandchildren and so on and so forth, but that garage will always be there. And I'm going to drive by it everyday and say I should never have approved of such a dominant structure with the being so close to the lot line and so close to the next one which I think it's going to dominate and it's going to be out of scale. It satisfies your needs, but aesthetically I think that's one of our charges is aesthetics when we're asked to vary the Ordinance. And so I think it's going to dominate, and I think it's out of

scale first of all personally. So even by reducing it to two feet, I really would like it not to be any higher than the one next to you. And as I pointed out, the next one is a two car garage and this is a single car garage, which exacerbates that situation even the more so.

I think maybe what it would take is for you to go back to the drawing board, take into consideration what you've heard, and then possibly come back with an alternative.

DAVID POWERS: We can certainly do that. I mean, once we give up on the idea of capturing some space up there, the pitch of the roof, and how high it is, is really not an issue. I mean, and then it will be the aesthetics that rule at that point.

BRENDAN SULLIVAN: Right, right. And it's a gorgeous house and I think it would tear at the fabric of the house, the aesthetic beauty of the house by building something out of scale in relationship to the house, No. 1. But also to the adjoining property, but that's, you know, beauty is in the eye of the

beholder or whatever.

Any thoughts?

CONSTANTINE ALEXANDER: No. I totally endorse what you've said.

THOMAS SCOTT: I agree.

DOUGLAS MYERS: I agree.

JANET GREEN: I agree.

BRENDAN SULLIVAN: That's enough for me.

DOUGLAS MYERS: Good thing you're here.

FRANK LOGERFO: What about the other issue?

BRENDAN SULLIVAN: Sorry the other what?

FRANK LOGERFO: The other Variance issues here. If we deal with the height.

BRENDAN SULLIVAN: Well, I guess my only other thing is that if you can pull it off that lot line somewhat, but I would like to see the relationship. Again, the key here I guess is probably the adjoining structure and I'm not sure if what -- how far that is off the lot line.

DAVID POWERS: That's about two feet off the line.

BRENDAN SULLIVAN: Okay. So I guess, you know, then it becomes sort of a no man's land there. I think in a perfect world if I were living in this house, I would probably want as much green space, I guess, as opposed to probably dead space between it and the lot line. So, that's probably a non-issue as far as the location of the garage. It's probably a little bit larger than need be to park a car. But I think that you probably have other uses if you're going to go through this whole exercise in building a structure, then you probably do want to capture some storage space behind. So I'm okay -- I'm okay with that. It's the height. It's probably the writing. If we can reduce the height, put it more in scale with the one next to it, then I could overlook, forgive some of the other expanses.

THOMAS SCOTT: How close is the existing garage to the property line?

DAVID POWERS: About two feet.

THOMAS SCOTT: Two feet? So you're actually 2', 3 here or a little bit better.

BRENDAN SULLIVAN: Yeah.

DAVID POWERS: It's a code issue with how close a garage can be to a property line.

THOMAS SCOTT: Right.

BRENDAN SULLIVAN: Okay. So possibly a motion then to continue this matter?

How long would it take for you to redo the scheme and get back to us? This is October 25th.

DAVID POWERS: How soon would you like it?

BRENDAN SULLIVAN: Can we do November 15th?

MARIA PACHECO: We presently have five continued cases.

BRENDAN SULLIVAN: Okay, this is probably -- what is your time frame for this anyhow? Are we talking spring? Or do you want to get it done?

FRANK LOGERFO: Well, I was hoping

we were going to start in June, this past June.

BRENDAN SULLIVAN: So that has come and gone.

FRANK LoGERFO: But with winter coming, I don't see too much happening.

BRENDAN SULLIVAN: It may not happen.

FRANK LoGERFO: November 15th we'll actually be visiting my son overseas.

BRENDAN SULLIVAN: Can we put it off to December?

DAVID POWERS: I can come in for you.

BRENDAN SULLIVAN: Well, that's your choice.

DOUGLAS MYERS: If time is a factor, I'm sure the architect can represent you on the 15th if time is a factor. It's however you want to do it.

FRANK LoGERFO: It's height. How it looks that's fine. That would be fine. That would be great to get it down.

CONSTANTINE ALEXANDER: What is our schedule like for the first one in December?

MARIA PACHECO: We only have right now just the Huron Avenue continued.

CONSTANTINE ALEXANDER: It seems to me, Brendan, I mean I don't care, but why shoehorn it into November 15th when there's no good reason to do it. Just do it in December.

BRENDAN SULLIVAN: I agree.
December 6th.

MARIA PACHECO: Yes.

BRENDAN SULLIVAN: I make a motion, then, to continue this matter to December 6, 2012, at seven p.m. on the condition that the Petitioner change the posting sign to reflect the new date of December 6th, and the new time of seven p.m. And that the posting sign be maintained as per the requirements of the Ordinance.

That any new submissions, changes to the file, be submitted by the Monday prior to the December 6th hearing. And that also may include a revised dimensional form. So it has to be by five o'clock on the Monday prior to with any changes to the this and also the

dimensional form.

Do we need a waiver?

MARIA PACHECO: Yes.

BRENDAN SULLIVAN: And also that the Petitioner sign a waiver to a completed hearing and a decision to be filed as per -- decision has to be in by 1/6/13. Should get a waiver anyhow. If you would sign a waiver to the requirements that we have to have a hearing and a decision, that's all. And I guess that's it.

Anything else?

CONSTANTINE ALEXANDER: No, that's it.

BRENDAN SULLIVAN: You're agreeable to signing the waiver?

DAVID POWERS: Sure.

BRENDAN SULLIVAN: Okay. Well, it's you're not signing any rights away.

DAVID POWERS: You should sign it.

CONSTANTINE ALEXANDER: Yes, you have to sign it.

BRENDAN SULLIVAN: We're required to hear a case and render a decision within

so many days where we're continuing this. We don't want to bump up against that.

On the motion, then, to continue this matter to December 6th.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

THOMAS SCOTT: Can you measure the height of the existing structure that's adjacent so we know?

DOUGLAS MYERS: With your neighbor's permission it might be helpful to measure.

BRENDAN SULLIVAN: Try to anticipate any questions regarding that garage that you might think we will ask and have an answer already; height and all the other stuff.

(10:30 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Thomas Scott, Janet Green, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case No. 10343, 80 Sherman Street.

ATTORNEY RICARDO SOUSA: Good evening, Mr. Chairman, Members of the Board.

BRENDAN SULLIVAN: How are you?

ATTORNEY RICARDO SOUSA: I'm good.

BRENDAN SULLIVAN: Okay, Mr. Sousa.

ATTORNEY RICARDO SOUSA:

Mr. Chairman, for the record Ricardo Sousa from Prince, Lobel and Tye on behalf of the applicant T-Mobile. With respect to this particular application, the Applicant is still working with the Planning Board on a design that's acceptable to them. We did go to the meeting on October 16th, presented our initial design, they made some suggestions and I believe there's a recommendation in the file from the Planning Board, and so we'd like to satisfy their concerns. Essentially in order to add some additional antennas on this rooftop, we were going to have to expand the size of the stealthing, stealth chimney, and they felt it was too large. So we're still working on some alternative designs, and in order to bring a favorable recommendation to this Board, we would respectfully request a continuance, Mr. Chairman, of this petition.

BRENDAN SULLIVAN: Until when?

ATTORNEY RICARDO SOUSA: We have another matter that's on December 6th, and if

you have some time on December 6th, that would be great. In addition to that, giving the storm that's coming up, I don't want to take a risk that we wouldn't be able to make the November 15th hearing.

BRENDAN SULLIVAN: Okay. Let me make a motion, then, to continue --

DOUGLAS MYERS: In other words, it is your intention and preference to have additional time to consult and review the application with the Planning Board?

ATTORNEY RICARDO SOUSA: That's correct. It may take one or two meetings with the Planning Board before we can come back here.

DOUGLAS MYERS: Okay.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: This would be a case not heard.

DOUGLAS MYERS: Not heard.

BRENDAN SULLIVAN: Let me make a motion, then, to continue this matter to December 6, 2012, at seven p.m., on the condition that the Petitioner maintain the

existing Board as per the requirements of the Ordinance. But also change the date to reflect the new date of December 6th, and time of seven p.m. and any new submissions, changes to the existing file be resubmitted and in the file by five p.m. on the Monday prior to the December 6th hearing.

Also that the Petitioner sign a waiver to the statutory requirement for a hearing and a decision to be rendered thereof.

CONSTANTINE ALEXANDER: And, Mr. Sousa, with regard to the sign posting, I would point out to you that the sign is on 84 Sherman even though your relief is for 80. So do you want to move it down the street just a little bit?

ATTORNEY RICARDO SOUSA: Okay. Fair enough, Mr. Alexander. I didn't realize that.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY RICARDO SOUSA: Ms. Slaga who works on the signs. You heard that Jackie?

JACKIE SLAGA: Yeah.

ATTORNEY RICARDO SOUSA: Got it.

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

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

ATTORNEY RICARDO SOUSA: Thank you.

(10:35 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Thomas Scott, Janet Green, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case 10344, 25 Eighth Street.

ATTORNEY RICARDO SOUSA: Good evening, Mr. Chairman, Members of the Board. Once again, for the record, Ricardo Sousa from Prince, Lobel, Tye on behalf of the Applicants T-Mobile.

This is a continuing effort once again for T-Mobile to modernize its wireless network by installing its new air antennas that will allow us to service -- better service our customers not only from a voice perspective, from a data perspective as well. And it's to provide 4G speeds, essentially the fourth generation of wireless services that all the carriers are upgrading their networks to.

On this current site we operate three panel antennas that are facade-mounted on the building and as you can see in the photo simulations. In order to better service the customers in this area, this part of Cambridge, we're upgrading to six panel antennas. So we're essentially taking out the old ones and installing our new air antennas. We are doing a couple of things to improve the design.

First of all, we're moving the antennas further down so that there's at least one foot of distance between the top of the parapet wall and the top of our antennas. And that

I think it helps the design quite a bit. In addition to that, we're taking out the pipe mounts that are behind the antennas, and facade mounting them with low profile brackets. Essentially bringing in the antennas closer to the wall. And then lastly, we're painting and per the recommendation of the Planning Board, we were there on 10/16, we're also no longer painting them with grout lines. They requested that we paint them with a flat red finish which I think will blend in better with the building. So I think those three improvements actually help from an aesthetic perspective.

BRENDAN SULLIVAN: The artist who painted those is the guy who painted those on Lesley on Mass. Avenue, too. And the grout lines with a four-inch brush.

ATTORNEY RICARDO SOUSA: He's no Michelangelo, Mr. Chairman.

BRENDAN SULLIVAN: I mean, it looks like a barber's pole. Good attempt, but bad.

ATTORNEY RICARDO SOUSA: Yes, I have to say most of the cities that I go before are

going away from the grout lines. Going with one color.

CONSTANTINE ALEXANDER: One of the pictures I saw in the file -- at the bottom of the antenna, wires hanging out. Is that still the case? Would that still be the case?

ATTORNEY RICARDO SOUSA: You know, these are actually better antennas. Some antennas are actually bottom fed and some are top fed.

CONSTANTINE ALEXANDER: Right.

ATTORNEY RICARDO SOUSA: These new air antennas, and I'll show you a profile of them. The antennas are still, excuse me. The antennas are still bottom fed, however, they're not all the way at the bottom. They're in the back essentially. I'll show you a profile. Let me just get to that page and I'll highlight it for you.

With the new antenna, the wiring will come from the back --

CONSTANTINE ALEXANDER: Right.

ATTORNEY RICARDO SOUSA: -- and will

run up along the back and then over the wall.

CONSTANTINE ALEXANDER: So you will not see the unsightly wires?

ATTORNEY RICARDO SOUSA: You won't see the wires. Exactly, Mr. Alexander.

CONSTANTINE ALEXANDER: Thank you.

ATTORNEY RICARDO SOUSA: And hopefully I have a profile of that air antenna.

So not all the plans have them to tell you the truth. I don't have a specific detail.

CONSTANTINE ALEXANDER: I'll take your word for it.

ATTORNEY RICARDO SOUSA: But essentially about one third up from the back is where the connectors are.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY RICARDO SOUSA: So, Mr. Chairman, given that this is in a residential zone, a footnote 49 comes into play, but I would suggest that given that there is an existing wireless antenna installation on this building, and that it's

currently servicing the residences and businesses in this area, together with not only the fact that T-Mobile operates an installation here, but also Sprint also operates a wireless antenna installation. And so this Board has made a determination that it is an appropriate location for a wireless antenna installation. And so I would suggest that that the Board has -- that this upgrade is so de minimus that the Board should take the same position that this continues to be an appropriate location for a wireless antenna installation.

CONSTANTINE ALEXANDER: Well, isn't it the standard in the 49 that a non-residential uses predominate in the neighborhood or words to that effect?

ATTORNEY RICARDO SOUSA:
Predominate in the neighborhood, that's correct.

CONSTANTINE ALEXANDER: I think your position is that neighborhood has not changed since whatever findings made the last time, should apply equally now. There's no

reason to change the finding, that's what you're saying.

ATTORNEY RICARDO SOUSA: That's right, Mr. Alexander, and I think you articulated better than I did again.

BRENDAN SULLIVAN: I'm looking at the --

ATTORNEY RICARDO SOUSA: I think we're hiring at the firm.

BRENDAN SULLIVAN: Looking at the existing I'm showing 1, and this is a photo simulation, photo location 1. But I'm looking at the proposed photo location 1. And does this work if you take those two antenna and put them together rather than having two distinct and just having it as look at one?

ATTORNEY RICARDO SOUSA: I wish we could do that, but there has to be a separation between those antennas.

BRENDAN SULLIVAN: Otherwise interference?

ATTORNEY RICARDO SOUSA: Yes. There will be interference exactly. There's

both vertical interference and horizontal interference. It's a good point, though. Hopefully at some point they resolve that issue.

BRENDAN SULLIVAN: They'll enclose into a -- this looks like a single cabinet or a building feature or something like that.

ATTORNEY RICARDO SOUSA: Right, right.

JANET GREEN: You know all you can say is there's so much less offensive than all those heavy wirings hanging all over everything. It's really. When you look at the picture, the problem with it isn't the little tiny thing that's doing the wireless, it's these big wires that have been added to the utility poles from the cable.

ATTORNEY RICARDO SOUSA: Oh, absolutely. And those are not our wires, you know.

JANET GREEN: I know that. But each picture that we get, you know, sort of shows this big wire.

DOUGLAS MYERS: (Inaudible).

ATTORNEY RICARDO SOUSA: Not our competitors, different industry.

JANET GREEN: The wires are so heavy they're gradually pulling the poles further.

ATTORNEY RICARDO SOUSA: It's very true. I think when you look at new developments in some of the suburbs, they really are requiring all developers to go underground with their utilities, and it looks so much cleaner. It's incredible. But to do that kind of undertaking, a city like Cambridge or would be enormous.

BRENDAN SULLIVAN: Let me open it to public comments.

Is there anybody here who would like to speak on the matter at case No. 10344, 25 Eighth Street.

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance.

There is correspondence from the Planning Board. (Reading) The Planning Board reviewed the Special Permit application to replace the existing antenna

with updated antenna. Overall the Planning Board sees these antennas as a small features on big walls that won't make very much difference. The Planning Board suggests that if the Board of Zoning Appeal grants the Special Permit, that a condition be made to require a flat finish on the new equipment and install lower on the facade to minimize the visual impact of the installation preserving an unbroken roof line.

We will impose that condition.

CONSTANTINE ALEXANDER: Right. I think the plans that you submitted satisfy what the Planning Board wants.

ATTORNEY RICARDO SOUSA: They do.

CONSTANTINE ALEXANDER: So if we make the motion, you got to proceed in accordance with the plans. We've effectively satisfied the condition.

ATTORNEY RICARDO SOUSA: I would agree, Mr. Alexander.

BRENDAN SULLIVAN: Okay. Let me make a motion, then, to grant the Special Permit to allow the Applicant an in-kind

replacement of three existing antenna with new antenna, and the addition of three additional antenna, one per sector at each location, and in-kind replacement of one existing cabinet with a smaller cabinet in the equipment area as per the plans submitted and the photo simulations submitted which reflect the comments of the Planning Board.

And also imposing a condition that the -- well, strike that. As per the condition, it satisfies the comments of the Planning Board.

Let me move to grant the Special Permit.

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

The Applicant is duly licensed by the federal communications; is that correct?

ATTORNEY RICARDO SOUSA: That's correct.

BRENDAN SULLIVAN: That there are no the imposed limitations by license that would bar them from bringing forth this application.

The granting of this Special Permit,

the Board considers the visual impact and that the Applicant has addressed that by lowering the antenna, also by painting them to a flat finish as per the comments of the Planning Board.

That it is not being constructed in a residential area. It does not apply.

Hence the Board sets forth in its decision that should this equipment be rendered useless, not viable, that it be removed within 60 days if it becomes obsolete, and the surfaces be restored to its original condition.

The Board further finds that -- oh, that has already been covered. Sorry.

So that the Board finds that the requirements of the Ordinance can be met.

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

The Board notes the existence of existing antenna and facilities on this building.

That continued operation of or development of adjacent uses permitted in the Zoning Ordinance would not be adversely affected. In fact, it would be enhanced by the upgraded equipment.

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

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

All those in favor of --

CONSTANTINE ALEXANDER: You got the conditions of removing?

BRENDAN SULLIVAN: Yes. I put that in there.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

ATTORNEY RICARDO SOUSA: Thank you very much.

(Whereupon, at 10:45 p.m., the
Zoning Board of Appeals
Adjourned.)

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**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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I am not related to any of the parties in this matter by blood or marriage and that

I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of November 2012.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
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