

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, DECEMBER 20, 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

Sean O' Grady, Zoning Specialist

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PROCEEDINGS

(7:00 p.m.)

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

BRENDAN SULLIVAN: I'll call the Board of Zoning Appeal for the December 20, 2012 meeting to order. The first case we'll here is 10316, 1-3 Traymore Street.

Mr. Peck, if you'll just sort of reintroduce yourself for the record.

THEODORE PECK: Yes, sure.

BRENDAN SULLIVAN: I would ask everybody, we're absent microphones tonight. We're lucky we're here, but aside from that, if you speak up so that the recorder could pick up the audio. Okay.

THEODORE PECK: Okay. Hello again. I'm Theodore Peck. I live at 3 Traymore Street and this is my second continuance for the application to put dormers on the roof of my house.

BRENDAN SULLIVAN: Now, on the very

first application you had two dormers on one side, and if you can just sort of refresh our memory, on the other side of the house.

THEODORE PECK: Yes, that's right.

BRENDAN SULLIVAN: There was a --

THEODORE PECK: So what I'm --

BRENDAN SULLIVAN: The original proposal.

THEODORE PECK: Yeah, the original proposal, and what I'm requesting are two gable dormers on the street side and one shed dormer on the alley side.

CONSTANTINE ALEXANDER: Greatly reduced?

THEODORE PECK: Yes. And I have reduced the size of the shed dormer substantially. And this time around I've added windows to it, which, you know, I think is better all around. It was a misunderstanding on my part that that wasn't a good idea in the first place.

CONSTANTINE ALEXANDER: And that shed dormer --

THEODORE PECK: Yes.

CONSTANTINE ALEXANDER: -- in its current version is now compliant with our dormer guidelines?

THEODORE PECK: I believe so.

CONSTANTINE ALEXANDER: Certainly the length is right, 15 feet.

THEODORE PECK: Yes, that's right.

CONSTANTINE ALEXANDER: Down from the ridge and up from the face of the building.

THEODORE PECK: It is down from the ridge. It's flush with the face of the building but with a strip of roof going.

THOMAS SCOTT: The eave line is continued through.

THEODORE PECK: Yes, the eave line is continuous across.

You probably noticed I submitted two

sets of plans; one with 15 and one with 17 and that's just, you know, so I can beg for the extra two feet, but we'll be happy with 15.

BRENDAN SULLIVAN: And we have dimensional forms for both?

THEODORE PECK: Yes. I put dimensional forms for both. The dimensional form for 17 feet is the same as it was at my last hearing. The dimensional form for the new one, for 15 feet is 10 square feet shy of that.

BRENDAN SULLIVAN: Just reduces it a little bit.

THEODORE PECK: Yeah, that's two feet by five feet. It's where that reduction in the square footage comes from.

BRENDAN SULLIVAN: I guess I'm still troubled a little bit on the street side, the what will be three dormers; the one existing and then the two proposed. I could see the need for the 15- or 17-foot dormer in order

to get a bath up there. I think the 17, probably from a logistical standpoint, works a little bit better. You've got a closet in there and you've also got a tub and the laundry room sort of shifts over a bit so that it becomes more functional.

THEODORE PECK: Yeah, and a little more closet space, too. In order with the 15-foot design, we added some room under the dormer for access to the closet, you know, making the -- using some of that new ceiling height just to have access to the closet doors which was, you know, along the lines of something I think Mr. Hughes suggested last time around, but that we could put the closet sideways, that's how we squeezed that in at the expense of taking out space.

BRENDAN SULLIVAN: On the other side is the --

THEODORE PECK: Yes, the gable dormers.

BRENDAN SULLIVAN: -- is what will be three dormers; one 12 feet and two at eight-foot, six. You're at 29 feet of dormer.

THEODORE PECK: Yes. Well, I'd left those in my proposal because at the last hearing, you know, I got the feeling from you all that that was an acceptable design and I didn't have to reconsider it. So, you know, I'm happy to reconsider it, but that's -- I wasn't being rude, I was just taking your word for it.

BRENDAN SULLIVAN: It just seems awfully bulky, that's all. That's just my thought on it, but I'm interested in what other members think on it.

CONSTANTINE ALEXANDER: Well, I think Mr. Peck, is right. I think we did pretty much signal to him at the last hearing is that we could live with the dormers, now three dormers, three gable dormers even

though they were not compliant with the dormer guidelines. And I agree with you, it makes it top heavy. But I would say that given the fact that we're going to allow him to do that, I think the other dormer, the shed, should be dormer guideline compliant. So I think it should only be 15 feet and --

BRENDAN SULLIVAN: And compliant in length.

CONSTANTINE ALEXANDER: In length. But otherwise complies, doesn't it?

TIMOTHY HUGHES: It's flush with the outside wall of the building.

CONSTANTINE ALEXANDER: Oh, okay.

BRENDAN SULLIVAN: Which in some instances works to go with the guideline and in some instances it doesn't work.

TIMOTHY HUGHES: Yes.

BRENDAN SULLIVAN: I would see that this is one of the instances where it doesn't work, push it up that 18 inches from the

outside wall, but --

CONSTANTINE ALEXANDER: So I guess with all that, I would say, I mean, I think that requires Mr. Peck to go back and redesign the other side again would be, you know, I think we've been down that road. But, you know, everybody should feel free to vote as they want. I am in favor of supporting the 15-foot dormer proposal and the gables as they've always have been or they were at the last hearing. Two, eight-foot, six inch dormers, two gable dormers, there is a balance to them. It is a lot of gable, a lot of building up there, but there is an architectural balance in my mind.

BRENDAN SULLIVAN: Janet, what are your thoughts?

JANET GREEN: I think with the three gables the house is very large, and I think it will -- I think you could put the three up there and though the way the one in the middle

is bigger, I think that takes your eye in a different direction. I think that side I feel comfortable with. The -- I think on the other side as we noted before, it would be hard to see that. It's going to be hard to see that. It's a pretty small area that, you know, if you don't stand back and see it as part of the house as much. So I think the fact that it's flush up against it, is fine and I don't have a problem with that.

BRENDAN SULLIVAN: 15 or 17?

JANET GREEN: I don't have a feeling one way or the other. I could go either way.

BRENDAN SULLIVAN: And Tim?

TIMOTHY HUGHES: I was probably one of the people that led Mr. Peck to think that the gable side was okay. I felt that, you know, early on. And I again, like Janet, I don't have a strong opinion about the 15 or 17. I'll vote for whatever we'll get him his dormer and get him on his way, you know.

BRENDAN SULLIVAN: Tom, what are your thoughts? Being the resident architect.

THOMAS SCOTT: Is there any reason why you went with the shed dormer on one side and the gable dormers on the other? And why didn't you just make this one a gable dormer as well?

THEODORE PECK: Well, the main reason is because it's what everybody else in the neighborhood has done.

THOMAS SCOTT: Oh.

THEODORE PECK: And also it's just -- it's easier to get the stuff inside that way. And the third reason is, you know, I'm trying to keep the height down to not restrict light to my neighbors any more than necessary, and I have discussed that with them.

BRENDAN SULLIVAN: You're sort of -- your front door sort of faces not due

north.

THEODORE PECK: It faces due east actually the front door.

BRENDAN SULLIVAN: So you're facing --

THEODORE PECK: It's down the line.

BRENDAN SULLIVAN: Okay. That's right. It would be facing more east wouldn't it, yes.

THEODORE PECK: Yeah, the proposed shed dormer would be on the north facing side.

BRENDAN SULLIVAN: Yes, yes.

THOMAS SCOTT: And the shorter dormer I guess complies better with your neighbor's request to not have a shadow line on their property?

THEODORE PECK: Well, I have two abutters with an interest in this. There's the one on the west side who their kitchen window kind of looks out through our alleyway, and, you know, they asked that the

dormer be set back from, you know, from their side of the house. And originally I did that by dropping the roof line which was acceptable to them, but at this point that whole dropped roof piece is absent so it's even more clear than it would have been with that proposed plan. The other interested neighbor is the one across the alley, they have a shed dormer already facing my proposed shed dormer, but they, you know, they want as much light to fall down in the alley as possible. And I don't -- the two feet that are at issue here are on the back end so it's facing the west side neighbors, and it's not facing the sun as it comes up in the morning. I guess it might affect the sun as it goes down in the evening, but there's already a house there blocking that line. So my feeling is that the extra two feet doesn't concern them one way or the other.

CONSTANTINE ALEXANDER: I was

interested to see that in your shed dormer on the two windows that you've added, you have skylights right above the window as well which I thought was unusual.

THEODORE PECK: Well, the -- in the 15-foot plan --

CONSTANTINE ALEXANDER: Right.

THEODORE PECK: Yes. Mr. Lynch was the architect that I consulted thought it would be nice to have more light coming into the bedroom from that side, and the skylight would allow more light from the sky to enter the room in what will be a kind of a narrow alleyway to access the closet. So, that was really his advice to put it there. I'm happy to have a window, and a skylight would be nice, too, but, yeah.

CONSTANTINE ALEXANDER: Okay.

THOMAS SCOTT: And I guess the 17-foot plan definitely works better from a functionality standpoint. The closet being

kind of tucked into the dormer, you know, like you said, you're going to be standing kind of with a roof to your back and you're going to be trying to open the door, it's just really awkward. And this plan kind of solves that problem. The extra two feet gives you, you know, the ability to have a closet where you can stand upright in the space and open those doors. So the extra two feet, I know you guys are kind of on the fence either way, but the extra two feet makes a big difference in the plan. You know, the only thing I would have done differently I think is I would have made that a gable dormer as well. I mean, it seems awkward that one side of the house is so heavily loaded with gable dormers and the other side looks like some other contractor did it. You know, there was no thought to it, you know. But I guess that's not what we're here to talk about.

THEODORE PECK: Yeah.

CONSTANTINE ALEXANDER: There's no question that the gable dormers on one side and the shed on the other side is not the most attractive approach.

THOMAS SCOTT: Kind of awkward.

TIMOTHY HUGHES: There aren't any attractive shed dormers as far as I'm concerned.

CONSTANTINE ALEXANDER: That's also true.

TIMOTHY HUGHES: They're a necessary evil, but they're not attractive.

CONSTANTINE ALEXANDER: Especially unattractive when you have gables on the other side.

JANET GREEN: You can't see both sides.

TIMOTHY HUGHES: You can't see both sides at the same time unless it's Google Earth, right, so....

CONSTANTINE ALEXANDER: I think

we're passed that to me. I think so.

THOMAS SCOTT: I think so, too. But my last comment is, are the skylights within the setback? Because that creates -- doesn't that create a Special Permit issue if they are?

BRENDAN SULLIVAN: No, actually.

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: The determination by the Commissioner was that if there are -- we're approving a plan, and if some other aspects of that plan would normally require a Special Permit, it can be wrapped up in the Variance.

THOMAS SCOTT: Oh, it can? Okay.

BRENDAN SULLIVAN: Part. If we were to approve this and he wanted to move some windows, not -- basically not related to this work, say down, then it would require a -- separate for that, because it's separated --

THOMAS SCOTT: Separate issue.

BRENDAN SULLIVAN: Separate, yes.

But he said we can do whatever we want to do.

THOMAS SCOTT: Okay.

BRENDAN SULLIVAN: Well, we can wrap it up with a Variance to cover that.

So now we're down to either a 15 or a 17.

CONSTANTINE ALEXANDER: I still believe in the 15, but I'm not going to -- I'm only one vote. But it strikes me that simply because --

BRENDAN SULLIVAN: You may be the lynchpin here.

CONSTANTINE ALEXANDER: I might be the lynchpin.

TIMOTHY HUGHES: If somebody opposed the gables and the person opposed to 17 were the same person, we could probably still get it passed at 17, but I don't see that happening here. I think you're going to have

to vote on the 15 if we --

CONSTANTINE ALEXANDER: 15 I clearly agree with Tom, works better. But there is a price to be paid. I mean, you're looking for an awful lot of relief and you can't have everything you want. And maybe that's the price you pay for the two, eight-foot dormers on the other side is that this dormer does comply with the dormer guidelines. So I'm going to stick with 15 feet.

THEODORE PECK: Well, as I said when I came in, I'll take it but I'm still hoping -- yeah.

CONSTANTINE ALEXANDER: I understand that. If I was sitting in your seat, I'd feel the same way.

THEODORE PECK: With all -- well, we're down a lot from what I started with so I'll remind you of that.

BRENDAN SULLIVAN: You would

support the 15-foot dormer as opposed to not voting for the 15-foot dormer?

JANET GREEN: I think we're going to decide which one we're going to vote for.

BRENDAN SULLIVAN: Correct.

JANET GREEN: I could vote for either one of them.

TIMOTHY HUGHES: Likewise.

BRENDAN SULLIVAN: Okay.

And you'll only vote for a 15?

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: And you will vote for a 15?

THOMAS SCOTT: Either way.

BRENDAN SULLIVAN: Your preference would be a 17?

THOMAS SCOTT: Yes.

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

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

There is somewhat of a neighborhood petition, but I believe I read that into the record the last time; is that correct? It's not a new one?

THEODORE PECK: No. And there are letters from the abutters from the first one.

BRENDAN SULLIVAN: So you have concluded your presentation?

THEODORE PECK: I guess there's one more point that I would like to mention. There's all this activity going around with solar panels, I'm not sure how the Board feels about that or whether it's a concern, but solar panels are five and a half feet wide, and so I could fit three lengthwise on a 17-foot dormer but not on a 15-foot dormer. So....

TIMOTHY HUGHES: Save your money.

THOMAS SCOTT: But on the north side

of the house? Didn't you say that was the north side of the house?

THEODORE PECK: It is, yeah. They want to put a -- like, angle them, you know.

THOMAS SCOTT: Oh, they would be angled?

CONSTANTINE ALEXANDER: In between the skylights because you're going to have skylights, too.

THEODORE PECK: Yeah, I guess it's a --

CONSTANTINE ALEXANDER: Save your money.

TIMOTHY HUGHES: Save your money.

THEODORE PECK: This plan is supposed to stand on its own. The skylights are something down the line.

BRENDAN SULLIVAN: You're junking up a roof line even more so.

Let me make a motion to grant the relief requested for a 15-foot dormer as per the plan

and the dimensional form contained therein and initialed and signed 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 preclude the Petitioner from capturing and making better use of a third floor attic space which currently contains some living space, bedrooms, but is severely constrained by the roof line and the interior layout.

The Board finds that the hardship is owing to the size, shape of the lot. The size and shape of the structure on the lot which predates the existing Ordinance. And hence any addition, the house is already non-conforming, and that any addition, additional floor area would require some relief from this Board.

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

to the public good. We notice the letters in the file from abutters in support. Also the Petitioner has worked extensively with the immediate abutters to trim down the -- one of the dormers on the north -- on the south side.

JANET GREEN: No.

THEODORE PECK: North side.

BRENDAN SULLIVAN: Sorry, on the north side. There are concerns about some impact that it may have on that person's house.

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

All those in favor --

CONSTANTINE ALEXANDER: Brendan, excuse me, you've got to broaden the motion. He needs relief for the gables, too. You just talked --

BRENDAN SULLIVAN: Oh, I'm sorry. Let me back up. I was thinking the 15-foot

dormer and the plan as presented which includes the other two proposed gable dormers of eight-foot, six. So that would be all inclusive of the plan which would be initialed by the Chair. Sorry. So there would be a correction to that motion.

Anything else?

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: All those in favor of granting the Variance for the 15- foot dormer and the other two gable dormers?

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Alexander, Hughes, Scott, Green.)

BRENDAN SULLIVAN: One voting in the negative.

(Sullivan.)

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Motion carries.

* * * * *

(7:30 p.m.)

(Sitting Members: Brendan Sullivan,

Constantine Alexander, Timothy Hughes, Janet Green, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case No. 10358, 57 JFK Street. This is a case not heard. This is a case not heard, 57 JFK.

If you please introduce yourself for the record. If you have a business card, whoever is going to speak tonight, that would be helpful. But if not, that's fine.

ATTORNEY ROBERT DUNKLESS: Good evening. My name is Robert Dunkless, D-u-n-k-l-e-s-s. I'm with the law firm Ottenberg, O-t-t-e-n-b-e-r-g and Dunkless at 101 Arch Street, Boston. I'm representing the Applicant. And with me tonight are two individuals from Yogurtland; one is Mr. Tony Ozelis who is the Vice President of Yogurtland. We have a business card. And Steven Rabinoff who is the architect who worked on the design of the space for

Yogurtland.

BRENDAN SULLIVAN: Okay.

ATTORNEY ROBERT DUNKLESS: And we're here this evening seeking a Special Permit for the establishment of a fast food establishment at 57 JFK Street to operate a yogurt shop. This will -- Yogurtland is a corporation which is based in California which is engaged in the operation of between corporate-owned and franchise-owned between 200 yogurt shops throughout the country. They are recently expanding to the east coast, have locations in New York, and this would be really their flagship operation in the greater Boston area.

We believe that Yogurtland would satisfy the standards for a fast food permit and I will explain -- I'll go through why and Mr. Ozelis is here who can explain in some detail the aspects of the product in the Yogurtland operation.

First off, there won't be any impact on traffic or parking in the Harvard Square area as a result of the operation of the yogurt shop at 57 JFK Street. The customer base is almost exclusively pedestrian. It's all pedestrian traffic; people walking through the area, so we don't believe there will be any impact on parking.

We would submit that the design is going to be compatible with the eclectic mix of storefronts in Harvard Square, and the plans that were originally submitted, the elevation plans, have actually been significantly scaled back and we obtained just I believe it was yesterday the Certificate of Non-Applicability from the Historic Commission to the revised plans. What they're doing now is not touching the storefront except for moving a door. Originally, the original plans submitted showed that the storefront was going to be

recessed three feet into the retail shop itself. They're no longer doing that. It's going to be consistent with the other space on the Winthrop Street side.

CONSTANTINE ALEXANDER: Will there been access from the interior of the Galleria?

STEVEN RABINOFF: Yes.

CONSTANTINE ALEXANDER: So there will be two entrances?

ATTORNEY ROBERT DUNKLESS: That will remain also. And these are revised plans with Cambridge Historic's Certificate of Non-Applicability. So it's really going to be very consistent with the look of what's there right now with the exception of the door being moved a few feet over to the right side of the storefront.

CONSTANTINE ALEXANDER: The revised plans should have been in our files by five o'clock on Monday under our rules.

ATTORNEY ROBERT DUNKLESS: Well, actually in following the instructions we received since we're not seeking any dimensional relief, this is just descriptive, we understood that so long as we described what we were doing, that would be adequate. There is no dimensional relief being sought here.

CONSTANTINE ALEXANDER: What about signage? What is the external signage going to be?

ATTORNEY ROBERT DUNKLESS: It will be in the same location as the signage where the Faron Salon existing sign is.

CONSTANTINE ALEXANDER: Is that on the revised plans?

STEVEN RABINOFF: Yes, that is the revised elevation, and Faron would be Yogurtland.

CONSTANTINE ALEXANDER: Got it.

STEVEN RABINOFF: In the same band.

DOUGLAS MYERS: Is there going to be a separate application for at that signage approval?

ATTORNEY ROBERT DUNKLESS: Well, that will be dealt with later. They'll have to do whatever they have to do to get a sign later, the sign approval. We're just seeking a Special Permit for the operation of a fast food establishment. The submission of the plan and description of the sign is really designed to demonstrate the standards for the fast food establishment permit are met because we're -- the design is compatible with the existing design of the adjacent spaces.

CONSTANTINE ALEXANDER: When are you planning to seek the sign -- get a determination of approval regarding the signage? Because if you're going to open for business, you can't have the sign up, any sign up until you've gotten sign off from the --

ATTORNEY ROBERT DUNKLESS: Yes. I think the strategy will be first to secure the Zoning relief required.

CONSTANTINE ALEXANDER: Right.

ATTORNEY ROBERT DUNKLESS: And then once the Zoning relief is required and they are able to obtain a Common Victualer's License, then they will seek approval for their building plans and signage at that point.

CONSTANTINE ALEXANDER: The signage, as you may know, signage is a Zoning requirement. You could have sought the signage approval tonight if you wanted to. Otherwise you have to come back with another -- if you're not Ordinance compliant.

ATTORNEY ROBERT DUNKLESS: And it's, we haven't yet made a determination with the sign will be Zoning compliant or not. But that's going to be a second step.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY ROBERT DUNKLESS: We first, really, in the interest of following a process, we thought it would be more efficient to --

CONSTANTINE ALEXANDER: Sure, it's your call.

ATTORNEY ROBERT DUNKLESS: -- make sure we can operate here.

In terms of the other requirements for a fast food establishment Special Permit, most, you know, significant we think this genuinely fulfills a neighborhood need. The Yogurtland product and operation is very different than any other yogurt shop. We, certainly in Cambridge, and its believed in the -- in Massachusetts. First of all, and Mr. Ozelis will describe this in a little more detail, Yogurtland offers a product that's all natural. It doesn't use any preservatives or artificial colors or artificial ingredients. Its flavors are all

custom created by Yogurtland using real, genuinely sourced ingredients. And more significantly Yogurtland operates what's called a self-service format which allows the customer to decide on its own flavor mix, it's own selection of toppings, and most significantly the size of the portion, so that there's a true consumer benefit here and a health benefit because the customer only pays for what it wants to consume. It isn't paying for a large or a medium or a small and getting excess food that it doesn't want. And because of the ability to portion control, it really allows for a much healthier product that people aren't overconsuming.

We don't believe that there will be any adverse effect on any other establishments in the area. There certainly are numerous fast food establishments and mix of restaurant types both right in the adjacent to

Yogurtland and in the Yogurtland spot and in the Harvard Square community generally. And the -- as I mentioned earlier, the design will be consistent with the existing space and the adjacent spaces and the -- because it's primarily pedestrian traffic, there should not be any additional parking or traffic problems created.

CONSTANTINE ALEXANDER: I notice in your application that with regard to one of the requirements, handicap accessibility. You said you hadn't made a determination yet. Or you were going to seek --

ATTORNEY ROBERT DUNKLESS: That may have been made by now.

CONSTANTINE ALEXANDER: Has it? I'm just curious.

STEVEN RABINOFF: The entire development is handicap accessible.

CONSTANTINE ALEXANDER: Say it again, please?

STEVEN RABINOFF: The entire development is handicap accessible.

CONSTANTINE ALEXANDER: You're representing that to us now?

STEVEN RABINOFF: Yes.

CONSTANTINE ALEXANDER: It wasn't in the application is the reason why I asked.

STEVEN RABINOFF: Yes.

BRENDAN SULLIVAN: Okay. That's it pretty much.

ATTORNEY ROBERT DUNKLESS: Any questions, Mr. Ozelis is here.

CONSTANTINE ALEXANDER: What are your hours of operation going to be?

TONY OZELIS: We're proposing eleven o'clock in the morning to eleven o'clock in the evening.

CONSTANTINE ALEXANDER: Seven days a week?

TONY OZELIS: Seven days a week, yes. We try to deliver a little more than we

promise. We open five minutes earlier than eleven o'clock and we close five minutes later.

CONSTANTINE ALEXANDER: What about delivery and supplies you use to make the yogurt?

TONY OZELIS: Well, I understand there's limited deliveries. The timeframe is set up onto the street for the morning deliveries. And we fully intend to --

CONSTANTINE ALEXANDER: Morning deliveries you say?

TONY OZELIS: Morning deliveries, yes.

CONSTANTINE ALEXANDER: It's a very busy street, you know.

TONY OZELIS: Absolutely, absolutely. And we want to keep in, you know, cadence with that area. So I think it would serve the area best and us as well.

CONSTANTINE ALEXANDER: And trash

removal or trash disposal, particularly the customer that comes in and get their yogurt, their healthy portioned yogurt, where do you, what are you going to do to minimize trash being strewn about on Winthrop Park?

TONY OZELIS: Well, you know, one of the worst advertisements we could ever have is empty yogurt cups in that park. One of the reasons we want to be here was because of that park. It's a beautiful setting. It is very in concert with who we are as a corporation itself. So we intend on having employees going out there periodically and policing the area to make sure that doesn't happen. We're an environmentally conscious company and we'd rather not see that happen anywhere.

CONSTANTINE ALEXANDER: You know how I'm going to vote anyway.

BRENDAN SULLIVAN: And the need in the neighborhood.

CONSTANTINE ALEXANDER: I'm sorry?

BRENDAN SULLIVAN: And the need for such a concern?

CONSTANTINE ALEXANDER: Well, they've told us the need. They're going to supply a very healthy portioned, in terms of ingredients and in terms of quantity, a very healthy product which is I guess distinguished from Pinkberries and J.P. Licks; right?

TONY OZELIS: Yes.

CONSTANTINE ALEXANDER: You're healthier?

BRENDAN SULLIVAN: Unique to Cambridge and a trendsetter, and they all shall follow.

TONY OZELIS: We're one of the few companies in the countries that actually manufactures its own product. In order to be called yogurt in the United States, you need to have two healthy probiotics in there. We add additional probiotics. And as Bob was

speaking before, all our flavors are natural so our pistachio is flavored with pistachio oil. The strawberries is just strawberries inside of it as well. We take, you know, great pride in the fact that we produce a very high value product. And the fact that the people, our customers, are in control of that portion. When they place it on the scales, they automatically see how much it weighs as well, so to that point they're in control of the portion controls.

CONSTANTINE ALEXANDER: By the way, that approach is not unique. In Lexington Center there's a --

TONY OZELIS: Oh, the self-serve model?

CONSTANTINE ALEXANDER: Yes.

TONY OZELIS: Yeah, we created that back in 2007, and it was a hit and everybody copied us. Flattering, but it's not unique any longer.

BRENDAN SULLIVAN: So the next guy will not be unique.

CONSTANTINE ALEXANDER: That's right.

TONY OZELIS: Well, you know where he got his idea from.

JANET GREEN: I think the question that Gus raised that is the thing that I'd like to ask the most about is --

TONY OZELIS: Sure.

JANET GREEN: -- is about the trash.

TONY OZELIS: Sure.

JANET GREEN: There's just so much traffic in that area, the very reason you want to be there is the very thing that makes that a difficult thing to manage.

TONY OZELIS: Sure.

JANET GREEN: And I appreciate your sort of desire to be good neighbors. I think that's an important part of it. But there's nothing formal about that. It's more your

desire to be good neighbors and then maybe you are and maybe you aren't. I mean, is it in the plan -- I mean, it has tables and chairs. Does it have trash cans in it?

STEVEN RABINOFF: Yes.

TONY OZELIS: Yes, we have trash cans inside.

STEVEN RABINOFF: Recyclable.

JANET GREEN: Recyclable trash cans?

TONY OZELIS: Recyclable trash cans. And our intent would be to as far as kitchen waste and what not, take it out the back door through the inside of the mall so we never bring it out to the front. Once again, that wouldn't create a good look, and something we would want to stay away from at all times.

JANET GREEN: Great. Because I think that's really important.

TONY OZELIS: I agree.

JANET GREEN: Especially right around that park is so much of that. So many cups.

TONY OZELIS: It's a wonderful little area and not to respect it would be the shame.

BRENDAN SULLIVAN: That's the oldest recognized park in the United States.

STEVEN RABINOFF: Is that true?

TONY OZELIS: Wow, that is so cool.

BRENDAN SULLIVAN: Well, Winthrop Park it's the oldest recognized park in the United States.

TONY OZELIS: I took a photograph of it this evening and sent it back to my Home Office just so they could see what Harvard Square looked like during Christmas. It was pretty.

BRENDAN SULLIVAN: Any questions at this point?

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: Anything else to add to the presentation?

DOUGLAS MYERS: Questions?

BRENDAN SULLIVAN: I'm sorry.

DOUGLAS MYERS: I had a question.

BRENDAN SULLIVAN: You're usually on the other side. You're out of your element actually.

DOUGLAS MYERS: No telling where I might pop up.

I noticed in your application that originally, at least according to the application, your closing hours are going to be midnight. Is there a reason that you changed it to eleven o'clock?

TONY OZELIS: No, unless something is changed with Larry, I wasn't aware of that. It could quite possibly be midnight. My supervisor was here the last time and went through this, so if there is a discrepancy, my mistake.

DOUGLAS MYERS: Okay. I just wondered.

TONY OZELIS: Yeah, no, no, no. I appreciate the clarification. I'll certainly check into that.

DOUGLAS MYERS: It could be midnight.

TONY OZELIS: Yeah. Well, it will be five minutes after. But, yes, that would be my mistake. My apologies.

BRENDAN SULLIVAN: What time do most of the stores close in that --

RAJ DHANDA: One, two? Three restaurants.

BRENDAN SULLIVAN: Oh, I see, they just keep on going.

JANET GREEN: It's full of restaurants.

BRENDAN SULLIVAN: Again, licensing would sort of control that anyhow.

DOUGLAS MYERS: With regard to trash

disposal, do your plans anticipate having any trash disposal barrels outside of your restaurant and near your front door on the outside patio?

STEVEN RABINOFF: No.

TONY OZELIS: No, I think that would invite people to carry it out there.

STEVEN RABINOFF: It is directly inside of our --

TONY OZELIS: Right inside the door itself.

DOUGLAS MYERS: Do you have an estimate about how much of your sales is consumed on premises in the early morning as opposed to taking -- being taken out the door?

TONY OZELIS: No, unfortunately not, no.

DOUGLAS MYERS: You said deliveries were going to be made in the morning. With the concerns expressed by the Harvard Advisory Committee, do you have any idea to

expect the pick ups to be in that area?

TONY OZELIS: I believe there is a posted cut off time on the street itself.

ATTORNEY ROBERT DUNKLESS: If I could add something to the deliveries, as I understand it, and, Tony, please correct me if I'm not saying this entirely correctly. Yogurtland has one supplier, so it's; is that correct, Tony?

TONY OZELIS: That's correct.

ATTORNEY ROBERT DUNKLESS: There's one supplier, so it's a relatively -- it's about as manageable a situation as you can have in terms of scheduling deliveries. It isn't like those, you know, the beverage company coming in at one hour and the paper person coming in at one hour. Because they have one source supply, they can very, very handily manage the delivery times.

DOUGLAS MYERS: And when they manage it then, about what time will it be delivered

in the morning?

ATTORNEY ROBERT DUNKLESS: I don't even know if they got that far in the -- it would be certainly within the guidelines of the city.

TONY OZELIS: Yeah, it's within the guidelines of the city strictly.

DOUGLAS MYERS: Can you -- I haven't seen your revised plans until today. Do they reflect any alteration in the color of the materials?

STEVEN RABINOFF: No. Or when I say no, before the materials were exposed on the exterior, now it's all store frontage. And the same material you saw before, is just set back three feet. So you look through the glass and see the same material.

DOUGLAS MYERS: Is there any change in the color from the present use?

STEVEN RABINOFF: No, no.

ATTORNEY ROBERT DUNKLESS: When you

say from the present use, you mean from what's there now?

STEVEN RABINOFF: The existing storefront.

ATTORNEY ROBERT DUNKLESS: No, it's a clear glass.

DOUGLAS MYERS: Except for the signage?

STEVEN RABINOFF: Right, correct.

So the glazing, the storefront, the sign ban is all consistent with what's there.

DOUGLAS MYERS: Okay, thank you.

BRENDAN SULLIVAN: Okay.

Let me open it to public comment. Is there anybody here who would like to speak on the matter case No. 10358, 57 JFK Street?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

There is correspondence from the Harvard Advisory Committee dated November

27th to the Board. (Reading) The Harvard Square Advisory Committee met on November 15th to review and comment on the pending Board of Zoning Appeal Special Permit application for the fast order food establishment at the Winthrop Street side of JFK. The number of issues that were discussed and basically reiterated, what is the application before us? The operator committed to picking up trash associated with Yogurtland and dispose of it properly. The business expects to have a significant number of customers to use Winthrop Park. The hours of operation are proposed to be Monday to Sunday from eleven to midnight. Harvard Square Advisory Committee members supports the overall store concept and the operator. The following issues are specific to Winthrop Street and its current activities: The trash storage and pick up area is not defined on the plans submitted. Winthrop Street is

a pedestrian only area during the day. Deliveries are restricted to early morning or hand truck to the retail location. The Committee discussed some current activities not all positive on Winthrop Street pedestrian way. The discussion focussed on the evening hours and the behavior of customers from and operations of the restaurant and bars that front on the street. The existing food and alcohol establishments of this building have had a number of complaints for excessive noise and trash storage and disposal violations. The Committee recommends that the BZA confer with the License Commission regarding the current landlord and operators at this location before granting the Special Permit operation to determine if a fast order food establishment would be an appropriate additional use at this location. Respectfully, Liza Paden, Community

Development Department.

I believe that is all of the comments. The Planning Board basically has left the -- makes no comment and leaves the decision up to us. That's the end of the public comment. Let me close that.

Anything else to add? No?

ATTORNEY ROBERT DUNKLESS: No. We just submit that we believe that the standards for a fast food establishment Special Permit have been -- are satisfied here, and Yogurtland is a responsible company and looks forward, would look forward to being an active member of the Cambridge community.

BRENDAN SULLIVAN: Under Section 11.30 and more specifically 11.31, (reading) In considering applications for a Special Permit for fast order food establishment, the Board shall find in addition to other criteria specified at 10.40 that the

following requirements are met:

The operation of the establishment shall not create traffic problems. I think we have determined that you will not exacerbate an already exacerbated situation. There's no way anybody could add to the confusion and traffic down there.

Reduce available parking. And whatever parking is there really would not be reduced by this establishment.

You would not threaten the public safety in the streets or the sidewalk or produce double parking on an adjacent public street. I think we could probably establish that.

That the physical design, including color and use of materials of the establishment, shall be compatible with and sensitive to the visual and physical characteristics of the other buildings, public spaces, and uses in this particular

location. And I think your presentation is there's really quite an eclectic grouping of establishments and how you will blend in beauty is in the eye of the beholder I think.

And so the establishment fulfills a need for such a service in the neighborhood or in the city. And your presentation is that you are producing a unique type of yogurt with a unique business plan which is not presently available in this particular locus or in Harvard Square in general. And as such you are providing a service and a need that is right now unfulfilled.

The establishment will attract patrons primarily from walk-in trade as opposed to drive-in or automobile-related trade. And I believe we can probably establish, I think we're all familiar with the location, and that that is the modus operandi of that entire section of the city.

The establishment shall, to the

greatest extent, use biodegradable materials in packaging the food and in utensils and other items produced provided for consumption -- and other items provided for consumption. And your presentation is that you will comply with that.

The establishment shall provide convenience, sort of a well-marked waste receptacles. They will be within the premise and also at each doorway. I think something that I would like is aside from having receptacles, and sometimes I go to different establishments and over the receptacle is, please, put your trash in there before you leave the premise. You know, sometimes the receptacle is fine --

TONY OZELIS: Sure.

BRENDAN SULLIVAN: -- but I would encourage that, is just a simple sign saying: Please dispose of before you exit the building. I mean, it's a simple thing.

Sometimes it works, sometimes it doesn't work.

TONY OZELIS: Absolutely.

BRENDAN SULLIVAN: But I think at least there's an attempt anyhow to try to comply with limiting as much trash as possible.

And the establishment complies with all state and local requirements applicable to ingress, egress, and use of all facilities on the premises for handicapped and disabled persons. And I believe your testimony is that it will. And we also note that you're still bound by the Licensing Commission regarding hours of operation and other details of the dispensing of food items.

So it appears that you probably could comply with the requirements of the Special Permit. Anything to add or --

CONSTANTINE ALEXANDER: Do you have to go through the Section 10 things?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: I think you're fine on Section 11.

BRENDAN SULLIVAN: Let me make a motion then to establish a fast order food establishment at 57 JFK Street at the location of the building and as per the application, the material contained therein.

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

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

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.

There would not be any nuisance or hazard created to the detriment to the

health, safety, and/or welfare of the occupant of the proposed use or to the citizens. And the proposed use would not impair the integrity of the district or adjoining districts otherwise derogate from the intent and purpose of the Ordinance.

There is correspondence from the Cambridge Historical Commission regarding that last point. (Reading) That the Cambridge Historical Commission hereby certifies pursuant to Chapter 278, Article 3 of the Code of the City of Cambridge an order establishing at the Harvard Square Conservation District that the work described in this application for Yogurtland at 57 JFK Street does not involve any activity requiring issuance of a Certificate of Appropriateness or a hardship.

All those --

DOUGLAS MYERS: Mr. Chairman, may I make one brief statement without gumming up

the works after you so excellently phrased and posed the motion? I'm prepared to vote for the motion, but I would just like to express to the Applicant that I will personally in my -- personally and in my official capacity, I will very much regret my vote in favor of this motion if I should see or it should turn out that there is any considerable increase trash in Winthrop Park that is directly and clearly related to the activity of your establishment. That's all.

BRENDAN SULLIVAN: Okay.

Well put.

Anything else to add to the motion?

All those in favor of granting the Special Permit.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Hughes, Green, Myers.)

BRENDAN SULLIVAN: One abstaining.

CONSTANTINE ALEXANDER: Against.

BRENDAN SULLIVAN: Any
dissenting --

CONSTANTINE ALEXANDER: Yes.
Despite the presentation, I don't think they've demonstrated that they fulfill a need for your product in the neighborhood in Harvard Square. We have plenty of yogurt places. I don't think your yogurt is different than anybody else's yogurt. I don't think the fact that you're doing it self-service as opposed to someone scooping out portion control is -- come on. As they say on Monday Night Football, "Come on, man." You know, you can go to Pinkberries you can get a small, a medium, or a large. And if any of those three are not to your liking, you can say don't fill it up all the way. You could have portion control. Or to which to say we have plenty of, to my mind, too many fast food order establishments in Harvard Square.

BRENDAN SULLIVAN: Okay.

You received the necessary four formal votes. It's granted.

ATTORNEY ROBERT DUNKLESS: Thank you very much.

STEVEN RABINOFF: And we look forward to being a very good corporate citizens.

* * * * *

(7:55 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes,

Douglas Myers, Janet Green.)

BRENDAN SULLIVAN: The Board will hear case No. 10232, One Matignon Road.

Please introduce yourself for the record. The Board will hear case No. 10232.

RICHARD BLUMENTHAL: My name is Richard Blumenthal. I'm the headmaster of the School of Boston.

ATTORNEY RYAN PACE: And my name is Ryan Pace, and I'm an attorney with Anderson and Kreiger.

BRENDAN SULLIVAN: Okay. My understanding is you have requested a continuance.

ATTORNEY RYAN PACE: Correct.

BRENDAN SULLIVAN: And I guess my initial reaction is why, and what will be served by granting the continuance? Sort of a two-part question. Why the continuance and what will be served at granting the continuance?

ATTORNEY RYAN PACE: I could take a stab at answering that question.

BRENDAN SULLIVAN: Sorry?

ATTORNEY RYAN PACE: I can take a stab at answering that question.

BRENDAN SULLIVAN: Yes.

ATTORNEY RYAN PACE: We have met a number of times with the neighborhood, and there are concerns that the neighborhood has expressed about traffic and parking in this area. And we've been working with and talking with the neighbors about that. In response to that input, the school has been exploring a couple of other options for how to fulfill its goal of providing the services that it needs to provide for its students. And the exploration of those other options is taking longer than the school had expected. So, the hope would be that we have been using this time to explore other options. We don't have a definitive solution yet. We hope is

that by getting the continuance that we've requested, that we'll have some clarity in whether or not we need to proceed with this Variance application at that time or we've got another option that the school can pursue and we can withdraw the application altogether.

CONSTANTINE ALEXANDER: Am I assuming that the other options involve not building something on this property?

ATTORNEY RYAN PACE: Correct.

CONSTANTINE ALEXANDER: So the idea would be you might build in another community, let's say, and until you know whether you're going to do that, you want to keep your options open for this property?

ATTORNEY RYAN PACE: Correct.

CONSTANTINE ALEXANDER: Knowing that, no matter -- sounds to me no matter what you're going to be doing, if you stay here you're going to be fighting with the

neighbors. I assume you're never going to get neighborhood support. If you haven't gotten it by now, you're not going to get it.

RICHARD BLUMENTHAL: I wouldn't say it's quite as -- I think the neighbors are sympathetic to our need for our students and they like the school being there because until we moved in, the place was a ruin or heading that way, but they are concerned about the traffic. So it's kind of we like -- I think their attitude has been we like to help the school, but we want to work with you and we want you to work with us to solve some of the traffic issues which of course are created by Matignon High School, not just by us.

BRENDAN SULLIVAN: The real concern that I have is that by sort of continuing and continuing and unfortunately we're throwing you in the same stew with other cases, but we're becoming less sympathetic to

continuing and continuing, because it takes somebody else's slot. We look forward -- you know, tonight we may have a case that we have to continue and then I turn to Sean and say what's the next available date, and somebody who can proceed forward, we may have to kick them off for three months or something because, you know, we're looking and saying well, you know, One Matignon Road, like, we did two weeks ago, we did last month, is that for tonight, well, you know, you've got a full agenda because...and we don't know if it's going forward or if it's not going forward. And so I think we're starting to become less sympathetic to continuing unless it's going to serve a real purpose. And I think that continuing this is not going to serve a purpose as opposed to just withdrawing this. Then when you're ready to go, you come back with a viable, real petition. That's, I think my position.

ATTORNEY RYAN PACE: You know the obvious concern with withdrawal is that --

BRENDAN SULLIVAN: I do. And I think, though, what you come back with is maybe materially different than this, and I would -- with the understanding of why we're asking this to be withdrawn, I would think look forward favorably upon a friendly action of withdrawing this, getting this off the docket, and then coming back with a real viable petition. That's my feeling. And I would be really quite loathed to say no, there is no material difference and it's a repetitive petition and we kick you out for two years. I may still be here, have been for a while, and so I would look favorably upon that action of taking this off the docket and then coming back with an alternative plan. Because it appears that this plan is not going to go forward. I mean, is that -- or you're not sure? You don't want to commit?

ATTORNEY RYAN PACE: No. If the other options is that we've been forced to explore by the neighborhood input that don't work out, then this is the plan that the school would like to pursue.

BRENDAN SULLIVAN: Okay. Well, that's sort of my feeling on continuing and continuances is that I'm becoming less sympathetic to continuances, because it -- and, again, no reflection on you. I don't mean to besmirch you. But it's getting a little disrespectful of the Board, the time, and the staff's time, and also just the public because it's taking a slot that somebody else could use.

ATTORNEY RYAN PACE: Let me ask you a question. Is it a matter of giving you notice? And we tried to give you notice about this continuance in the beginning of December so that it would give you time to adjust?

BRENDAN SULLIVAN: No. We look two, three months out.

ATTORNEY RYAN PACE: Okay. I'm just asking if we could try to help you.

BRENDAN SULLIVAN: And we try to plug somebody in, and then we look again last month, maybe in October, we looked, you know, somebody says can I get a slot in December? Well, you know, because they have to redo a plan. And we look at okay, what is on the docket for December? And well December 6th is full. When's the next available? Well, December 20th. But now we have three other cases that are going to again continue. So they're taking, we're saying no, and we have to kick this person off until January. You know? So it's not serving the public interest at all. And I think we're very conscious of that. And I think we feel badly about that. I do anyhow. So that's really where we're coming from is that it's really

taking somebody else's slot. Unless you can say to us next month we'll come back with a viable plan. But I don't think that's in the cards.

ATTORNEY RYAN PACE: Right.

BRENDAN SULLIVAN: I mean, I think you're really talking months.

ATTORNEY RYAN PACE: Right, we are.

BRENDAN SULLIVAN: Yes.

ATTORNEY RYAN PACE: And the reason for that is that we're trying to react to the input that we're getting and be sensitive to that in the neighborhood. So we're not trying to monopolize time.

BRENDAN SULLIVAN: No, 1, to be perfectly honest, No. 1, I would really not look terribly favorable on continuing it, No. 1. If we were to continue it, I would ask for a re-filing of it -- re-advertising. Not a re-filing. A re-advertising of it at the very least, and not just marking off the board

to some date in the future, you know. So I think that there has to be some action rather than just sort of kicking the can down the road. But that's just sort of my thought on it.

Anybody else want to chime in?

CONSTANTINE ALEXANDER: I agree with 95 percent of what you said, and I certainly agree with the thrust of your comments. We've continued this case far too long. I think the problem they have if we require them to withdraw so we don't continue this case any longer, they are going to be up against the repetitive petition. Because what they've told us they're either going to go forward with these plans or we're not going to do anything. It's not a matter we're going to re-jigger the plans because you're never going to solve the traffic problems with your neighbors unless you're going to make a building that's one-third of what

you're proposing. So I think if we force them to withdraw, they're out for two years. And I think that's a little bit harsh. I would suggest -- I certainly agree with your notion of re-advertising. I would give you one more Variance --

DOUGLAS MYERS: Continuance.

CONSTANTINE ALEXANDER: -- and that's it. Excuse me?

DOUGLAS MYERS: Continuance.

CONSTANTINE ALEXANDER: I'm sorry, continuance. Thank you.

One more, and if you can't solve your problems, then you're going to be turned down or you could go forward and see what happens.

ATTORNEY RYAN PACE: Right.

CONSTANTINE ALEXANDER: But we just can't keep kicking the can down the road as Brendan has pointed out.

That's my only variation of what you're proposing. I would give them one last chance

and require them for that one last chance to re-advertise as you suggested.

BRENDAN SULLIVAN: Okay.

DOUGLAS MYERS: Another thought is that whether or not the Board decides to limit them to one final continuance or not, any continuance we grant might be granted for a considerably longer period of time than is usually the case, and that way whether it's taking up a slot becomes much more of a theoretical question than a real question if the slot is on a distant day in May.

CONSTANTINE ALEXANDER: I would ask them to submit what that date would be to continue. How much time do you think you need to decide whether you're going to go forward in Cambridge or not?

ATTORNEY RYAN PACE: Well, in our letter requesting the continuance we asked for a mid-June date.

CONSTANTINE ALEXANDER: Oh, you

did? I missed that. Okay.

ATTORNEY RYAN PACE: And I don't know if you still feel comfortable with that date.

RICHARD BLUMENTHAL: I think mid-June or early next September.

CONSTANTINE ALEXANDER: Getting to the point where you might as well withdraw it. You're right.

DOUGLAS MYERS: Well, on the other hand I kind of feel if you can live with that, that's -- it doesn't seem like it's asking for too much.

BRENDAN SULLIVAN: Tim, what are your thoughts?

TIMOTHY HUGHES: I kind of agree with Gus. I think that in spite of how we might feel about it not being a repetitive petition, I think our hands might be tied if they come back with a petition which does not have material changes to it. And so I think

that we should continue this way out.

BRENDAN SULLIVAN: Okay.

JANET GREEN: Yes, I agree.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on our considering the continuance? If you could give your name and address for the record, please.

UNIDENTIFIED WOMAN: I guess what I wanted to speak about was the proposal. So I don't really know -- all I would like is that --

BRENDAN SULLIVAN: If give your name and your address.

UNIDENTIFIED WOMAN: Sorry.

BRENDAN SULLIVAN: Just so we can distinguish you from everybody else out there.

JOAN GREEN: My name is Joan Green. I live at 30 Alewife Brook Parkway which is

directly across the street from the school. And I just would like to know when the hearing comes up that there's plenty of notification, that there's better signage than there was this time, that there's more of an effort to make it available for people to come because --

BRENDAN SULLIVAN: Correct. Well, that's the very minimum that we would do anyhow.

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

(No Response.)

BRENDAN SULLIVAN: Okay. The correspondence as my -- sorry, on the letterhead of Anderson and Kreiger dated December 6th. (Reading) At my client's request, I'm writing to request another continuance of the hearing from December 22nd to mid-June 2013. My client would like the extra time to continue to develop its plans

for its educational programs.

So, okay, in deference to I think the theory of the feeling of the Board, I would go along with one more time. So now it's a date certain, and what is that date? Do you want to huddle for a minute or two?

RICHARD BLUMENTHAL: Are there specific dates in June?

BRENDAN SULLIVAN: No, no. We will set a date. So it's whether we're talking June or September.

RICHARD BLUMENTHAL: Yeah, okay.

BRENDAN SULLIVAN: Sean, do you have the calendar?

SEAN O'GRADY: Well, we only have scheduled dates up to June 13th. I think in the past we said something like the first meeting in... So if they want September, we'll just say something like that. June 13th is the --

BRENDAN SULLIVAN: Okay. But

rather than establishing -- I guess, what we're trying to do is narrow it down to a month. We've established the year. Now we're down to months. Which month? And then we'll figure out the date third. So is it June or September or July or somewhere in between?

RICHARD BLUMENTHAL: So you meet in the summer as well?

BRENDAN SULLIVAN: The City Council does not, but we do.

ATTORNEY RYAN PACE: Noted.

BRENDAN SULLIVAN: Little commentary there.

CONSTANTINE ALEXANDER: Don't put that in the record.

RICHARD BLUMENTHAL: I guess we can say June.

BRENDAN SULLIVAN: Okay. So let me make a motion, then, to continue this matter to the earliest --

SEAN O'GRADY: We have a date in June.

RICHARD BLUMENTHAL: June 13th.

BRENDAN SULLIVAN: -- time would be June or thereafter. And the reason I say thereafter is no sooner than June 13th, but you probably need to huddle with other people and maybe you may come back to September or something. Giving you that option.

RICHARD BLUMENTHAL: I appreciate that.

BRENDAN SULLIVAN: And on the condition that there be a re-advertising of this case, so that you will be re-notified. Full notification. And that the Petitioner bear the expense of that re-advertising.

Does that work.

SEAN O'GRADY: Maybe. I'm not sure. How do you feel about that, Gus?

CONSTANTINE ALEXANDER: I think we can condition our continuance on whatever we

want to continue it on.

SEAN O'GRADY: I'm just worried about the date certain, but I think the fact that you're re-advertising should solve any problems.

BRENDAN SULLIVAN: Right. In other words, the point about setting a date certain would be to notify people in the audience.

SEAN O'GRADY: Right.

BRENDAN SULLIVAN: However, they will be notified by the same public notification as the original. It's going to be a full advertising with mailings and so on and so forth.

SEAN O'GRADY: Yes, I think that should solve it. Okay, yes.

CONSTANTINE ALEXANDER: Brendan, let me just make two suggestions to add to the condition of the continuance. First, if it's going to be in September, that it be the first meeting in September, because I know I

won't be able to attend the second meeting at the end of September. So if it's going to be September, it will be the first meeting we hold in September.

And two, to address this woman's comments about the signage, that posting. It's a very big lot, and I'm wondering if we shouldn't talk a little bit about how many signs they should have on the lot and where, because it is -- this is a matter of great concern to the neighborhood. And there has been an issue in the past about -- I've had problems finding the signage from time to time, not for any fault of yours, it's just a big lot. So we should talk a little bit about that.

RICHARD BLUMENTHAL: I believe we've had two signs.

CONSTANTINE ALEXANDER: This time around. The last time, I would -- I don't know, what would you think in terms of

signage? Where would you like to see signs posted you think to make sure the neighborhood knows?

UNIDENTIFIED MALE: Well, one of the signs faces Alewife Brook Parkway and it's right at the edge. I mean --

BRENDAN SULLIVAN: If we can just get your name for the record.

ROBERT BROWN: My name is Robert Brown. I also live at 30 Alewife Brook Parkway. And the sign that's on Matignon Road, the address of this building could not be read.

JOAN GREEN: This morning.

ROBERT BROWN: And I know it's old and it's been up and it's been weathered. But you did update the date, but you didn't update the address. And I didn't know that, I mean, and I still don't know if all your meetings are held here. So, you know -- but so I think that's important. And the sign

that's on the parkway, I mean, you know --

JOAN GREEN: Nobody can read it.

ROBERT BROWN: You read it in the afternoon because the traffic's going very slow that way, but, you know, the sign block is 20 feet away or 15 feet away and it's --

JOAN GREEN: It's not pedestrian friendly, that sign.

ROBERT BROWN: That maybe one that by the school and maybe one further down by the high school, I don't know if that's possible by Matignon.

JOAN GREEN: Or the entrance to the parking lot.

BRENDAN SULLIVAN: I think the entrance to the parking lot, there should be two along Matignon Road anyhow, very minimal. The one on the parkway is really not productive. And, again, I think you're absolutely correct, you're the ones who could read it while you're walking with the dog or

your flying by in the car.

ROBERT BROWN: The dog likes to walk on the grass, but I don't necessarily.

BRENDAN SULLIVAN: That doesn't really serve the purpose. But I would say at least two. When we determine the date, obviously you will have to comply with the posting requirements which is 14 days and all that other stuff. So I think that it would be a minimum of two.

SEAN O'GRADY: Okay.

CONSTANTINE ALEXANDER: And put some type of plastic sheathing over it or something? Because right now with the rain and everything gets washed away. When I went out to look at it, I couldn't see anything other than tonight. I couldn't see what relief was being sought. It's not your fault, the elements did it in. So put something over it.

RICHARD BLUMENTHAL: Maybe we can

lamine it.

BRENDAN SULLIVAN: So you'll have some time. It will be summertime at that point anyhow.

RICHARD BLUMENTHAL: We also have a link that's on our website that's labelled Neighbors.

BRENDAN SULLIVAN: Okay.

RICHARD BLUMENTHAL: So where people can click.

ATTORNEY RYAN PACE: There will be additional outreach to the neighborhood.

BRENDAN SULLIVAN: Okay.

ATTORNEY RYAN PACE: I am concerned about your point about the meeting at the beginning of September because we've run into trouble before in trying to reach out to the neighborhood in the summer. So it might be better to do this the first meeting in October to give us a little bit of breathing room after Labor Day.

TIMOTHY HUGHES: This is a case not heard, Gus. So if you're not here for the second meeting in September, maybe you should count your blessings.

CONSTANTINE ALEXANDER: Might have a better chance to get success.

BRENDAN SULLIVAN: Well, I think you need to get a proposal together and we'll see what the timing is on that and then we'll check with the secretary and then she will then be able to give you a date. Okay? And that date may not be the second one in September.

SEAN O'GRADY: Yes, give yourself like two months. So come see us two months prior to the date you think you want.

ATTORNEY RYAN PACE: Okay.

BRENDAN SULLIVAN: April for June and June for September or the first one in October.

Okay. So I will entertain a motion to

continue this provided that the Petitioner change the posting sign to reflect the new date.

Also that the Petitioner -- well, this is going to negate what I just said, but anyhow, that the Petitioner is responsible for a new public notification, including the mailings and to be bore the expense thereof, and complying with the posting requirements.

Anything else to add?

All those in favor of continuing this matter to some date out?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

BRENDAN SULLIVAN: Thank you for coming in.

(8:15 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes,

Douglas Myers, Janet Green.)

BRENDAN SULLIVAN: The Board will hear case No. 10240, 85 Hamilton Street.

Is there anybody here interested in that matter?

(No Response.)

BRENDAN SULLIVAN: There is correspondence in the file on the letterhead of Adams and Rafferty, dated December 20. (Reading) Dear Ms. Pacheco: Please accept this correspondence as a request to continue the above-captioned case currently scheduled for Thursday, December 20, 2012, to Thursday, January 24, 2013. Thank you for your attention. Very truly yours, James Rafferty.

On the motion to continue -- or any discussion on the continuance?

CONSTANTINE ALEXANDER: I'll go back.

DOUGLAS MYERS: I have a lot to say

about this in fact. Not an awful lot, but I do have a couple of points that I really would like to put into the record. And I would like to say that I really regret that Mr. Rafferty is not here by any design on his part. I just regret of having to say this at a time that he's not present. Nothing personal or professionally offensive to him, but since I'm going to make a statement really opposing his motion for a continuance, I simply want to express my regret that he's not present. I have no desire to act behind anyone's back.

I have noted that there have been no changes in this file whatsoever since this Board approved the additional 550 of -- I'm sorry, I'm blanking. GFA, gross floor area.

CONSTANTINE ALEXANDER: Yes, in the basement.

DOUGLAS MYERS: In June. And there just has been no change in the file at all. Nothing has been -- no documents have been

submitted. No additional plans. The file is in exactly the same condition. And notwithstanding the fact that it has been continued once already on September 13th, again, in a completely unchanged condition. And I would further point out that in connection with that continuance on September 13th and the continuance following the approval in June, that the public notice was never changed and the public notice can only be described as being in a complete shambles as of this evening since it is unchanged since June 28th, and has no reference to any meeting tonight.

And fourthly, Mr. Rafferty, at least as I understood it, maybe a representation to this Board back in April 26th at a public hearing with many members of the public here, that once the five feet of gross floor area would be broken out and from his Petition and approved that the Petition would be

withdrawn. And in view of all these other factors, I really see no reason to continue this motion any further to continue this case any further.

So, although I'll listen to other members of the Board as always with interest and with an open mind, I certainly want to state my preliminary feeling that this motion should be denied and I would intend to vote against it.

BRENDAN SULLIVAN: Okay, good point.

CONSTANTINE ALEXANDER: Why was the case continued in the first place? I don't remember. I didn't get a chance to read the transcript.

BRENDAN SULLIVAN: It was continued because they were not sure if they needed to proceed with this. My understanding is that he thought he had an as-of-right solution and they were exploring that with the

Commissioner. And I'm not sure if that determination has come to finality just yet. And, however, he wanted to keep this case alive in case that exploration did not bear fruit.

CONSTANTINE ALEXANDER: Well, then I would adopt the Matignon Road principle. One more continuance, no more for this case to what Doug has said. This case has been continued too often. If you want January 24th, fine. But January 24th is up or down. No more continuances.

BRENDAN SULLIVAN: I think I feel as if our courtesies are being abused.

CONSTANTINE ALEXANDER: I think you're right, absolutely.

BRENDAN SULLIVAN: Mr. Hughes?

TIMOTHY HUGHES: I'll go with Gus on this one.

JANET GREEN: I agree.

BRENDAN SULLIVAN: Okay.

Points are well taken.

CONSTANTINE ALEXANDER: Very well taken.

BRENDAN SULLIVAN: Here, here, you know.

Let me make a motion then to continue this matter until Thursday, January 24, 2013.

SEAN O'GRADY: You have a full night.

BRENDAN SULLIVAN: At seven p.m.

SEAN O'GRADY: Just so you know you already have three on that evening.

BRENDAN SULLIVAN: Okay. Should we kick it off to February? This is a case not heard.

TIMOTHY HUGHES: No, this is a case heard.

SEAN O'GRADY: This is a case heard, yes.

BRENDAN SULLIVAN: It is?

DOUGLAS MYERS: This is the one with

Tad so I'm not sure how this can go forward anyway.

CONSTANTINE ALEXANDER: Yes, the last time Mr. Rafferty was in this situation, he re-advertised and went with a new petition because otherwise it's only going to have four people sitting on it. I don't know what his plans are on that, but if he does, he does. He's got a dilemma. He's got to re-advertise if he doesn't want to go with four of us.

BRENDAN SULLIVAN: So I think that this may not even see the light of day on January 24th. Why don't we mark it up for that date anyhow.

SEAN O'GRADY: Okay.

BRENDAN SULLIVAN: So on the motion then to continue this matter until January 24, 2013, on the condition that the Petitioner change the posting sign to reflect the new date of January 24th, and the time of seven p.m. And that the signage be

maintained as per the requirements of the Ordinance.

It is also the sentiment of the Board that we will allow one more continuance of this matter, and that a final resolution of this case shall be on January 24th.

CONSTANTINE ALEXANDER: Just to that point, that means I think what he's going to do is file a new Petition so he can get five members to vote on the case, assuming he's going to go forward. He'll have enough time, Rafferty, to re-advertise this case for January 24th?

SEAN O'GRADY: This is one of those things where I know there's -- Maria's talked to somebody and Ranjit's talked to somebody and I'm not exactly sure, but I think that they advertised something already for the 24th, but I'm not exactly sure how this is all sewn together.

CONSTANTINE ALEXANDER: Well, I

want to be sure. I don't want to set a 24th date for a continuance and they can't re-advertise in time for the 24th. Because I suspect that's what they're going to have to do. If they can't re-advertise and they have to withdraw on the 24th, then they're dead for two years. I don't want to do that without at least hearing them out. So maybe the approach is to just push it back a month and say February or the second one in February. That surely gives them enough time to re-advertise and --

SEAN O'GRADY: Yes, that might be safer because I know that Maria is going to be out most of next week and she may well have closed it today.

BRENDAN SULLIVAN: All right. Then let me correct that motion to continue this matter until February.

SEAN O'GRADY: February 7th or the 28th.

TIMOTHY HUGHES: I'm not here on the 28th.

BRENDAN SULLIVAN: Oh, wait a minute. Did I hear this?

SEAN O'GRADY: This is --

BRENDAN SULLIVAN: I'm not here on February.

SEAN O'GRADY: Doug, Gus, Brendan, and Tim.

BRENDAN SULLIVAN: I'm not here.

CONSTANTINE ALEXANDER: Go to March. I don't think we have to be so accommodating, frankly. They're the ones who have been stringing us along.

DOUGLAS MYERS: Well, I realize if I'm the cheese that stands alone, so be it. In this case I think the deficiencies of this file are so flagrant and incontrovertible that denial of the continuance and dismissal of the case is warranted. And I feel particularly comfortable in saying that in

view of the representation that was made to this Board, that the case would be withdrawn. That hasn't happened. In fact, the conduct has been with a strong tendency to the contrary; that is to continue the case and prolong it. And I find that frankly it's reached a point which is troubling, and I wish that Mr. Rafferty were here. And I don't say that in any way that it's his fault that he isn't. I would be very willing to pursue his presence if he were here. But to me, again, the discussion indeed of taking this much time to try to accommodate a case that is as far as I'm concerned is a dead dog, I think is an illustration of Exhibit A of what we're talking about previously.

BRENDAN SULLIVAN: Okay. March.

TIMOTHY HUGHES: I have to tell you I'm being more and more persuaded by Doug's argument.

BRENDAN SULLIVAN: The only one of

the issues that complicates is that Tad sat on it and Tad cannot. And so the onus is whether they want to go forward with four and they probably would say no. So it's a little bit of a two-edge sword here as far as this case is concerned. So March.

SEAN O'GRADY: March 14th or 28th.

BRENDAN SULLIVAN: So shall we continue this to March 14th? We have Doug. We have Gus, myself, and Tim. Okay --

CONSTANTINE ALEXANDER: The reality is that we're going to -- this case is continued, and it's never going to be heard. We're going to hear the new petition and the five who sat that night.

BRENDAN SULLIVAN: On the motion to continue this matter to March 14, 2013, at seven p.m., on the same conditions as I previously stated.

All those in favor of continuing this matter?

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Alexander, Hughes,
Green.)

BRENDAN SULLIVAN: One opposed.

(Myers.)

BRENDAN SULLIVAN: Okay.

SEAN O'GRADY: For clarification,
if they came on March 14th and said we want
to go with four, they could do that?
Otherwise they have to re-advertise this case
if they want to hear this case?

BRENDAN SULLIVAN: Correct.

CONSTANTINE ALEXANDER: Exactly.

* * * * *

(8:25 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Timothy Hughes,

Douglas Myers, Janet Green.)

BRENDAN SULLIVAN: The Board will hear case 10361, 10 Garden Street. Signs, signs, everywhere are signs.

If you please introduce yourself for the record and if you have any professional cards for the recorder, it would be very helpful for her.

MARK VERKENNIS: Mark Verkennis. I'm with Harvard Planning and Project Management. The last name is V-e-r-k-e-n-n-i-s.

MICHAELANN ZIMMERMAN: Michaelann Zimmerman with Roll, Barresi and Associates. I'm the sign consultant.

KATE LOOSIAN: Kate Loosian. I'm with Radcliffe Institute for Advanced Study.

BRENDAN SULLIVAN: Okay, Mark, you ready?

MARK VERKENNIS: Yes, I'm ready.
The Radcliffe Institute as some of you

may know has been completing a landscape project on their campus, and the last final piece of that is re-signing the campus as many campuses have signs have gone up over the years, and not all necessarily, you know, consistent in design and some of them are a little confusing in terms of direction. So this was a good opportunity for the Institute to both create a consistent design approach for the campus, but also to clarify way finding on the campus for visitors to Radcliffe.

So in particular one of the issues we have to address here, I'm not sure everybody is aware of this, but the main admissions visitors' center for Harvard College is not actually where you would think it would be. It's actually on the Radcliffe Campus in Agassiz House and that's been a source of some confusion for quite sometime for perspective students and their families

coming to the university to find our admissions office. That's one of the key things that we're also trying to address in the project.

So tonight there are a total of 23 signs that are subject to Zoning review. Others have been determined exempt by the Community Development office. And the signage program that's being proposed is really trying to address several factors that pertain particularly to the Radcliffe Campus.

One is Radcliffe is a multi-building campus that has expanded over time, and it now occupies an entire city block. The campus has eight buildings. Each of those eight buildings has eight different addresses, not all of which are clear from the periphery of the campus. Most of the buildings for those of you who have been to the campus, probably know they're not necessarily oriented to public streets. They're oriented to the

yard. So that also creates some confusion for people trying to connect street addresses with buildings that they actually can't see from the road. There's also a lot of campus access points. There's a total of six formal gates around the campus. Some of these are located within existing brick walls around the campus. Other -- or other access points that are used. And then several of the buildings do have very high levels of visitors for, example, like the Agassiz House that I mentioned has the Agassiz Theatre which has a large public visitorship. The admissions centers that I mentioned is also Agassiz House. There's also Radcliffe Gymnasium that hosts a number of events and receptions both for the Harvard Community and the general public. And we also have the Schlesinger Library which of course draws a large number of researchers and other visitors to their campus.

And so tonight we're seeking a Variance to permit the proposed number of signs. The height of one of the signs, which is a freestanding kiosk to be placed on Brattle Street, and the sign locations. And this largely has to do with where they are in terms of the required setback under the Zoning Code in relationship to where the buildings are currently placed.

So a literal enforcement of the Zoning Ordinance provisions for non-residential uses in the Residence C-2 District would limit us to basically two signs per building and would really prevent us from adequately signing each of the main access points and providing additional directional signage that we feel is appropriate in this case. That would create a hardship not only for our campus operations, but also for the large number of visitors that come to the campus. And so, the need for relief that we're seeking

tonight is really just to allow greater flexibility in the signage that is permitted. And that is unique to the physical characteristics of this campus. It's a multi-building educational campus. It's not typical of other uses in the Residence C-2 District.

The signage that you're reviewing tonight we're asking for relief on tonight has been reviewed with the Community Development Department, the Planning Board, and the Cambridge Historical Commission who has reviewed and approved it. And we've actually incorporated their comments into the final design.

So I'll end my comments there and just ask if Michaelann could just walk you through the types of signage that are being proposed.

MICHAELANN ZIMMERMAN: Sure. We have some examples of the existing signs that are out there. I apologize, I have four

copies. As you can see, they have been installed at different times, at different levels of wear and tear. And this is the location plan that was in the package that you guys may have seen. I think I'm just going to go side by side. And this is just a cheat sheet of the signs that we're taking about. They're existing building identification signs that we're leaving in place. We're proposing to refresh the gate identification signs, and in one case there's an address plaque below which is at the entrance of Garden Street, but the signs that we are proposing to install are actually a little bit smaller than the gate identifications that are out there right now. And we're just cleaning up the design, refreshing it, and using the new Radcliffe mark. The small directional plaques are changing to a grey color. And these are to aid the visitors who are looking specifically for Harvard

Admissions Building who, you know, have a very hard time finding it within Radcliffe Yard. And knowing that it's there. And there's a picture of this existing condition at Three and Five James Street which is still the official address that Harvard lists for their Admissions Visitors' Center. So you do have people going there. And it's very much a back door. So we want to consolidate the sort of service entrance signage and look into one handsome plaque. At the Brattle entrance which has some new landscape improvements, a new fence. We are proposing that this sign be there to mark the entrance as another major entrance. And then in refreshing the language on these yard use information signs which basically state conduct that should or should not occur within the yard. And this sign is for the new installation space.

MARK VERKENNIS: This area.

MICHAELANN ZIMMERMAN: Yes. Which by being visible from Brattle Street it can explain what the space is. And that's basically it.

JANET GREEN: Is it two-sided kiosk what's on the other side?

MICHAELANN ZIMMERMAN: The same thing.

JANET GREEN: The same thing.

MICHAELANN ZIMMERMAN: Yes.

BRENDAN SULLIVAN: I'm sorry, where does the kiosk go?

MARK VERKENNIS: Right here.

MICHAELANN ZIMMERMAN: It's the same --

BRENDAN SULLIVAN: And that's on Brattle?

MARK VERKENNIS: Brattle Street, yeah.

BRENDAN SULLIVAN: Yes, okay.

CONSTANTINE ALEXANDER: Am I

correct -- go ahead, Doug.

DOUGLAS MYERS: I had a question about sign No. 7. And I'm not sure whether it's on -- I think it's the sign that you said has activities of the use.

MARK VERKENNIS: This one? Yeah. This one?

DOUGLAS MYERS: That is located on Atkin Way. Is that the only location of sign 7?

MARK VERKENNIS: No, there's other of those signs.

DOUGLAS MYERS: I see.

KATE LOOSIAN: At each main entrance.

DOUGLAS MYERS: I couldn't read it at all. And I couldn't even read it as you were holding it up. I could read it around if I could just come around.

MARK VERKENNIS: In terms of the --

DOUGLAS MYERS: I couldn't read the

reproduction in the file.

KATE LOOSIAN: Can others not read it?

DOUGLAS MYERS: I'm completely satisfied with it. I just couldn't read it.

CONSTANTINE ALEXANDER: Am I correct you're before us tonight because of the number of signs?

MARK VERKENNIS: The number of signs.

CONSTANTINE ALEXANDER: And the location of some of the signs?

MARK VERKENNIS: Some of the signs, and also the height of the kiosk sign.

CONSTANTINE ALEXANDER: The total square footage of your 20-something signs is actually within --

MARK VERKENNIS: Is vastly lower than what we would normally be allowed.

CONSTANTINE ALEXANDER: That makes me feel good. Thank you.

MARK VERKENNIS: We want to distribute more of the key points around campus.

BRENDAN SULLIVAN: The Ordinance would allow you 240 square feet which would be 30 square foot per building, times eight buildings.

MARK VERKENNIS: Right.

BRENDAN SULLIVAN: What you're proposing tonight totals only 47 square foot.

MARK VERKENNIS: Correct.

CONSTANTINE ALEXANDER: I think that's an important factor.

MARK VERKENNIS: Yep.

BRENDAN SULLIVAN: And it's the amount of signage because it would only limit you to two per building which would be 16 signs.

MARK VERKENNIS: 16 signs.

BRENDAN SULLIVAN: Which doesn't really do it.

MARK VERKENNIS: Exactly.

BRENDAN SULLIVAN: Okay.

DOUGLAS MYERS: With respect to the banner, No. 2 sign, the banner that's going to be on Aggassiz House --

MARK VERKENNIS: You might be looking at the ones that were determined exempt from.

DOUGLAS MYERS: Yes.

MARK VERKENNIS: Yes.

DOUGLAS MYERS: I just wanted to ask how is that going to be mounted on Aggassiz House? Can you say the banner --

KATE LOOSIAN: Sure.

MICHAELANN ZIMMERMAN: Sure. That is something that we're developing right now. So it would be hardware hidden out of view up at the top of the columns and mounted with a cable and rod. It would be a nylon banner with an applique.

DOUGLAS MYERS: And the intention

would be that it would be completely fixed or would it be subject to wind motion?

MICHAELANN ZIMMERMAN: That is something that when we have a contractor on board we will go over with him to make sure -- or are you concerned about wind moving it?

DOUGLAS MYERS: I simply wanted to ask the question and I see what your answer was and proceed from there.

MICHAELANN ZIMMERMAN: Okay.

DOUGLAS MYERS: Really, I have no ulterior motive.

MICHAELANN ZIMMERMAN: It's something that we're going to have the banner or sign contractor engineer for us properly. But I hope it would be fixed and able to withstand the wind.

MARK VERKENNIS: We're not visualizing something that's fluttering.

BRENDAN SULLIVAN: It's an

ever-changing banner, is it not?

KATE LOOSIAN: Sorry.

BRENDAN SULLIVAN: Is it
ever- changing?

MARK VERKENNIS: This would be to
primarily identify the admissions center.

BRENDAN SULLIVAN: Oh, okay. All
right.

MARK VERKENNIS: People seem to have
a really hard time finding the admission
center.

KATE LOOSIAN: A lot of people.

DOUGLAS MYERS: And that explains
why it is so large.

MARK VERKENNIS: Exactly.

BRENDAN SULLIVAN: Well, do a yellow
brick road or something to it.

MARK VERKENNIS: We'll have little
crimson footprints or something.

TIMOTHY HUGHES: Well, if they can't
figure it out, they could go to Dartmouth or

Brown.

MARK VERKENNIS: I was going to say something. But --

KATE LOOSIAN: Well said, Mr. Hughes.

BRENDAN SULLIVAN: Okay, anything else to add at this point?

MARK VERKENNIS: No.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on the matter case No. 10361, 10 Garden Street?

(No Response.)

BRENDAN SULLIVAN: There is correspondence from the Cambridge Historical Commission. A carbon copy of a letter sent to Mr. Verkennis from Sarah Burks.

(Reading) On November 21, 2011, the Cambridge Historical Commission -- is that 2011 or should that be --

MARK VERKENNIS: No, that's 2011. That's when we originally reviewed the landscape.

BRENDAN SULLIVAN:

(Reading) -- issued a Certificate of Appropriateness for several landscape improvements within the Old Cambridge Historic District at Radcliffe Yard, including regrading, access ramps, iron fencing, seating, and signs. The Commission delegated review and approval of the construction details to the Executive Director Charles Sullivan. He has since approved the details of the identification and directional signs at the gates to the yard, perimeter locations and within the yard as indicated on the amended site plan and sign drawing titled, "Radcliffe Institute for Advanced Study, 10 Garden Street, Cambridge, and Radcliffe Institute for Advanced Study Non-exempt Signage." I understand that the

signs that are not considered to be exempt from the Zoning Code require approval by the Board of Zoning Appeal. I am copying the Inspectional Services on this letter.

Correspondence from the Cambridge Historical Commission dated December 20th, to the Board. (Reading) The Historical Commission has the following information regarding the application Regarding case No. 10361: A portion of the Radcliffe Yard is located in the Old Cambridge Historic District where exterior alterations visible from the public way are subject to review and approval. The requested signs have been approved by the Historic Commission, letter on file. And it details the application, the proposed signage, and as approved. They have approved the plan that is the subject of this relief.

Correspondence from the Planning Board dated December 19th regarding 10 Garden

Street. (Reading) The Planning Board supports the comments and review of the Cambridge Historical Commission and has nothing to add to the capable work of the CHC.

End of correspondence.

Are there any comments, questions by the Board at this time?

Anything to add, delete, change, modify?

No?

MARK VERKENNIS: Nothing.

BRENDAN SULLIVAN: Okay.

Let me make a motion then to grant the Variance to permit the installation of identification and directional signage on the campus of Radcliffe Institute for Advanced Study and relief from Section 7.16.21b, the number, height, and locations of signs as per the application before us.

The Board finds that a literal enforcement of the provisions of the

Ordinance would involve a substantial hardship to the Petitioner.

The Board finds that the Radcliffe Institute for Advanced Studies is a multi-building educational campus surrounding Radcliffe Yard. The core of the campus which encompasses an entire city block is accessed by multiple entry points located around the perimeter of the campus.

The Board finds that six of these entrances consist of formal gates while another six provide additional access to the campus from surrounding streets.

The Board notes that the campus consists of eight separate buildings each with a unique street address.

The Board finds that the proposed signage program will allow for a more consistent design for campus signage and will simplify directional way paths.

The Board finds that a literal

enforcement of the Ordinance 7.16 would only permit a maximum of two signs per building. This is an as-of-right limitation would prevent the university from adequately identifying all entrances to the Radcliffe Campus and also the proposal would provide a clear directional information to key campus buildings that are frequented by visitors.

The Board notes a report from the Harvard Square Business Association and the Chamber of Commerce noting that some 8 million visitors visit Harvard Square in the immediate environs per year, and as such of signage of this kind is a fair and reasonable request and also acts in the public benefit.

The Board finds that a literal enforcement would create a significant hardship to the Petitioner because it would impact campus operations with regard to, for example, delivery, receipt of mail, goods and services, and possibly lack of adequate

signage would delay response by fire, police, and medical responders. It would also make it far more difficult for visitors, and especially perspective students and their families who seek out the admissions visitor's center for Harvard College and the public attending performances at the Agassiz Theatre or many of the other events that are held on the campus.

The Board finds that the hardship is owing to the size of the campus bounded on five streets, the scope and number of buildings contained within the multiple entry points and the fact that 40 percent of the campus frontage consists of historic high brick walls.

The Board also notes the fact that a majority of the buildings face inward toward the Radcliffe Yard and rear facades face adjacent streets making way finding quite difficult. This proposal will ease the

difficulties of accessing one's destination.

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

The Board notes the proposed signage will significantly improve way finding for the campus multiple users which includes large numbers of the public who visit the campus on a regular basis. In addition, the campus appearance will be improved by providing a certain design aesthetic for its public face. Therefore, the granting of the Variance would not be detrimental to the public good, but rather would provide a public benefit by improving way finding and the visual character of the campus.

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

The requested Variance would allow the

placement of adequate signage to better identify campus entrances and to guide visitors to specific facilities which is consistent with the Zoning Ordinance and purpose thereof that the public interest is served by the use of signs by businesses and services to identify their premises or their products and services.

The Board finds that as per Section 7.11.1g.

The Board finds that due to the physical characteristics of this multi-building educational campus, additional signage is needed to identify primary access points, establish a primary campus address, and to facilitate visitors' way finding to key campus buildings.

The need for greater flexibility the Board finds that this is a fair and reasonable one in the signage permitted for non-residential uses in the Residence C-2

Zone is unique to the function of this particular campus and is not typical of other uses in the Residence C-2 Zoning District.

Anything else to add?

CONSTANTINE ALEXANDER: Did you tie it to the plans?

TIMOTHY HUGHES: I don't think so.

CONSTANTINE ALEXANDER: Did you tie it to the plans?

BRENDAN SULLIVAN: I did, as per the application.

CONSTANTINE ALEXANDER: Okay, good.

BRENDAN SULLIVAN: All those in favor?

(Show of hands.)

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

* * * * *

(8:45 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes,

Douglas Myers, Janet Green.)

BRENDAN SULLIVAN: The Board will hear case No. 10362, 906 Mass. Ave.

Mr. Panico.

ATTORNEY VINCENT PANICO:

Mr. Chairman. My name is Vincent Panico. I'm an attorney at 2343 Mass. Ave., Cambridge. And on my right is David Barlam who is the owner of the restaurant. He's had this restaurant for two and a half years, and as you all know in this economic climate, the operation of the restaurant can be a little bit difficult. What he's doing is he's asking you to allow him to help him financially by getting a beer and wine license which would be allowed in a residential zone. This raises some interesting questions why this commercial area is a residential zone, but the reason with the Planning Board that's what it is right now.

In this building that he's in there are two other liquor licenses and one two doors away, The People's Republic of Cambridge. So this would not be a new use.

CONSTANTINE ALEXANDER: Plough and Stars.

ATTORNEY VINCENT PANICO: The People's Republic is --

CONSTANTINE ALEXANDER: Down the street.

ATTORNEY VINCENT PANICO: Down the street, excuse me.

And the hardship was caused when they rezoned this area, this commercial area was rezoned to residential and the liquor licenses that were there were grandfathered in from the old Zoning, but this place was singled out so to speak and condemned forever not to have that use. He operates a neighborhood restaurant and he has good food and at reasonable prices. And my first

witness on that one I would call Sean who frequents there regularly.

If the Board granted this to him, there would be no harm that I could envision since you already have the liquor stores there. There would be no increase in traffic, no nuisance, and it certainly would not derogate from the intent of the Ordinance which promotes the most practical use of property.

BRENDAN SULLIVAN: It's a beer and wine. So it's not a full liquor license?

ATTORNEY VINCENT PANICO: No, just a beer and wine.

BRENDAN SULLIVAN: And the city is, from what I understand, dispensing a number of beer and wine licenses.

ATTORNEY VINCENT PANICO: That's my understanding.

BRENDAN SULLIVAN: That the full license is -- full liquor license is set I believe --

CONSTANTINE ALEXANDER: I think you're right.

BRENDAN SULLIVAN: -- at an amount certain. However, they feel that beer and wine licenses of which they are dispensing a number of is okay basically for lack of a better word.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: The hours of operation?

DAVID BARLAM: They wouldn't be changed.

BRENDAN SULLIVAN: Just introduce yourself for the record, please.

DAVID BARLAM: My name is David Barlam. Do I have to have my address?

BRENDAN SULLIVAN: Well --

DAVID BARLAM: I don't live in Cambridge.

BRENDAN SULLIVAN: Well, we won't hold that against you.

DAVID BARLAM: Okay. I live at 17 Bronstein Street (phonetic) in Brighton, Massachusetts.

TIMOTHY HUGHES: But you want to live in Cambridge.

DAVID BARLAM: I would but the rent's pretty high.

It wouldn't change any of our hours of operation under our Common Victualer License. Right now we close at 8:30, but the license allows us to be open to 1100 Monday through Saturday and 5:00 p.m. on Sunday. So we would probably stay open until about 10:30 would be when we would serve the last food and close the doors at 11:00 and be out of there.

BRENDAN SULLIVAN: Okay. So you're not really trying to establish a -- I mean, this is an added feature to your --

DAVID BARLAM: The way I'm looking at it is this: We have an inconsistent nighttime business, but with a beer and wine

license, we could really do a full dinner menu offer entrees, and just from an inventory perspective, you know, if we were going to put that forward, having the ability to offer beer and wine would be tremendous for us because we offer, you know, good food and the price is really about as low as the market can handle based upon what we pay for stuff. Everything is fresh made in the house. It's all hand cut fries and all that sort of stuff, and the beer and wine would be a way of us just improving the business, being able to add some more staff so the business runs smoother and also I'd feel that it would be something that would be accepted pretty well by the community.

BRENDAN SULLIVAN: Has any of your patrons now sort of inquired about --

DAVID BARLAM: Many patrons have been very excited at the idea that we were even pursuing it, so I think it would be

accepted pretty well by the community.

BRENDAN SULLIVAN: Do you feel that you're losing business because you don't offer it now?

DAVID BARLAM: I don't feel I'm losing business. I feel that I'm being put in a position where I can't really take my business to the level that it can be at by offering beer and wine and that's why -- we're very known for breakfast and lunch, but we really would like to establish a dinner business, that way we could not just survive there but we could actually thrive there.

BRENDAN SULLIVAN: Okay.

Anything else to add at this point?

ATTORNEY VINCENT PANICO: No, I just wanted to add one little point. I had talked to the Commissioner this afternoon and interestingly, he said that if this were just one building, because this is a series of several stores, and they were not using a

whole section of that building, that he thought, in his opinion wouldn't have to get a Variance. It would be allowable to just expand into the building.

BRENDAN SULLIVAN: Correct.

ATTORNEY VINCENT PANICO: But the fact that we're dealing with separate units.

BRENDAN SULLIVAN: The liquor store could probably expand to the side or something like that or whatever it may be, right? Yes. It's a fact of it's a separate entity I think that was his determination which forces you to come down here before us.

Any questions by the Board at this time?

CONSTANTINE ALEXANDER: No.

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on the matter at 906 Mass. Avenue?

(No Response.)

BRENDAN SULLIVAN: There's nobody in attendance. And you don't have a number of petitions or pages of patrons or anything like that, no?

DAVID BARLAM: No.

BRENDAN SULLIVAN: No? Okay. We'll accept your presentation at this point anyhow of their support.

DAVID BARLAM: They were supposed to come in person to show their support but I don't see anybody.

TIMOTHY HUGHES: That's because you're not offering beer and wine.

BRENDAN SULLIVAN: They never got out of the Plough and Stars. Okay.

Let me close public comment.

Anything else to add at this point?

ATTORNEY VINCENT PANICO: No, that's it.

BRENDAN SULLIVAN: Okay.

Mr. Alexander?

CONSTANTINE ALEXANDER: I'm good.

DOUGLAS MYERS: I'm -- my

only -- it's not even a concern, just the only point I would raise is does our -- and I raise this to the Board generally, does our approval have any role at the hearings of the Licensing Commission with regard to its decision to approve beer and wine license? In other words, does our, the fact that we've approved this Variance for that purpose, is that going to influence their decision?

ATTORNEY VINCENT PANICO: No. The only influence that has is that this is a condition that must be met in order for them to even consider it. Their's is independent judgment. But without this we can't go before them.

DOUGLAS MYERS: Okay.

BRENDAN SULLIVAN: Janet, anything?

JANET GREEN: I'm in favor of this.

TIMOTHY HUGHES: I'm good with it.

I think that the fact that the city has a certain kind of relaxed the number of beer and wine licenses is a nod to the fact that we want to preserve and help small businesses like this thrive in the city. I'm in favor of it.

BRENDAN SULLIVAN: I think you're a hundred percent correct on that.

Let me makes a motion then to grant the Variance to allow the sale of beer and wine in the location at 906 Mass. Avenue as per the application in the file.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. The hardship, because it would severely limit the offerings at this particular location, the added feature of having a beer and wine will greatly enhance the viability of this business establishment.

The Board notes that the availability

of beer and wine licenses being issued by the city which is a nod towards the desirability of establishments like this having such a feature. The hardship is owing to the fact that the proposed use, having beer and wine is not permitted in the C-2B Zone, the Residence C-2B Zone.

The as-of-right solution which would be a residence is not viable. The Board has had a number of cases on this stretch of Mass. Avenue and find that as-of-right solution use is not a viable one, and it is desirable to have an establishment like this providing the food reasonably priced at a venue and that the addition of this beer and wine feature will enhance the viability of this business and also be an asset to the community.

The Board finds that desirable relief may be granted without substantial detriment to the public good, and relief may be granted without nullifying or substantially

derogating from the intent and purpose of the Ordinance to allow the rational use of land and buildings of which this would be one.

Anything else to add?

All those in favor of granting the Variance?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

BRENDAN SULLIVAN: Good luck.

ATTORNEY VINCENT PANICO: Thank you very much.

* * * * *

(9:00 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Douglas Myers, Janet Green.)

BRENDAN SULLIVAN: The Board will hear case No. 10363, 405 Broadway.

Mr. Page, how are you?

ATTORNEY SHIPPEN PAGE:

Mr. Chairman, good evening. Good evening, my name is Shippen Page. I represent the Petitioner Hamlin Jennings to my left. Introduce yourself for the record.

HAMLIN JENNINGS: Oh. I'm Hamlin Jennings, J-e-n-n-i-n-g-s. H-a-m-l-i-n, resident of 405 Broadway.

BRENDAN SULLIVAN: And what would you like to do?

HAMLIN JENNINGS: Well, we've been debating all evening who was going to present this because by in large I feel that I have most of the facts and it's relatively simple, but on the other hand, you get nervous at the last minute so I kind of got some reinforcements here.

This is a house that as I understand needs a Variance because there's a setback of one and a half feet on the left-hand side as

you face the house which would be the northeast side of the house, I guess, from Broadway. What we would like to do is build a portico over the front entranceway.

Now, I purchased the house about two years and a few months ago, October of 2010, and this house like many houses in Cambridge had a certain amount of repair and restoration. One of the first things that we tackled were the mahogany doors in the front which is the entrance that I am talking about. It was badly decayed. And after many -- much searching I found somebody that could do the job as opposed to replace the front with something else. And so we had that done. But in the meanwhile while now living there for the first few months and experiencing at that time rainstorms, it became apparent that the decay was induced in part by drainage problems in the front of the house. In fact, it's pretty difficult to get out and collect

the mail. So one of the things that we did is we put some temporary guttering. We tried to get the water to move away from the house. And in general entering the front of the house is -- I won't say it's outright dangerous, but it's not as pleasant an experience as I would like in foul weather. So we proceeded to think about what our options were, and building the portico seemed the most straight forward way. Meanwhile now that I'm exploring the house that we recently purchased, I found a file that was left by the previous owner. In fact, the previous owner before that, so it would be one owner in between who in 1999 went about planning for a major restoration which included a portico. So the plans that you see are basically re-drawings of those original plans, which I understand were approved. As certainly we have records that they were approved by the Historical Society then. I don't know if

they were approved by Zoning at that time, but what we're asking for is the Variance to build basically a portico which would be a wood frame structure extending the architectural style that exists in the front of the house basically finishing the job of the original drawings that were presented and were used for building in 1999.

BRENDAN SULLIVAN: You're adding 40 square feet. The C-1 Zone allows 0.75 FAR and you're currently at 0.71 and this will only add put you up to 0.72. So you're still within the allowable FAR even with the addition of this 40 square feet.

HAMLIN JENNINGS: Yes.

BRENDAN SULLIVAN: The violation is a front yard setback and a left side setback, and hence the house is non-conforming and any addition would require some relief from this Board.

ATTORNEY SHIPPEN PAGE: That's

correct.

BRENDAN SULLIVAN: All right.

Let me open it to public comment.

Is there anybody here who would like to speak on the matter of 405 Broadway?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

There is correspondence in the file from the Cambridge Historic Commission regarding case No. 10363. (Reading) The property is located in the Mid-Cambridge Neighborhood Conservation District where exterior alterations visible from the public way are subject to review and approval. The the requested portico was approved by the Mid-Cambridge Neighborhood Conservation District. See the attached certificate. The certificate says as follows: Construct a covered entryway in front of the existing enclosed vestibule. Proposed design

modifications were as follows: The detailing of the porch should be further explored with the focus on simplifying the framing elements and eliminating the existing bracket design. The extension of the existing ballastry (sic) might be reconsidered and once revised drawings have been completed, the owner have the option of requesting an architect's committee meeting on site for a final comment. Date of the certificate is September 20, 2012. Their case No. MC4143.

Okay.

HAMLIN JENNINGS: Okay. I can comment on part of that letter.

BRENDAN SULLIVAN: Yes.

HAMLIN JENNINGS: The concern that was expressed by the Historical Society was that as I think they state, that we were inconsistent with the spirit of the design of the front of the house. What was not

considered and what has been since considered by the architects is the side of the house the side that faces elsewhere. They were concerned, for example, that the -- I don't know all the technical terms, but that the posts that hold up the roofing structure were too elaborate. And if you examine the side of the house, all we're requesting is a duplication of maybe a dozen other posts that are holding, I don't know, a fence sort of structure that keeps a balcony in place. And so that the thing that was lacking, the information that was lacking for the Historical Society was a photograph of the side of the house which is the dominant from an architectural point of view. I fully expect that the architects will come around and have another look after this process is through assuming we're successful. But I also expect that when they see the side of the house, because now we have had second

opinions off the record, as we're -- that the drawings as is are going to be the more consistent with the entire of the house.

BRENDAN SULLIVAN: It appears that the architect has picked up on some of the existing detail of the house and has carried that forward.

HAMLIN JENNINGS: But that's correct. But that's detailing on the front. But what we're doing is putting detail -- it's inconsistent with the plane of the house. It's a very homely, flat plane in the front of the house.

BRENDAN SULLIVAN: Yes.

HAMLIN JENNINGS: And the side of the house what we're doing is we're bringing the features that are on the side of the house around to the front through this. As I say, what we're asking to do basically is finish building a project which was started in 1999 and never finished.

BRENDAN SULLIVAN: So, what we're being asked is to approve a portico, seven-foot, 11 by five-foot, three; is that correct?

HAMLIN JENNINGS: Yes, I think that's right.

ATTORNEY SHIPPEN PAGE: I think that's what's represented.

BRENDAN SULLIVAN: And so we're asked to approve a certainly envelope, if you will, covering --

HAMLIN JENNINGS: There are stone steps that are already there.

BRENDAN SULLIVAN: -- that details may need to be worked out as opposed to our usual of having them stay to the details.

CONSTANTINE ALEXANDER: I understand.

BRENDAN SULLIVAN: Is that --

DOUGLAS MYERS: Details may need to be worked out subject to the approval of the

Historic Commission?

BRENDAN SULLIVAN: Correct.

CONSTANTINE ALEXANDER: That's the only thing that troubles me a little bit is the fact that we don't have the stamp of approval from the Historic Commission which we usually have before we grant the Zoning relief. But in this case here I don't get too worked up about it. I go along. I think it's a matter -- the relief is modest from a Zoning point of view.

BRENDAN SULLIVAN: Something's going to happen there. They're going to need relief. They're not going over the FAR. And I think we're giving them a certain envelope to work within the details.

CONSTANTINE ALEXANDER: That's the key. As long as the envelope doesn't get expanded.

HAMLIN JENNINGS: No, it will not.

CONSTANTINE ALEXANDER: Then I

think we should be okay.

HAMLIN JENNINGS: The detailing that they're concerned with is really -- let's see, I can show you exactly. They were concerned with -- sorry.

ATTORNEY SHIPPEN PAGE: Try to make it clear on the record, Hamlin, when you're describing it to the Chairman.

HAMLIN JENNINGS: I don't know all the technical words. These, this is the bottom part of the post that hold up the roof.

BRENDAN SULLIVAN: The pile lasses, yes.

HAMLIN JENNINGS: And these pieces here -- this drawing turns out to be -- these pieces here are not easily seen from the street.

BRENDAN SULLIVAN: Yes, okay.

HAMLIN JENNINGS: On the side along here, you can see the -- here we're duplicating this which is clear on the

drawing. And then so this and then as I say, about half a dozen more structures just like this we want to reproduce here. So that we're carrying absolutely identical pieces to the elements to the front portico not changing it.

BRENDAN SULLIVAN: Okay.

HAMLIN JENNINGS: What the Historical Society was concerned with, having seen only a photograph that looks like this, they said this amount of detail that I just pointed out is not here. But you can't see the side of the house because this tree is in the way. And we should have had a photograph taken from Ellsworth but we weren't thinking about that because we were talking about a portico which is around the corner.

JANET GREEN: And this is decorative the bells?

HAMLIN JENNINGS: Yes. This

actually -- this is as you can see, it's already -- this is there. So we're extending only identical elements around the now new roof.

JANET GREEN: And it's decorative. It's not something that you're ever walking on that roof.

HAMLIN JENNINGS: Yes, we do walk in on that roof. These doors are functioning.

JANET GREEN: So it meets the height requirement?

HAMLIN JENNINGS: Yes.

BRENDAN SULLIVAN: Okay.

Mr. Hughes, any thoughts on this?

TIMOTHY HUGHES: No, I'm good with it.

BRENDAN SULLIVAN: Janet, any other thing further?

JANET GREEN: No, that was my only question.

BRENDAN SULLIVAN: Doug?

DOUGLAS MYERS: I notice the front setback is being reduced from 4.9 feet to 4.5 feet which is a significant reduction, but in view of all the other factors that the Board members are mentioned and the view of the fact that this is simply a portico I think there's enough setback remaining that there's not going to be any deleterious effect on the neighborhood or on the appearance of the property.

HAMLIN JENNINGS: I look at it the other way around. We're improving.

DOUGLAS MYERS: I was concerned but the proximity of your structure to the street.

HAMLIN JENNINGS: Yes, seven and a half feet.

DOUGLAS MYERS: If a little more serious consideration. It's going to remain 9.4 feet from the street. I think that's sufficient.

HAMLIN JENNINGS: Yes, you're right. You're correct. Right. That's correct.

BRENDAN SULLIVAN: And, Sean, this precludes them from going under Section 8.22 because they're actually further violation?

SEAN O'GRADY: It's simply a setback. So a few inches in the front.

BRENDAN SULLIVAN: Right. And that's the trigger on that. Okay.

Nothing else to add?

ATTORNEY SHIPPEN PAGE: No, Mr. Chairman. Thank you.

BRENDAN SULLIVAN: Let me make a motion then to approve the additional 40 square -- to approve a 40-foot square foot portico over the front entryway as per the application and dimensional form and as per the plan in the application, specifically Sheet A-1.8 which is a plan showing the parameters of said portico at seven-foot, 11

by five-foot, three, initialed 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 preclude the Petitioner from creating a portico over an entryway and thus allowing the Petitioner a safe unencumbered entry and exit from the building, and also some protection for that doorway from the elements.

The Board finds that the hardship is owing to the size and shape of the lot, the size and location of the structure, which predates the current Zoning Ordinance which makes the existing structure non-conforming, and any addition at this location is an inherent hardship though fair and reasonable than it would require some relief from this Board.

The Board finds that desirable relief

may be granted without detriment to the public good and that relief may be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance which is one to allow for the safe entry and exit from a structure clear of the elements and also the preservation of the residential structure in fair and reasonable manner.

Anything else to add?

All those in favor of granting the Variance.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

BRENDAN SULLIVAN: Okay. So what I'm approving is the size of the portico, the details to follow as per the recommendations of the Mid-Cambridge.

ATTORNEY SHIPPEN PAGE: Yes.

HAMLIN JENNINGS: So what they've agreed to do is come physically to the house given the complexity of the concern.

BRENDAN SULLIVAN: Yes. And I think once you iron all that out, you come back for a Building Permit, Sean is going to take a look at it and say is this what we approved. And he may consult and say is this what you approved? And hopefully it's what we approved.

ATTORNEY SHIPPEN PAGE: Thank you very much, Mr. Chairman.

HAMLIN JENNINGS: Just so I understand I go back now to the Historical Society and then --

BRENDAN SULLIVAN: And get the details before you --

HAMLIN JENNINGS: And get the details and then make any alterations if that's what we end up doing, otherwise just come back here?

ATTORNEY SHIPPEN PAGE: No, they'll get a Building Permit and you'll talk to Sean.

CONSTANTINE ALEXANDER: Talk to Sean and your attorney.

HAMLIN JENNINGS: Thank you very much.

* * * * *

(9:15 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Douglas Myers, Janet Green.)

BRENDAN SULLIVAN: The Board will

hear case No. 10364, 135-137 Oxford Street.

Ms. McCabe, if you would introduce yourself for the record.

ATTORNEY KATHLEEN McCABE: My name is Kathleen McCabe, 129 Mount Auburn Street, Cambridge. And with me tonight I have three owners. This is Sarah Farrington who will currently and will continue to occupy the proposed Lot 2. And then I have Sarah and John behind me Farrington.

JOHN FARRINGTON: John and Anna.

ATTORNEY KATHLEEN McCABE: Anna behind me who will occupy Lot 1. And I also have Dan Cameron who is a principal with D&A Survey Associates.

This is a petition for a subdivision. The Farrington family has owned these two lots since the mid-1960s. Over the years they've changed the ownership among the family members and various family equities.

In 2004 both parcels were conveyed to

Farrington Realty, LLC and they have remained in that ownership ever since. The Farrington family was unaware of the consequences of having both lots in one ownership; namely, that the lots would be considered to be merged. The requested subdivision line is the original line which was shown on plans dating back to 1858.

The Farrington family has operated both properties as independent properties since the mid-sixties. They have separate utilities and they do not share any facilities.

Lot 1 has eight residential units. Lot 2 has three residential units. Currently both properties are financed in one loan by necessity, and at this point the family would like to separate the ownership so that they could have separate ownership and including the ability to finance the lot separately.

The hardship is owing to the shape of

the land and the structures affecting this land and structures but not affects general Zoning District. It is due to the fact that the two buildings are on one lot and most of the other lots in the Zoning District have one house per lot.

The relief could be granted without substantial detriment to the public good. The subdivision line is the original line and it would not result in any physical changes to the lots. And the relief could also be granted without nullifying or substantially derogating from the intent or purpose of the Ordinance.

The new lot areas and rear yards will both comply. There will be no changes in the lot widths or the front and side yard setbacks, and also no changes in the parking. The FAR and minimum lot area per lot dwelling unit and the usable open space will change. Lot 1 will have decrease in compliance. Lot

1 will be offset by an increase in compliance for Lot 2.

BRENDAN SULLIVAN: Okay. If you'll just back up, Kathy. There are -- as far as Zoning is concerned, will any of these buildings be in non-compliance with current Zoning?

ATTORNEY KATHLEEN McCABE: Yes.

BRENDAN SULLIVAN: And regard to how? It would be setbacks; is that correct?

ATTORNEY KATHLEEN McCABE: I'm going to let Dan answer some of these questions as well.

DAN CAMERON: The setbacks of the structures will be in conformance.

CONSTANTINE ALEXANDER: Setbacks will be in conformance you said?

DAN CAMERON: Right, until the structures (inaudible), yes.

CONSTANTINE ALEXANDER: So what about FAR, then? Not your question, sir,

it's Ms. McCabes. Would they violate the FAR if we subdivide?

ATTORNEY KATHLEEN McCABE: Yes. One goes up and one goes down.

CONSTANTINE ALEXANDER: The one that goes up presumably will be the one will be non-conformance?

ATTORNEY KATHLEEN McCABE: I'm trying to figure out the requirement that it's 0.5 for the first 4,000 and 0.35 above that.

I always have a hard time figuring that out.

SEAN O'GRADY: Sure.

ATTORNEY KATHLEEN McCABE: The percentages come to 0.537 and 0.41.

SEAN O'GRADY: I'm thinking a calculation. It's going to be roughly 2500 and 3507. It appears that the lot -- I'm not sure which is the Lot 2, the Lot 2 will be compliant and Lot 1 will be a little over on

FAR. For your setbacks every -- well, that deck wouldn't be compliant necessarily I'm not sure. It depends on the height of it, but the house itself would appear to be. Open space is clearly compliant.

CONSTANTINE ALEXANDER: So just to get to the gist of the matter, you've got today one merged non-compliant lot in some respects?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: And if we grant relief, we'll have two non-compliant lots and isn't that the bottom line of this case?

SEAN O'GRADY: Yes.

BRENDAN SULLIVAN: And in no way or is there a way that you could subdivide the lot -- I know you're going back to the historical boundaries dating back to the 1800s; is that correct?

DAN CAMERON: Yes.

BRENDAN SULLIVAN: But in no way can you subdivide these lots to make both structures compliant?

SEAN O'GRADY: No, you couldn't.

BRENDAN SULLIVAN: You could not, right. Okay. So I guess that's really the point I was trying to get to. So you've gone back to the historical lot lines dating back to when they were built, and it was obviously not conforming and it predates Zoning. And you've done the best you can with the subdivision as per proposed as far as -- and there's no way of making both lots, both structures compliant.

ATTORNEY KATHLEEN McCABE: Right.

BRENDAN SULLIVAN: Okay. That's what I was trying to establish.

Okay.

And your aim in doing this is obviously to have each structures stand alone?

ATTORNEY KATHLEEN McCABE: Yes.

BRENDAN SULLIVAN: Separate from and being encumbered and attached to the other one which is a normal subdivision procedure. Okay.

All right. Anything to add at this point? Any questions?

DOUGLAS MYERS: I have an additional question.

This is with regard to your use of saying that the line of division you propose is based on the original line of division, set of plans going back to 1898. When the lots were merged in 2004 and the deed descriptions at that time, what was the common line between the two -- the back line of each parcel described? Is it the same back line that you're going to recreate now? Or was it a different back line?

DAN CAMERON: Yes, it is. The description's exactly the same.

DOUGLAS MYERS: So that back line is

in fact also the 1898 original line?

ANN FARRINGTON: 1858.

DOUGLAS MYERS: 1858. Sorry.

Okay.

BRENDAN SULLIVAN: Anything else?

DOUGLAS MYERS: That's my question.

Thank you.

BRENDAN SULLIVAN: Tim, any questions?

TIMOTHY HUGHES: No questions.

JANET GREEN: No questions.

BRENDAN SULLIVAN: Let me open to public comment.

Is there anybody here who would like to speak on the matter 135-137 Oxford Street?

(No Response.)

BRENDAN SULLIVAN: There is correspondence in the file addressed to the Board. (Reading) 21 Forest Street, LLC, owns the property with the address of 21 Forest Street/133 Oxford. Our property

shares part of the southern property line with the Farrington Realty, LLC property. 21 Forest Street, LLC supports Farrington Realty's Petition for a Variance from Article 5, Section 5.31 and Section 5.15.

Subdivision of the property back into two separate lots will not result in a substantial detriment to the public good or neighborhood and will not nullify or substantially derogate from the purpose of the Ordinance. Nathaniel Stevens, the manager.

There is a petition dated December 1st. (Reading) Dear Neighbor: We are writing to ask for your support of our Variance request to be heard by the City Board of Zoning Appeal. We are seeking a Variance from the city because of two adjacent properties at 18 Frost and 135-137 Oxford became merged into a single lot. We're seeking this Variance to provide flexibility in ownership and

operation of the existing buildings. The Variance will not result in any added development rights for either property. The neighborhood support would be an important consideration for the Board. This is signed by in support by Samuel J. Geysler, G-e-y-s-e-r.

SARAH FARRINGTON: That's should be Keyser.

BRENDAN SULLIVAN: I'm sorry?

SARAH FARRINGTON: Keyser, K-e-y-s-e-r.

BRENDAN SULLIVAN: What did I say? K-e-y-s-e-r, 7 Frost Street.

Also signed by -- I'm going to murder this one. So anyhow, 9 Frost Street.

SARAH FARRINGTON: Katimea (phonetic).

BRENDAN SULLIVAN: Okay, yes. And Ron at No. 9 Frost Street.

Robert Mueller?

SARAH FARRINGTON: Meulner
(phonetic).

BRENDAN SULLIVAN: Meulner, M.D. at
7 Frost Street.

Sharon Cohen at 17 Frost Street.

Gene Farrington at 24 Frost Street.

And Paek? P-a-e-k. First name
S-e-u-n-g-h-i at 15 Forest Street.

And that is the sum substance of the
correspondence.

Okay, let me close public comment.
Anything else to add?

ATTORNEY KATHLEEN McCABE: No.

BRENDAN SULLIVAN: No?

From the Board?

CONSTANTINE ALEXANDER: My only
observation is that I have a lot of trouble
getting my hands around why any Zoning relief
is required at all. And I sort of understand
it and that's the position of the Building
Department and I accept it, but I'm not

convinced frankly. But in any event, I have no problem granting relief.

DOUGLAS MYERS: As long as the merger was a result of an inadvertence, I think this is a fairly typical merger case to improve the properties and the merger is simply the merger doctrine is in such case is a trap for an unwary, and I think the relief should be granted. If it were an improved property or unapproved property, that's different.

BRENDAN SULLIVAN: Correct.

DOUGLAS MYERS: But two improved properties.

TIMOTHY HUGHES: I agree with Doug.

JANET GREEN: I just have -- I have one question about it, and that is this the final step in separating them or do they then go somewhere else or do they have to file something somewhere?

BRENDAN SULLIVAN: It has to be

recorded, sure.

JANET GREEN: It has to be recorded and they go to do that? No? Or -- okay.

CONSTANTINE ALEXANDER: No other approval is required.

JANET GREEN: There's no other approval. It's just that you have to get it recorded first.

BRENDAN SULLIVAN: Correct.

JANET GREEN: Okay.

BRENDAN SULLIVAN: Well, my feeling is that every piece of property should stand in its own shoes for a variety of reasons.

Let me make a motion then to grant the Variance for the subdivision on the two lots as per the plan submitted and the subdivision proposal for 135-137 Oxford Street and 18 Frost Street.

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 having two separate entities on a stand-alone basis and would severely limit the viability of each structure. The ability to sell and to maintain the structure without its own identity and being its own lot.

The Board finds that the hardship is owing to the unintentional merger of the two lots which was unknown, unknown action by the Petitioner back in 2004 which brought it into a single entity.

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

The Board notes that there would not be any material violations of this Ordinance created by this requested subdivision. Both

proposed lots would comply with the minimum lot area. The proposed subdivision line results in the rear yards which are in compliance with the Zoning Ordinance, and that the proposed subdivision is merely a restating of the original lot lines which date back to 1858.

Anything else to add to that?

All those in favor of granting the Variance?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

* * * * *

(9:35 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Douglas Myers, Janet Green.)

BRENDAN SULLIVAN: The Board will hear case No. 10365, 89 Allston.

ATTORNEY SEAN HOPE: Good evening. Merry Christmas to everyone.

BRENDAN SULLIVAN: Mr. Hope.

ATTORNEY SEAN HOPE: For the record, attorney Sean Hope, Hope Legal Law Offices in Cambridge. There is a letter in the file, but I'm here tonight to request a continuance. The application that was submitted did not have all the requested relief necessary for the application. I had informed the Petitioner and the other neighbors that we were going to come here tonight. There was a discrepancy and I failed to clarify with Inspectional Services so I would like to request a continuance. Specifically I requested January 10th. The Petitioner has made arrangements based on the scheduled date, and I know that the Board sometimes schedules things, but I would ask

if it wasn't going to be an undue hardship if we could have January 10th as a case not heard, but to be able to present it with a full application.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: What's our schedule like on January 10th?

SEAN O'GRADY: You're already overbooked.

The other question I have for you. You don't feel you need to re-advertise?

ATTORNEY SEAN HOPE: I do. And so I was looking at the 14-day rule.

SEAN O'GRADY: The thing is if you re-advertise, we couldn't get you in on the 10th anyway. I think Maria closed the 24th today.

ATTORNEY SEAN HOPE: Of?

SEAN O'GRADY: Of January.

ATTORNEY SEAN HOPE: Of January?

SEAN O'GRADY: Yes.

ATTORNEY SEAN HOPE: Okay. I do think it needs to be re-advertised.

SEAN O'GRADY: Okay. Well, then I suppose if that's the case, we can do whatever you feel comfortable with, but it probably should be farther out than maybe -- because the continuation won't matter, right? That is we don't want to have the continuation before you have the real case.

BRENDAN SULLIVAN: This case is not going to be heard.

SEAN O'GRADY: This case is going to go away.

BRENDAN SULLIVAN: The subsequent case will be; is that correct?

ATTORNEY SEAN HOPE: Yes. Although I'm just wondering is it the posting in the Chronicle that won't have time?

SEAN O'GRADY: Yes. Well, I mean it's the fact that when the case comes in, you're going to be scheduled for the next

available.

ATTORNEY SEAN HOPE: Oh.

SEAN O'GRADY: And we've already -- January 10th is already closed.

ATTORNEY SEAN HOPE: Understood. So I wouldn't want to file a new case. I was asking if this case could be continued so that, would that require the case to be opened and then to be continued and then having to have the same five members?

CONSTANTINE ALEXANDER: The problems that cause you not to go forward with the case, if they are solved, would your advertisement be sufficient?

ATTORNEY SEAN HOPE: I do think that there is a problem with the number of decks that was advertised. It was only on two of those.

CONSTANTINE ALEXANDER: I think you have to re-advertise.

DOUGLAS MYERS: If I may say in

a -- without trying to be harsh, I notice your continuance is filed today.

ATTORNEY SEAN HOPE: Yes.

DOUGLAS MYERS: And when I reviewed the file this afternoon, it seemed to me that certain deficiencies were readily apparent, that just jumped right out at me. So of course I'm in favor of continuing the case and given the case should definitely go forward, but you know, I think the last minute continuance, the busy docket, I mean, I think we will accommodate you, but I don't think the Board is obligated to jump through hoops to accommodate you.

ATTORNEY SEAN HOPE: Not obligated at all. And I just don't want the Petitioner to suffer based on the -- so I was just trying to figure out a time that was appropriate for the Board, but that also -- but I guess what you're saying is that this case being a case not heard, I have to almost re-file a brand

new case?

SEAN O'GRADY: Exactly, right.

This case you can't alter the advertising. It's sort of, if everything fits under the advertising, it sort of shifts around.

BRENDAN SULLIVAN: If there was a deficiency say in some of the arithmetic on the dimensional form and you needed a little bit of time to clarify that, that's one thing.

ATTORNEY SEAN HOPE: Okay.

BRENDAN SULLIVAN: But it appears to be materially deficient and would probably require a new filing.

ATTORNEY SEAN HOPE: So I guess essentially from this I would go and resubmit the application and --

SEAN O'GRADY: Yes, you want to come see us tomorrow. We'll give you a -- maybe there's still a slot in January 24th, it's really going to be up to Maria.

ATTORNEY SEAN HOPE: Sure.

SEAN O'GRADY: But then this case ultimately --

BRENDAN SULLIVAN: So we schedule this one out to second one in February or the first one in March or something?

SEAN O'GRADY: Yes, whatever you --

CONSTANTINE ALEXANDER: Ideally would be the day that we think we're going to hear the real case so in other words, that we don't clog up our docket.

SEAN O'GRADY: Right. I mean we could do it to 24th.

CONSTANTINE ALEXANDER: I would suggest we do that. If for some reason you can't get your new case advertised in time for it, then we'll, we'll continue it again. I mean, the speech that Brendan correctly made before in some of the other cases wouldn't apply here. So I would suggest that we do that. We shoot for the same date, the 24th that you think you're going to get the regular

case before us.

BRENDAN SULLIVAN: Okay. Any other comments?

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: And there's nobody else in attendance interested in this case?

ATTORNEY SEAN HOPE: No.

BRENDAN SULLIVAN: All right. Let me make a motion then to continue this matter until January 24, 2013, on the condition that the Petitioner change the posting sign to reflect the new date of January 24th, and the time of seven p.m. And that the sign be maintained as per the requirements of the Ordinance.

That the Petitioner sign a waiver of statutory requirement for the hearing, and a decision to be rendered thereof.

Anything else to add on that?

And if there are any new submissions

regarding this case, that they be in the file by five p.m. on the Monday prior to the January 24th hearing and any subsequent dimensional form changes which might be impacted.

DOUGLAS MYERS: Case not heard.

BRENDAN SULLIVAN: And this is a case not heard.

All those in favor of continuing this matter?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

ATTORNEY SEAN HOPE: Thank you.

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

* * * * *

(9:40 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Douglas Myers, Janet Green.)

BRENDAN SULLIVAN: The Board will

hear case No. 10366, 1075 Mass. Avenue.

JASON PARILLO: I'm Jason Parillo with Back Bay Sign, 475 Riverside Avenue, Medford, Mass.

RAJ DHANDA: I'm Raj Dhanda. I'm the owner of 1075 Mass. Avenue.

JASON PARILLO: Great. So we have a proposal tonight for an address sign for the building at 1075 Mass. Ave. The signing is an internally lit halo sign, so it casts a silhouette shadow onto the building. It's brush aluminum letter so they match the building. The sign, the only -- it conforms to the (inaudible) in every way except for the height. So we'd like to install this sign on the building above the 20-foot height limit. It's almost near the top like right around the fifth floor level. The building has a very particular vertical orientation on that corner, so the sign is meant to, you know, accentuate that. And I think the sign would

be aesthetically pleasing. It fits the character of the building, and it would help this building identify itself.

CONSTANTINE ALEXANDER: I just have one question, though. When I looked at the file and maybe this is probably incompetence, there were two photos; one with the numbers up high --

JASON PARILLO: Yep.

CONSTANTINE ALEXANDER: And one with the numbers are low.

JASON PARILLO: Right.

CONSTANTINE ALEXANDER: Which one are you going to --

JASON PARILLO: We were here for the first pitch page. The second page really just shows that there's issues having the sign lower.

CONSTANTINE ALEXANDER: Would the second page sign conform with the Zoning By-Law?

JASON PARILLO: No. Actually that doesn't either.

CONSTANTINE ALEXANDER: You're in for a dime, you're in for a dollar.

JASON PARILLO: Right, right. And that's part of the point, also. Is that the overhang is I think is about 12 or 13 feet off the ground, and the sign's 11 feet high. So even if we put it lower on top of that, it would still be above 20 feet.

DOUGLAS MYERS: So your statement is that the illumination aspects of the sign are all conforming?

JASON PARILLO: Yes, yes. And it's halo illuminated so it's, you know, a subtle illumination.

CONSTANTINE ALEXANDER: And the total square footage of the sign is?

JASON PARILLO: It's actually 0.83 square feet.

CONSTANTINE ALEXANDER: And what's

the requirement, 30?

RAJ DHANDA: I'm sorry?

CONSTANTINE ALEXANDER: What's the maximum size for a sign?

JASON PARILLO: I mean, I know that it's based on the frontage of the building. I don't know exactly the facts. I should know that.

CONSTANTINE ALEXANDER: But the representation the size of this sign does conform?

JASON PARILLO: Absolutely. And we went to Community Development to confirm that.

BRENDAN SULLIVAN: Well, the height from the ground to the top of the sign is 55 feet?

JASON PARILLO: Right.

BRENDAN SULLIVAN: The Ordinance calls for no more than 20 feet.

JASON PARILLO: Right.

BRENDAN SULLIVAN: The area in square feet of the sign is 19.83. The Ordinance allows I believe 30.

JASON PARILLO: Yeah, that's right.

BRENDAN SULLIVAN: So the violation is 7.16.22c district, Business District, wall sign height of the sign is greater than 20 feet to the top of the sign. So that is really the violation. And I guess the question that I would ask is why do you need the letter of 1075 at that location?

JASON PARILLO: I think the reason -- the main reason why the architect designed the sign to be up there is that they want to keep that overhang as clean as possible without any signage on that actual overhang. And because it sticks out a ways, if an address sign is underneath it, it's gonna be hard to see. And, you know, there's a lot of other tall buildings in the area, so I think the idea with this sign was this sign

was to put it in a place where it's going to be easily identifiable.

BRENDAN SULLIVAN: As you're coming down Mass. Avenue and you come down around there, and the only time you see it is really when you're right on the building. You know, you don't see it, you're coming down Mass. Avenue which you're back to Central Square and you come around the Crate and Barrel store and all of a sudden, you know, there's a building at the last minute when you're literally on it. You can't see it. Obviously you can't come from Harvard Square this way. You're coming up Mount Auburn Street, you're not going to see it. 1050 Mass. Avenue has a sign over their front entryway, very prominent building. The building on the opposite corner that has the Au Bon Pan on the ground floor, that has no, you know, large -- to me it's almost a little bit again of a branding. It's -- and I don't

see the purpose of it other than it's an architectural statement of some kind that I'm not sure. And, you know, 1050 Mass. Avenue heard from in the building that has far more exposure and you would think that they would be requesting a -- has just their neon sign over the front door, 1050. And I would have thought that the overhang, if you really needed to put in your letters at that would have been designed in there or something like that. I mean I don't see any need to put it way up there, because I don't think you can see it unless you're right on the building.

JASON PARILLO: Well, I mean there is some room in front of that building. There's, you know, obviously there is the square there. There's Trowbridge Street. I mean this picture kind of shows that, you know, there are, other approaches other than just travelling up Mass. Ave. going towards Harvard Square. So there are other vantage

points. And I think this sign isn't only about vehicular traffic. It's also pedestrian traffic to identify the building also.

BRENDAN SULLIVAN: And even more so to that point if you're a pedestrian, and I raise this because I voted against stuff in Kendall Square, do you walk around with your head, you know, up like this? No. If it's over the overhang, it's right there at eye level. Not eye level. It's a little bit taller than that, but that's what you're looking for. And, again, somewhat similar to 1050. So....

JASON PARILLO: I mean I think a lot of --

BRENDAN SULLIVAN: I'm not convinced of the location of that signage even though it's four numbers.

JASON PARILLO: I mean, I think that the idea was to accentuate that -- the

verticality of that corner of the building and also in keeping that overhang clean. I think that's the idea. I mean, the building, you know it has --

BRENDAN SULLIVAN: I think it will be less clean when you start to get tenants in that ground floor and they're going to want to put signage along that. I think that may be the intent.

JASON PARILLO: I think, though, isn't that most of the signage for the retail going to be underneath the canopy?

RAJ DHANDA: That's correct. The idea is that it will be projected or inside the glass where it could be.

BRENDAN SULLIVAN: For pedestrian traffic as opposed to vehicular. So that vehicular will even see it because it will be eye level as they come around.

RAJ DHANDA: Yes.

BRENDAN SULLIVAN: Hence I don't

think there's a need for something that's 55 feet in the air.

RAJ DHANDA: And those projected signs will relate to the retail establishments that would be there.

BRENDAN SULLIVAN: Right.

TIMOTHY HUGHES: How much allowable square footage does this building get as a matter of right?

BRENDAN SULLIVAN: One per -- one square foot per lineal foot of frontage.

TIMOTHY HUGHES: So like what does that come to?

JASON PARILLO: If one of the retailers has 20 feet of frontage, they're allowed a 20-foot front sign I believe.

TIMOTHY HUGHES: And the sign that you're proposing doesn't affect what the retailers are allowed to do?

JASON PARILLO: I think it would, actually, yeah.

TIMOTHY HUGHES: That's why I'm looking for a total for the whole building. You can't give that to me?

BRENDAN SULLIVAN: What's the frontage of the building?

JASON PARILLO: I have these plans here.

RAJ DHANDA: About 120 feet.

TIMOTHY HUGHES: How many units are there?

RAJ DHANDA: Four.

JASON PARILLO: And this is the Mass. Avenue elevation, right?

RAJ DHANDA: Right.

BRENDAN SULLIVAN: You've got Mass. Avenue and I think you've also got Trowbridge Street --

JASON PARILLO: Right.

BRENDAN SULLIVAN: -- and it's got street frontage.

JASON PARILLO: Right.

BRENDAN SULLIVAN: So you're allowed Trowbridge and Mass. Avenue.

JASON PARILLO: There's one other thing I'd like to point out about the signage --

TIMOTHY HUGHES: You haven't answered my question yet. Are you going to figure that out for me or not?

JASON PARILLO: I'm not the architect. I'm the sign guy here.

RAJ DHANDA: I think the submission detail that Mr. Sullivan wrote off is 30 square.

CONSTANTINE ALEXANDER: That's what I thought, too. I'm not sure I'm right. The total is 30.

TIMOTHY HUGHES: The total is 30. And you're talking about using 20 of it for numbers. That means you have four retailers that are going to share 10 square feet of signage without you having to come back to us

for another Variance.

JASON PARILLO: Is it 30 for the entire building?

BRENDAN SULLIVAN: Well, my understanding --

TIMOTHY HUGHES: That what I'm asking you.

CONSTANTINE ALEXANDER: I thought it was for the entire building, but maybe I'm dead wrong. I haven't done the count.

BRENDAN SULLIVAN: My understanding is that it was one square foot per lineal foot per frontage.

TIMOTHY HUGHES: Well, there's more than 30.

RAJ DHANDA: If that was so, it would be 130.

JASON PARILLO: I think it's 30 maximum for a single sign.

BRENDAN SULLIVAN: The single sign the max is 30 square feet.

JASON PARILLO: Yeah. Because I'm thinking of other buildings --

TIMOTHY HUGHES: But your building is 130 feet on the -- on Mass. Avenue.

BRENDAN SULLIVAN: The length and feet of storefront facing street is 125. So you would be an area of signs allowed accessory to the stores is one times 125. So that you'd be allowed 125 square feet of signage.

TIMOTHY HUGHES: That makes more sense.

BRENDAN SULLIVAN: No one sign to exceed 30 square feet and no signage above 20 feet off the ground.

TIMOTHY HUGHES: All of the retail signage is going to be below the 20 feet in height because it's going to be below the canopy.

BRENDAN SULLIVAN: Correct.

RAJ DHANDA: Well, potentially it

could be above the canopy on the edge of it.

CONSTANTINE ALEXANDER: Yes, you could. You could even put it on the canopy or the overhang as they called it, or you could put it above I think.

TIMOTHY HUGHES: Well, if you put it above, you're not going to be able to read it from the street because the canopy is going to block it. So it's either going to be on the edge of the canopy or underneath it.

CONSTANTINE ALEXANDER:
Theoretically it could be done, but practically you're absolutely right.

TIMOTHY HUGHES: You said this canopy is 13 feet.

JASON PARILLO: Yes.

TIMOTHY HUGHES: And I mean you've got maybe three feet until you get to a window. So you're saying --

JASON PARILLO: The canopy's about 12 or 13 feet off the ground because 15 feet

is about higher than that.

TIMOTHY HUGHES: And you've got blank space that you possibly could put a sign. You're not going to put it in front of a window for your first floor tenants.

JASON PARILLO: I mean, in a way this sign, this address is more of a decorative feature on the building than it is you know, mean a sign. It is made like a sign obviously.

BRENDAN SULLIVAN: Right, and that was my point is that it is an architectural statement.

DOUGLAS MYERS: Question: Have you determined what the hours of illumination will be in the event that the Variance is granted?

JASON PARILLO: I mean, I think we probably would be willing to --

DOUGLAS MYERS: It seems -- the question is not idle. I mean, I'm concerned

about in terms of impact on the neighborhood.

RAJ DHANDA: Perhaps 10 or 11.

JASON PARILLO: Definitely shut off.

RAJ DHANDA: Perhaps 10, 11 p.m.

JASON PARILLO: It could be put on a timer obviously.

DOUGLAS MYERS: Sometime in the morning, like approximately?

RAJ DHANDA: Well, it would only come on in the evening.

DOUGLAS MYERS: Oh, it would go on in the evening from dark?

RAJ DHANDA: From dusk to perhaps 10 or 11.

DOUGLAS MYERS: Okay. That's approximate.

BRENDAN SULLIVAN: Any other questions?

TIMOTHY HUGHES: I have questions. I haven't heard anybody speaking towards

hardship. What's the hardship of putting a sign up that high? I mean, why do you need it up that high? You talk aesthetics and you didn't talk hardship, and there is a legal standard of hardship involved here.

JASON PARILLO: I think the hardship comes into play where it's hard to identify the address of the building because of the canopy and the attention to try to leave that canopy clean. And if the address is underneath it, it's going to be really hard to see. Like across the street there's that neon address sign, you can't miss it, but there's no canopy sticking out on top of it hiding it as much. So I think that's where the hardship comes into play. There's a lot of other tall buildings around this building, and this is the easiest way to identify the building. And the building, you know, has residents and retail so there's going to be people familiar with the building, people not

familiar with the building, people trying to get to the building. So I think that, you know, address numbers like this help the community in a way because it serves, as you know, as an address marker for the whole area. So people know where they are on Mass. Avenue. It seems easy to us but it's definitely tricky for people who are coming in and out of town. I think that's where the hardship comes down.

BRENDAN SULLIVAN: All right.

Let me open it to public comment.

Is there anybody here who would like to speak on the matter at 1075 Mass. Avenue Mr. Williamson.

JAMES WILLIAMSON: James Williamson. I live at 1000 Jackson Place in Cambridge.

BRENDAN SULLIVAN: Jim, if you could just speak up a little bit because we don't have --

JAMES WILLIAMSON: Yeah, so I'm not

sure exactly how I feel about the aesthetics, I've only had a chance to -- I mean, it's kind of maybe a suggestion to have the material available so the public could also look at it. I took a glance over Tim's shoulder so I have -- thank you, I have some sense of what this is going to look like. It's kind of -- so I'm sort of reserving judgment about how I feel about what this actually looks like. Setting that aside, leaving it up to you to decide whether a legitimate hardship here. I don't know that there is -- part of my concern does have to do with the illumination and I think there's some potentially significant questions to be raised about the illuminated character of a sign in Harvard Square. And I'm, I don't know quite how to articulate my concern other than to say that I hope you'll be helpful about that aspect of this. There is a history to this question about illuminated

signs as I think maybe most of you or all of you are aware of. Growing out of an effort to put a Microsoft sign above 20 feet in Kendall Square an owner of another prominent business in Kendall Square who had deep pockets funded a petition drive throughout the city to get on the ballot this particular issue, and he managed to get enough signatures with hired signature gatherers to get enough signatures to have it validated so that the City Council had to make a decision either to rescind their, they were going to change the Zoning about signing illuminated -- and signs above 20 feet, and because this signature collection effort was successful they had to make a choice either to put it on the ballot at the next election or to rescind that change in the Zoning. And rather than face, you know, it being an issue in the next election in my opinion, they chose to rescind this change in the Zoning. So

there are presumably some reasons for not wanting to have signs above 20 feet. And I think it does have to do in part with what you were alluding to at one point about branding. And I think there may be an issue about that here.

And the immediate thought that I have is why does it have to be at the top of this column? Why couldn't it be under the 20-foot limit and be down right near the bottom of where that column begins? And if necessary, in order to fit under the 20-foot maximum height, allowable height, maybe it might be necessary to tweak it a little, make it -- the numbers a little smaller, but I could imagine it working. I don't think it works very well for pedestrians up at that height, not, and I do think it does begin to take on a different character. And so I would, I would be interested to hear whether you've looked at having a number like that in -- somewhere in

that column but down below 20 feet and what that might look like.

BRENDAN SULLIVAN: Well, that would be an as-of-right solution.

JAMES WILLIAMSON: Yeah, yeah. So anyway, thank you.

BRENDAN SULLIVAN: Thank you.

Anybody else wish to speak on the matter?

JAMES WILLIAMSON: If I just may, can I add one thing?

BRENDAN SULLIVAN: Okay. You're at two minutes and 45 seconds. So you've got 15 seconds to go.

JAMES WILLIAMSON: Sorry. Okay.

And the concern would be -- I think you know, if it's allowed, you know I think there's always this concern, it's sort of a precedent setting, you know, loophole. I mean okay you get to do it, then somebody else wants to do it. And then pretty soon, you

know, who's the next -- what are you going to say to the next person who comes in and wants to say something above 20 feet and I think that's worth considering as well.

Thank you.

BRENDAN SULLIVAN: As the Mayor would say, your time has expired.

There is correspondence dated December 19th from the New England Regional Council of Carpenters. (Reading) To Ms. Pacheco; I represent the carpenters of Local 40 of the New England Regional Council of Carpenters, affiliated with the United Brotherhood of Carpenters and Joiners of America, our offices located at 10 Holworthy. The carpenters of Local 40 are vehemently opposed to the granting of the Variance for a sign at 1075. The illuminated sign for 1075 Massachusetts Avenue is garish and out of place in that neighborhood at the gateway to a (inaudible) and traditional Harvard

Square. One would hope that the Board would view the request for a Variance on the light and reject the Petition to be heard on Thursday, December 20th. By Joseph D. Power.

There is correspondence from the Planning Board. (Reading) The proposed Sign Variance is to be on a building granted a special Board -- Planning Board. Let me start all over.

This proposed Sign Variance is to be on a building granted a Planning Board Special Permit, Planning Board No. 248, significant time was spent on this review. There was more than one opinion about the appropriateness of the proposed sign slash address variance. One member thought that the height, location, and size of the sign was fine although the illumination was not. One member supported the number at the top of the building facade and the illumination saying

that the sign distinguishes the building in Putnam Square. The remainder of the Board finds that the Variance to be a poor precedent for Putnam Square, as the other significant buildings function well and do not have this type of sign. And that's the sum substance of the correspondence.

Okay. I don't know if you want to address any of the comments or add to your presentation at all.

JASON PARILLO: I think the only thing I would add is that this is a very subtle sign. It has a very minimal visual impact during the day because it sits -- it's a silver sign on a silver background, so it's definitely not a garish sign in that regard. And when it's gonna be illuminated at night, it's halo illuminated. So unlike a lot of the other high rise signs in Cambridge, the lights shine on to the building and just cast a slight, a silhouette, a white silhouette

around the numbers so it's not going to be overly illuminated to affect, you know, any residences or anything like that.

BRENDAN SULLIVAN: Okay.

Let me close the presentation part.

Mr. Alexander, what are your thoughts?

CONSTANTINE ALEXANDER: Well, to me the Planning Board's opinion is persuading me. I was sort of on the fence, but if the Planning Board feels the way it does, then I'm not going to support this.

DOUGLAS MYERS: Two questions for me. I mean, the effect of the illumination is on my mind, understanding that the illumination is basically conforming in its nature as illumination. But the effect of the illumination at a high altitude if we were to grant the Variance, I can consider that -- and I'm troubled by our granting a Variance that would permit high altitude illumination. And so then I asked myself

well, what about without illumination? If there were no illumination what about the high altitude here. And I just don't think there's a case for the Variance. I'm really persuaded, the simple question is is there a hardship? I just felt there was really no adequate answer to that. It's just purely it's a new building. It's a non-conforming building. It's a new building and I think the Ordinance basically should comply. I just don't think this case is for a Variance.

BRENDAN SULLIVAN: Mr. Hughes.

TIMOTHY HUGHES: I went through the same thought process that Doug did about what, you know, I think the fact that it's illuminated and would be high up it would. It would preclude me from voting for this. And then I thought would I vote for it high up if it was not illuminated. And I come down on the same thing that Doug did. It's just that, you know, if you want to put numbers on

the building let them put it down lower. But where they can do it by a matter of right, I just don't see tagging this building up high. I don't want to set that precedent for Putnam Square.

BRENDAN SULLIVAN: Janet.

JANET GREEN: I think you should do it by right if you put it down lower.

BRENDAN SULLIVAN: Okay. Let me make a motion then to grant the relief requested to install illuminated sign addressed on the building at 1075 Mass. Avenue about the 20-foot high limit as per application and the photo simulations. More specifically sign type No. 5, exterior building, job No. 10642 and it would be page 1 of 2 initialed 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

preclude the Petitioner from having some identifying feature of this address.

And the Board finds that one of the aesthetically pleasing aspect of this building is the vertical orientation of the building corner. A vertical address sign would not only increase visibility but accentuate the vertical corner exposure locating an address sign lower on the building significantly distracts from the appeal of the building to potential tenants and retailers. The hardship is owing to the fact that it is difficult to locate signage identification of this addressed building in a conforming manner which would be 20-foot maximum from street grade.

The Board finds that desirable relief may be granted without substantial detriment to the public good. And relief may be granted without nullifying or substantially derogating from the intent and purpose of the

Ordinance.

All those in favor of granting the signage as per the application?

(No Response.)

BRENDAN SULLIVAN: There is nobody in favor. Those not receiving the necessary four affirmative votes the petition is denied.

The Board finds that the Petitioner has not established a convincing argument that a literal enforcement would involve a substantial hardship to the Petitioner.

That an alternative siting would be as viable more in compliance with the existing Sign Ordinance.

The Board has found that desirable relief may not be granted without some detriment to the public good.

The Board notes the letter from the Planning Board in which the Board takes exception to this particular sign, but also

the fact that the Planning Board have excessive review of this project from inception and that this element was not part of that review.

And the Board finds that relief may not be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance. Would be to limit signage and their effect on the streetscape.

All those in favor?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor of the dissenting opinion.

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

RAJ DHANDA: Can I take 30 seconds for an earlier matter we talked and the concern you had about this, about the Yogurtland on the trash being put out?

DOUGLAS MYERS: Yes.

RAJ DHANDA: We discussed with them.

And the lease is going to be modified to very specifically require them to have hourly visit --

DOUGLAS MYERS: Troll?

RAJ DHANDA: -- with the park. Because I'm at least as concerned as everybody else is perhaps more so.

DOUGLAS MYERS: Well, thank you. Speaking personally I appreciate that as a member of this Board. I do appreciate that.

RAJ DHANDA: We try to do the same thing with the cigarette butts.

DOUGLAS MYERS: Trash was on everyone's mind.

RAJ DHANDA: Yes, mine even more so.

DOUGLAS MYERS: Thank you.

* * * * *

(10:05 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes,

Douglas Myers, Janet Green.)

BRENDAN SULLIVAN: The Board will hear case No. 10367, 1678 Mass. Avenue.

Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman, members of the Board, James Rafferty. I'm an attorney with the law firm of Adams and Rafferty located at 130 Bishop Allen Drive in Cambridge. I'm appearing here this evening on behalf of Nancy Jitjaruek, J-a-r-u-e-k. And to my client's right is Stella Pan, P-a-n.

Mrs. Jitjaruek is a local entrepreneur. She operates a Thai restaurant in Harvard Square called Spice, a Thai Restaurant in Harvard Square. And she has some uncertainty concerning her lease. She's got less than two years to go and her landlord has indicated that he doesn't wish to renew so it's unlikely that she'll be renewing. At any rate she's been looking for an

opportunity and she came upon this location. Some Board members may recognize the address and the location. This property was before the Board several months ago. At the time the proposed applicant in that case wanted to operate a fast food order establishment which required a Use Variance, and there was a great deal of testimony and time spent talking about the challenges of the space. And it's notable in that it's long, deep, but quite narrow, and that was the basis for the hardship in the prior case. My recollection of that case is that as compelling as that argument was, it did not convince four members of the Board. I'm not certainly convinced a single member of the Board, but I tend to let things like that escape my memory. But at any rate this use is a restaurant use which is an allowed use. It's a permitted use. And there are a number of well thriving restaurants in this stretch of

Mass. Avenue, arguably one of the nicer retail districts in the city. It's about equally distant between Harvard Square and Porter Square both of which have Red Line services, you know. There is -- and there are three bus lines that go by the front door here.

The Applicant's experience in the nature of a restaurant in Harvard Square is she relies heavily on a student population. Her price point is somewhat low. It's a noodle and Thai restaurant, and her partner Ms. Can (phonetic) is going to be adding sushi as another element. As you know, within very close proximity across the street from this location is a Lesley University dormitory, a Harvard Law School dormitory, the entire Harvard Law School campus. And the concern that the Applicant had is the question -- is the reason we're here. It's the concern that the Zoning per se, and that is that

these -- nearly all of these locations with a few exceptions do not have any parking. So the Zoning requires you to have parking, but as an operator and an entrepreneur who is about to spend a lot of money is also a concern. Can restaurants succeed absent parking in this district? Well, after some initial evaluation, the Applicant became very convinced that the amount of foot traffic there, the closed-in residential population, both the student population, the established neighborhoods on either side of the use and the prevailing characteristic of restaurants in this section of Mass. Ave. that don't essentially have parking. There are a few exceptions, Chang Sho has some parking and Cambridge Common has a little. But for the most part Chez Henri and a variety of others, well-established, long-time restaurants operate without parking. So, the Ordinance, as you know, provides for a

Special Permit mechanism to allow for a reduction of required amount of parking. The parking requirements here in restaurants, as you're aware, are driven by seating which is different than office and retail uses which this has been. All of these uses are permitted uses, but in the office and retail cases the square footage of the space drives the parking numbers. Since this building was constructed prior to the adoption of Zoning and it never had parking, it is grandfathered, if you will, for parking purposes for a retail use.

The Board actually saw the case a few years ago when the Harvard -- the federal -- the Harvard Credit Union went in here and they received Zoning relief I think both for their use and for their parking because it had a different parking requirement than the grandfathered retail use. So we find ourselves unable to avail

ourselves of that Zoning relief, but it was I think of significance. And in that case the Board found support to waive the parking requirement for that use. So we have provided the Board with a copy of the floor plan of the restaurant. In this Zoning District, in the Business A-2 District, an Applicant is required to have one parking space for every five seats. It's also, true however, that an Applicant -- when there's a change of use involved, an Applicant need only provide the differential in parking, meaning that the retail use of the parking. So a retailer, soft goods, or any other type of retailer can go in here as of right and enjoy the grandfathered retail use here and not have any parking. But so that the grandfathered parking here by my calculation given the size of the space and the 500 square foot requirement here is eight spaces. So I think the differential is on the dimensional

form, I think it might be seven and eight is the differential between what the nature of the request is. We are seeking relief based on the size. And the size of the restaurant is -- is it 77? The number of seats in the restaurant?

NANCY JITJARUEK: 76 seats.

ATTORNEY JAMES RAFFERTY: 76. So we calculated on 75 seats because we didn't get to two and a half to round up. So it's 76 seats.

If one looks at the layout, you'll see that it's, it really represents only about two-thirds of the space. It's a narrow space. So there's a kitchen, a little office area, bathroom. So 76 seats really is on the modest size for restaurants. It's not the smallest, but it doesn't represent a significant size restaurant. It is -- it would fit in my estimation fairly comfortably with the scale of surrounding restaurants.

The space next-door which had been the Forest Cafe for many years, and then became Rafiki and now has opened as Julia I believe, an Italian restaurant. There are larger restaurants around, and there probably are a couple a little bit smaller. But it's 76 seats. I think this would be on the small side as somewhat modest restaurant. So the relief is needed because in order to operate the restaurant as of right here, because to be reminded, the use of the property is a restaurant is perfectly allowed. And the issue before the Board is the parking. And we've had some helpful conversations with neighbors who legitimately are asking lots of questions about a range of things, largely unrelated to parking, which are impact issues which we're happy to discuss, but have suggested that perhaps the next step in this process which would be Licensing for a CV License and the beer and wine license is where

those issues might be best addressed. But at the end of the day the Board needs to examine the criteria under 6.35.1 and determine whether this location and this proposed use meets the criteria to warrant the reduction of the required amount of parking. So it's our view that it does. That it enjoys very close proximity to rapid transit and other MBTA service. That it has a high amount of metered parking along Massachusetts Avenue which is another criteria for whether or not there's access to other types of parking. The residential neighborhoods are protected by the resident parking program, so non-residents aren't permitted to park there. And the history and nature of this use is that there's a heavy reliance on walk-in trade. This is not anticipated to be a destination-style restaurant where people are anticipated to come from far distances to come here. In many ways the reputation that

the Applicant has built in Harvard Square, she's hoping carries over to this area. She enjoys a strong level of support from university students, faculty, staff, and she hopes that word will spread up Massachusetts Avenue about this place.

So, in an effort to reach out to neighbors we did contact the Aggassiz Neighborhood Association and made a presentation to that group a week or so ago, and I'm pleased that some of the members of that group who were here to speak in opposition of the Variance for the fast food use are here tonight and it's my understanding that they're here tonight to express support for this. So at the end of the day, I think what we're hoping is that requiring this restaurant to reduce the number of seats to get to the allowed eight exemption which would cost the restaurant about 40 seats simply will not make it

economically viable. And there has been some talk about well, there should be further discussions with the neighbors. And we're happy to talk further with the neighbors, but it's not the type of case where much can change in those conversations. There's not much else we can do. Parking doesn't exist. There are no real opportunities for valet parking. The challenge with valet parking is you have to have a commercial lot that the cars can go into. You can't drive them off and stick them over places.

So this restaurant, which is an allowed use, would be in good company with other restaurants in this stretch of Cambridge that would not have parking. And it's our hope that the Board will find, particularly with regard to the first two criteria of 6.35.1 the availability or access proximity of MBTA transit station within five minutes you could go to two stations. And the availability of

public parking facilities in the vicinity of the use being provided. There are, there are parking facilities along Mass. Ave., metered parking spaces that meet that definition. The other thing they talk about is something that -- conditions which are likely to result in a lower level of auto usage. And the nature of this restaurant, we would suggest, in the close proximity of so many residents and students, suggest that the auto demand here is likely to be less than the parking requirements contemplate given the demographics of the neighborhood. So it's for those reasons that we're requesting that the Board find that the criteria have been satisfied and they allow the Special Permit.

BRENDAN SULLIVAN: Okay. Any questions?

CONSTANTINE ALEXANDER: No questions, but I'd like to make a request of you as the Chair that when we put this open

to public comment that the comments be restricted solely to the parking issue. Any other issues about delivery trucks or whatever else, are not relevant. And as Mr. Rafferty I think correctly points out, those are relevant to be before the Licensing Board but not before us tonight. So I don't think I want to hear commentary other than the narrow, specific issue about should we grant the Special Permit for parking and does the Applicant satisfy the requirements of 6.35.

BRENDAN SULLIVAN: Any questions?

DOUGLAS MYERS: Yes, it's a question, might be a little hard for you to answer but an approximation would satisfy me. Are you or your clients able to provide any information about the seating capacity or the approximate seating capacity of those restaurants you've referred to that are immediately adjacent to the proposed restaurant?

ATTORNEY JAMES RAFFERTY: I, based on professional and personal knowledge, in some cases I represented those restaurants and in other cases I've patronized them, I would say that the dining room at Chez Henri probably seats about 75. And then there's the bar area there that probably holds another 15 or 20.

Julia, I haven't been in, but when it was the Forest, it was dominated by a long bar and a number of booths. I would say it's in the same range, 75 range.

Westside Lounge feels like it's probably in that neighborhood, somewhere between 60 and 80.

Temple Bar is bigger. Cambridge Common is bigger. Temple Bar for instance I know exceeds 120. And my guess is Cambridge Common including the lower level Lizard Lounge there is probably well in excess of 175.

DOUGLAS MYERS: Are those all -- have you covered all of the restaurants that are on the same side of Massachusetts Avenue immediately adjacent to the proposed restaurant?

ATTORNEY JAMES RAFFERTY: I believe I have. And I've gone across the street.

DOUGLAS MYERS: I'm checking with my own memory.

ATTORNEY JAMES RAFFERTY: But my memory is if one starts at the corner of Shepherd Street with Chez Henri and then there's a Starbucks and a liquor store. The Westside Lounge, there's this space, there's New Julia, there's Stereo Jacks that may be coming, a something pizza. And then you get to Temple Bar, and then you cross Martin Street and you hit Chang Sho which does have a parking lot, but I would say probably has -- they have a downstairs as well, they probably have 150 there.

DOUGLAS MYERS: You've answered my question. Thank you very much.

BRENDAN SULLIVAN: Any other questions at this time?

Let me open it to public comment. Is there anybody here who would like to speak on the matter of 1678 Mass. Avenue?

Yes. If you would give your name for the record, please, and your address.

RON AXELROD: My name is Ron Axelrod. I live at 26 Shepard Street in Cambridge. I've lived in the neighborhood when I came to work here in 1967, 43 Linnean and then at 26 Shepard Street. And when I came here, there were eight restaurants between Garfield Street and Shepard Street. There are now six. So I don't -- and there's never been an issue about parking that I can recollect about people in the neighborhood saying we have too many restaurants and there's too much people parking here where we

are. So now that we have six and we used to have eight, I just -- I can't see how -- I can't see why we shouldn't support this restaurant, especially as a local business because I love Thai food, but it's I'm sure a wonderful restaurant to come and a good business to come a local business.

BRENDAN SULLIVAN: Thank you.

CONSTANTINE ALEXANDER: Thank you.

BRENDAN SULLIVAN: All right.

Anybody else wish to speak on the matter?
Jim.

JAMES WILLIAMSON: James Williamson, 1000 Jackson Place. I wasn't really planning to speak. I didn't come here tonight about this issue.

BRENDAN SULLIVAN: We'll give you three minutes like you get on Monday night.

JAMES WILLIAMSON: There's actually something here that's interesting to me and it's a factual question really. In general

I'm sympathetic to reducing parking requirements, and I think that's where we're heading in the city and if done well and properly. But the only question obviously there is if you reduce the parking requirements, is there spillover into the neighborhood? And apparently hearing from one of the neighbors is not an issue here if I understand what's been said correctly. The remaining factual question I have is I was listening and trying to follow what was being said, is there a parking requirement that's going to remain with this use, and if so, what is it? I just am interested in being clear about is there going to be any parking requirement? Is the parking requirement going to be completely waived?

BRENDAN SULLIVAN: They are required, and correct me, they're required to provide eight parking spaces and they cannot provide any. So --

JAMES WILLIAMSON: It would be zero.

BRENDAN SULLIVAN: They're asking that this particular establishment that we waive the requirement for parking.

JAMES WILLIAMSON: Thank you.

BRENDAN SULLIVAN: Okay.

Anybody else like to speak on the matter?

CAROL WEINHAUSE: My name is Carol Weinhouse and I'm speaking in favor of the restaurant. I live in the Aggassiz's neighborhood. I moved to Cambridge in '69 with the exception of between '74 and '78 living in Riverside. I've lived in the Aggassiz neighborhood the entire time. So during the entire time I'd like to back what Ron said, lots of restaurants all up and down the stretch. I've been part of a group that for decades been looking to preserving the local businesses and make sure we really have -- it's like our -- it's like we don't

have a square or a center or a town for our neighborhood. Basically the street that runs up between the two neighborhoods and it's Neighborhood 9 and Aggassiz really functions as essentially our meeting place and people meet each other and talk on the avenue. And a lot of the places do not have parking and a lot of people walk. And I just would strongly support their coming in. They're a moderately priced, lower priced restaurant. There are tons of students that are around all the time. I go to the High Rise Restaurant a lot, and they were dead one morning and they said oh, it's finals. So the students really populate a lot of the restaurants and I think it would be a wonderful addition and it's the kind of things that people in our neighborhoods, two neighborhoods, have been working for for really decades.

Thank you.

BRENDAN SULLIVAN: Anybody else wish to speak on the matter?

CAROL WEINHAUSE: Oh, should I mention? I was just trying to be nice. I was one of the people that was against the fast food chain, and speaking directly to the parking this is a very different environment than somebody coming in and then stopping by and just wanting coffee and get back in their car. This is people will come, they'll chat over dinner. I've been in her restaurant in the square. I love it. It's very congenial and kind of homey so it's a very different kind of establishment than a fast food chain. So I would also say, but I was trying to stick to the parking, that a lot of us that have worked for this is we don't want to be a neighborhood that just says no. But if we say no, that there's a real reason and that we really want to encourage the local businesses.

BRENDAN SULLIVAN: Okay, thank you.

RUTH RILES: I'm Ruth Riles

(phonetic), 115 Upland Road, Neighborhood 9.

I'm part of a group, Mass. Avenue Project Streetscape Improvement. We've been working for a couple of years to try and improve the whole avenue up and down between the two squares, Porter and Harvard. And part of that improvement, even though it's not part of the streetscape improvement, is a lively -- as Carol mentioned, this is our town center. It's where we meet people, talk to people, students sit with their -- not just students, all of us sit with the laptops and have lunches and dinners and coffee, whatever. And I am speaking in favor of the restaurant. I don't think there's in any way of manufacturing any more parking spaces in that area. Sometimes I walk to the restaurant, and I went to Julia's just the other night, and friends had come from out of

the state actually, they flown in to Logan and we met them down at our house and they drove to Julia's, but you can find parking in the area generally if you eat early or you eat late or something of that nature. Most of the time though we walk. Most people do walk in the neighborhood to the restaurants, and has been said there are students in the neighborhood. There's a good mix to the liveliness of the neighborhood and then the restaurant group there. I was also one of the people opposed to the Dunkin' Donuts and this is a totally different kind of restaurant. It's a good mix for the scene there, and we'd be happy to see them come and so, I am speaking very much in favor of waiver the parking requirements.

BRENDAN SULLIVAN: Okay, thank you.

RUTH RILES: Because it's reality. There's no more parking.

BRENDAN SULLIVAN: Yes.

BHUPESH PATEL: Bhupesh Patel,
Three Bowden Street. We're just submitting
the same letters that have always been
submitted for the other businesses that were
there. I'm really speaking mostly for
myself, but obviously I just want to make sure
that you are aware of where this place was in
reference to the neighborhood. It's an old
map that's been regurgitated a million times
over. It's this space here obviously.
These are the other business that are here.

So these letters are just from the
neighborhood and specifically they're from
most of the neighbors on Bowden Street. And
they're just referring to the three other
businesses that have applied. That make the
record of the fact that Jim Rafferty has
actually seen these letters from prior
meetings and refer to them in reference to
dealing with this new tenant coming into the
building, and specifically just has most of

the Bowden Street neighbors listed in the back. So we call it lower Bowden and upper Bowden and those are the three letters.

So the clearest one to indicate is the fast food that everyone's referring to which was Michael's Pizza Place that was trying to move over from the corner into Stereo Jacks. And even though fast food wasn't allowed, the neighborhood supported him moving over because it was pretty clear his traffic impact, his impact on things like loading, which doesn't apply here, and other things that have to do mostly with the License Commission and the people mentioned in the letter. And that specifically, this is Bowden Street just so you know where it is. Basically this is the street behind here. And this is the restaurant.

BRENDAN SULLIVAN: Aside from being informative, what is your position?

BHUPESH PATEL: There's no position

besides the neighbors just wanted to point out that there's letters on file and they did not have time to prepare a letter. Pointing out that --

CONSTANTINE ALEXANDER: But those letters deal with a lot of issues. They don't deal with parking.

BHUPESH PATEL: That's right.

CONSTANTINE ALEXANDER: And that's why I made the point through the Chair very early on, this is not relevant.

BHUPESH PATEL: No, it's not. I just wanted to point out that there are letters on file that they're saying they're supporting a business that is a restaurant. They've got nothing against a restaurant. But they would like to encourage them to meet with the people Bowden Street because the letters have been referred to that specific space in general.

BRENDAN SULLIVAN: Okay.

BHUPESH PATEL: And that's basically it.

BRENDAN SULLIVAN: Okay, good. Anybody else wish to speak on the matter.

JOHN BIGELOW: I'm John Bigelow. I live at No. 5 Bowden Street. No. 5 is directly behind the proposed restaurant. I'm not opposed to a restaurant being at that site per se, and in fact, I am concerned about the additional burden that parking would create on our streets specifically and in our small area in general. Many of the people who park on our street come home at night after work at around between five and six-thirty or so. And it's already difficult for those people to find spots near their homes when they get home because of just use on the street. And I -- there are only nine parking spaces between Martin Street and the corner of where this restaurant is going

to be on Bowden. And I -- I'm concerned that an additional burden of eight, or whatever it is, car spots is going to add to the neighborhood. I wasn't necessarily opposed to the donut shop being in this place because the activity was more transient and it was -- it would have necessarily diminished later on in the day. So that people returning from work wouldn't have been necessarily as inconvenienced by the traffic at the site. But this, you know, necessarily would draw people for the dinner hour and on. And, you know, I lived in this neighborhood for nearly 20 years now, and the number of restaurants in my brief tenure there has been relatively static, and thus the burden on parking has been kind of constant. There hasn't been any establishment that really added to the -- or that diminished the abundance of parking in our neighborhood in a long time. And so whereas they have

restaurants that are there that people often drive to and from. It's been constant for a long time. And I -- I'm concerned about our burden as taxpayers, abutters, and neighbors of this establishment, we're being asked to bear the burden of diminished parking in our neighborhood for the benefit of a restaurateur. And, again, my -- I'm not opposed to a restaurant or this woman's restaurant in particular. I love the idea of a noodle place nearby, I really do. But what I don't love is the additional parking burden that the neighbors are being asked to bear on behalf of a restaurant. If I'm correct, doesn't this parking exemption travel to future restaurant owners at this site?

BRENDAN SULLIVAN: Relief that we're granting is specific to this location.

JOHN BIGELOW: This location but not this restaurateur.

CONSTANTINE ALEXANDER: Should a

new restaurant come in --

SEAN O'GRADY: I believe only if
you --

CONSTANTINE ALEXANDER: If we --

ATTORNEY JAMES RAFFERTY: The only
provision of the Ordinance that does that is
the fast footed Special Permit that limits it
to a particular operator, the rest typically
run with the land.

CONSTANTINE ALEXANDER: Thank you.

JOHN BIGELOW: And as such, I'm -- I
would want long and very serious
consideration about adding this burden which
would be perpetual to this very small
neighborhood. Again, there are only nine
parking spaces between Martin and the corner
of where this restaurant is, please.

DOUGLAS MYERS: May I ask you one
question, please, Mr. Bigelow, to your
knowledge is Bowden Street subject to city
permitted parking?

JOHN BIGELOW: Yes. Yes, it is.

DOUGLAS MYERS: Parking permits are required?

JOHN BIGELOW: Yes, it is.

CONSTANTINE ALEXANDER: And I'm a little puzzled. You say you're not opposed to a restaurant here, but you understand that any restaurant is going to need parking relief. It's inconsistent.

JOHN BIGELOW: The parking formulas are arrived at from some methodical process I assume; is that correct?

CONSTANTINE ALEXANDER: It's mechanical per the Zoning Ordinance but no matter how many -- there's no parking associated with this restaurant. There's no on-site parking. Therefore, a restaurant almost any size or there's any size over eight, eight parking spaces would require relief. If you're in favor -- if you're not opposed to a restaurant being here, I would

suggest to you then this restaurant is as good as any in terms of diminishing the impact of parking. It's a restaurant that is designed for basically people who live in the area, particularly students who are not likely to drive. People are not going to drive from Weston to come to eat -- no offense to you, Ma'am, to eat your noodles, right?

JOHN BIGELOW: I'm not concerned about people driving from Weston to -- who might park on my street or the street that I live on. I am however concerned with other Cambridgeidians driving to the restaurant and parking on the street that I live on. I mean --

BRENDAN SULLIVAN: But they have a perfect right to do that.

JOHN BIGELOW: I'm not suggesting they don't.

BRENDAN SULLIVAN: It sounds like you're trying to be very exclusive. Now, you

live on the odd side -- on the odd numbered side of Bowden Street. You all have parking spaces.

JOHN BIGELOW: Yes.

BRENDAN SULLIVAN: It's the even side where there is permit parking. Some of those people have parking spaces and some of them do not.

JOHN BIGELOW: I had a guest at my house the other day and parked in front of my house on the street and got an irritated text message from one of my neighbors asking me if I would please move my car from the street side, and she said the scarcity of parking coming home from work was such that if I didn't need to have my car there, would I kindly move it. It's indicative.

BRENDAN SULLIVAN: Well, that's Cambridge.

JOHN BIGELOW: I -- fine.

BHUPESH PATEL: I should just point

out one thing, though, that we did with the pizza place --

BRENDAN SULLIVAN: No, no. That --

BHUPESH PATEL: -- the condition that because all the Bowden Street neighbors came to that meeting and they supported the pizza place being moved over. And specifically was that he had to come back, I can't remember if it was every two years to renew that license because it was a fast food license and it was a way that the Board wanted it didn't get sold to a Taco Bell or something. I can't remember the specifics of it. The point is he had to come back every two years for a renewal.

CONSTANTINE ALEXANDER: The difference there is they needed a Variance.

BHUPESH PATEL: Exactly. That's what --

CONSTANTINE ALEXANDER: And here is Special Permit. Mr. Rafferty hasn't

pointed this out, and he will perhaps in his closing remarks, a Special Permit you're presumed to get it. The presumption is very different than a Variance. The presumption is very different than a Variance. The presumption is in favor of the Petitioner, and he or she must meet, satisfy us to certain conditions. But unless they don't satisfy us, the Special Permit is to be granted and I think that's very significant in this case.

BRENDAN SULLIVAN: Mr. Bigelow, you've completed your comments, have you?

JOHN BIGELOW: Yes.

BHUPESH PATEL: But let me explain to you --

BRENDAN SULLIVAN: Okay. You've already had a chance to speak. This is not a public forum that you can just shout out. Sorry.

BHUPESH PATEL: You're right.

BRENDAN SULLIVAN: It's not an open

mic night. You were recognized, you spoke.
That's it.

BHUPESH PATEL: Okay.

BRENDAN SULLIVAN: Is there anybody
else who would like to speak?

(No Response.)

BRENDAN SULLIVAN: I don't mean to
intimidate anybody, but if you have something
to say, say it.

There is correspondence in the file
from Lynn Meyer Gates, 10 Bowden Street, No.
5 and No. 6. (Reading) Dear Board of Zoning
Appeal: I'd like to second the two petitions
to you today to postpone the hearing
petitioning for 1678 Mass. Avenue. I think
that unfortunate and harmful that the Zoning
Board meetings handling issues relating to
the effects of adverse behavior on neighbors,
especially those living on Bowden Street
behind the stretch of Mass. Avenue, that seem
to attract uses that are disruptive. I am 73

years old and have lived in 10 Bowden for 38 years and my income depends on my rental apartment at that address. I'm having increasing complaints from my tenants about conditions in the neighborhood. The Zoning Board needs to attend to the needs of this neighborhood, especially since as a group and maybe even individually, we pay a great deal more taxes than other any individual business. One thing that could do (inaudible) a more reasonable time.

There is correspondence from Mr. Bigelow who has spoken.

There is correspondence from Helen Solorzano, S-o-l-o-r-z-a-n-o. (Reading) As a neighbor at this location, I respectfully request that this case be continued at tonight's meeting being so close to the holidays, it is impossible for all interested parties to attend the meeting. We have not had the opportunity to meet with the owners

of this business to discuss the ongoing issues that we have had with the restaurants on this section of Mass. Avenue that back out onto the residential area of Bowden Street, including parking, truck deliveries with illegal parking, and loading. And garbage pick up, noise from mechanicals and employees. These must be addressed before granting a permit to allow another restaurant to open in that space. Please respect the needs of the neighbors. She lives at 13 Bowden Street.

There is correspondence from Nancy Kramer. (Reading) As an abutter and homeowner as well as a working professional in the neighborhood and the mother of two, I respectfully request that this case be continued at tonight's meeting being so close to the holidays. And she expresses the same sentiments as the previous letter.

There is correspondence from Helen

Solorzano. Helen Solorzano.

DOUGLAS MYERS: There is a striking similarity.

BRENDAN SULLIVAN: And there is correspondence from Astrid Dodds, A-s-t-r-i-d D-o-d-d-s, 73 Wendell Street. (Reading) I write in support of the petition of the restaurant owner who wants to open a new Thai restaurant featuring noodles and sushi at 1678. She has applied for a reduction or waiver of the parking requirement. I hope that the BZA will grant that request. I have lived in the Aggassiz/Bowden neighborhood for many years, only two blocks. That block of Mass. Avenue is nearly daily shopping destination for me on foot. Between the 1500 law students two blocks to the south and many hundreds of Lesley students, this new restaurant will not need off street parking to be success. The owner/developer appeared at an Aggassiz

Neighborhood Council meeting on 12/11 and answered all our questions. I urge the BZA to grant the Petitioner's question.

I think that's the sum substance of the correspondence. I close public comment.

Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Thank you, just briefly to Mr. Alexander's point. The Ordinance directs the Board in its decision if that you make the following findings, then the Special Permit should be granted. I would suggest that the testimony this evening as well as explanation of the operation, the Board should be able to conclude 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 the lesser amount of parking will provide some other benefits to the uses of the

neighborhood.

Well, I think there's been ample testimony that a use of this nature will actually serve the neighborhood in a hospitable way, and there's also been testimony by people who live very close to the impact on parking will not have an adverse affect. So based upon the testimony that I think reasonably would lead the Board to conclude that would hope that the Board would see fit to issue the Special Permit.

BRENDAN SULLIVAN: Okay. Close the presentation part.

Any questions?

CONSTANTINE ALEXANDER: I'm in support of granting the Special Permit. I would also cite as our Ordinance says that we should be looking at it. I'll read from the Ordinance. In making such a determination, determination would be to grant the Special Permit, the Board shall also consider whether

or not less off street parking is reasonable in light of the following. And it talks about the availability of proximity of an MBTA transit station, the availability of ample public transportation, and all of which is present at this location and has been cited by Mr. Rafferty in his presentation. So for a number of reasons I think we should grant the Special Permit as requested.

BRENDAN SULLIVAN: Feel that they have complied with the spirit of 6.35.1. Okay.

DOUGLAS MYERS: I think Mr. Rafferty's made the case, and I'm satisfied.

BRENDAN SULLIVAN: Okay.

TIMOTHY HUGHES: Likewise.

JANET GREEN: I'm satisfied.

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

application in the dimensional form containing therein.

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

That Article 6.35.1 allows for the reduction of parking by Special Permit where excessive congestion does not occur, and the Board finds that the spirit of 6.35.1 has been met. And 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 proposed business is located in the stretch of Mass. Avenue that features a number of restaurants and other retail uses. Very, very few of them provide off street parking in this particular block of stores. Provides no off street parking as does some adjoining blocks.

The Board finds that the location is within walking distance of the Harvard and

Porter Square MBTA stops, and is on a major bus line.

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

The Board finds that the reduction of the required parking would not adversely affect the adjoining businesses or impact the adjoining residential district.

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

The Board finds that this particular locus is somewhat not totally unique and not

providing any parking, and as such that the Ordinance would not be totally derogated because the particular locus, the building is landlocked and cannot provide any parking.

All those in favor of granting the Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

ATTORNEY JAMES RAFFERTY: Thank you very much.

* * * * *

(10:50 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Douglas Myers, Janet Green.)

BRENDAN SULLIVAN: The Board will

hear case No. 10368, 146-148 Larch Road.

If you would please introduce yourselves for the record.

BRAD BERNSETIN: I'm Brad Bernstein. I live at 146-148 Larch Road and I'm with my wife Kim.

JOHN LODGE: I'm John Lodge the architect.

BRAD BERNSTEIN: I live with my wife Kim and two kids. You know, during the hurricane a tree hit our house and knocked off a chimney on our house and we're sort of rebuilding things right now and we'd like to not put the chimney back, and we want to enlarge a window and move a door a little bit for some flow, to improve flow and lighting in the house. And John was there to help us.

JOHN LODGE: So the north facade of this house is within the setback. It's about 7.2 feet from the property line. And what we're proposing to do is to enlarge two

windows, add one window, and move the side door about a foot in one direction on the north facade.

BRENDAN SULLIVAN: That's all referenced in sheet A4?

JOHN LODGE: A5.

BRENDAN SULLIVAN: A5?

JOHN LODGE: Is it A4? A5?

BRENDAN SULLIVAN: A4. Is there an A5?

JOHN LODGE: I'm looking at it, you're right. I'm wrong.

BRENDAN SULLIVAN: Okay.

JOHN LODGE: And I think that's it.

BRENDAN SULLIVAN: The existing chimney -- well, there was a fireplace. It was -- was it ever used or was it functional?

BRAD BERNSTEIN: It was functional, but it kind of got ripped out of the place and we just don't want to put a fireplace back in.

BRENDAN SULLIVAN: And so while

you're doing all of this and might as well make some other alterations --

BRAD BERNSTEIN: Yeah.

BRENDAN SULLIVAN: -- that suit what you're doing there. Okay.

Basically enlarging two windows; is that correct?

JOHN LODGE: Yeah, enlarging two, adding one.

BRENDAN SULLIVAN: Which need to be enlarged.

JOHN LODGE: Well, yeah. We would argue yes, that they would.

CONSTANTINE ALEXANDER: Have you spoken to the neighbors most directly affected?

BRAD BERNSTEIN: Yes. Mitch signed. These are the top signatures.

BRENDAN SULLIVAN: And the door is just being shifted over and sort of rearranging the deck chairs a little bit.

JOHN LODGE: Yes. Rearranging the deck chairs.

BRENDAN SULLIVAN: Okay.

BRAD BERNSTEIN: And we have signatures, too.

BRENDAN SULLIVAN: Any questions? Is anybody here wish to speak on the matter of 146-148 Larch Road?

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance. The Board is in receipt of correspondence in the form of a petition. (Reading) Brad and Kim Bernstein have shared their proposed plans for the north facade of their house at 146-148 Larch Road. The proposed changes include removing an exterior door by one foot, enlarging two windows, and adding one new window on the second floor. The windows on the first floor will remain as is, and the fireplace, bay, and chimney which were demolished by Hurricane

Sandy will not be replaced. I have no objection to this proposal for a Special Permit. Signed by the residents at 150 Larch Road, 502 Huron Avenue, 171 Larch Road, 141 Larch Road, 147, 149 Larch Road, 142-144 Larch Road. I won't even attempt their names.

DOUGLAS MYERS: And 150 Larch Road is the abutter who is immediately adjacent to the facade?

BRAD BERNSTEIN: That's Mitch Tenowitz (phonetic).

BRENDAN SULLIVAN: Okay. Let me close the public comment part and presentation part is completed?

JOHN LODGE: Unless you have any questions, yes.

BRENDAN SULLIVAN: I don't think so.

CONSTANTINE ALEXANDER: I'm fine.

BRENDAN SULLIVAN: Any questions?

TIMOTHY HUGHES: Makes perfect

sense to me. If you've got to repair, you might as well do what you want. You've got the blank wall where the fireplace used to be and make use of it.

BRENDAN SULLIVAN: Let me make a motion to grant the Special Permit to relocate the door as shown on A4 entitled, "146 Larch Road," initialed and signed the by the Chair. And also the relocation and enlargement of windows as per the plan.

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

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

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

The Board notes that the letters of support from abutters.

The Board finds that nuisance or hazard would not be created to the detriment of the health, safety, and welfare of the occupant of the proposed use. In fact, it would probably be enhanced by the relocation of certain windows and the enlargement of certain windows and a relocation of an entry/exit door and would not impact the citizens of the city.

And that the proposed use would not impair the integrity of the district or adjoining districts. Actually it would improve the appearance of the house by having a more period looking windows and more functional windows and more functional windows.

Or otherwise derogate from the intent and purpose of the Ordinance.

All those in favor --

CONSTANTINE ALEXANDER: Wait a minute. You've got to also add the finding under 8.22.2, that the granting of the permit will not be substantially more detrimental to the neighborhood than the existing non-conforming use. We need to add that to your motion.

BRENDAN SULLIVAN: So said.

All those in favor?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

* * * * *

(11:00 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Douglas Meyers, Janet Green.)

BRENDAN SULLIVAN: Let me open up

case No. 10197.

There is a request before the Board of an extension of time from the Petitioner. There was granted a Variance and a Special Permit on February 27, 2012, for the above petitioned case, No. 10197. A letter was filed with the office of the City Clerk on December 13th requesting an extension of the expiration of that Variance as determined from the Board of Zoning Appeal.

Let me make a motion then to grant an extension for a period of six months to said Variance and Special Permit starting on February 28, 2013, and ending on August 27, 2013.

DOUGLAS MYERS: Without this extension it would expire on February 28th?

BRENDAN SULLIVAN: Correct.

CONSTANTINE ALEXANDER: That's right, exactly one year.

BRENDAN SULLIVAN: So all those in

favor of granting the extension?

(Show of hands.)

BRENDAN SULLIVAN: Unanimously.

Thank you.

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

* * * * *

(Whereupon, at 10:55 p.m., the
Zoning Board of Appeal
Adjourned.)

* * * * *

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

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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 11th day of January 2013.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
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My Commission Expires:
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