

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, NOVEMBER 15, 2012

7:00 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
Mahmood Firouzbakht, Associate Member
Kevin Casey McAvey, Associate Member

Sean O' Grady, Zoning Specialist

REPORTERS, INC.
CAPTURING THE OFFICIAL RECORD
617.786.7783/617.639.0396 (Fax)
www.reportersinc.com

INDEX

CASE		<u>PAGE</u>
10321	--	73
10310	--	3
10298	--	16
10327	--	44
10333	--	64
10345	--	78
10346	--	92
10347	--	105
10348	--	116
10349	--	140
10350	--	151
10351	--	180
10352	--	187

PROCEEDINGS

(7:00 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Thomas Scott, Kevin Case McAvey.)

BRENDAN SULLIVAN: Let me call the Board of Zoning Appeal to order for November 15, 2012. The first case we'll hear is case No. 10310, 1 Rogers Street.

Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman, members of the Board. For the record, my name is James Rafferty, I'm appearing on behalf of the applicant Pegasystems, now located at 1 Rogers Street. Seated to my right is two of the senior officials of the Pegasystems, John Parker, P-a-r-k-e-r and Daniel Ryan, R-y-a-n.

Mr. Chairman, this is a continued case. The Board members may recall the issue involves two of the dimensional regulations in the Sign Ordinance, one involves the area of the sign and the second involves the height of the sign.

When we were last before the Board, the focus of the

conversation or the deliberation of the Board centered on the area of the sign. The suggestion was that it wasn't as compelling a hardship involving the area as it was the height and we were asked to revisit the size of the sign. So we have subsequent to that have submitted a revised sign which is approximately 30 percent smaller than the original sign. If you recall that the permitted area of wall signs is 60 feet. The area of this sign is at 77 feet.

We also did some Photoshopping to put the sign on the wall of the building in both sizes, and I think it demonstrates that there is little in the way of a discernable effect between the 60-foot sign and the 77-foot sign certainly at the pedestrian level.

There were two other issues we were asked to address, both of which we have submitted information on. One involved the temporary sign that has been up there for some while, the For Lease sign. We were asked to see if we could speak to the landlord to have that sign removed and we have before and after photos and are pleased to report that that For Lease sign has been removed from the face of the building, that long standing temporary sign. And the

other issue came up, I think it was raised by one of the members, did Pegasystems have exclusive rights to this signage? They are a significant Cambridge company growing, started here in Cambridge, have been in Kendall Square, relocated to this site, occupied about 50 percent of the building. But we went to the landlord and asked the landlord if they could provide some written assurance that no other tenant would have the ability to seek a wall sign. So there is a communication dated October 10th addressed to Whom It May Concern: (Reading) This is a building owner who will not authorize any other tenants of the building to seek approval for wall signs higher than 20 feet during the pendency of the Pegasystems lease.

So one could envision a condition on this relief, were it to be granted, that this would be, and as you know, the relief runs with the building and it's recorded by address that this could be the only such sign. And we now have a contractual commitment from the landlord that no other tenant in the building could achieve that.

So as we reviewed in the earlier hearing, the height is largely the 20-foot requirement, relief is largely

related to the existing landscaping and trees on the property. The sign from a design perspective fits in rather comfortably and what appears to be almost a sign ban up near the parapet of the building. We are at a reduced size sign now and we hope we have satisfied those members that asked us to revisit those issues.

CONSTANTINE ALEXANDER: Mr. Rafferty, just as you point out, and I suppose this is in the eyes of the beholder, the difference between your original sign is sign visual impact of 120 feet or whatever it roughly was, and the 78 feet now. What's the difference on the impact, the 77, 78 feet the current sign is not much different. What difference would have been if you put a 60-foot sign which is what the Zoning Law requires. Why the visual impact, wouldn't it be virtually the same?

ATTORNEY JAMES RAFFERTY: Well, it would be close to the same, but I think the -- it cuts both ways. Obviously as the sign goes up the building, it loses its impact. So the 60 feet, which is envisioned at a 20-foot high sign, and I suspect one could say well, you're creating that by going up the building, and that is true.

But a lot of effort was put into the proportionality here in trying to figure out how to make this work. So it was reduced to 77 feet with the --

CONSTANTINE ALEXANDER: 78.

ATTORNEY JAMES RAFFERTY: 78, I apologize. 78 feet with the thinking that while it does exceed the area of 18 feet, it's once again a sign that because of the characteristics of the sign there are large areas of the sign that are included in the sign calculation that are really building face. You'll recall that the way the Sign Ordinance works is that we have to draw a square block around that. So for area purposes what you see in blue there is considerably less than 60 feet, but because we're -- and it's a design that is, the design guidelines promote which is that the sign be affixed to the building not be in a box or framed in. So the -- but yet the definition as the measurement requirements include area above the wing, above the horse's head, and in this area here that --

CONSTANTINE ALEXANDER: Of course you could have

a bigger sign in terms of the lettering if you didn't have the logo or a smaller piece of the logo. I mean, it's all about the logo really.

ATTORNEY JAMES RAFFERTY: I think it would be acknowledged that the logo is seen as an integral part of the sign. And the size relief, we understood the request to make the sign more conforming. As you noted, it was in excess of 100 feet before. It is a smaller sign. It is in the area -- but it does -- because of its added height, we ask the graphic people to really get as close to 60 as possible. And we have arrived at 78 feet.

BRENDAN SULLIVAN: Kevin?

KEVIN CASEY McAVEY: I think it's a great sign. You accommodated a lot of what the people said the last time. It's in a business district and it shows another great growing business that decides to stay in Cambridge, and I don't think there's anything wrong with that. And I think the sign is, the icon and the logo is appealing to the eye and I just want to again reiterate my support.

BRENDAN SULLIVAN: Tim, what are your thoughts?

TIMOTHY HUGHES: I'm good with it.

BRENDAN SULLIVAN: Tom?

THOMAS SCOTT: I think the scale of the sign now fits better within that band. The margins that are recited by the space top and bottom makes sense. I think if it was much smaller, it would look like the sign is too small for the band. I think it's proportionally sized now for that band which seems to be that organizing element around the building, and the sign just fits in there nicely so I'm okay with it.

BRENDAN SULLIVAN: Let me open it to any further public comments.

Is there anybody here who would like to speak on the matter case No. 10310, 1 Rogers Street?

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance.

There is correspondence which counsel has alluded to or referenced earlier from the landlord regarding their restrictions on any further signs on their building.

Let me close public comment.

There was also prior reading into the record of the Planning Board report regarding the sign.

Okay, anything else to add?

ATTORNEY JAMES RAFFERTY: No, thank you.

BRENDAN SULLIVAN: Make a motion then?

CONSTANTINE ALEXANDER: Sure.

BRENDAN SULLIVAN: Let me make a motion, then, to grant the relief requested, which is the installation of a sign as per the revised plan, and the date of that is 8/27/12; is that correct?

ATTORNEY JAMES RAFFERTY: I can confirm that. No, I think it's 10/5/12.

BRENDAN SULLIVAN: I'm sorry. Okay, you're correct.

As per the revised submission dated 10/5 initialed and dated by the Chair.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would severely limit the recognition of this major tenant in this particular building.

A literal enforcement would severely limit the size and the height of the sign to a point where it would be

severely compromised and not be visible, and not attain the intended purpose to identify the tenant in the building.

The Board finds that the hardship is owing to the fact that the building is designed in such a way that the placement of the sign as per the requirements of the Ordinance would not be aesthetically pleasing.

Also the Board notes that there is the presence of great deal of plantings along that side of the road, and that the height of those plantings would conflict with the visual aspect of the sign and hence render the sign not useful.

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

The Board notes the letter in support from the Planning Board.

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

The Board notes also the efforts of the Petitioner to reduce the sign from the original submission to one more

closely in line with the size requirement of the Ordinance.

Anything else to add?

All those in favor of granting the Variance for the sign?

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Hughes, Scott, McAvey.)

CONSTANTINE ALEXANDER: One opposed.

BRENDAN SULLIVAN: I'm sorry, one opposed.

CONSTANTINE ALEXANDER: One opposed. I guess for the record I have no problems and would support the Variance for the height. I think they demonstrated a hardship to have a sign higher than 20 feet. I don't think they've demonstrated a hardship that justifies the sign that's more than 60 feet. A 60-foot sign would have the same visual impact as what they're proposing and therefore there's no hardship in my judgment.

BRENDAN SULLIVAN: Okay, thank you.

ATTORNEY JAMES RAFFERTY: Thank you very much.

(7:15 p.m.)

(Sitting Members: Constantine Alexander, Thomas Scott, Douglas Myers, Mahmood Firouzbakht, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will hear case No. 10298, 140 Lexington Avenue.

Members are Doug Myers, Kevin, Gus, Tom, and Mahmood.

CONSTANTINE ALEXANDER: Good evening. You've seen us before and we've seen you, but for the record, give your name and address for the record, please.

POLYXANE COBB: Polyxane Cobb, P-o-l-y-x-a-n-e C-o-b-b, 140 Lexington Avenue.

JOHN LODGE: I'm John lodge the architect.

MATTHEW MAZZOTTA: Matthew Mazzotta,
M-a-z-z-o-t-t-a.

RACHEL COBB: R-a-c-h-e-l Cobb, 140 Lexington Avenue.

CONSTANTINE ALEXANDER: Okay, we've met before and this time you've given us a Chinese menu.

JOHN LODGE: Well --

CONSTANTINE ALEXANDER: No, no, that's fine. We invited it. It's not in any way a criticism. I suggest that of the various proposals you've given us, which we appreciate, why don't you justify or not justify, but speak to the one you most want to have and why.

JOHN LODGE: All right. You know, I might speak start of by letting you speaking to it. I'm somewhat ecumenical to the last two but the clients have a preference. So explain it.

POLYXANE COBB: You're going to be living there.

MATTHEW MAZZOTTA: In terms of what we would most prefer, it's the single shed dormer revised plan which has shortened the single shed dormer from our original proposal. And the reason that we're most interested in that is because we have several children and we would like some additional space on up on that third floor, but we'd like some flexibility in that space.

CONSTANTINE ALEXANDER: The interesting thing is your dormer -- your alternative was the gables, the two gables. And the size of the two gables is actually

greater, if I'm correct from the plans --

JOHN LODGE: Yes.

CONSTANTINE ALEXANDER: -- than the size of your one shed dormer. So why do you get more space --

JOHN LODGE: You don't get more space. You get more flexible space.

MATTHEW MAZZOTTA: We get flexibility with the space which is what we're primarily interested in the shed dormer.

CONSTANTINE ALEXANDER: Elaborate, what kind of flexibility.

JOHN LODGE: So the two dormer scheme provides a lot more space in the master bedroom which could be used as storage. So in the one -- the shed dormer scheme, because it has to be sort of pulled over, basically the way you would enter what is basically a large walk-in closet is not from the bedroom but from the hall. So that could actually -- it could almost be big enough to be, you know, a nursery if there, you know, if they go on with --

CONSTANTINE ALEXANDER: Right.

JOHN LODGE: So, I mean I think it just provides

a little bit more flexibility. And it's cheaper to build and I think --

MATTHEW MAZZOTTA: But in terms of the space, I mean it would give it, like I was saying, it will give us some flexibility in terms of what we did with the extra space that we're looking for. It could be an extra room, an extra bedroom should the need arise. It could also be used for storage. It could be used for other uses. It's just, again, depending on the possibilities.

CONSTANTINE ALEXANDER: For the record, the one you prefer, the dormer, is going to be 21 feet, 9 inches according to your plan?

JOHN LODGE: Yeah, that's correct.

CONSTANTINE ALEXANDER: Which is obviously greater than the 15 feet of our dormer guidelines.

JOHN LODGE: Right.

CONSTANTINE ALEXANDER: But less than I think -- you're almost at 28 feet or so the first time you were here.

JOHN LODGE: The worst case was -- the worse case was about 25 and a half.

CONSTANTINE ALEXANDER: 25 and a half? Okay.

JOHN LODGE: Yeah, was the biggest case I should say.

CONSTANTINE ALEXANDER: And these plans, your scheme 3 is your preferred shed dormer?

JOHN LODGE: Scheme 3 is the preferred shed dormer, yes.

CONSTANTINE ALEXANDER: And scheme 4 --

JOHN LODGE: Scheme 4 is --

CONSTANTINE ALEXANDER: -- the new dormer proposal?

JOHN LODGE: Scheme 4 basic -- so what happened is after we met last time, back to the drawing board, and we worked with the two dormer scheme basically trying to sort of widdle away as many of the guidelines as we could.

CONSTANTINE ALEXANDER: Right.

JOHN LODGE: So we spread them out a little bit. I made them a little bit smaller. I wanted to keep them basically the same size so that there was some symmetry between the dormers. Now more than 50 percent of the facade is -- in the aggregate, not in both dormers, but

in the aggregate was the two dormers. So we were sort of chipping away at the various parts of the guidelines that --

CONSTANTINE ALEXANDER: How successful were you in chipping away? In other words, besides the length of the two dormers, the gable dormers now, are you otherwise in compliance with the dormer guidelines?

JOHN LODGE: Yeah. Yes, we are. Well, if you count the -- so the facade, the fenestration on the two facades is more than 50 percent in the aggregate, but on one of the dormers, the two windows are less than 50 percent and the other one is less than 50 percent, whereas on the shed dormer it's more than 50 percent because it's all just one dormer.

CONSTANTINE ALEXANDER: And the shed dormer the issue there is simply again is the size. In all other respects you comply with the dormer guidelines?

JOHN LODGE: Yes.

CONSTANTINE ALEXANDER: You do with regard to the ridge line?

THOMAS SCOTT: Yes.

JOHN LODGE: Yes.

The only thing we couldn't do is get it completely centered on the facade, but it's within a foot. I mean, I think -- no one's ever looking, you know, at that.

MATTHEW MAZZOTTA: I do think there are two actually exceptions to be clear. I think the guidelines, in terms of placement, prefer a centered or back placement. We would be slightly more towards the street, but that's again to accommodate where the stairs come up. And that is specified in the guidelines is internal constraints.

CONSTANTINE ALEXANDER: Understood. Exactly.

MATTHEW MAZZOTTA: On the other scheme the double gabled scheme I think there's a preferred symmetrical on the roof line, if I remember correctly, and the look at those as closely, but I think there's a preferred symmetrical and obviously we would be back and it wouldn't be symmetrical on the roof.

JOHN LODGE: Right.

CONSTANTINE ALEXANDER: I think the issues of hardship were fully explored at our last hearings, plural.

MATTHEW MAZZOTTA: Right.

CONSTANTINE ALEXANDER: I don't think we need to go into that any further. I think the record is clear on that.

I'll open it up to questions to members of the Board starting with you, Tom. Do you have any questions at this point since you weren't here for the last hearing? You're catching up.

MATTHEW MAZZOTTA: Forgive me, I don't mean to interrupt at all. Did people receive the copies of the letters?

CONSTANTINE ALEXANDER: We have those. They are in the file. I will read them into the record after the --

MATTHEW MAZZOTTA: No, that's fine.

CONSTANTINE ALEXANDER: No, no, we have it.

MATTHEW MAZZOTTA: We also brought -- we realize we didn't include one. But should the Board like to see this, this is our house and the house and this is the facing.

CONSTANTINE ALEXANDER: Right.

MATTHEW MAZZOTTA: I don't think that's actually included in what we've provided.

DOUGLAS MYERS: Thank you.

MATTHEW MAZZOTTA: But there's actually a little more separation than on the average houses on the street simply because we have the equivalent of the shared driveway even though ours doesn't go the entire way.

THOMAS SCOTT: I think they're mislabelled here. This one says 3, 4. And here this one says scheme 3 which is the double dormer which in this case is the single dormer.

JOHN LODGE: Oh, boy, you're right. All right, well, so yeah, thank you.

CONSTANTINE ALEXANDER: Why don't you ink out.

JOHN LODGE: So seem 3 and scheme --

THOMAS SCOTT: The one you most prefer is 3, correct?

JOHN LODGE: Yes, the single shed.

THOMAS SCOTT: Which is this one. It says scheme 4.

JOHN LODGE: In the actual drawings it's scheme 4.

THOMAS SCOTT: So that's 3. And these sheets

should all be 3.

CONSTANTINE ALEXANDER: Yes, just change it.
That would be good.

JOHN LODGE: Thank you.

THOMAS SCOTT: In terms of the two scenarios, I actually like the single dormer better.

JOHN LODGE: You liked it better the first time, too.

THOMAS SCOTT: Yes.

JOHN LODGE: I think this is actually a better looking dormer.

THOMAS SCOTT: I like the size of it. It's pulled way back from the edges of the roof. Even though it's greater than the 15 feet, I think this house is big enough that it can sustain this additional, a little additional length so I think it's okay.

CONSTANTINE ALEXANDER: Okay.

Doug, any questions?

DOUGLAS MYERS: Yes. And now I'm a little reluctant to put my references after the plans have been corrected, but I had a question about the layout on the

third floor on -- I jotted down as page A-3 of scheme 3.

JOHN LODGE: Okay. So A-3. Scheme 3.

DOUGLAS MYERS: If that's right. And that's with reference to the shed dormer proposal.

JOHN LODGE: Okay.

DOUGLAS MYERS: Are you with me?

JOHN LODGE: Sorry, so....

THOMAS SCOTT: Was it this sheet with the two dormers?

DOUGLAS MYERS: No, with the shed dormer.

JOHN LODGE: Got it.

DOUGLAS MYERS: It was A-3, scheme 3.

Right, and there's a room there. I believe it's room 36 that's marked bath.

JOHN LODGE: Yes, sorry. That should be closet.

DOUGLAS MYERS: I wondered whether that, I wondered about that room and then I wondered whether that was a space that you were referring to as that might be a nursery or it was flexible?

MATTHEW MAZZOTTA: That is what --

DOUGLAS MYERS: That was the plan.

MATTHEW MAZZOTTA: It wasn't planned to be a bath. I should have mentioned that to John. I did review them.

DOUGLAS MYERS: It didn't appear to be a bath. I just wanted to --

JOHN LODGE: It really is a closet, but to fulfill the 50 percent fenestration it has a lot of windows for a closet. The fact it has a lot of windows for a closet then actually allows you to be more flexible later on.

THOMAS SCOTT: I can attest that when it's late at night, you do make these minor mistakes.

JOHN LODGE: Really.

CONSTANTINE ALEXANDER: It's an architect's disease, right?

JOHN LODGE: What happened was I had to get the drawings in last Friday because Monday was the holiday. So oh, my gosh. Sorry, anyways.

CONSTANTINE ALEXANDER: Further questions, Doug?

DOUGLAS MYERS: No other questions.

CONSTANTINE ALEXANDER: Mahmood?

Kevin?

MAHMOOD FIROUZBAKHT: I'd like to look at the

plans.

CONSTANTINE ALEXANDER: I'm going to open this up to public comments?

Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair sees no one wishes to be heard.

Sean, can you give me the letters, and there are several copies in the package. That's the one you were referring to a little while ago.

MATTHEW MAZZOTTA: Yes.

CONSTANTINE ALEXANDER: Oh, my goodness. I think they're all the same thing.

MATTHEW MAZZOTTA: They're very similar.

CONSTANTINE ALEXANDER: They are very similar.

MATTHEW MAZZOTTA: With the exception of the Courier's letter I believe.

CONSTANTINE ALEXANDER: There's one letter that's different and the rest is a form letter that's been signed by different people at different times.

MATTHEW MAZZOTTA: Yes.

And the Courier's letter, they're the abutters on the facing side the north elevation.

CONSTANTINE ALEXANDER: The Chair will now read into the -- because the letters are voluminous, read into the record all the letters we've received. We have received numerous letters in support, no letters objecting. The letters that we have received and are incorporated as part of our record come from Richard and Barbara Courier who live at 148 Lexington Avenue; from a Judy Foreman, nationally syndicated health columnist who lives on 4 Brattle Street.

POLYXANE COBB: No, no, she lives on --

CONSTANTINE ALEXANDER: Oh, no, no, sorry, that's her business address, yes.

POLYXANE COBB: 134 Lexington. And she's the abutter on the other side.

CONSTANTINE ALEXANDER: On the other side.

We have letters from the Paolittos, P-a-o-l-i-t-t-o, at 147 Lexington Avenue.

I can't even -- well, I guess it's all Paolittos. They've got a lot of people who signed, but the handwriting

is tough for me to read.

A person -- persons who live at 133 Lexington Avenue, apartment 2, Amanda A-g-a-g-e-e and David Jacobson.

From a person who lives also at 133 Lexington Avenue, a Priscilla Fales, F-a-l-e-s.

A letter from the occupant at 153 Lexington Avenue, Chris Summerfield, S-u-m-m-e-r-f-i-e-l-d.

POLYXANE COBB: He's the owner of the house.

CONSTANTINE ALEXANDER: Oh, okay. He's the -- I'm sorry.

POLYXANE COBB: He's the homeowner of that house.

CONSTANTINE ALEXANDER: Thank you.

And from the occupant of 115 Lexington Avenue, Sally Lesser, L-e-s-s-e-r.

And then from the persons who live at apartment 3 at 172 Lexington Avenue, Mary Katherine Bateson Kassarian, K-a-s-s-a-r-j-i-a-n.

And also from the occupants of 96 Lexington Avenue, Clara Vu.

RACHEL COBB: Vu, V-u.

CONSTANTINE ALEXANDER: Vu, okay. And Thai,

T-h-a-i Vu.

As I said, these are all letters in support. They're pretty much similar. They're very, very nice testimony to your -- the fact that you're very good neighbors and that you have a closely knit neighborhood that seems to be all in support of what you want to do for the reasons I think you've demonstrated to us about, the hardship.

So, I think that's the sum and substance of the public file.

Comments from members of the Board or do you want to go to a motion?

MAHMOOD FIROUZBAKHT: And --

SEAN O'GRADY: I had a technical question. Tom, you missed the last hearing, can he sit on this hearing?

CONSTANTINE ALEXANDER: Yes, they continued. We continued it -- this is a third hearing on this.

SEAN O'GRADY: Right.

CONSTANTINE ALEXANDER: He was at the first one we had all five and we continued it. And then we did the next one and Tom wasn't there, and it was a continued case. And the case got continued again. It's still the same

case, and Tom has been here.

SEAN O'GRADY: But he missed the second hearing. And I think once you decide to proceed with four members, then you can't come back from that. That's been my longstanding understanding.

CONSTANTINE ALEXANDER: Oh, really? I was not aware of that. You're suggesting that Tom can't vote on this case then?

SEAN O'GRADY: I don't believe so.

CONSTANTINE ALEXANDER: So, again, we're back to where we were the second time, we need all four people voting. We need to get all four in favor for this to be granted.

SEAN O'GRADY: Yes.

That's always my understanding. I can't pull you out a cite that that's been the case.

CONSTANTINE ALEXANDER: If that's the practice in the past, we should follow the practice. I wasn't aware of that.

Anybody have questions?

MAHMOOD FIROUZBAKHT: I don't remember that from

our Board rules. I mean....

CONSTANTINE ALEXANDER: It's not in the rules, no. I don't think there's anything in the rules about continued cases really too much.

SEAN O'GRADY: I don't think it's a rule issue.

CONSTANTINE ALEXANDER: It's whatever, I guess a rule of law, the Legal Department says, implies, I don't know. It's news to me.

MAHMOOD FIROUZBAKHT: Yes, I don't recall reading this in Chapter 40-A. But okay.

SEAN O'GRADY: Well, proceed as you will. I obviously just learned this. I just --

CONSTANTINE ALEXANDER: This may be out of order. Doug, how do you propose to vote on this?

DOUGLAS MYERS: Well, I think the procedural question about Tom's role is very interesting. But I was going to comment that I felt an obligation to speak for the record in view of the fact of the last time I was clear in my opposition to the proposal. I just want to say that based on the presentation this week, I certainly am

persuaded that the shed dormer proposal is acceptable to me based on the fact that all of what I feel is minor deficiencies are non-compliance elements have been corrected and that the length of the dormer has been reduced considerably. And further, although it is still noticeably in excess of the dormer guidelines, I do feel that its aesthetic relationship to the building next-door mitigates the effect of the excess over the dormer guidelines insofar as the building next-door has roughly the same amount of dormer length. I would have eye-balled it as 20 feet, but I could easily be wrong. I was just looking up from the street. I think there's compatibility there that further persuades me that the application is acceptable. And also I would like to say that I felt the materials filed with the Board, particularly the latter and supporting materials, were very attractive, were completely responsive to the concerns of the Board and the requirements of the Ordinance and were very thorough and attentive to the neighborhood and the impact of this property on the neighborhood with particular reference to the property next-door which was always in my mind. So

I would -- I don't know how other Board members stand as between the shed proposal and the two dormer proposals, but I would be pleased to support the shed dormer proposal.

CONSTANTINE ALEXANDER: I'm going to make a motion for the shed dormer proposal. I'm going to assume that the two of you as well as myself have not changed our minds since the last time. So on that basis I think we should go consistent with past practice. So, Tom, you don't get to vote on this, just the four of us will vote. Too bad. Your name will not go down in history, the history of this case.

I think we're ready for a motion.

The Chair moves that the Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship has been discussed amply and has been demonstrated to I think the Board's satisfaction given the personal circumstances of the three generations of your family that are occupying the structure. That unless this is done, it will become very difficult for that

continue.

That the hardship is owing to circumstances relating to basically the shape of the structure. It's a non-conforming structure. Any change would require a Zoning relief.

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

In support of that finding the Chair would note that there is unanimous and extensive support for this project in the neighborhood. That one of the intents of our Zoning Ordinance is to allow citizens of the city to continue to live in their homes, particularly multi-families in one structure and this will accomplish that. And that the neighborhood is replete with other dormers so that this is not unusual in terms of the street impact.

And so based on those findings the Chair would move that a Variance be granted to allow the Petitioner to proceed with the Variance requested in accordance with scheme 3 as identified on plans submitted by the

Petitioner, the cover page of which has been initialed by the Chair.

And on the condition that you proceed with regard to scheme 3 in accordance with the plans. So, no more modifications. If you do, you've got to come back to see us and you don't want to do that.

JOHN LODGE: Well, I mean of course we'd love to see you, just don't want to waste your time.

CONSTANTINE ALEXANDER: Okay.

On the basis of all of that, I move that the Variance be granted. All those in favor, say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Four in favor. Variance granted.

(Alexander, Myers, McAvey, Firouzbakht.)

(7:40 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10327, 678 Mass. Avenue.

Mr. Sousa.

ATTORNEY RICARDO SOUSA: Good evening, Mr. Chairman, members of the Board. Good to see you.

BRENDAN SULLIVAN: The last we met....

ATTORNEY RICARDO SOUSA: Yes, we're getting closer to the end for T-Mobile here. I like to call this T-Mobile Thursdays.

THOMAS SCOTT: Until the fifth generation comes along.

ATTORNEY RICARDO SOUSA: That's true. Good point.

Please let me know when you're ready, Mr. Chairman, to start.

BRENDAN SULLIVAN: So it's the renderings dated 9/17 which are the ones that are in the file anyhow?

ATTORNEY RICARDO SOUSA: That's correct, Mr. Chairman. We updated the submissions in the file. And the reason this matter was continued -- once again, if I could start for the record, Ricardo Sousa from Prince, Lobel and Tye, 100 Cambridge Street, Boston, Massachusetts, on behalf of applicant T-Mobile.

This matter was continued I believe at least once. It may have even been twice in an effort to continue working with the Planning Board on design issues. We in fact went to them three times in order to improve the design of this particular installation. This is a continuing effort by T-Mobile to upgrade its wireless antenna installations here in Cambridge so that it can offer the newest form of

4G level services to its customers both on voice and data. And this is a very important site in the T-Mobile network as you can well imagine, primarily because it's in Central Square and it covers a large area and covers a lot of population. And in fact it has four sectors. Unlike some of the other installations that T-Mobile has that typically have three sectors of antennas, two antennas per sector often, sometimes one. In this case we actually have four sector of antennas. So we currently operate seven panel antennas at this site. And in order to upgrade the installation, the new air antennas they call them, have to operate in sets of twos. And so we're asking to upgrade the installation to allow us to operate eight panel antennas. And I can go through the photo sims, but what you'll see in photo sims that I'll also submit to you that show the original design, you'll see that we've improved the installation quite a bit. The important corner or the sensitive corner is the intersection of River Street and Mass. Ave. That's where there are four antennas proposed. We originally had three antennas and you can see those on the photo sims. I'd like to turn to that first.

If you look at the photo sims and try to find this view, it's about four pages in. That's the existing installation that shows three antennas at that sensitive corner of the building. And we're covering Mass. Ave. and also River Street. And so, the Planning Board felt that it was chaotic, that there were too many antennas at that particular location. And so what you'll see in the new photo simulations is that we found a way after going back to the landlord to move two of those panel antennas to the facade of the middle penthouse. That actually takes away some of the chaos that the Planning Board was concerned about. And instead the resulting design will show only two antennas at that corner and then the rest will be facade-mounted throughout the building and I'll show you exactly where those are going to be.

CONSTANTINE ALEXANDER: Those two antennas, are they sort of one behind the other or one to the side? They're not both flush to the facade of the building are they?

ATTORNEY RICARDO SOUSA: They're not flush to the --

CONSTANTINE ALEXANDER: As I said, one looks like it's farther back than the other one.

ATTORNEY RICARDO SOUSA: They're actually in line.

CONSTANTINE ALEXANDER: They are in line?

ATTORNEY RICARDO SOUSA: They are in line following Mass. Ave.

CONSTANTINE ALEXANDER: Oh, following Mass. Ave.?

ATTORNEY RICARDO SOUSA: Following Mass. Ave., yes, exactly.

CONSTANTINE ALEXANDER: Yes, I see it now.

ATTORNEY RICARDO SOUSA: Yes.

And so if you turn to the plans themselves, I'll sort of highlight what we're doing here. And these are the final sets of plans that are consistent with the photo sims that you have before you.

So as you can see, two of the panel antennas here are the first photo. And those are facade-mounted on the building. We're going to keep them in essentially the same location. We're going to remove the pipe mounts and

use low profile brackets to get them closer to the wall. That's essentially the first photo that you have which is this photo here. So that's very consistent with what we've done in the past on other wireless antenna installations.

And then you turn to -- what I'd like to do is maybe turn to the last two photos. And those are these two panel antennas here. And also facade-mounted and the brick. As you can see we're putting them in the same location. We're actually painting them better than they're currently painted. Right now they're a bit red. We're going to paint them a lot darker to match that darker brick in the back of the building. So those are two facade-mounted here.

And then in the original design we actually had three antennas that were pretty close to this corner. This is sort of one of those legacy sites that was done probably under a different administration, could be some similar Board members, but it was done a while back. And so we've tried to find a way to improve that. And instead of putting four panel antennas at this corner here, we have

instead moved two of them and facade-mounted them on this middle penthouse here. That gets them away and is consistent with the facade-mounting that we've done on other installations. However, there's just no way for us to move these other two that are servicing Mass. Ave. further back. There's no room on the penthouse. As you can see other carriers are utilizing that space. And in addition to that, there's a bit of a parapet wall and we have to get down into the building. And so what the resulting design shows is that there will be in fact two parallel, as you can see here, two parallel ballast-mounted antennas versus four, which was the original design, and I think it's a much bigger improvement than we originally were proposing. And we even talked to the Planning Board and said we think that keeping them in their natural condition without any stealthing is a better option, and they agreed, then perhaps putting some large cannisters on them. That's a design that we would do. We would place some cannisters on them. However, we think it's going to just add more mass, and it's going to actually be more visually obtrusive than keeping them just two panel

antennas the way they are.

CONSTANTINE ALEXANDER: Low profile mounts you think for the antennas on the ones on the facade?

ATTORNEY RICARDO SOUSA: The ones on the facade, that's right, low profile mounts taking them out, that's correct, Mr. Alexander.

CONSTANTINE ALEXANDER: And that's shown the plans?

ATTORNEY RICARDO SOUSA: It is shown on the plans. I'll show you the page.

BRENDAN SULLIVAN: S-3?

ATTORNEY RICARDO SOUSA: S-3. That's right, Mr. Chairman: That's typically where it is. Yes, here are the low profile mounts. That actually does bring closer to the wall.

So we do think this is a big improvement from what we originally started with. And as you can see here, and I can hand those out. This is what it was going to look like when we first filed the application and when we first started working with the Planning Board. It was visually chaotic. There was a lot of horizontal brackets. We

first started getting rid of those, but then we really moved them back and improved it quite a bit.

BRENDAN SULLIVAN: Okay, so the effort was worth it.

ATTORNEY RICARDO SOUSA: Yes.

BRENDAN SULLIVAN: I guess my only comment would be if we go to -- I'm not even sure which sheet it is on the, one, two, three, on the second one, which is sort of like the back side of the building.

ATTORNEY RICARDO SOUSA: Yes.

BRENDAN SULLIVAN: Shows the existing conditions, and then the next sheet which would be the proposed and it looks like they have simulated the brick on the antenna.

JANET GREEN: Yes.

BRENDAN SULLIVAN: I guess my only comment would be if we paint that a solid color, and pick your color, because it's multi shades of whatever.

ATTORNEY RICARDO SOUSA: I think you're right, Mr. Chairman. We can remove the grout lines and paint it a darker color?

BRENDAN SULLIVAN: I think a dark color rather than --

ATTORNEY RICARDO SOUSA: Yes, the red clearly didn't work. The lipstick red didn't work.

CONSTANTINE ALEXANDER: I thought the last hearing when you came before us you were going to go flat colors.

ATTORNEY RICARDO SOUSA: Yes, flat color's a better way to go.

CONSTANTINE ALEXANDER: This is not the --

BRENDAN SULLIVAN: The existing, which is a like a terra-cotta, doesn't work.

ATTORNEY RICARDO SOUSA: These photo simulation folks get carried away.

CONSTANTINE ALEXANDER: At least they're doing now and we can see them. We used to be under cover of darkness.

ATTORNEY RICARDO SOUSA: Right. These are high quality sims. These are prepared very well.

BRENDAN SULLIVAN: Well, they're probably confused as to what is it do they want? I mean, do they

want us to match the background? So I think --

ATTORNEY RICARDO SOUSA: And some municipalities do want the grout lines.

BRENDAN SULLIVAN: No, that's right. And sometimes it works and sometimes it doesn't. But I think in this particular case I think a solid background color would be fine.

ATTORNEY RICARDO SOUSA: We would be amenable to that.

BRENDAN SULLIVAN: Any questions, Gus?
Janet, any questions?

JANET GREEN: Mine was only about the brick color.

BRENDAN SULLIVAN: Okay.

Tim, any questions?

TIMOTHY HUGHES: No, not really.

BRENDAN SULLIVAN: Tom?

THOMAS SCOTT: No.

BRENDAN SULLIVAN: I'll open it public comment.

Is there anybody here who would like to speak on the matter of 678 Massachusetts Avenue?

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance. There is correspondence from the Planning Board dated November 8th.

(Reading) The Planning Board has reviewed the Special Permit application to replace the existing antenna with updated antenna and appreciates the Applicant's efforts to minimize the visual impact of the antennas at this prominent intersection in Central Square. The Planning Board finds that this proposal for facade-mounting of two of the antenna on the existing equipment penthouse is an improvement, and that lining up the remaining antenna installation with the architectural details of the historical facade are positive steps toward the goal to minimize the impacts.

Okay, that is the sum substance of the correspondence. I will close public comment.

Let me just do some pro forma. As per Section 4, 4.32.G.1 and Section 4.10 footnote 49: In reviewing a Special Permit application for mobile communication facility, in particular the Board shall consider the following in reaching its determination, the scope of or

limitations imposed by any license secured from any state or federal agency having jurisdiction over such matters. And the submission shows that there are no limitations.

The extent to which the visual impact of the various elements of the proposed facility is minimized, the Board finds that the Petitioner has gone to great lengths to minimize the impact.

The Board notes the Planning Board's report attesting to that and applauding the efforts of the Applicant.

The proposed use is not to be erected in a residential zoning. It is a Business B. And 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.

The only condition that I would propose would be that if they were to substitute, replace a defective piece of equipment, that they be allowed to replace an exact replica to replace defective equipment. However, any change to the proposed antenna would require a new Special Permit,

that should any of the equipment to which is the subject of this Special Permit is to become obsolete or abandoned that the Petitioner is required to restore the facade to a condition prior to the installation of this equipment within 60 days of such abandonment of that equipment.

Anything else to add?

(No Response.)

BRENDAN SULLIVAN: Anything else to add?

ATTORNEY RICARDO SOUSA: I don't, Mr. Chairman.

BRENDAN SULLIVAN: Okay, let me --

THOMAS SCOTT: Just one question. On the elevation sheet A-3 it shows the three antennas that you noted are to be removed, but it shows them on the elevation and there's no note that says they should be removed. I just want to make sure -- you know what I'm saying?

ATTORNEY RICARDO SOUSA: Yeah, they're not black.

THOMAS SCOTT: Yes, they're light colored here and here. They're to be removed, correct?

ATTORNEY RICARDO SOUSA: Yes, they are absolutely to be removed.

THOMAS SCOTT: It doesn't note that on there.

ATTORNEY RICARDO SOUSA: I may have given you -- I have a set here. There must be a -- let's see the notes. Yes, right here on A-1 you see where the original ballast mount is.

THOMAS SCOTT: Yes.

ATTORNEY RICARDO SOUSA: There's a note right there that says existing panel antennas and ballast mount frame to be removed.

THOMAS SCOTT: Okay, that's good.

ATTORNEY RICARDO SOUSA: You're right, it's not clear on the elevation.

BRENDAN SULLIVAN: Okay. Let me make a motion then to grant the Special Permit as per the application for the replacement of existing seven antenna, new antenna, and the addition of one antenna mounted to the ballast frame and then replacing the one existing cabinet as per the application.

The drawings as contained in the application and the photo simulations as part of this application appears that the requirements of the Ordinance can be met. 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 presence of an existing telecommunication antenna on the premises.

The Board finds that the continued operations of or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use. In fact, it would be enhanced by an upgrade of much needed equipment.

The Board finds that there would not be any nuisance or hazard created the detriment to the health, safety, and/or welfare of the occupants 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 district otherwise derogate from the intent and purpose of the Ordinance.

The Board, as per the conditions previously mentioned, does make note to the photo simulation on page 4. A note requesting that the proposed antenna be painted a solid color and not a simulated brick color.

Anything else to add?

All those in favor of granting the Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

ATTORNEY RICARDO SOUSA: Thank you, members of the Board.

(7:55 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10333, 10 Fawcett Street.

ATTORNEY RICARDO SOUSA: Members of the Board, for the record once again, Ricardo Sousa on behalf of the Applicant T-Mobile. And I'll hand out some photo sims and plans that are also in the file. I'll ask you to share that.

TIMOTHY HUGHES: Yes, sure.

ATTORNEY RICARDO SOUSA: Mr. Chairman, this is a continuing effort by T-Mobile to upgrade its wireless installations in the city. And on this building we

actually operate six panel antennas. They're all facade-mounted on the top penthouse of the building, that beige section. And we're simply asking to replace the old antennas and allow us to install the new air antennas that provide both voice and data services at much more modern speeds.

CONSTANTINE ALEXANDER: Am I correct that the old antennas actually stand above the penthouse roof and these are not going to go above the roof?

ATTORNEY RICARDO SOUSA: That's correct, Mr. Chairman. We're going to bring them down so they don't extend the height of the penthouse.

CONSTANTINE ALEXANDER: It does minimize the visual impact.

ATTORNEY RICARDO SOUSA: That's correct, Mr. -- Mr. Alexander. Excuse me.

CONSTANTINE ALEXANDER: That's okay. You can call me Chairman.

ATTORNEY RICARDO SOUSA: You were a Chairman tonight. Once the Chairman always the Chairman. Like the President.

CONSTANTINE ALEXANDER: That's right.

ATTORNEY RICARDO SOUSA: And we're removing the pipe mounts and replacing them with low profile brackets which will improve also the aesthetics of the installation as well.

BRENDAN SULLIVAN: Okay. You did appear before the Planning Board; is that right?

ATTORNEY RICARDO SOUSA: We did. We obtained a favorable recommendation from the Planning Board for this installation as well.

CONSTANTINE ALEXANDER: They threw up their hands. I don't think you got a favorable recommendation. They threw up their hands.

ATTORNEY RICARDO SOUSA: They may have. They may have.

CONSTANTINE ALEXANDER: They said this is hopeless, we're not going to say yes or no. That's essentially what they said I think.

ATTORNEY RICARDO SOUSA: I think that was also on October 30th as well.

BRENDAN SULLIVAN: I didn't see anything.

CONSTANTINE ALEXANDER: I saw it. I don't know where it is, but I saw it. Maybe it's clipped on the back.

ATTORNEY RICARDO SOUSA: Is it under the file there, Mr. Chairman?

CONSTANTINE ALEXANDER: I know I did see it.

BRENDAN SULLIVAN: It adds nothing to the discussions at hand?

CONSTANTINE ALEXANDER: No. It just says we don't know what we're going to say about this thing.

ATTORNEY RICARDO SOUSA: They threw up their hands with the Arrow Street application which is later on tonight.

CONSTANTINE ALEXANDER: Arrow Street?

ATTORNEY RICARDO SOUSA: Yes.

CONSTANTINE ALEXANDER: You're right. Thank you.

ATTORNEY RICARDO SOUSA: This one was really a no brainer.

CONSTANTINE ALEXANDER: You're right.

BRENDAN SULLIVAN: So silence is golden.

ATTORNEY RICARDO SOUSA: Yes.

BRENDAN SULLIVAN: Let me open to public comment.
Any other questions, comments? Janet, Tim?

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: Tom?

THOMAS SCOTT: No.

BRENDAN SULLIVAN: Is there anybody here who wants to speak on the matter, case No. 10333, 10 Fawcett Street?

(No Response.)

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

Let me just go again through some pro forma stuff regarding Article 4, Section 4.32.G.1 and 4.10.

In considering the Special Permit application, the Board shall consider the limitations proposed by any scope or limitations imposed by any license secured from any state or federal agency having jurisdiction over such matters. And as per the application, there are no limitations imposed on the applicant.

The extent to which the visual impact is minimized the Board notes that the Petitioner has gone to great

lengths to reduce the visual impact by lowering the proposed antenna so that they do not go above the roof line which greatly adds to their stealthiness benefit.

The Board finds that they have also enhanced the reduction of visual impact by painting the proposed antenna to a background color.

It is not in the residential zone, hence that does not apply. It's in an Office 2 Zone.

And in granting of the Special Permit the Board shall set forth in its decision under which circumstances or procedure their permittee shall be allowed to replace or to upgrade its equipment.

A condition of granting of this Variance is that the Petitioner be allowed to replace defective equipment with exact, identical equipment, but that any change in size or location of equipment would require a new Special Permit.

A further condition is that should any of the equipment subject of this Special Permit be abandoned, become obsolete, that it be promptly removed within 60 days, and the surface to which it is attached be restored

back to its condition prior to the installation of this equipment.

Anything else to add?

ATTORNEY RICARDO SOUSA: Nothing else to add, Mr. Chairman.

BRENDAN SULLIVAN: Okay.

Let me make a motion then to grant the Special Permit as per the application, the drawings contained therein, and the photo simulations.

The Board finds that it appears that the requirements of the Ordinance can be met. 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 existence of telecommunications facilities on this premise and as it's had no adverse affect.

The continued operation of or development of adjacent uses as permitted to the Zoning Ordinance would not be adversely affected by the nature of the proposed use. In fact, it will be enhanced by the upgrade in

equipment.

There would not be any nuisance or hazard created to the detriment, health, safety 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 district 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.

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

(8:05 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10321, 99 Irving Street.

Is there anybody here on that matter?

(No Response.)

BRENDAN SULLIVAN: We have not received any communication?

SEAN O'GRADY: Well, I spoke to the lawyer, the lawyer told me that he wanted to continue. He was going to send an e-mail. I'm not sure -- it wasn't there when I left the office, but those are his wishes.

BRENDAN SULLIVAN: For the record, it appears that in our last hearing that there was some correction to the dimensional form and changes to the dimensional form was requested of the Petitioner. That information has not made it to the file as of yet. The counsel for the Petitioner was advised of same and has asked for a continuance.

CONSTANTINE ALEXANDER: Is that true? I saw the

dimensional form and they did revise the dimensional form. They had another 40 seat or so which you had pointed out they should have had the last time around. What they didn't do is give us any other information as to why the history of the building, as to why that area that they wanted to build over is there.

BRENDAN SULLIVAN: There is --

CONSTANTINE ALEXANDER: Look on the form from the architect.

BRENDAN SULLIVAN: There is some information which is here, but I felt that it was somewhat incomplete.

CONSTANTINE ALEXANDER: Okay. That may be so, but they did give something.

BRENDAN SULLIVAN: They submitted some, deficient on others, and hence I requested the Zoning Specialist to call and ask if it was forthcoming or not. And they basically requested a continuance. Verbally said they were going to follow it up with an e-mail but that has not come yet. So I would take it on the face to accept their request for a continuance in this matter.

CONSTANTINE ALEXANDER: Sure.

BRENDAN SULLIVAN: Any other questions?

(No Response.)

CONSTANTINE ALEXANDER: I would just remind them that not only to do what you need to do with the dimensional form, but they were supposed to bring other information to our attention which there's nothing in the file as of yet, and they should do that as well.

BRENDAN SULLIVAN: That's correct.

Sean, what is the date?

SEAN O'GRADY: January 10th.

BRENDAN SULLIVAN: 2013.

Let me make a motion then to continue this matter until January 10, 2013 --

JANET GREEN: Can I just point out that Kevin was on this case.

BRENDAN SULLIVAN: Yes, that's okay. We would have to check to make sure that Kevin is going to be available on -- what was that date, Sean?

SEAN O'GRADY: January 10th.

BRENDAN SULLIVAN: January 10, 2013.

Let me make a motion to continue this matter to

January 10, 2013, at seven p.m. on the condition that the Petitioner change the posting sign to reflect the new date of January 10, 2013, and the time of seven p.m.

Also that the Petitioner's required to furnish complete information as requested by the Board at the previous hearing in order to go forward on January 10th.

And any new submissions or documentation required for this Applicant be in the file by five p.m. on the Monday prior to the January 10th hearing.

All those in favor of continuing this matter?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

BRENDAN SULLIVAN: What we'll need to do is make sure that Kevin who sat on this is available on January 10th.

(8:05 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10345, 5 Callender Street.

J. DAVID GIBBS: Good evening.

BRENDAN SULLIVAN: If you would introduce yourself for the record, please, spell your last name and when you speak and whoever is going to speak.

J. DAVID GIBBS: My name is David Gibbs, I'm the executive director of the Cambridge Community Center, and my last name is spelled G-i-b-b-s.

KIM MOTYLEWSKI: I'm Kim Motylewski, I'm the market manager for the farmer's market which is the program center. And my last name is spelled M-o-t-y-l-e-w-s-k-i.

BRENDAN SULLIVAN: Okay.

Mr. Gibbs, your presentation.

J. DAVID GIBBS: Sure. Last year we were here in

preparation for the first year of the winter farmer's market, and we came asking for a one year Variance. We were not sure whether the market would be a success, how it would be received by the community, and so we felt that it was okay to just do that. The market was a tremendous success. Very well received by the neighborhood, by the participants, by the vendors, and we have received an awful lot of positive feedback and intend to go forward this year and in subsequent years barring any unforeseen complications. So we're here to ask for essentially the same Variance we asked for last year only with a five year timeline this year.

CONSTANTINE ALEXANDER: Any negative feedback? You said positive. Any negative feedback?

J. DAVID GIBBS: Honestly, I can't recall any. It was, it was really an overwhelming success, yeah.

CONSTANTINE ALEXANDER: Good.

BRENDAN SULLIVAN: And your hours of operations, the day of the week, and all that will not change?

J. DAVID GIBBS: No change. Saturdays from January through the end of April, 10 to 2 are the public

shopping hours. Load in for about two hours before that and load out for about an hour afterwards.

BRENDAN SULLIVAN: Okay, good.

All right. Any questions?

CONSTANTINE ALEXANDER: I'm in full support.

JANET GREEN: I think it's really good. I came by to look at the sign, I didn't know where the center was, and there was a neighbor walking by and said Oh, this is just the most wonderful thing that's happened to the neighborhood. So I would like to say that that's certainly the case as I found it. And I just was curious about how the scheduling, the trucks at the beginning of the morning because it's quite a tight --

J. DAVID GIBBS: Why don't you speak to that?

KIM MOTYLEWSKI: Right. We do have -- the city was good enough to designate an area along our property line at the curb as for specifically for farmer's market parking, and we use that area from 8:00 until 9:45 for vendors to come up in waves and unload and then they go off and park in the designated area for them. And then after that point, that space is available for others coming

in cars.

J. DAVID GIBBS: Shoppers.

KIM MOTYLEWSKI: Shoppers who may not have a resident permit.

JANET GREEN: And you've had volunteers unloading?

KIM MOTYLEWSKI: We did. We had a core group from the colleges and community and who came to help with the unloading and move it along and it worked very smoothly. At first I was scheduling vendors to come at a particular time or windows of time, and after a while I realized it wasn't necessary. It was two blocks of time they would show up and, you know, whatever differences there were in their arrival time were fine. And what's amazing, though, is that they get out about three times as fast as they get in.

CONSTANTINE ALEXANDER: You were fortunate last year we had no snow. What happens when there is a big snowstorm is going to be something else.

KIM MOTYLEWSKI: Yes, that will be a new challenge.

J. DAVID GIBBS: The reason there was no snow last year is we bought a brand new snow blower. I can't tell you that we're going to buy another one for this winter.

CONSTANTINE ALEXANDER: I can say I live on the other part of town and I did come to the market last year. I wanted to see how it worked. It was very -- I was very impressed. There were a lot of people there and there was a lot exhibitors or however you describe them, and it was a very good addition to the community.

J. DAVID GIBBS: Thank you. Thank you very much.

BRENDAN SULLIVAN: Okay, let me open it to public comment.

Is there anybody here who would like to speak on the matter of case No. 10345, 5 Callender Street?

(No Response.)

BRENDAN SULLIVAN: There is no one in attendance.

There is correspondence on the letterhead of the City of Cambridge Office of the Mayor. (Reading) I wholeheartedly support the Variance needed to operate a winter's farmer's market on Saturdays in the community center gym from January 2013 through April 2017. The

winter's farmer market was a big success last year and can only grow as it becomes more widely known. Anything we can do to offer access to fresh fruits and vegetables to our residents deserves support. I hope the BZA will grant this Variance. Sincerely, Henrietta Davis, Mayor of Cambridge.

On the letterhead of the Cambridge Public Health Department, the Cambridge Health Alliance. (Reading)
Dear Board Members: On behalf of the Cambridge Public Health Department I'm writing in support of the Cambridge Community Center request for a Variance to operate the Cambridge winter farmer's market in their gymnasium. Our department plays an instrumental role in helping to guide a number of wellness promotion efforts that occur across the city. As a result, we depend on our key partners like the Cambridge Community Center to assist us with providing the array of programs and services that promote healthier lifestyles for students, workers, residents, and visitors to the city. The farmer's market have been shown to be an effective strategy for addressing the health needs of our local communities. We feel that making wholesome

vegetables, fruits, and proteins grown in New England available to area residents through the winter months and providing a forum for food education and community building will continue to be a welcome benefit to area residents. Cambridge office of farmer's market seven days a week and given the diversity of our communities, we especially note the market's welcome to low income shoppers who may use their SNAP, S-N-A-P benefits at the market each week. We thank you for your consideration and look forward to hearing a favorable response in the coming weeks. Claude, C-l-a-u-d-e - A-l-i-x Jacob, J-a-c-o-b, Chief Public Health Officer.

Okay. I think that's the sum substance of the correspondence.

Anything to add?

J. DAVID GIBBS: No.

KIM MOTYLEWSKI: No.

BRENDAN SULLIVAN: Okay. Let me make a motion.

Any questions or concerns?

THOMAS SCOTT: Trash removal? How did that go?

J. DAVID GIBBS: The vendors took away what they

brought.

THOMAS SCOTT: What they brought in?

J. DAVID GIBBS: We essentially had the --

KIM MOTYLEWSKI: Two bags of trash, you know, generated.

J. DAVID GIBBS: Yeah, two bags of trash and whatever paper towels were in the restrooms after the day's shopping. It really was not an issue.

THOMAS SCOTT: Okay.

BRENDAN SULLIVAN: Sean, the use is not permitted in the zone, is that basically --

SEAN O'GRADY: Yes. That's correct, yes.

BRENDAN SULLIVAN: Okay.

Let me make a motion then to grant the Variance to operate a winter's farmer's market in the gymnasium on Saturdays from eight a.m. to four p.m., including loading setup, vending, and breakdown from January through April from 2013 through 2017.

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 providing this much needed facility by offering social, cultural, educational, and recreational activities to the community.

And the Board finds that with the participation of farmer's, fishermen, bakers, and supplemental food businesses the Cambridge winter farmer's market are enabling residence of all income levels to reap significant benefits relating to food and nutrition.

The Board finds that without the Variance the Cambridge Community Center would be unable to offer these benefits to the community.

The hardship is owing to the fact that the proposed use is not allowed in the district without the use, without the granting of this Variance.

The Board finds that the granting of this Variance would be a most welcome addition to the neighborhood and to the citizens of the city.

And the Board finds that there appears not to be any other facility in the neighborhood that is equipped or inclined to host such an event such as this.

Desirable relief may be granted without either

substantial detriment to the public good. In fact, the granting of this Variance will enhance the public good substantially as per the prior track record, letters of support from the Mayor and also from the Cambridge Public Health Department.

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

All those in favor of granting -- and the conditions as imposed in the original grant case No. 10167 still remain in effect.

CONSTANTINE ALEXANDER: Only one year then? They're asking for five years.

BRENDAN SULLIVAN: Except for the time limit.

CONSTANTINE ALEXANDER: It should be five years.

J. DAVID GIBBS: Would you remind us of those conditions, Mr. Chairman? I honestly don't remember.

KIM MOTYLEWSKI: I think the condition was that it was just one year.

J. DAVID GIBBS: Okay.

CONSTANTINE ALEXANDER: There was no other

condition.

BRENDAN SULLIVAN: But I think there was some presentation as far as the clean-up and so on and so forth and that's all. That's really quite innocuous for the time. Which has been set aside by the granting of this one here.

CONSTANTINE ALEXANDER: Variance for five years.

BRENDAN SULLIVAN: Five years.

All those in favor?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

J. DAVID GIBBS: Thank you very much. Hope to see you all at the market.

(8:15 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10346, 8-10 Arrow Street.

CONSTANTINE ALEXANDER: Are you going to explain to us why the sign was not put on seven too?

ATTORNEY RICARDO SOUSA: On this one?

CONSTANTINE ALEXANDER: Yes, the sign down the street is on 14 Arrow Street.

ATTORNEY RICARDO SOUSA: Mr. Alexander, I can address that but I'd like to ask Ms. Slaga to perhaps come up since she installs the signs for our team.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY RICARDO SOUSA: Mr. Chairman, just for

the record Ricardo Sousa on behalf of the applicant T-Mobile. And also Ms. Jackie Slaga who is an agent for T-Mobile who is responsible for both working on the application but also some of the signage.

BRENDAN SULLIVAN: Okay, you're in the hot seat.

JACKIE SLAGA: Apparently.

Well, I was given two signs I believe for this property. I believe I put one on each of the main entrances on the each of the streetscapes.

CONSTANTINE ALEXANDER: Not on 8, 8-10. There is a doorway. No sign. And then you go down to the street which is the next doorway which is 14 or maybe it's 12, and that's where the sign was. I was just curious, you didn't put it in the doorway where the address is. It may not be a functioning doorway any longer. It may be a door that's sealed but there is a doorway there.

JACKIE SLAGA: Right. Again, I think my thought was I put it at the main entrance where people were, you know, egressing the building. I think that was my thought process.

CONSTANTINE ALEXANDER: I just wanted to get it

on the record.

ATTORNEY RICARDO SOUSA: Thanks, Jackie. If Mr. Alexander's good, I'm good.

Mr. Chairman, this is a fairly straight forward application in the sense that we have an existing smokestack that's being utilized for three panel antennas. For this application we're asking to simply allow us to remove those three and replace them with three air antennas. We're going to be removing the pipe mounts and installing low profile brackets. I actually think they look pretty good from a color perspective, but if you have any thoughts on that, we're amenable on any changes on the color. We can make sure -- it's hard to tell on the photos as to whether or not there are any grout lines. It doesn't look like there are. There's a flat one color finish if that's your preference. And like I said, I think it's a fairly clean installation. I've driven that area a number of times and it's really hard to pick up.

CONSTANTINE ALEXANDER: You want to elaborate on why the Planning Board threw up its hands?

ATTORNEY RICARDO SOUSA: Perhaps wireless

overload might be one of the answers. They had a lot that night. A lot of installations that night. I think it's, to be entirely honest, I don't think it's their preference to have antennas on smokestacks. I think if we had another alternative, I think they would have preferred that. But as you know height is the king with respect to this technology. We really need to be as high as we can in a particular neighborhood to try to cover that area. You know, another carrier's on 1100 Mass. Ave. not too far from here, I brought that installation to you but that one's almost fully loaded to tell you the truth. But this actually works fairly well. And I think the way it was designed, the way the cable runs have been capped with cable trays, I think actually looks pretty good I have to say.

CONSTANTINE ALEXANDER: I think so.

BRENDAN SULLIVAN: I think that if I were -- well, the Planning Board, even sitting where I sit, I think maybe their thought was how can we improve upon the existing? And they probably threw up their hands because they're saying maybe you really can't improve upon it. There

really is not too much of an alternative.

ATTORNEY RICARDO SOUSA: That's a good point, Mr. Chairman.

BRENDAN SULLIVAN: Other than, you know, maybe pushing it back. I don't even know what the color of it is. Again, it's pretty innocuous if you go down there.

ATTORNEY RICARDO SOUSA: Right.

BRENDAN SULLIVAN: Really your attention is not to that smokestack. And the further you get back, you don't really see it at all.

ATTORNEY RICARDO SOUSA: Right.

BRENDAN SULLIVAN: But, I guess my preference would have been that it be on a totally different location. Other than the fact that you have a willing landlord, land owner who likes the revenue, that whoever willing applicant who needs a location in that general area at that particular height that works. So it's like the stars are aligned on this particular building and it works. And I guess it's working now.

ATTORNEY RICARDO SOUSA: I think that's right, Mr. Chairman.

BRENDAN SULLIVAN: So we just continue with it. And as far as improving it, I'm not sure how you can improve upon it other than tweaking some of the things that you've tweaked as far as the low profile and the coloring of it, which not simulate the brick but rather some dark background color.

ATTORNEY RICARDO SOUSA: Right.

BRENDAN SULLIVAN: And that's then you continue doing what you're doing I guess. And upgrading the equipment.

So that would be my critique of it. That's your presentation?

ATTORNEY RICARDO SOUSA: It is, Mr. Chairman. We would respectfully request that it be permitted.

BRENDAN SULLIVAN: Janet any questions, comments?

JANET GREEN: I'm fine.

TIMOTHY HUGHES: I do have a quick, and I usually don't about these things.

ATTORNEY RICARDO SOUSA: Sure.

TIMOTHY HUGHES: But are these the same kinds of

antennas that are at the 678 Mass. Ave. location?

ATTORNEY RICARDO SOUSA: They are.

TIMOTHY HUGHES: How come there's an odd number on this one when you needed an even number?

ATTORNEY RICARDO SOUSA: Well, it has to either be one per sector or two per sector or three per sector.

TIMOTHY HUGHES: Oh, okay.

ATTORNEY RICARDO SOUSA: Yeah. So it's the uniformity. What we had before at 678 Mass. Ave. was two, two, two, and then one. And under the old technology you could do that. But under the new technology it has to be one, two, three per sector.

TIMOTHY HUGHES: So that if you were to jump, it would go to three to six?

ATTORNEY RICARDO SOUSA: It would go three to six. And from a structural perspective I don't think the smokestack would allow that.

TIMOTHY HUGHES: Okay.

ATTORNEY RICARDO SOUSA: Good question, though.

TIMOTHY HUGHES: Thanks. I have to show that I'm actually paying attention.

BRENDAN SULLIVAN: I was going to say I'm impressed by your astuteness on it.

Tom, any questions?

THOMAS SCOTT: No.

BRENDAN SULLIVAN: As per section 4.32.G.1 and 4.10 footnote 49, in reviewing the Special Permit application for mobile communication facility the Board shall consider the following:

The scope of or limitations of imposed by any license secured from any state or federal agency, and the application contained so that there is no limitations the extent of which the visual impact of the various elements is minimized.

And the Board notes the reduction by the pipe mounting to a low profile bracket. The coloration to a solid background color will greatly minimize the visual impact.

That it is not being erected in a residential district. So 49.3 does not apply.

In granting a Special Permit the Board shall set forth in its decision under which circumstances the

permittee shall be allowed to replace and upgrade its equipment. The replacement of any defective equipment as exactly the same type being installed under this Special Permit shall be allowed.

Any changing of equipment to a different location or a different size or a different element would require a new Special Permit from this Board.

As such it appears that the requirements -- the Board notes the letter from the Planning Board which basically leaves the decision up to the Zoning Board on this particular application. I guess would probably be the best way to summarize it.

ATTORNEY RICARDO SOUSA: Yes.

BRENDAN SULLIVAN: Let me see, I make a motion then to grant the Special Permit for an in-kind replacement of three antenna with three new antenna, and in-kind replacement of one existing cabinet inside the interior equipment room.

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

Traffic generated or patterns of access or egress

would not cause congestion, hazard, or substantial change to the established neighborhood character.

The Board notes the existence of an existing telecommunication facility and antenna on the locust.

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. In fact, the upgrade in equipment would enhance the operations of the adjoining district.

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

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.

On the condition that the work comply with the submissions and the photo simulations as contained in the application.

All those in favor of --

CONSTANTINE ALEXANDER: And they have to remove -- if they abandon it, they have to remove it.

BRENDAN SULLIVAN: Should this equipment be abandoned or rendered obsolete, that it be removed within 60 days of such condition, and that the facade to which it is attached be restored to a condition prior to the installation of this equipment.

All those in favor?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

ATTORNEY RICARDO SOUSA: Thank you, members of the Board. Thank you, Mr. Chairman.

(8:30 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10347, 2263 Mass. Avenue.

ATTORNEY VINCENT PANICO: Good evening.

BRENDAN SULLIVAN: Mr. Panico.

ATTORNEY VINCENT PANICO: Good evening. My name is Vincent Panico. I'm an attorney for the petitioner Ricardo Passini the owner of L'Impasto, Inc. On my right is his assistant manager Randi Carpinto and we're here on a Special Permit asking that the requirement of additional parking space be waived. And we offer as there are several types of public transportation. We have Davis Square nearby. We have the two Arlington busses that run by the front of the building. We have the North Cambridge tractor's trolley that also goes by.

This is a neighborhood business. Most of the people who come to this small Italian restaurant are from the immediate neighbors. And those that don't, there are plenty of parking meters nearby.

The hardship is that there is no parking. There are no parking spaces. The most likely candidate was St. John's Church which is right across the street. But all parking there terminates at five o'clock. The pastor will not allow any parking beyond that time. And there is no

other -- there are no other parking spaces to be found.

And in addition, it is a financial hardship because these four seats on this small restaurant make a substantial difference as I think all of us know in these times, restaurants are having difficulty, particularly the small ones. And allowing the parking space to be waived will not have any effect on this area.

The meters -- excuse me, the amount of traffic that goes by it on Massachusetts Avenue is very, very substantial. And one more car, more or less, would not make much of a difference. In fact, The Traffic Department encourages that we don't create more parking, that we have more use of the public transportation. And there's no nuisance that would be created. There's no affect on this district. We have several restaurants nearby, this same type of operations, and I'd be happy to answer any other questions.

CONSTANTINE ALEXANDER: Actually, Mr. Panico, we did give relief for parking for Cafe Barada up the street. So it's not unprecedented that we give a Special Permit on the parking. There is precedent in support for the

relief you're seeking.

The question, though, I have for you, you're not a -- how are you getting the extra four tables? I've been in your restaurant and you're not expanding the area.

ATTORNEY VINCENT PANICO: Four seats.

CONSTANTINE ALEXANDER: Four seats, yes. Where are you putting them?

ATTORNEY VINCENT PANICO: Believe me they fit.

CONSTANTINE ALEXANDER: I believe you. But they were pretty tight before.

ATTORNEY VINCENT PANICO: It is a small area.

CONSTANTINE ALEXANDER: You would be able to get four more in there?

ATTORNEY VINCENT PANICO: We would be able to get four more in there, yes.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY VINCENT PANICO: And we are aware that we must comply with all Building Department regulations even if we get the Zoning Board approval.

BRENDAN SULLIVAN: Sean, they're exempt from providing any parking right now; is that correct?

SEAN O'GRADY: Yes, they would be operating under the small business exemption which would allow them to exempt their first required four spaces under certain conditions which they in fact meet.

BRENDAN SULLIVAN: Okay. So once they cross the threshold to add to that, then it triggers the parking requirement?

SEAN O'GRADY: Exactly. And unlike residential, it only triggers the requirement for the one space as opposed to residential where you have to go back and get spaces for every unit.

BRENDAN SULLIVAN: Right, okay.

And so that the reduction is, is it one space?

SEAN O'GRADY: One space.

BRENDAN SULLIVAN: There's only one space, and the presentation is that the building is basically landlocked. There was no area to park a bicycle anywhere.

ATTORNEY VINCENT PANICO: No. There's no parking for the entire building.

BRENDAN SULLIVAN: Okay. And it was designed as such. And that block has been in existence for many, many

years. Both blocks on either side of the street has survived without any parking up to now.

Okay. Any other questions?

(No Response.)

BRENDAN SULLIVAN: Let me open to public comment.

Is there anybody here who would like to speak on the matter case No. 10347, 2263 Mass. Avenue?

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance and there is no correspondence in the file.

Okay.

For the record, under Section 6.351.A. Any minimum requirement amount of parking may be reduced only upon the issuance of a Special Permit from the Board. Special Permit shall be granted only if the Board determines and cites evidence in its decision that the lesser amount of parking will not cause excessive congestion, endanger public safety, substantially reduce parking, availability for other uses or otherwise adversely impact the neighborhood. And that such lesser amount of parking will provide positive environmental other benefits to the users

of the lot and to the neighborhood.

In reaching our decision the Board takes into consideration the availability of surplus off street parking in the vicinity being used and/or the proximity of an MBTA transit station. And presentation has been that the Davis Square station is down the street. That there is an active bus line in front of the building. That they have active meters in front of the building, and that the commercial block which has gone through some transition I would say in the last few years with tenancy, has survived for many years without the use of parking, and that off street parking at this location really is not crucial to the viability of any establishment that is there and does not have any adverse impact on the neighborhood.

And the Board also notes the granting of a Special Permit to an establishment on the adjoining block in much the same type of a business. And that that has not had any adverse effect on the neighborhood.

So, anything else to add to your presentation?

ATTORNEY VINCENT PANICO: Nothing.

BRENDAN SULLIVAN: Okay.

Gus, any questions?

CONSTANTINE ALEXANDER: I'm fine.

BRENDAN SULLIVAN: Any questions?

(No Response.)

BRENDAN SULLIVAN: Let me make a motion then to grant the Special Permit for the reduction of the parking.

As per the application 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 the additional four seats will have absolutely no impact on the traffic flow in and out of this establishment or affect of the neighborhood.

The Board finds that continued operations of or development of adjacent uses as permitted to the Zoning Ordinance would not be adversely affected by the nature of the proposed use, and that the Board finds that this is a rather small restaurant which serves the neighborhood, and that the addition of the four seats would

be much welcomed.

And, again, testimony has shown and also past experience with this particular locus has shown that the reduction of parking requirement would not have any adverse effect on the neighborhood.

The Board finds that there would not be any nuisance or hazard created to the detriment of the health, safety, or welfare of the occupants or the proposed use of the city or the citizens of the city. And that the proposed use would not impair the integrity of the district or adjoining districts and would not derogate from the intent and purpose of the Ordinance.

All those in favor of granting this Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

ATTORNEY VINCENT PANICO: Thank you very much.

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

(8:40 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10348, 150 Langdon Street.

Mr. Goldberg, how are you?

ATTORNEY BERNARD GOLDBERG: I'm fine.

Bernard Goldberg, attorney for the Petitioner. And on my right is Doctor Philip Millstein and his wife Kathy who have lived at 15 Lagndon Street and have lived there since 1969. I have and I brought with me a set for you, and I don't know whether you have it or not, it's in the

file. But this is architectural plans of what they intend to do on the first floor, and the first floor was as described was a dentist office and that was where Doctor Millstein operated for a number of years. And now they -- he is semiretired if you will. And he desires to close that office and convert it into a single-family residence. He lives on the premises.

CONSTANTINE ALEXANDER: But the dental office that's going to be converted will be a rental unit?

ATTORNEY BERNARD GOLDBERG: Yes, yes.

And now perhaps in your preparation for this hearing, and this was given to me by Doctor Millstein, I have the Cambridge architectural inventory, and I made a set for each one of you, and it's very, very interesting to understand that this house was built in 1887. And I put it down in my notes that it's an astonishing late mansard. And then I was wondering what QA was, and we finally determined that it's Queen Anne I hope. So we're here today to obtain a Variance for the conversion from the dental office to a residence office.

CONSTANTINE ALEXANDER: Now most of the yard is

paved. There's 12 parking spaces on the yard.

ATTORNEY BERNARD GOLDBERG: Yes, there is.

CONSTANTINE ALEXANDER: Now that you're not going to have a dental office anymore, just what are you going to do with the yard, are you going to leave it all paved?

ATTORNEY BERNARD GOLDBERG: Yes. That's their intention. And of course they use it for their own parking and they have people in the neighborhood who use the parking and sometimes they're --

CONSTANTINE ALEXANDER: Do you charge them to use it?

ATTORNEY BERNARD GOLDBERG: Yes, it's a rental charge because the area itself is not conducive to much parking at all.

CONSTANTINE ALEXANDER: I understand but I'm not sure it's legal.

KATHLEEN MILLSTEIN: We've had a permit since 1940 or something or other.

CONSTANTINE ALEXANDER: Was that for people who visited the dentist office?

KATHLEEN MILLSTEIN: No.

PHILIP MILLSTEIN: No.

KATHLEEN MILLSTEIN: We have a medallion that went -- what happened is that basically if anyone is interested, historically is that basically the house and the yard were purchased by the folk across the street who was the, he was an osteopathic physician. He purchased it to pave it over before -- to pave the yard over for parking and got a parking medallion and we actually have a record of that. I actually don't have it with me. In 1950-something or other. And so when we purchased the house, the parking lot with medallion came with it. It is No. 70. We're No. 50. So it's, the two properties are 15 and 17 Langdon. So it was grand because it served as parking for the office, but it also has had a rental usage in the evening for years, decades.

CONSTANTINE ALEXANDER: I wasn't aware of something called -- you could get medallions?

KATHLEEN MILLSTEIN: We actually have it.

CONSTANTINE ALEXANDER: They have taxi medallions.

KATHLEEN MILLSTEIN: Well, I don't know what you

call it. It's very pretty and it's round and it was posted on the lot and we pay a fee.

CONSTANTINE ALEXANDER: Every year, an annual fee for it?

KATHLEEN MILLSTEIN: Yes.

CONSTANTINE ALEXANDER: Really?

PHILIP MILLSTEIN: Oh, yeah.

KATHLEEN MILLSTEIN: So I think it way predates us. We didn't pave it. I don't think we would have paved it, but it was paved.

CONSTANTINE ALEXANDER: Okay.

SEAN O'GRADY: Learn something new.

THOMAS SCOTT: Do you have the medallion?

KATHLEEN MILLSTEIN: Yeah -- not with me, but I have the documentation. I mean, it's pretty neat. It's a very low number.

PHILIP MILLSTEIN: We have it at home.

KATHLEEN MILLSTEIN: Yeah, we have it at home and it's painted. And I actually have the documentation from the first medallion. I mean, from the first one -- we, they -- Doctor Wilson owned the house. Perry Wilson.

And now the Park Street -- he willed it to the Park Street Church. More than you wanted to know probably.

BRENDAN SULLIVAN: Okay. Basically it is a single-family home with a physician, a doctor's --

KATHLEEN MILLSTEIN: Right. But it wasn't originally a single-family home. When it was purchased, it was three apartments. It was, it was in the documentation as three apartments. At which point it then got changed to -- and actually then it got a Variance to put the dental office in it as owner occupying which was back in 1969 which is how the first floor was made into the dental office. And then the second floor and the third floor still remain as apart -- separate apartments. And then when we got married, we lived on the third floor and rented the second, and the office was on the first. And then we lived on the second floor and rented the third. The office was on the first. And as we had more children, it became the second and third floor and the office on the first. So it's always -- it's always been -- well, not always, but always as back far as even when Doctor Wilson purchased it in the fifties.

PHILIP MILLSTEIN: There were three.

KATHLEEN MILLSTEIN: There were three units there.

CONSTANTINE ALEXANDER: In one sense it brings your property more in compliance with our Zoning Ordinance. It's a residential district and you're getting rid of a commercial use.

KATHLEEN MILLSTEIN: And that's all we want to do.

CONSTANTINE ALEXANDER: You're going to have a two-family house.

KATHLEEN MILLSTEIN: Yeah.

CONSTANTINE ALEXANDER: And the reason you're before us tonight is because your FAR is too high.

ATTORNEY BERNARD GOLDBERG: Right.

CONSTANTINE ALEXANDER: If not for that, you would not even need to get relief from us.

KATHLEEN MILLSTEIN: I have no idea.

CONSTANTINE ALEXANDER: Floor area ratio. In other words, the amount of living space in the building relative to the size of the lot is too high.

KATHLEEN MILLSTEIN: We thought the reason we

were here is because we weren't being allowed to take the -- we pay high taxes on 40 percent of the house because it's considered commercial.

CONSTANTINE ALEXANDER: No, no, you couldn't. This is a residential district. You can abandon the commercial use any time we want.

KATHLEEN MILLSTEIN: We've abandoned it for two years. We've been paying taxes.

CONSTANTINE ALEXANDER: That's another issue.

KATHLEEN MILLSTEIN: I'm just confused. And we went to see them and they said we couldn't be residential even though we weren't using it commercially.

BRENDAN SULLIVAN: Well, I think that the main --

KATHLEEN MILLSTEIN: I'm confused.

BRENDAN SULLIVAN: The main -- oh, no. It's --

CONSTANTINE ALEXANDER: My guess is because on the tax roles of a commercial space you have to pay taxes.

BRENDAN SULLIVAN: Well, Sean, it's conversion obviously.

ATTORNEY BERNARD GOLDBERG: Yes.

SEAN O'GRADY: Yes. The theory goes something

like this: You can abandon the commercial of course. That leaves you as of right with a single-family house. So what you could have done as of right was just expand your apartment fully into the house. So that's where we sit legally.

And then in order to add a unit, you'd have to meet the elements of 5.6, there's four of them. Gus is saying you're over your FAR. I suspect you're okay with your parking. Probably okay with their open space?

CONSTANTINE ALEXANDER: I don't know how you consider the paid parking, is that open space?

SEAN O'GRADY: Probably not.

CONSTANTINE ALEXANDER: Then they're not because the whole yard is paved basically.

SEAN O'GRADY: Basically what you're trying to do here is a single-family house to a two-family --

KATHLEEN MILLSTEIN: Even though it didn't start out as a single-family.

SEAN O'GRADY: Well, you abandoned whatever it started out --

KATHLEEN MILLSTEIN: No, but we were in it, and

we made the office in it. And it was two other units plus the office.

BRENDAN SULLIVAN: Once you took it over, then you basically --

KATHLEEN MILLSTEIN: A single-family with an office. We were the two floors with the office even though that was incorrect.

TIMOTHY HUGHES: No, I mean the two floors were always separate units, right?

KATHLEEN MILLSTEIN: Yeah.

TIMOTHY HUGHES: Did you join those two units and make them --

KATHLEEN MILLSTEIN: No. We just used them. I mean, what we did --

PHILIP MILLSTEIN: You mean construction wise? No.

TIMOTHY HUGHES: And not to mention the fact that there's documentation in 1888 that this was a two-family house. It was built as a two-family. So they're only going from -- they're only going back to a two-family. So it's got to be just the FAR, no?

SEAN O'GRADY: Well, it's that -- yes.

CONSTANTINE ALEXANDER: I think you're right, just FAR as far as I can see.

TIMOTHY HUGHES: They're not changing the number of units based on what the historical units were in the house.

SEAN O'GRADY: When they started to occupy the house as a single unit and a dental office, that action alone is abandonment of the second unit. So that's where they're sitting now.

TIMOTHY HUGHES: And they stopped renting out one of those units.

KATHLEEN MILLSTEIN: Right.

SEAN O'GRADY: Right. When they started to occupy as a single unit then it becomes a single-family.

TIMOTHY HUGHES: All right. So it's a single family and then you take the commercial use to make it residential, it goes back to a two-family which is what historically it was.

SEAN O'GRADY: Yes, but you don't get to go back in 1880 something existed so I get to go back there even

though in the interim I've abandoned those rights.

CONSTANTINE ALEXANDER: It's a very technical issue.

SEAN O'GRADY: Very technical.

BRENDAN SULLIVAN: In order to add a second unit -- right now it's a single-family with an office component.

SEAN O'GRADY: We would actually say no.

BRENDAN SULLIVAN: In order to figure that out, there are four tests.

One is that no dwelling unit created by the conversion of an existing dwelling into a greater number of units or by the addition or enlargement of an existing dwelling, which is what we're doing here, we're basically adding, shall be permitted until the requirements of the minimum lot area for each dwelling unit is satisfied. And we don't have that. So we don't have the minimum lot area.

Usable open space. That is deficient. And the off street parking, that can be satisfied.

SEAN O'GRADY: Yes.

BRENDAN SULLIVAN: And so there's a couple of

technical violations.

ATTORNEY BERNARD GOLDBERG: Right.

BRENDAN SULLIVAN: Which are inherent with the property and --

ATTORNEY BERNARD GOLDBERG: Going back years.

BRENDAN SULLIVAN: -- which would be even if it was never a dentist office per se. So anyhow.

JANET GREEN: Can I ask a question? Are these two different properties, the one with the parking on it and the one with the house on it?

KATHLEEN MILLSTEIN: We have two different tax bills.

PHILIP MILLSTEIN: Two different tax bills.

KATHLEEN MILLSTEIN: But at one point we wanted to -- we would remain perpetually confused. When we went at one point to think about building a smaller house on the lot, they told us we couldn't because even though there were two separate tax bills and two separate lots.

CONSTANTINE ALEXANDER: They merged the two lots, probably merged from a Zoning point of view.

KATHLEEN MILLSTEIN: Right.

CONSTANTINE ALEXANDER: Because you both owned -- you know what I'm saying?

KATHLEEN MILLSTEIN: We own them both.

CONSTANTINE ALEXANDER: You own both. As a matter of law, when you do that -- when that happens, the two lots merge and become one lot. And then if you wanted to build on part of your one lot, you probably couldn't comply with the Zoning requirements.

KATHLEEN MILLSTEIN: Right. Well, that was a number of years ago. Actually, I don't have -- I'm going to leave this to Bernie.

TIMOTHY HUGHES: So would both lots taken into consideration when the calculations were done on the --

JANET GREEN: Yes, that's what I wondered, on the FAR.

TIMOTHY HUGHES: -- on the dimensional form?

CONSTANTINE ALEXANDER: I don't know. All I know is the FAR shows 0.66 and they can't be more than 0.5 in the district. I don't know how the calculation was made, though.

JANET GREEN: Was the calculation made on both of

the lots or just on the single lot with the house on it?

ATTORNEY BERNARD GOLDBERG: Yes, the single.

KATHLEEN MILLSTEIN: But they are -- I don't know.

ATTORNEY BERNARD GOLDBERG: The whole lot area is about 7600 square feet.

TIMOTHY HUGHES: Well, that would qualify it for dwelling unit enough for dwelling unit and probably would give you the percentage you needed for FAR.

CONSTANTINE ALEXANDER: It could very well be that you don't need Zoning relief which Tim is very astutely pointing out.

ATTORNEY BERNARD GOLDBERG: I was interested to see that in 1887 two fine residents will be commenced upon immediately. One for SP Moore on Trowbridge Place, and the other on the ground already being staked out for George Masur (phonetic) and interestingly enough in 1887 the cost of this house was \$5,000.

CONSTANTINE ALEXANDER: Tim, I think your point, and, Janet, your point's well taken, but just because I'm not a hundred percent clear on the facts, and I think the relief is pretty easy to grant. Why don't we

grant -- we'll consider the motion even though perhaps you don't need to bring it in the first place. I think it's probably the safest, from your perspective the safest thing to do.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on the matter case No. 10348?

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance.

ATTORNEY BERNARD GOLDBERG: This was handed to Kathy.

BRENDAN SULLIVAN: Is Board is receipt of correspondence from Nancy Cullison, C-u-l-l-i-s-o-n and David Mansfield?

PHILIP MILLSTEIN: That's the letter?

KATHLEEN MILLSTEIN: Yes.

BRENDAN SULLIVAN: 20 Langdon Street. (Reading)
To Whom It May Concern: As neighbors living directly across Langdon Street from the Petitioners, Philip and Kathleen Millstein, we are writing in support of their

petition for a Variance to convert 15 Langdon Street from a mixed use to all residential. This petition would not make a change that would -- this petition would make a change that would be fully in keeping with the residential character of Langdon Street and we would encourage the Board to approve it.

The Board is in receipt -- that's from Nancy and David.

The Board is in receipt of correspondence (reading) My neighbors, Philip and Kathleen Millstein want to change their dental office into a downstairs apartment. This is most agreeable with us. Thank you, David and Janet Harkness, H-a-r-k-n-e-s-s, 1626 Mass. Avenue.

And that is the sum substance of the correspondence. Okay. Nothing else to refute?

ATTORNEY BERNARD GOLDBERG: No.

BRENDAN SULLIVAN: Any problems, questions?

TIMOTHY HUGHES: No, I'm good now.

BRENDAN SULLIVAN: Let me make a motion to convert from the mixed use residential dental office to an all residential use as per the application.

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 making use of this most desirable area and part of the house into a residential neighborhood which would bring it more in compliance with the residential district.

The Board finds that the hardship is owing to the existing non-conforming nature of the structure, and also the size of the lot and the citing of the house on the lot which predates the existing Zoning Ordinance. And the conversion many years ago from this particular area of the structure into a dentist office which has now ceased to function and the desirability to restore it to a more functional more compliant residential use.

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

Letters of support from the neighbors indicate that it would be a great public benefit to this conversion. And also the abandoning of the dentist office will lessen the amount of traffic on the street.

Relief may be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance which is to provide residential space for all citizens of the city. And would not nullify or substantially derogate from the intent and purpose of the Ordinance.

All those in favor of granting the Variance?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

ATTORNEY BERNARD GOLDBERG: Thank you and have a very happy holiday.

KATHLEEN MILLSTEIN: Appreciate it.

(8:55 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10349, 60 Standish Street.

SCOTT VAN BROEKHOVEN: Good evening.

BRENDAN SULLIVAN: If you could introduce yourself and you'll have spell your last name, it's being recorded.

SCOTT VAN BROEKHOVEN: So my name is Scott Van Broekhoven and the last name is spelled V-a-n B-r-o-e-k-h-o-v-e-n.

CONSTANTINE ALEXANDER: Why don't you have a simple name like Constantine Alexander?

SCOTT VAN BROEKHOVEN: It doesn't fit all the way

in Scantron. It actually runs off the end.

My wife.

CHRISTINA VANSTRAM: And I'm Scott's wife, Christina Vanstram. My last name is a little bit simpler, V-a-n-s-t-r-a-m.

SCOTT VAN BROEKHOVEN: Shall I begin?

My wife and I live at 60 Standish Street, No. 3. It's a traditional triple decker in the village. We lived at that location for three years. And prior to that we rented at 76 Standish, four doors down. We have been living in the area for seven years.

We -- the reason we're here, the reason for the Variance is to enclose a small section our back deck. So like most usual Cambridge triple deckers there is a back porch much. Our second floor neighbors directly below us have a fully enclosed back porch. The previous owners of this unit had enclosed two-thirds of the third floor back porch. So we're looking to enclose an area that much less than a hundred square feet. It's a very small area. The reason why we are in violation is we share a driveway with our neighbors and the property line is the midpoint of the

driveway. The back deck that we're looking to enclose is therefore within the seven-and-a-half-foot distance required to enclose the back deck.

The reason why we're looking to do this is because we love the area. We want to live there a long time. We're looking to have a family and grow to the space and, you know, as you're aware, it's hard to get space in Cambridge. And the more space the better. And our downstairs neighbors fully support it. It will help their heating concerns in the winter. And our next-door neighbors are great and they're great to support us as well.

With that I'll answer any questions.

CONSTANTINE ALEXANDER: So you did say you talked to your neighbors and they are in support?

SCOTT VAN BROEKHOVEN: We've talked to both neighbors. They're great. You know, they, you know, we trade off when snowstorms come in terms of shovelling the driveways and stuff. It's -- the backyards are shared backyards. They have a swing set. We have some space there. It's a great community.

BRENDAN SULLIVAN: Okay. Any other questions?

CONSTANTINE ALEXANDER: No.

JANET GREEN: No.

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: I'm not a fan of enclosing back porches by any means. And one of the things that's in vogue in this whole stretch of Standish Street is people enclosing their back porches. At one point were very grand and very open. And now people are -- I could use a crude word of what they're doing, but it's -- I find it disheartening. I don't like when people start enclosing back porches. The previous owners of this building came down and tried to do a whole thing in the front of that house, too, and it was basically setting it up for a sale.

SCOTT VAN BROEKHOVEN: Okay.

BRENDAN SULLIVAN: For condos which we denied.

SCOTT VAN BROEKHOVEN: Probably when we bought it.

BRENDAN SULLIVAN: And they converted. I think the only saving grace on this is that it was a half -- what is done there now is sort of a half-hearted attempt.

SCOTT VAN BROEKHOVEN: Yep.

BRENDAN SULLIVAN: If the second floor wasn't the second floor, if that were open, I probably would not support this at all. But it's, it's you know, again, how do you improve upon it? Or how do you derogate from -- you don't. It is what it is sort of.

What is your intent to capture that space when you --

SCOTT VAN BROEKHOVEN: It's going to be initially just a bonus room. My wife is from Chicago, her family lives in Chicago. I think it's possible a place for the in-laws to stay when they come to visit on occasion. We have two other bedrooms in the place so when we have kids, we'd like to have a bedroom for ourselves and a bedroom for the kids and a place where when we have guests come out of town, for them to stay as well. It's a small room. We don't plan to use it as a full-time bedroom of any means.

BRENDAN SULLIVAN: Right now it's of no use at all?

SCOTT VAN BROEKHOVEN: Yeah. I mean, literally it's not very big. It's not a large space. We have a front deck that we use, you know, regularly.

BRENDAN SULLIVAN: Okay. So you're adding a sum total of -- you're actually not adding any square footage at all. It's just that you're enclosing an area.

SCOTT VAN BROEKHOVEN: It's an already covered back deck.

BRENDAN SULLIVAN: Which is already covered.

Under Section 8.22.2 the following changes extension or alteration of preexisting non-conforming structure may be granted after the issuance of a Special Permit. Special Permit shall be granted only if the permit granting authority specified below that such a change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing. That in a residential district the Board may grant a Special Permit for the alteration or enlargement of a non-conforming structure not otherwise permitting a 22.1 provided any enlargement or alteration of non-conforming is not in further violation of the dimensional requirements of Article 5, which this is not. And that the off street parking or loading requirement for the district in which is located will not be increased in an area of volume more

than 25 percent. And that's not the case in this one either.

So that the Board has the authority to grant the Special Permit.

All right, let me open it to public comment.

Is there anybody here who would like to speak on the matter case No. 10349, 60 Standish Street?

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance. There is no correspondence in the file. The testimony is that you have spoken to the Mahoneys next-door and they have no problem with it?

CHRISTINA VANSTRAM: Right.

BRENDAN SULLIVAN: Let me close public comment. Let me make a motion to grant the Special Permit. 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 the area directly below this locus has already been enclosed, and that a substantial part of this back area has already been enclosed, and that the inclusion of enclosing this particular section is quite de minimus in the Board's opinion.

The Board finds that the continued operation of or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use, and that 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 that the proposed use would not impair the integrity of the district or adjoining districts, otherwise derogate from the intent and purpose of the Ordinance.

The Board finds that under Section 8.22.2.C that this work would not be substantially, would not be more detrimental to the neighborhood than the existing and that it is not in further violation of the dimensional requirements of Article 5. And that the work be done in

conformance with the application as submitted and initialed by the Chair.

Anything to add to that?

All those in favor of granting the relief?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

CONSTANTINE ALEXANDER: Good luck.

(9:05 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10350, 28 Jackson Street.

Whoever is going to speak if you'd introduce yourself, spell your last name and give us your address.

JASON STONEHOUSE: My name is Jason Stonehouse. Last name is spelled S-t-o-n-e-h-o-u-s-e. I own and reside at 28 Jackson Street.

GENA GOURLEY-STONEHOUSE: I am Gena Gourley-Stonehouse. G-e-n-a. Gourley G-o-u-r-l-e-y-Stonehouse.

DAVID WHITNEY: I'm David Whitney the architect, W-h-i-t-n-e-y.

BRENDAN SULLIVAN: I'm sure you have a presentation all prepared. Are you aware of the dormer guidelines though?

JASON STONEHOUSE: Yes, we are.

BRENDAN SULLIVAN: You're proposing a 28-foot dormer and a 15-foot dormer?

JASON STONEHOUSE: That is correct.

BRENDAN SULLIVAN: Okay. All right.

JASON STONEHOUSE: Okay?

BRENDAN SULLIVAN: Presentation, yes.

JASON STONEHOUSE: All right. My wife and I have worked in Cambridge for over ten years each, and have lived in Cambridge for about a little over eight years or so. We've been at our current address a little more than four years. We actually had lived down the street on Walden Street in an apartment. And when it came time for us to buy a place, we were incredibly fortunate to be buying during the total collapse of the entire housing market and having mortgage lenders go up fold from underneath us was exciting but we were lucky enough to find a place that was about a half mile from where our apartment was and it was everything that we were looking for. We were looking for a place with a friend of ours. He is our downstairs neighbor. We bought the unit -- we bought the property as a single, two-family home, 26-28, 26-28 Jackson Street. And then a year after we purchased we converted to two condominium units, mostly because having -- sharing that

much personal information with your neighbor vis-a-vis having one mortgage is more trust than you would want to have in a good friend. So when we had purchased the property, it was one of the houses that we had looked at that was fortunate enough to have not undergone a conversion of the attic space to a, additional living space without any approval. There were a couple of places we had seen where people had just gone ahead and finished up there without insulating or heating. This place was actually still empty. And my wife and I have intended to stay in the city for a very long time and raise a family here so that gave us an opportunity to look at a place that we would actually be able to make our own home rather than the space that somebody else had made.

So, with that, we undertook the review of several proposals from architects and we had gone through about a half dozen before we settled on Mr. Whitney. And his attention to detail was something that was very pleasing to us in particular to myself on that. And we sat down with him and talked about what our intent was.

Our intent for the house as a whole for our unit,

right now we have a two-bedroom, one bath. And it is about 1200 square feet. Our intent is to actually have -- when we are done, a three-bedroom, two bath with the bedrooms that are currently on the second floor turning into other living space, having a guest room or a library space for one of them and a family room for another one. And actually being able to have the private portion of our house, the bedrooms separated from the living rooms and other public spaces of the house; the kitchen and dining room and those areas where there's entertaining.

So with that we talked about what our vision was, and Mr. Whitney was able to put together some very useful drawings and walked us through the process of what we were looking at. We were aware that the Zoning guidelines recommended strongly encourage dormers of 15 feet in length, although throughout it it says that this is a recommendation and not a requirement. So we took that to heart in what we were seeing in there. As well as there were other parts of the Zoning guidelines that were a bit confusing, but with Mr. Whitney's guidance we said that this is what appears to work best. There's a lot of the

guidelines that were written in a way that is a -- this is a recommendation for what to do, but the character of the neighborhood and the intent of the space is one of the underlying principles that should be abided by.

So with that we had talked to some talked to our neighbors about what we were looking to do. They were very supportive. Following that and after the conclusion of election season we decided to actually get signatures from some of our neighbors. Since election season concluded last week, we were only able to get signatures of five. We've talked to all of our abutters and they are supportive of it, just didn't have a chance to get them to sign this. We had presented to our neighbors pictures of what the property currently looks like and an architectural drawing or rendering of what the property will look like. Larger copies of that are available here as well, before and after comparisons. So when they had seen that, they thought it was quite attractive and fit with the character of the neighborhood and were very supportive of that as well.

BRENDAN SULLIVAN: Yes, I guess we don't have a second floor floor plan which is sometimes helpful in

getting a total picture of exactly what's going on in the house. But I think what I get from your testimony, and again, I don't mean to belittle it by any means, is that, you know, you bought a house that you can afford which is fine, but then found it's inadequate for, you know, your wants, needs, and desires, and as such need to now expand upon it. And right now it's a two bedroom, one bath?

JASON STONEHOUSE: Two bedroom, one bath, that's correct.

BRENDAN SULLIVAN: And you're looking to go three bedroom, two bath. But in order to achieve that, then basically what you need to do is push aside the Ordinance for the area and say well, you know, this is really what we want and as such, you know, this is our wish list and this is what we would like to do with the house. But if flies on the face of the Ordinance is, you know, what we're given to guide. The dormer guidelines are guidelines, but we really respect them because they came from Community Development, came from the Planning Board, and also were approved by City Council, and you know, some variation, some slight variation one way or the other depending upon

the circumstances in my mind is warranted at times. I'm not sure where any of this under the 15-foot dormer even comes close to the dormer guidelines.

DAVID WHITNEY: Well, if I may speak briefly. We have one dormer that's longer than is suggested by the dormer guidelines. The only other variation from the guidelines is that the ridge springs, that the roof of the dormer springs from the ridge and that the front of the dormer is aligned with the front down below.

BRENDAN SULLIVAN: Right.

DAVID WHITNEY: Neither of those we really don't have any control over. Because where the stairs come up from the house really have to push the dormer to allow the wall down below to allow the headroom required by code to get up. And the roof, in order to achieve a reasonable slope for the roof. We have to go from the ridge. The eave runs continuously passed it. We have 50 percent glass on the front of it. We set the eaves of the dormers in from each end and. If I may, I take, you know, working with the context being sensitive of the existing house and the spirit of it very seriously and we worked hard to make

these as attractive and fitting as possible with the admission that one of them is longer than the guidelines would recommend.

JASON STONEHOUSE: And to that, end also, one of the things that we had done because we realized what we were looking at was a longer dormer, one of the things that we had actually asked Mr. Whitney to do was to perform some additional due diligence of what are the other -- what other precedent exists in our neighborhood for dormers that do not conform to the dormer guidelines. I believe you have copies of photos of those that are not -- that are the other houses in the neighborhood that don't conform to the either the length or the window offset or the ridge thing, the ridge -- sorry, not --

BRENDAN SULLIVAN: Which are probably either done without relief from the Board, done prior to the enactment of the Ordinance. And hence sometimes those dormers run amuck led to the enactment of the Ordinance.

CONSTANTINE ALEXANDER: Or even the enactment of the dormer guidelines which is subsequent to the enactment of the Ordinance.

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: I mean people bring that argument to us many times when we have problems -- they have problems with the dormer guidelines. And I have to tell you we don't pay that much attention to that for the reasons Mr. Sullivan just pointed out.

I think we've been in the past sympathetic, certainly Tim has to the issues from the ridge line and coming to the front. But the length of the dormer is twice your -- one of your dormers, is almost twice what the dormer guidelines say. That's a tremendous departure from our dormer guidelines. And I haven't heard why -- I know you want as much space as possible. But can you have less space and closer to doing the dormer guidelines?

JASON STONEHOUSE: Well, if you look at page A-1.3 the space with the longer dormer is.

CONSTANTINE ALEXANDER: Yes.

JASON STONEHOUSE: On that the length of the dormer is really dictated by two factors that we see.

One is there's the bathroom which actually corresponds with the existing plumbing stack in the house.

And the other is the staircase that exists already that goes into the attic. Those dictate what we have there. And if our intent is to have the bedrooms that we wanted, then we are already dictated with how far forward the dormer can go and how far forward back the dormer can go. We can't move the staircase without substantial staircase to the second floor and we can't move the plumbing that's already exists without having to move that.

CONSTANTINE ALEXANDER: I don't want to be argumentative, but I understand you start with the idea this is what we've want. You have to start with the idea what does our Zoning By-Law allow us to do and that's where I have the problem.

DAVID WHITNEY: I understand. If we were in full compliance, we wouldn't be here. We are here trying to be respectful.

CONSTANTINE ALEXANDER: And I'm going to suggest certainly speaking only for myself is that you've got to try again and come up with something that's a lot closer to the dormer guidelines than what you're proposing. I just can't go there. We had this issue -- I don't know

if you were here earlier tonight, Lexington Avenue, 140 Lexington Avenue, same argument, and with a much greater argument for hardship certainly for the same reason. They originally came before us and we worked with them, worked with them, and they came finally with a dormer that was a lot smaller than they could live with. It was a lot smaller than what they originally showed to us. And though it wasn't compliant with the dormer guidelines, it was much closer than what you're proposing here. And, again, you don't have a hardship. Your hardship basically is you want more living space. Well, that's legitimate but it's not from a Zoning hardship point of view it doesn't really get you there.

DAVID WHITNEY: One thing that was frustrating hardship in my eyes is the space in the existing unfinished attic is counted, you know, as space and yet it can't be used.

THOMAS SCOTT: A portion of it is counted.

DAVID WHITNEY: Over for a certain height.

THOMAS SCOTT: Right.

DAVID WHITNEY: But we need windows in that space.

If we were to inhabit that it's got to meet other criteria that can't be met without adding --

BRENDAN SULLIVAN: The house goes back to the twenties?

JASON STONEHOUSE: Yeah, 1926.

BRENDAN SULLIVAN: And families, have you know, come and gone, been raised in those houses. And they've, you know, quite adequate. You know, that doesn't mean that you're trapped in that particular envelope. But I think that what you're doing, you're saying well, we want the main living area which has two bedrooms and a bath now to become a rather choice living area with, you know, an expanded living space. Probably an office, media room, whatever you want to call it. An expanded kitchen. And in other words, you're taking traditional bedrooms out of that level and then pushing them upstairs. Now, again, that bumps up against what you're able to do Zoning-wise because the Ordinance basically doesn't allow that much expansion. And I think, again, we have the dormer guidelines which, you know, you can read it in its boldfaced print, and it only says so much, but I think the

intent of it is not to have these large dormers on the houses. And, again, not to critique the design, but it appears that the house has now become somewhat top heavy. And, you know, I look at the houses on either side of it, and I think it's going to overshadow them quite a bit.

JASON STONEHOUSE: I think what was confusing in looking at the dormer guidelines is many of the illustrations in it show dormers that exceed more than half the length of the house, and as acceptable they just state that, you know, this is -- and I brought a copy of them with me because I want --

BRENDAN SULLIVAN: On the smaller house on the illustration.

JASON STONEHOUSE: They're showing a dormer that extends from, you know, that is only three feet or four feet in front and the rear and runs the entire rest of it and says that this is acceptable. So when we received --

BRENDAN SULLIVAN: Right, but then the 15 feet.

JASON STONEHOUSE: But, you know, that, that's the --

BRENDAN SULLIVAN: So the --

DAVID WHITNEY: And, again, we fully acknowledge that this is --

BRENDAN SULLIVAN: -- the key there is not the illustration, but the written dimension of 15 feet.

DAVID WHITNEY: We fully acknowledge that the dormer is larger than the -- if we were in full compliance, we wouldn't be here. We're simply saying we tried hard to do something that was in harmony with the house and in keeping with the spirit of the neighborhood.

THOMAS SCOTT: So how many bedrooms will there be in the house if you were to do all this?

JASON STONEHOUSE: If we were to include the spaces that we're currently using as bedrooms, there would be five bedrooms. And as I've said, it is not our intention to continue to use those spaces as bedrooms. One of them is immediately adjacent to the kitchen and has the noise of the dishwasher running in it and that space. The other one is immediately adjacent to the stairs coming in from the front door, and you hear the noise of the traffic going in and out through that space as well.

BRENDAN SULLIVAN: I was raised in a two-family

house with -- I have five sisters and a little brother. So there were seven of us living in --

TIMOTHY HUGHES: That explains a lot.

BRENDAN SULLIVAN: -- the second floor of a two-family house. I don't think any of us suffered any deep psychological damage from a dishwasher or some traffic.

CONSTANTINE ALEXANDER: You didn't have a dishwasher.

BRENDAN SULLIVAN: I have no sympathy for that argument at all.

CONSTANTINE ALEXANDER: I think you should go back and try again. And I can't guarantee you that -- unless you come back with a compliance with a dormer guidelines. We've ignored the fact by the way that you have -- you're already a non-conforming structure. Your FAR is too high, and you're going to increase it. That's a Zoning issue. I mean, the dormer guidelines are a guideline issue.

DAVID WHITNEY: Yeah. Frankly we understand if we calculated the FAR correctly, the existing building

before you do anything is so far beyond the existing FAR
it seems clear that --

TIMOTHY HUGHES: That's not what I saw.

THOMAS SCOTT: That's not what's shown in the --

CONSTANTINE ALEXANDER: Yes. You're now a 0.54
according to your dimensional form.

TIMOTHY HUGHES: And you're a 0.50.

CONSTANTINE ALEXANDER: And you're going to a
0.58.

TIMOTHY HUGHES: Compared to some things that's
not way beyond --

THOMAS SCOTT: That has to take into
consideration the whole house.

JASON STONEHOUSE: That does take into
consideration the basement which is an unheated space and
the first floor unit.

THOMAS SCOTT: The basement is seven feet?

JASON STONEHOUSE: The basement to the bottom of
the rafter is about six-foot-six, and to the floor boards
above it --

THOMAS SCOTT: That doesn't count then.

CONSTANTINE ALEXANDER: Doesn't count.

THOMAS SCOTT: You don't count that in the FAR.

DAVID WHITNEY: So it sounds like we'd love to work with you to develop a scheme that's more compliant and it sounds like the length of the dormer is the critical issue.

TIMOTHY HUGHES: Yes, I'd say so. But, you know, I understand the argument that the staircase is where it is and the plumbing stack is where it is. And, you know, the alternative is to make two smaller dormers on that side of the house and just leave that bedroom out because there isn't any way that you can move the staircase and the plumbing closer enough together -- well, there's always a way to move plumbing.

CONSTANTINE ALEXANDER: But my reaction, and I don't mean to be flip, but it's the old Rolling Stone's song you can't always get if you want.

TIMOTHY HUGHES: But if you try sometime, you just might find you get what you need.

Yes, I think it's got to be worked on some.

DAVID WHITNEY: I'm glad to hear your suggestion.

This is the same scheme with two small dormers, one on the stairs and one in the bathroom with the bedroom.

CONSTANTINE ALEXANDER: Mr. Chairman, I object to going further on this petition. You can't hand out these plans tonight. Our rules are you're supposed to have them in the file on the Monday before. I don't even want to consider them.

DAVID WHITNEY: I'm not trying to be disrespectful. In all honesty, it's exactly the suggestion that Mr. Hughes just said.

CONSTANTINE ALEXANDER: You should have put it in the file and gave us both alternatives. You're kidding. I'm not going to vote on it. I'm absolutely going to abstain on this one. You're not going to get my vote period. This is not the way we do it around here.

BRENDAN SULLIVAN: I think that the best way to do this would be to continue this matter.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: You can resubmit these, have them stamped in, maybe they are stamped in, I don't know -- anyhow resubmit these and to have us consider it

at the future hearing. Because any submissions have to be in by five o'clock of the Monday prior to -- this passed Monday was a holiday so we kicked that back to the previous day of business which would have been Friday. But we will not accept any new submissions because the public did not have a chance to review them. And it's a legal matter, too, not just -- we're not just trying to beat up on you. There are certain rules of procedures that we have to follow. So, you can leave this in the file, I would go back, huddle, digest what you've heard and then either you can change these, you can leave these in the file, you can augment them, change them, whatever you want it to be.

But Sean, what would be a close date?

SEAN O'GRADY: We have one left in January 10th.

BRENDAN SULLIVAN: So January 10, 2013, would be the earliest time to come back. And, again, you can either take these back or we can leave them in the file. You can resubmit them, what we would need with these then is of course a new dimensional form. So that's the other part of it, too, then. So there's a bunch of little things that really need to be tightened up.

THOMAS SCOTT: And I would like to see the plan level, see the whole plan of the house.

TIMOTHY HUGHES: Second floor.

THOMAS SCOTT: It's hard to judge, you know, what's going on here in total without seeing those plans.

JASON STONEHOUSE: My understanding was in putting together the application to make sure that it -- that what I submitted met was exactly what was asked for. And didn't deviate from that. And since it did not ask for the plan of the existing floor, it was only the space that was being modified that was all that was included in this.

THOMAS SCOTT: And your dimensional form reflects everything.

JASON STONEHOUSE: And that, should we also include the plan then for the first floor unit because that's included in the dimensional form?

THOMAS SCOTT: Right.

CONSTANTINE ALEXANDER: You're absolutely right, it's not required by our rules but when you're asking for relief, and you want justify the case you're making you

need to give us the plans to allow us to assess your case.

THOMAS SCOTT: The more information we have I think the easier it is to make the decision.

DAVID WHITNEY: First, absolutely. We will submit drawings for the second floor. And secondly, please let me stress that no disrespect is meant by representing the alternate scheme.

BRENDAN SULLIVAN: No, no, we understand that.

DAVID WHITNEY: Frankly, we anticipated the argument and wanted to be ready for it.

BRENDAN SULLIVAN: That's okay. None taken. That's fine.

THOMAS SCOTT: And you can update this sketch, too.

DAVID WHITNEY: Okay.

BRENDAN SULLIVAN: Let me leave this scheme in the file and, again, you can -- you can augment, change, do whatever you want to the file going forward anyhow. After you've huddled.

Let me make a motion then to continue this matter to -- what did we say January 10th?

SEAN O'GRADY: Yes.

BRENDAN SULLIVAN: 2013. At seven p.m. on the condition that the Petitioner sign a waiver to the statutory requirement for a hearing and a decision to be rendered thereof.

That the Petitioner change the posting sign to reflect the new date of January 10, 2013, and the time of seven p.m. And that that posting sign be maintained as per the requirements of the Ordinance.

That any new submissions other than what's in the file now, the original file, be resubmitted and in the file by five p.m. on the Monday prior to the January 10th hearing.

CONSTANTINE ALEXANDER: I just want to stress because you went over it a little bit, not only change the date on the sign, the time. We won't hear it earlier.

BRENDAN SULLIVAN: It has to be 14 days prior to the January 10th hearing.

JASON STONEHOUSE: Is it okay if it's there earlier?

TIMOTHY HUGHES: At least 14 days.

BRENDAN SULLIVAN: Yes. So that's no problem.

Okay, on the motion then to continue this until
January 10th?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

DAVID WHITNEY: Thank you.

JASON STONEHOUSE: Thank you.

(9:30 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No.
10351, 700-704 Huron Avenue.

Is there anyone here in attendance?

(No Response.)

BRENDAN SULLIVAN: There is not. We are in
receipt of correspondence from Mr. Bryan Wilson

representing Northeast Wireless Services. (Reading) As per our conversation this morning, whereas the Cambridge Planning Board has not yet reviewed these applications, and that the BZA request their comment prior to rendering a decision on behalf of Metro PCS. I hereby request a continuation of cases 10351 and 10352 to the next available hearing date. Please confirm and acknowledge the continuance by return e-mail and let me know to the next opportunity.

Sean, what is the date?

SEAN O'GRADY: The date is going to be January 24th.

BRENDAN SULLIVAN: January 24th.

I make a motion then to continue this matter for January 24, 2013, at seven p.m. on the condition that the petitioner sign a waiver.

Do we need a waiver?

SEAN O'GRADY: Yes, give me that condition if you would.

BRENDAN SULLIVAN: What?

SEAN O'GRADY: Please give me that condition.

BRENDAN SULLIVAN: Sign a waiver to the requirement for a hearing and a decision to be rendered.

That the Petitioner change the posting sign to reflect the new date of January 24th and the time of seven p.m., and it be maintained as per the requirements of the Ordinance.

Any new submissions to the file be submitted by five p.m. on the Monday prior to the January 24th hearing.

All those in favor --

CONSTANTINE ALEXANDER: Before we take a vote, just a question. Do we have any concern about whether these cell folks will sign a waiver? Because, you know.

SEAN O'GRADY: Marie I and I talked about that, and Maria I believe said we would probably be okay anyway, but I don't know if we discussed the 24th.

CONSTANTINE ALEXANDER: Usually we continue cases but not heard because of some problem with the posting.

SEAN O'GRADY: Right.

CONSTANTINE ALEXANDER: I'm not always concerned if they don't sign the waiver subsequently, we're going

to -- they don't meet the requirements of the statute anyway. But these folks, if we continue this case and they don't sign a waiver, they'll automatically -- and then the time period runs, we automatically grant the relief. So I want to make sure they sign the waiver.

SEAN O'GRADY: Let me ask you this question and I thought about this before, if the condition is that the continuation is based on the signature of the waiver and you failed to sign that waiver --

CONSTANTINE ALEXANDER: Then the case --

SEAN O'GRADY: -- what does that mean?

CONSTANTINE ALEXANDER: It means the continuation is not in effect and you go back to the original hearing and the original time frame goes into effect. And if we don't decide within 65 days, relief is automatically granted.

SEAN O'GRADY: So that condition carries no weight you're saying?

CONSTANTINE ALEXANDER: Yes, that what I think. As I said, it depends why we're continuing the case.

BRENDAN SULLIVAN: It becomes problematical if

they refuse to sign.

CONSTANTINE ALEXANDER: Yes. That's what my concern is. I mean, this is --

BRENDAN SULLIVAN: But initially they will do it out of courtesy.

CONSTANTINE ALEXANDER: You would hope they would do it out of courtesy. Especially if they want to come back before us again.

BRENDAN SULLIVAN: The alternative is not pleasant if they refuse to.

CONSTANTINE ALEXANDER: I think we can probably rely on these folks, but I think we have to be careful with that in the future getting those waivers before at the hearing rather than relying on it after.

SEAN O'GRADY: And that's totally my fault because as soon as I got off the phone Maria was like -- and then we sat down and trudged the numbers.

CONSTANTINE ALEXANDER: Brandon, I'm sorry, you were about to take a vote on the motion.

BRENDAN SULLIVAN: Vote on the case No. 10351.
(Show of hands.)

BRENDAN SULLIVAN: All those in favor?

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

BRENDAN SULLIVAN: There was one night actually where a gentleman refused to sign the waiver.

CONSTANTINE ALEXANDER: Really?

BRENDAN SULLIVAN: He refused to sign it and there was deep flaws in the thing. He said, no, I ain't gonna sign it.

CONSTANTINE ALEXANDER: We just turn it down.

THOMAS SCOTT: Can't you just take a vote at that point then?

BRENDAN SULLIVAN: We couldn't. The hearing couldn't go forward. It was a mess. But we -- eventually we got him to sign it.

(9:35 p.m.)

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

BRENDAN SULLIVAN: Let me call case No. 10352, 1 Brattle Square, Metro PCS.

Is anybody here in attendance?

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance.

We are in receipt of correspondence from Metro PCS Bryan Wilson representing Northeast Wireless Services.

(Reading) As per our conversation this morning, whereas the Cambridge Planning Board has not yet reviewed these applications of the BZA request thereby common prior to rendering a decision on behalf of Metro PCS, I hereby request a continuation of case No. 10352 to the next

available date.

Let me make a motion to continue this matter to January 24, 2013, at seven p.m. on the condition that the Petitioner and/or representative sign a waiver to the requirement for a hearing and a decision to be rendered thereof as per the requirements of the Ordinance.

That also on the further condition that the Petitioner change the posting sign to reflect the new date of January 24th and time of seven p.m.

That any new submissions -- that the posting sign be maintained as per the requirements of the Ordinance.

That should there be any new submissions, changes to the application, in the file, that they be submitted by five p.m. on the Monday prior to the January 24, 2013, hearing.

All those in favor of continuing?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

CONSTANTINE ALEXANDER: If they request in writing of a continuation that's equivalent of the waiver,

I still want to get the waiver signed.

SEAN O'GRADY: That's a good point. Okay.

CONSTANTINE ALEXANDER: But we should always try to get it.

SEAN O'GRADY: We should always try to get it, no question about it.

BRENDAN SULLIVAN: That's one of those things that during the day and in the heat of battle it's tough, but you can almost say here, I'm faxing it over and can you fax it right back.

SEAN O'GRADY: Yes, one of those things.

(Whereupon, at 0:35 p.m., the

Zoning Board of Appeal Adjourned.)

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original of the Errata Sheet has been delivered to Inspectional Services.

When the Errata Sheet has been completed and signed, a copy thereof should be delivered to each party of record and the **ORIGINAL** delivered to Inspectional Services, to whom the original transcript was delivered.

INSTRUCTIONS

After reading this volume of the transcript, indicate any corrections or changes to your testimony and the reasons therefor on the Errata Sheet supplied to you and sign it. **DO NOT** make marks or notations on the transcript volume itself.

REPLACE THIS PAGE OF THE TRANSCRIPT WITH THE COMPLETED AND SIGNED ERRATA SHEET WHEN RECEIVED.

ATTACH TO BOARD OF ZONING APPEAL

DATE: 11/15/12

REP: CAZ

ERRATA SHEET

INSTRUCTIONS: After reading the transcript, note any change or correction and the reason therefor on this sheet.

DO NOT make any marks or notations on the transcript volume itself. Sign and date this errata sheet (before a Notary Public, if required). Refer to Page 190 of the transcript for Errata Sheet distribution instructions.

PAGE	LINE	
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____

I have read the foregoing transcript, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statements made.

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

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

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 3rd day of December 2012.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 23, 2015

THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL AND/OR DIRECTION OF THE CERTIFYING REPORTER.