

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MAY 24, 2012

7:00 p.m.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Timothy Hughes, Member
Tad Heuer, Member
Slater Anderson, Member
Douglas Myers, Member
Mahmood Firouzbakht, Member

Ranjit Singanayagam, Zoning Commissioner

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P R O C E E D I N G S

(7:00 p.m.)

(Sitting Members: Brendan Sullivan Timothy Hughes, Tad Heuer, Douglas Myers, Slater Anderson.)

BRENDAN SULLIVAN: Let me call the Board of Zoning Appeal for May 24, 2012, to order. The first case is going to be case No. 10214, 28 Garfield Street.

Is there anybody here interested in that matter?

(No Response.)

BRENDAN SULLIVAN: I see nobody.

The Board's in receipt of a letter addressed dated May 21st. (Reading) To the Board of Zoning Appeal: I respectfully request that the Variance hearing for the work at 28 Garfield be continued preferably until June 28, 2012. The Variance hearing on the plans for the residential renovation at 28 Garfield is currently scheduled for Thursday, May 24th, however, due to

unforeseen events, a new architect has recently been hired to complete necessary design plans for the home and continue with the renovation. I apologize for the inconvenience. Thank you for your time and consideration. Rishi Reddi.

This is case No. 10214. All those in favor of accepting the request for a continuance until the 28th -- actually, I'm sorry, until June 28, 2012, at seven p.m. on the condition that the Petitioner change the posting sign reflecting case No. 10214, maintain that sign as per the Ordinance requirement, and that any addition, changes to the plans, be in the file by five p.m. on the Monday prior to the June 28th hearing.

All those in favor of accepting the continuance.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hughes, Heuer, Myers,

Anderson.)

(7:00 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Douglas Myers, Slater Anderson.)

BRENDAN SULLIVAN: The Board will hear case No. 10224, 28 Garfield.

Anybody interested in that matter?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance. The Board is in receipt of correspondence dated May 21st. (Reading) To the Board of Zoning Appeal: I respectfully request that the Variance hearing for the work at 28 be continued preferably until June 28th. Due to unforeseen events, a new architect has recently been hired to complete necessary design plans for the home and continue with the renovation. I apologize for the inconvenience. Regards, Rishi Reddi, R-i-s-h-i R-e-d-d-i.

On the motion to continue the matter until June 28th on the condition that the

Petitioner change the posting sign reflecting case 10224 to reflect the new date of June 28th and time of seven p.m. Any changes to the file be in the file -- any changes to the documents already in the file be resubmitted by five p.m. on the Monday prior to the June 28th hearing.

And there is waiver of the statutory requirement for a hearing in the file.

All those in favor of accepting.

(Show of hands.)

BRANDON SULLIVAN: Five in favor.
And the matter is continued.

(Sullivan, Hughes, Heuer, Myers, Anderson.)

(7:05 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Douglas Myers, Slater Anderson.)

BRENDAN SULLIVAN: 498 Franklin Street. The Board will hear case No. 10235, 498 Franklin Street.

Is there anybody here interested in that matter?

(No Response.)

BRENDAN SULLIVAN: The Board sees nobody. The Board is in receipt of correspondence dated May 15th to Mr. Sean O'Grady. (Reading) Per our discussion, we are hereby withdrawing our application for a Variance to excavate our basement at 498 Franklin Street into habitable space. We want to continue our request for a Variance Special Permit for the bay window. There has been confusion both on whether it requires a Variance or a Special Permit, leading me to believe that a Special Permits do not require

advertisements.

Which is not correct.

(Reading) We kindly request that we are continued to the earliest date possible after our originally scheduled May 24th hearing. As discussed, our neighbors are familiar with our plans and have been completely supportive from the start so there should not be any surprises. Many thanks, Joshua Meyers, M-e-y-e-r-s. And --

TAD HEUER: Sorry. Are they withdrawing the Variance request because they think they need a Special Permit for the basement or the basement is off the table?

BRENDAN SULLIVAN: The Special Permit to alter the windows and a door in the setback is still on the table. The Variance to excavate the basement is off the table. They're asking to withdraw the Variance, but they're asking to keep the Special Permit part alive.

TAD HEUER: Right. And they're not suggesting that they think they need a Special Permit for the basement?

BRENDAN SULLIVAN: There was some confusion and some discussion which is going on.

TAD HEUER: Okay.

BRENDAN SULLIVAN: Ranjit, do you know of an available date for --

RANJIT SINGANAYAGAM: Actually, yes.

BRENDAN SULLIVAN: -- we're talking 498 Franklin Street. There are three continued cases on June 14th. 1, 2, 3, 4, 5 on the 28th. And we could do July 12th.

RANJIT SINGANAYAGAM: You've got four cases. Three of them are same.

BRENDAN SULLIVAN: And three of them may go away. So why don't we put in 498 Franklin on July 12, 2012, as a case not heard.

On the motion, then, to continue this matter until July 12, 2012, at seven p.m. on the condition that the Petitioner again change the posting sign to reflect the new date of July 12, 2012, and the time of seven p.m. And that the sign be maintained as per the requirements of the Ordinance.

That any changes to the documents now in the file be submitted in the file by five p.m. on the Monday prior to the July 12th hearing.

There is a waiver in the file.

RANJIT SINGANAYAGAM: Should be.

BRENDAN SULLIVAN: I'm sure there is from the last time, too.

TIMOTHY HUGHES: Maria usually marks it on the front of the file.

BRENDAN SULLIVAN: Letter of waiver we have, yes. Okay.

On the motion, then, to continue this matter until July 12th.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hughes, Heuer, Myers,
Anderson.)

BRENDAN SULLIVAN: The matter is
continued and is a not heard.

(7:10 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Douglas Myers, Slater Anderson.)

BRENDAN SULLIVAN: The Board will hear case No. 10238, 69 Thorndike Street.

If you will introduce yourself for the record.

EDRICK VAN BEUZEKOM: My name is Edrick Van Beuzekom, V-a-n B-e-u-z-e-k-o-m from EVB Design. I'm the architect for the project and I'm with my clients here, Lynne Reilly. Lynne with an e L-y-n-n-e and Paul Koner, K-o-n-e-r.

This project is at 69 Thorndike Street. It's a Greek revival house that Paul and Lynne have restored very nicely over the years since they've owned the house. They approached me initially with an issue they have. It's a two-family and we've gone back and checked the records through the -- with

the Historic Commission and downstairs, the Building Department, and it looks like it -- at least as far back as the 1940s it's listed as a two-family.

The second unit, which is a rental unit, which is in the rear of the house, only has one means of egress. There's only one stair out. So, basically they approached me to look at how can we get a second means of egress out of there? The -- because of the historic nature of the house, we really tried to look at ways to do it without impacting the exterior adversely, tried to do something sympathetic with it. And as part of that work, we're restoring a few things.

We're taking care of a few odd things that were on the house previously. I have some photos. I'll pass these around. The photos show, the -- let me just explain. On the lot, basically it's a very long and narrow lot, and it's a long and narrow house. So

there's a fairly big yard on one side of the house is located entirely up against the property line on one side. There's also a big open space adjacent to where their yard area is. So the house faces into that open space. This is a view showing from the street looking down into that corridor area. This is a view of the house from the other side. And this is a view of the house from the street showing the open space to that side of the house. And this is just a closer up view of that side of the house. There's at least two bay windows here which we basically want to get rid of and replace with windows as part of the work. And anyway so the approach we've taken to getting the second means of egress is to come out of the -- and I have some 3-D views here that explain it as clearly as we can. Basically to put in a door and to get out to a balcony. And over the rear entrance, which currently has a very

small sort of roof bumped out over the door there, to replace that with a new entrance porch that's more in keeping with the character of the house. Basically get over to there and then take a spiral stair from there and down into the backyard.

Coming outside of the house, the rear stair actually comes down in this back area here. So the idea was to get out, separate the access as much as we can. And then once you're outside, we looked at possibly bringing the stair down in the middle here, but felt that that impacted the side really in a way that was unattractive and also impacts the yard area here, too. So we really -- we wanted to push it towards the back here.

TAD HEUER: Where is your first means of egress?

EDRICK van BEUZEKOM: The first means of egress is an interior stair that

comes out the stair.

TAD HEUER: Just so I have a sense because on the plans, A-12, sorry, A1-1. You're showing that the new egress deck to run the length of the house in the rear from the kitchen through the living room is, there a door there?

EDRICK van BEUZEKOM: It's right there?

TAD HEUER: Yes.

EDRICK VAN: Yeah, that's an opening.

TAD HEUER: So the opening runs through to here and out here; right?

EDRICK van BEUZEKOM: It does also, yes. We're putting in a door here so you can get out here to get out. Yes, so you can also get out there and come down the stairs there.

TAD HEUER: Okay. So can you just show me which rooms are part of unit one and which rooms are part of unit two?

EDRICK van BEUZEKOM: These views.

DOUGLAS MYERS: Why don't you hold up the plan? Excuse me for interrupting because I have the same question.

EDRICK van BEUZEKOM: Okay. Yeah, unit two, the rental unit, the second floor which has this room which is a bedroom with a bathroom here. Kitchen here, and another -- a living space over here. So it's basically it's -- that's the unit on this floor.

TAD HEUER: Right.

EDRICK van BEUZEKOM: So you have one exit, existing exit here. And what we're trying to do is get it one that's away from that over here.

TAD HEUER: And on the ground floor, what's part of unit two, anything?

EDRICK van BEUZEKOM: Ground floor, this is all part of unit one except for -- well, there's the entrance here with

the -- and I guess you can consider this part of unit two. So there's this room and then there's this stair up, so it's basically that plus this.

TAD HEUER: All right. So it's the room marked office at the rear of the first floor?

EDRICK van BEUZEKOM: Yeah.

TAD HEUER: The stairway up, and then the room marked on the second floor on the rear of the house, living room?

EDRICK van BEUZEKOM: Living room.

TAD HEUER: -- kitchen/breakfast and a bedroom.

EDRICK van BEUZEKOM: Yes.

TAD HEUER: And it's one bedroom. It's a one bedroom unit with four rooms?

EDRICK van BEUZEKOM: Yeah.

TAD HEUER: In terms of the need for the long running deck out from the kitchen --

EDRICK van BEUZEKOM: Out from here?

Yeah.

TAD HEUER: It seems like it would make -- if this is all connected through, that it would make more sense to minimize the amount of FAR you need --

EDRICK van BEUZEKOM: And just come out here?

TAD HEUER: -- to just come out the living room onto that space down the spiral. What's the need for that?

EDRICK van BEUZEKOM: The reason is the remoteness. I mean, it's not very remote, but it's a little bit more remote. This is something we went through with -- at the Building Department with the inspectors. That they felt that if we just exited here, that was not -- that you'd have to cross in front of the exit to this. If you're in the bedroom, you'd have to cross in front of this exit to get to that one.

SLATER ANDERSON: Does that have a

door on it, that stair going down?

EDRICK van BEUZEKOM: The stair going down, yes. So they were saying, they wanted us to, you know, to push it out here. We originally we thought we were gonna have to put it out from the bedroom here. And they said if we moved it into this kitchen space, that that was still, that was remote enough because you got out before you reached the stair here.

BRENDAN SULLIVAN: And it's the area below that which is added to the FAR?

EDRICK van BEUZEKOM: Exactly, yeah.

TIMOTHY HUGHES: That's all the additional FAR is underneath that run of --

EDRICK van BEUZEKOM: It's under this, and the fact that the rear porch is a little bit bigger than the existing. And then the other FAR, which the other part of the project which I haven't presented yet,

which is for the existing stair to the third floor there's a headroom issue there. The owners would like to basically use the bedrooms up here as a master bedroom. So we're proposing a small dormer, shed dormer back here on this side to get adequate headroom over the stair and as part of that to squeeze in a little bathroom here.

BRENDAN SULLIVAN: What are the rooms being used for now up there?

LYNNE RILEY: This is my office and that's my daughter's bedroom.

BRENDAN SULLIVAN: All right, so everyday you go up and down the existing stair?

EDRICK van BEUZEKOM: Yeah. But it's a head banger. It's -- there's probably five feet of headroom where you make the turn here.

BRENDAN SULLIVAN: At the landing?

EDRICK van BEUZEKOM: Yes. So you

have to duck right there.

LYNNE RILEY: Or you go in very close to the edge here. And if you notice these stairs, it's like a hairpin turn here when you go around the edge.

BRENDAN SULLIVAN: And that doesn't look like it conforms to the dormer guideline at all.

EDRICK van BEUZEKOM: It does in width, but it does not in pulling it back. Again, because of trying to get the headroom for the stair, we needed to come out to the exterior wall rather than holding back from the exterior wall.

TIMOTHY HUGHES: The stair hugs the wall, the exterior wall?

EDRICK van BEUZEKOM: Yeah, I think the dormer guidelines ask you to be back 18 inches from the rear wall.

DOUGLAS MYERS: What are your side wall measurements on the dormer? Your side

wall setback.

EDRICK van BEUZEKOM: In terms of the height?

DOUGLAS MYERS: From the side walls? Is it three feet, six inches as required by the --

EDRICK van BEUZEKOM: We're really.

DOUGLAS MYERS: -- guidelines.

SLATER ANDERSON: Two feet, eleven. Maybe less.

TIMOTHY HUGHES: I hate to use the word required when you're talking about guidelines.

DOUGLAS MYERS: Recommended.

EDRICK van BEUZEKOM: We're about eight inches from the property line on that edge. So seven and a quarter. So we're really right at the property line.

TAD HEUER: Doug, is your question about the property line or is it about from the rear of the gable?

DOUGLAS MYERS: The side wall,
the --

SLATER ANDERSON: The gable end.

DOUGLAS MYERS: What the guidelines
refer to as a side wall.

EDRICK van BEUZEKOM: There we
are -- I guess I didn't put a dimension there,
but that's approximately 18 inches in from
the rear wall. So, I mean part of the idea
was to push this, you know -- we're getting
it over the stairs, but we were pushing back
from there in order again to go forward of it
because of the visibility of the street. If
you look at the photo of the house from the
street, you'll see. I'll show you a 3-D view
here. And here's a 3-D view which matches up
with the photo there.

DOUGLAS MYERS: Thank you.

BRENDAN SULLIVAN: Would that work
if you took the bathroom and flipped it on the
other side of the stairwell?

EDRICK van BEUZEKOM: It could potentially, although we have a plumbing stack that we can pick up over here. So that's one of the main reasons for that. The other part is I got the impression from speaking with Charles Sullivan at the Historical Commission who came out and took a look at the house with us. He was happy to see we had kept it back as far as possible so it minimized the view of it from the street.

TAD HEUER: Tangential question, bedroom forward, do you have a closet for that?

LYNNE RILEY: Bedroom four is where the existing bathroom is now.

EDRICK van BEUZEKOM: So we haven't really gotten into any changes in the rooms up there.

TAD HEUER: Right. So you'd need a --

EDRICK van BEUZEKOM: We probably

will be putting in a closet for it.

TAD HEUER: Well, would you have to if you want to keep it as a legal bedroom?

EDRICK van BEUZEKOM: Yeah. Well, we'll probably take it out of bedroom three if this becomes the new master bedroom. But, yeah, we haven't gotten into that.

LYNNE RILEY: Well, this would be the bedroom. Right here there is an opening already, but we Boarded it up in order to give privacy to my daughter and for my Home Office. But you can take down that partition, but this will remain sort of a sitting room office area and this will become the bedroom section. So we would plan a closet in this section.

BRENDAN SULLIVAN: Just doing some numbers. Right now you're at 3419 square feet and you're proposing 3613.

EDRICK van BEUZEKOM: Yes.

BRENDAN SULLIVAN: Which is 200.

EDRICK van BEUZEKOM: Just under

200.

TIMOTHY HUGHES: 194?

BRENDAN SULLIVAN: 195. 0.85 to a 0.90 in a 0.75 district.

EDRICK van BEUZEKOM: Yeah.

BRENDAN SULLIVAN: Okay. And the hardship?

EDRICK van BEUZEKOM: The hardship is owing to the configuration of the house on the lot, being a narrow lot, the options for where to get egress out from the --

BRENDAN SULLIVAN: Is there no evidence of another stairway out of that?

EDRICK van BEUZEKOM: A previous stair?

BRENDAN SULLIVAN: Yes.

EDRICK van BEUZEKOM: No, I think what.

BRENDAN SULLIVAN: That maybe was taken out and captured for interior space or something?

EDRICK van BEUZEKOM: No. I think what had always been done is that the exit had been through the -- where the bathroom is here and in through the exit was in through the other unit basically.

BRENDAN SULLIVAN: Has it always been a two-family?

EDRICK van BEUZEKOM: Yes.

BRENDAN SULLIVAN: I mean always used as a two-family?

LYNNE RILEY: Yes.

BRENDAN SULLIVAN: Will it always remain a two-family?

LYNNE RILEY: Yes.

BRENDAN SULLIVAN: You intend to live in the front part and rent the back?

LYNNE RILEY: Yeah, this is the rental unit.

BRENDAN SULLIVAN: It's going to remain a rental?

SLATER ANDERSON: It's occupied

currently?

LYNNE RILEY: It's been a rental.

BRENDAN SULLIVAN: Okay, any questions? Doug?

DOUGLAS MYERS: Well, how would you apply your hardship argument for the creation of a roof deck?

EDRICK van BEUZEKOM: The roof deck. Well, the roof deck is basically an area of refuge from the third floor here. And there's, again, there's no -- we're trying to get a little bit of private space up there. Because of the configuration of the house being so close to the lot on one side and it being such a narrow lot, there's no way to do that without violating the side yard setback. So, that's basically our argument on the hardship there.

TAD HEUER: How tall is the wall on your left side for that deck? Right here.

EDRICK van BEUZEKOM: That wall?

We're trying to make that approximately --

LYNNE RILEY: Five.

EDRICK van BEUZEKOM: Five feet tall I think we had it. The idea being to provide privacy so that the -- you're not looking into the neighbors on the other side of the deck. And we're also holding it away from that side for that reason. You can see it here in the view from that side.

TAD HEUER: Doesn't that kind of extend the line of the house out another --

EDRICK van BEUZEKOM: Well, it's set back considerably from that.

TAD HEUER: It can't be set back --

PAUL KRONER: It's set back five feet, four inches from the edge of the house.

EDRICK van BEUZEKOM: This wall.

TAD HEUER: Well, it can't be set back really conservatively because we're talking about a side yard setback.

EDRICK van BEUZEKOM: Yeah. Well, I mean we're trying to move it as far away as we can, but still give a usable space out there.

SLATER ANDERSON: So it's nine feet, two inches wide. About --

EDRICK van BEUZEKOM: Yeah.

SLATER ANDERSON: -- two feet of which are the inside yard.

EDRICK van BEUZEKOM: This might be helpful to see.

TAD HEUER: It's a rather substantial area of refuge.

DOUGLAS MYERS: Roughly nine by ten.

EDRICK van BEUZEKOM: My idea is to just be able to put a couple chairs out there and, you know.

TAD HEUER: Is that refuge in the emergency sense or refuge in the pleasurable sense?

EDRICK van BEUZEKOM: I think it's

both. It is both.

TIMOTHY HUGHES: A place to hang until the helicopter picks you up? Yes.

EDRICK van BEUZEKOM: The other piece of this is we're proposing to go do a green roof on the flat roof. So we wanted to have a door on the back to get access onto the roof as a way to get out there and maintain it. So --

LYNNE RILEY: I mean, you're overlooking a very beautiful area. I mean, Joe and Susan Kirylo my neighbors, have a beautiful garden area. We have a beautiful garden area. And really we have a photo that shows the view from the roof which is very -- you know, those are the trees. Those are -- this is Joe's yard and Joe's here.

PAUL KRONER: Looking down the Third Street deck down behind those trees, you can't see it.

LYNNE RILEY: It's very thickly

foliated.

DOUGLAS MYERS: Does he have a roof deck?

LYNNE RILEY: He does, yes. Well, it's not a roof deck --

DOUGLAS MYERS: It's a balcony on the second floor.

LYNNE RILEY: A balcony, yeah, which is about the same size, I thin, the balcony or deck that we're proposing.

EDRICK van BEUZEKOM: There are a number of roof decks in this neighborhood.

LYNNE RILEY: Yeah, there's two further behind that.

EDRICK van BEUZEKOM: It seems to be a common --

BRENDAN SULLIVAN: I would be careful about the green roof, if Google gets wind of it and they want to expand into it.

PAUL KRONER: They said they'd give us a dog park.

BRENDAN SULLIVAN: They'd be looking for the capture of that area.

Okay, anything else at this -- I'm sorry, you had some questions anyhow.

DOUGLAS MYERS: Are there any other shed dormers on Thorndike Street?

LYNNE RILEY: Yes, right across the street. Kevin's house has a shed dormer.

DOUGLAS MYERS: Is that the large white house?

LYNNE RILEY: No, it's a yellow house with brown trim.

PAUL KRONER: There's a -- it's not on Thorndike, but when you go to Otis, there's a grey Greek revival that has dormer sheds on both sides of the house.

LYNNE RILEY: On both sides.

PAUL KRONER: Between Sciarappa and Sixth done by a couple of architects who live in that house. So they're quite beautifully done, the dormer sheds.

TAD HEUER: Did you explore the option of a gable dormer at all?

EDRICK van BEUZEKOM: We didn't because of the width of it and the roof is relatively low so the gable would have been a very flat pitch basically on the main house.

TAD HEUER: What's your pitch?

EDRICK van BEUZEKOM: The pitch on the main house?

TAD HEUER: Yes.

EDRICK van BEUZEKOM: I think it's about eight and 12 maybe. It's between -- I think we pulled it out. It's between a six and 12-pitch. It's pretty shallow. I mean, it's a typical Greek revival. It's between seven and 12, somewhere in that range. But, yeah, I mean you often see the small gable dormers on Greek revivals which gives you the ability of a steeper roof on it, but once you get this width, it's hard to do that.

BRENDAN SULLIVAN: Okay. Anything

else, Doug, at this time?

DOUGLAS MYERS: No.

BRENDAN SULLIVAN: Slater, any questions?

SLATER ANDERSON: Is there a Special Permit needed for the windows in the dormer in the side yard?

BRENDAN SULLIVAN: It would be all as part of the Variance request.

SLATER ANDERSON: Part of the Variance?

LYNNE RILEY: It will be frosted glass, and our neighbors on that side are here as well.

PAUL KRONER: And the neighbors on both sides are here to support us tonight.

TIMOTHY HUGHES: Can you show me the elevation with the dormer side?

EDRICK van BEUZEKOM: Yes.

TIMOTHY HUGHES: Thanks.

BRENDAN SULLIVAN: Okay, Slater,

anything else at this time?

SLATER ANDERSON: Not right now.

BRENDAN SULLIVAN: Tim, any questions?

TIMOTHY HUGHES: No, I'm ready to hear public testimony.

BRENDAN SULLIVAN: Tad?

TAD HEUER: No.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on case No. 10238, 69 Thorndike Street? If you would please identify yourself, spell your last name and give us your address for the record.

RHODA FANTASIA: My name is Rhoda Fantasia. I'm the owner of record of at 93 Third Street and an abutter to the property at 69 Thorndike Street, and I am in opposition to the petition granting requesting of a Variance for the construction of a dormer and

a roof deck. The dormer, I feel, will have -- will be a negative impact visually on a house that has very lovely classical lines of smooth and sleek roof line unencumbered at the moment. I don't think it's in keeping with the original design of the house.

As for the roof deck, I'll be able to see -- it's more a personal issue. I'll be able to see the roof deck from the second and third floor of our back windows from the townhouse. And I expect there should be social gatherings, ambient noise. Basically I'm opposed to roof decks in a dense area like East Cambridge and would rather not see a roof deck on the second level of this structure.

BRENDAN SULLIVAN: Okay.

RHODA FANTASIA: Thank you.

BRENDAN SULLIVAN: We have your letter in the file which we have already reviewed.

RHODA FANTASIA: Thank you.

BRENDAN SULLIVAN: Is there anybody else who wishes to speak?

MARIA SACCOCCIO: Maria Saccoccio, S-a-c-c-o-c-c-i-o. I'm an owner of 55 Otis Street. It's just right around the corner from this particular building. I also am opposed to the dormer which is, I think, an immense one, and the roof deck. Every time I've signed on for someone who petitioned for a roof deck, within a year the house is for sale. So there's no -- although this particular owner I'm sure is very reliable and she's done a beautiful job with her restoration, but there's no guarantee. I mean, this runs with the land no matter who's the owner. We're gonna have that roof deck and we're gonna have that dormer so there's no guarantee that anyone as responsible five years from now is gonna be in the premises. We live in a historic row. It's

a brick Greek revival. Immediately next door, I mean, people have great aspirations. Now we have a frat house. Everyone's from MIT. You don't know what's gonna happen. This is something that's going to be based on hardship. I mean, I've heard the architect here saying it's an incredibly narrow lot. All of our lots in East Cambridge are incredibly narrow. All of us could use a little more space in our attics. I'm not here asking for it. I mean, if you really are encumbered because the space is too small, just don't rent the second apartment, that's it. I'm not opposed to a second means of egress or anything else.

BRENDAN SULLIVAN: Anybody else wishes to speak on the matter?

Yes.

JOE KIRYLO: My name is Joe Kirylo, K-i-r-y-l-o. I reside next-door. I have the largest lot, and I would like to say that

over the years or close to two decades these people have taken excellent, excellent care of their property. And they're gonna remove those bay windows up there, I believe, and put something in there that will look more in tune with the character of the house which I think is an -- extremely a plus. And as far as from where I sit, looking across at the house, it's a beautiful house. There's a lot of trees there. I don't expect really to see anybody out there because of the greenery and what not. And why in God's name wouldn't anybody want people to sit outside or have a roof deck or whatever in this gorgeous weather? I find it mind boggling. And the other thing, too, is there is really no noise coming from that direction. The noise would come from the rear of my house towards Third Street where I hear noise. And the other thing that I can say, too, is just a point of information, I believe I look at 93 out the rear of my window,

and there's graffiti all over the house and I don't understand why such concerns would take place over improvement of the neighborhood, you know? I think it's just -- I think it's crazy. I think these people should get the permit and be allowed to do what they want to do. And I'll be living with it for the rest of my life there next to these people I'm sure.

BRENDAN SULLIVAN: Yes.

BETTY SACCOCCIO: My name is Betty Saccoccio and I live at 55 Otis Street in Cambridge. It's, again, a Greek revival brick building. It is on Otis Street. The corner of Otis and Third, and next-door to us -- I will echo again what we went through three, four years ago with renovations being created and what not, and then a frat house. I'll say it again, it's nothing but a frat house. Noises, whatever we get. Decks are being built in our neighborhood whether they

come through you people or not, that's two different things, maybe people need to go down and look and see who pulled a permit and who did not. But there are decks. And with those decks come safety. For instance, in a windstorm, for instance, we have particles blowing all over the place from people's roofs and what not. We have noise to be considered. We also have had occasion where we have had to call the fire departments with the roof decks because people decided that they wanted to have a barbecue in this lovely, lovely weather. So, you know, we're at, you know, a standstill maybe as to, you know, maybe we have a small area, that's correct. We have small areas, small yards, whatever, and there's nowhere to expand. That's the reality of it. So what do you do in a case like that? You just can't go further and further. And plus I have a problem with people building up high. There are shadows

that are created, different wind tunnels are created. I think that's all I'm going to say.

BRENDAN SULLIVAN: Okay, thank you.

MARYANN NUGENT: My name is Maryann Nugent, and I am one of the three owners of the property directly on the short side where the house sits right on the property line, and we had some concerns when we, when we first looked at the plan. And my brother and I met with Lynne and they agreed to make that roof deck smaller. Because originally the deck was supposed to be much larger, and we had concerns because it sits on the second floor of their home, but looks at the whole side of our house, and they were willing to work with us and make it smaller. And they do have a curtain wall. But the other thing was the dormer is on our side of the house, and Lynne has agreed to frost those windows that would be in the bathroom. And I just think that

Lynne and Paul have done a great job restoring that house, and I, I wouldn't want to see them stopped.

BRENDAN SULLIVAN: Okay.

MARYANN NUGENT: I think it would be the same.

BRENDAN SULLIVAN: Anybody else?

PETER CROWLEY: My name is Peter Crowley and I live at 88 Thorndike Street just down the block from Lynne and Paul, and I bought there in 2005 and I have always admired the upkeep and stewardship of the Kroner-Riley home. It is one of the prettiest homes in the neighborhood. They've done a great job restoring it. I think this level of care and design sensitivity going into these improvements assures that it is done in the sensitivity to the historic nature of the house, to the betterment of the whole community, and I would hope that the Board would encourage

this type of improvement and investment in our community. We do live in a city. East Cambridge is part of the city, and we have to build community and share in each other's lives. So if you see somebody having a barbecue in their backyard, I don't think that's cause for your personal hardship. So I really don't understand why people oppose other people improving their properties for things like open space. And as far as I have seen from the drawings, this is, you know, a highly tasteful presentation. And I'll say one last thing: I sit on the Cambridge Climate Protection Action Committee and we spend a lot of time with city planners trying to get homeowners to invest in green aspects for their homes. We -- the city spends a lot of time and it burns up a lot of time. Here are citizens who are doing this voluntarily at their own cost and I think the city and the city board should support this.

BRENDAN SULLIVAN: All right, thank you.

Anybody else wishes to speak on the matter?

LYNNE RILEY: Can I respond?

BRENDAN SULLIVAN: In a minute. Let me go through this and you'll have a chance to respond.

There is correspondence in the file from Ann and Richard Taylor who live at 66 Thorndike. (Reading) We're neighbors of Paul Kroner and Lynne Riley. We have reviewed their plans for adding a second egress to the rental unit, a dormer to accommodate a bathroom with water source to roof, a small roof deck, and a green roof. We support their plans and believe it will provide needed egress while significantly enhancing the historical appearance of the size of the property. A green roof benefits the sustainability of our community and we

support their plans.

There is correspondence from a Matthew Wolfe, W-o-l-f-e of 89 Thorndike Street.

(Reading) The purpose of the letter is to support the application of Paul Kroner and Lynne Riley. I'm a neighbor of Paul and Lynne. Our family lives at 89. I'm writing in support. They are great neighbors. They have owned 69 for a number of years.

Mr. Kroner and Ms. Riley. And they have made significant improvements to their property and they would encourage -- Mr. Wolfe would encourage it as long as it's not detrimental to their surroundings and so he would voice his support.

There is correspondence from David Deswaam, D-e-s-w-a-a-m; Arons, A-r-o-n-s, and Peggy Martheze, M-a-r-t-h-e-z-e, 102 Thorndike. We live at 102 Thorndike and writing to express our support of the

proposed project at 69 Thorndike. They strongly support the proposed changes and think it will enhance the property 100 percent in a positive manner for the community as well as for the owners.

There is correspondence from Allister and Abigail Lewis Bowen, B-o-w-e-n. They live at 158 Thorndike Street. Writing in support of the application. I'm just sort of paraphrasing here because it's much the same sympathies and expression of gratitude for the work that they've done at the house and feel that this will enhance the property.

There is correspondence from Fred Mirliani, M-i-r-l-i-a-n-i, 79 Thorndike Street, and he and Mr. Kroner and Ms. Riley are both committed to maintaining and improving our neighborhood and both live in late 19th century Greek revival houses. They also show an admiration for the design and an infinity for maintaining our houses in

their historical elegance. And that the proposal would be an aesthetic improvement to their house and add value to the neighborhood.

There is correspondence from Jim and Colleen Sleeper, S-l-e-e-p-e-r, 85 Third Street, who also voice their support. They have reviewed the plans, and that what they propose maintains the historic integrity of the home and it will address the hardship, the egress hardship. Once again we feel the architectural drawings provided are thoughtfully and carefully done and reflect the plans Lynne and Paul have in maintaining the historical integrity of the their house.

There is correspondence from James McAvoy, 109 Thorndike who he's the neighbor and he asked the Board to vote in favor of the Permit for the relief that is being requested.

There is correspondence in the file

from Paul Fiore, F-i-o-r-e, 534 Cambridge Street, writing in support of the application which will be heard. He's a resident of East Cambridge and a neighbor of the applicant. He was present when the applicant presented the proposed project to the East Cambridge Planning Team. He's also an architect and has undergone similar renovations to his home at 98 Otis Street. He appreciates that the applicant has taken great care to maintain the original detail for the main body of the house over the years and is utilizing like detailing for the addition in the rear of thereby improving it from its present state. I view the proposed alterations as improving the streetscape of our neighborhood and adding to the overall public good.

There is correspondence from Peter Crowley and Wen-Hao Tien, W-e-n-H-a-o T-i-e-n. 88 Thorndike Street. They're neighbors and they're writing in support of

the petition at 69 Thorndike. (Reading) We support the modest and tasteful changes proposed by Paul Kroner and Lynne Riley to their home and petition you to grant them the Zoning relief that they require.

There's also correspondence from Rhoda Fantasia which is in the record, the Board has reviewed and also she was here and spoke.

There's also correspondence from Joe Kirylo who also spoke.

There is correspondence on the letterhead of the Cambridge City Council. (Reading) Dear Board Members: I'm writing in support of case No. 10238, an application of Paul Kroner and Lynne Riley to expand the existing house with the addition of a third floor dormer to accommodate a new bathroom, to construct an addition of a second floor deck, and egress stair in order to provide second means of egress for an existing dwelling unit. Paul and Lynne are long-time

Cambridge residents and are committed to the neighborhood. They're looking to improve their property and are doing so with an eye to historical integrity of their home. The Variance will also allow them to improve the safety of the existing unit by adding a second means of egress. Thank you for your attention and I hope you find in favor the applicant's request. Tim Toomey.

There is correspondence from the Cambridge Historic Commission to Mr. Singanayagam. (Reading) Several parties, including the applicant have asked me to comment on the application of Lynne Riley and Paul Kroner the above-referenced case, 69 Thorndike. The Greek revival George Stevens house at 69 Thorndike was built in 1844 and is one of the several important buildings from that period that make up East Cambridge National Register District. It was recorded by the Historic

American Building Survey in 1963. The current owners have been good stewards of the house. They have preserved the exterior, restored important interior features, and landscaped the yard to the benefit of passerby. Their current project seeks to add a dormer on the north slope of the roof, a roof deck, and an egress balcony and staircase. Two disfiguring bay windows will be replaced with appropriate sash windows. In my opinion the alterations will not significantly detract from the character of the house as seen from the street, and I have no objections to the work proposed Charles Sullivan, Executive Director.

And that's all the correspondence.

Did you receive any opinion from the East Cambridge Planning Team at all on this?

LYNNE RILEY: No. They never followed through. I did go and present it to them, but I have not had any correspondence

or communication with them since.

BRENDAN SULLIVAN: Okay.

All right, I will close public comment part and if you wanted to --

LYNNE RILEY: I just wanted to address the concerns of my neighbors regarding the roof deck and also just expand upon Charles Sullivan's comments about being the stewards of an historic home. I've lived in this home for 25 years, since 1987. I've lived in the neighborhood for 31 years. I have a long list of things that I have done over the years in the home. We bought that property and it was vinyl sided. All of the detail work had been hacked off in order to accommodate the vinyl. We rebuilt all the corner columns. We replaced all the windows with six-over-six and nine-over-nine wood windows. The shutters, the original wood shutters were painted into the walls. We removed them. We sanded them down to the

milk paint, restored all the hardware, and now they are a functioning feature of our home. They close in the winter. They are energy conserving. We restored the beehive oven that again had been painted, layers and layers of red paint. Sanded that down. Restored the fireplace that was in the original kitchen. The blanket warmer. The water urn. The pumpkin pine floors had all been, you know, layered with layers and layers of paint. We've restored those. We've hunted down, you know, old pumpkin pine to replace the planks. You know, every year that property has required something, and it is a stewardship, and I look at living in that home as a privilege. And I would not do anything to -- do anything to detract from the beauty of that home.

In terms of what we want in the attic space, I -- you know, I work very hard. I'm an attorney. I teach at two law schools, and

I work at home sometimes. And I'm not going to be going out on my roof and entertaining anybody out of Paul's and my bedroom. I work up there, you know, but I also work outside of the house probably 60 to 70 hours a week between my teaching and my practice downtown. So I do want to ensure, you know, neighbors who would be concerned about that, it is I believe a 90-square foot deck. We -- in terms of the green space, I mean Paul and I have looked into putting a green roof on this property for the last, you know, five years. We at first were very concerned about the load and we have, you know, met with the company that we intend to utilize, but we do still need to meet with the structural engineer to ensure that the roof can accommodate the load that a green roof would place upon it. So, you know, I am looking for a place of tranquility, not a place of partying. I just want to be able to go out in the morning, you

know, keep the coffeepot upstairs and sit outside and maybe late at night when we're done working -- and Paul also has an art studio outside of the house. So he spends a lot of time there. So there is not going to be traffic on this roof other than to sit and maybe have a cup of coffee in the morning, have a glass of wine in the evening, and to take care of the green roof. I mean that's basically what we're looking for. I am not moving from this house. I've been in that -- I love this house. So it's -- I want to be able to enjoy it. You know, we work hard, and to me that's an aspect the house that can only bring, you know, some like I said, tranquility and appreciation, more appreciation than I already have for that property.

BRENDAN SULLIVAN: Edrick, on the 194 additional square feet --

EDRICK van BEUZEKOM: Yeah.

BRENDAN SULLIVAN: -- just breaking it down to the egress balcony at the second floor, if we can just -- I'm trying to get the numbers to add up to that 174. If you can just run it through.

TAD HEUER: 194.

BRENDAN SULLIVAN: 194. I don't know if you have those.

EDRICK van BEUZEKOM: You know, I do in the office but I don't have those numbers here. I believe -- let's see, I think the dormer is adding approximately 40 square feet in FAR, and the balance of the FAR is all from the balcony and the porch.

BRENDAN SULLIVAN: Okay. Does a deck above the second level --

RANJIT SINGANAYAGAM: It's not FAR.

BRENDAN SULLIVAN: Does not add FAR?

RANJIT SINGANAYAGAM: I don't think the dormer is FAR because under the definition of count floor areas, the count

stairways which leads to areas where is FAR.

TAD HEUER: But the bathroom would?

RANJIT SINGANAYAGAM: The bathroom,
yes.

EDRICK van BEUZEKOM: I counted the
stairs. I guess that would reduce it by
another 20 square feet or so.

BRENDAN SULLIVAN: Right.

SLATER ANDERSON: So the second
level that the -- is the area below the second
egress considered --

BRENDAN SULLIVAN: Correct.
That's FAR.

EDRICK van BEUZEKOM: Yes, that's
what counts.

BRENDAN SULLIVAN: Plus the
expanded roof over the first floor deck. The
first floor deck is not, but it's the roof
area over that which is expanding.

EDRICK van BEUZEKOM: Exactly.

TAD HEUER: But you have some net

from that because you're already covering the first floor deck with something smaller; right?

EDRICK van BEUZEKOM: Yes.

TAD HEUER: So it's not gross what we see here on the second floor --

EDRICK van BEUZEKOM: That's right.

TAD HEUER: -- and a net out whatever you're taking off?

EDRICK van BEUZEKOM: Right. It's three-by-three.

BRENDAN SULLIVAN: Okay.

EDRICK van BEUZEKOM: And we --

BRENDAN SULLIVAN: And I mean the net effect is a .05 increase to the existing house.

EDRICK van BEUZEKOM: Yeah. And the spiral stair, I included that actually in that number, so does that have to count?

RANJIT SINGANAYAGAM: I don't in the spiral stairs there's no roof as such.

EDRICK van BEUZEKOM: So that's part of the number that I included, too. I take the footprint of that whole thing.

BRENDAN SULLIVAN: It may be an exercise should this be granted, that the dimensional form be fine tuned to reflect just so that the numbers are totally accurate. The number that's before us is a high number.

EDRICK van BEUZEKOM: Yeah.

BRENDAN SULLIVAN: And that may be reduced by some refinement of pulling out certain areas.

EDRICK van BEUZEKOM: Okay. I'd be happy to do that.

BRENDAN SULLIVAN: So I think that would be -- I just I would want the dimensional form to reflect the relief that's granted. That's all.

EDRICK van BEUZEKOM: Yeah, okay.

BRENDAN SULLIVAN: And going

forward, that number may come into play down the road or something like that, you never know. It's just that it should be accurate.

EDRICK van BEUZEKOM: Yes, understood.

BRENDAN SULLIVAN: And it can be done.

Okay, anything else to add?

PAUL KRONER: I just want to make sure you saw this. This is the view from the roof looking over to Joe's house which is this structure right here, and then back over to Third Street which is another, you know, 30 or 40 feet back there. This is what it looks like from now until the fall. There's very little visibility down through those trees. It provides a beautiful canopy and a sense of privacy from us -- for us and our neighbors. So I just wanted to --

BRENDAN SULLIVAN: You don't have a January 22nd picture, huh?

PAUL KRONER: We're not really planning to have social gatherings in January.

TIMOTHY HUGHES: You're not going to sit in the deck on January? Oh, you faint of heart.

TAD HEUER: So if I'm right, the intrusion for the deck is into the side yard setback. What can you do as of right up there?

EDRICK van BEUZEKOM: As of right we can probably take another two feet off -- I think because of the narrow lot, we can go with a side yard setback as a minimum of seven-foot, six. So we're at about five-foot, six now I think.

TAD HEUER: Right.

EDRICK van BEUZEKOM: So, yeah, if we knocked another two feet off of that, it makes it pretty narrow, but yeah, you could.

SLATER ANDERSON: What's at

seven feet?

PAUL KRONER: What's this?

EDRICK van BEUZEKOM: If we pull this out --

PAUL KRONER: It's already five-foot, two in.

TAD HEUER: I understand. I'm asking what could you do without us granting you any relief by right?

PAUL KRONER: Okay, gotcha.

TAD HEUER: I mean, the point is you can put a deck up there of some size without any relief from this Board whatsoever. And my question is what is that? And if that, you know, if you're saying I think --

EDRICK van BEUZEKOM: That would end up about seven feet wide.

TAD HEUER: Right, seven-by-ten.

TIMOTHY HUGHES: So basically we're granting relief on a deck of about 20 square feet in the side yard setback?

TAD HEUER: Yes.

TIMOTHY HUGHES: Out of 90, right?

TAD HEUER: Yes. I mean my own personal initial thought is that it's certainly not a, you know, a ten-by-nine deck is nice. We frequently see people coming in asking for a ten-by-seven deck because what they've got off the back of their porch is ten-by-four or a ten-by-five. And they say what I really want is a ten-by-seven, because that way I can get a couple of chairs and a table out there, and, you know, that's going to be exactly what I want. Which leads me to believe having heard that numerous times, that ten-by-seven is a reasonably sized outdoor space. Like do it by right, for me the hardship is going to be a bit difficult getting to why you need setback relief for a Variance for a deck that size when you can have a reasonably sized but smaller deck by right which would still allow you what you

want which is a place to sit, a way to access the green roof. So that's my initial thought on the deck.

My other question is about the dormer in the bathroom. Mr. Myers may come back to this if he wants to. So am I right that the guidelines for distance from the rear wall of the property should be three and a half?

SLATER ANDERSON: Three feet.

DOUGLAS MYERS: Three feet, six inches.

TAD HEUER: Three feet, six inches, right.

BRENDAN SULLIVAN: From the edge of the roof which is basically the -- would be the edge of that portion of the building.

TIMOTHY HUGHES: Right.

BRENDAN SULLIVAN: If you're taking from here.

TAD HEUER: It's the rear gable.

EDRICK van BEUZEKOM: So is that

from the edge of the roof or from the wall?
Because that's the roof has a one foot
overhang there as well.

TAD HEUER: I think it's from the --

SLATER ANDERSON: It's from the
roof.

BRENDAN SULLIVAN: The edge of the
roof.

TIMOTHY HUGHES: We're talking more
about the way it looks more than we're talking
about the actual structure.

TAD HEUER: Right.

So right now it looks like you're
two-eleven.

TIMOTHY HUGHES: Two-eleven. Is it
about an inch off?

TAD HEUER: No, it's about seven
inches off.

TIMOTHY HUGHES: Is it three and a
half? I thought it was three feet.

TAD HEUER: I'm hearing three and a

half, I'm hearing three. Anybody want to give me three and a quarter?

TIMOTHY HUGHES: Okay, seven inches off.

TAD HEUER: Right.

My question is is it possible to get that -- see, we're already going to the side wall and I understand that because you're trying to cover your stair. So you're already violating one of the dormer guideline requirements. My question is can you avoid violating another one? And my question is can you move the shower to where the sink is, put the sink where the shower is, and put your toilet in six inches? You say you have a 30-by-48 shower. If I'm doing my math right, you've got four-foot six-and-a-half where your sink is. So that gives you enough space to put in the shower. Sink on the other side you can get your seven inches back pushing this way and avoid a violation.

EDRICK van BEUZEKOM: I'm not sure if you put the shower in that location it leaves you enough room to get comfortably into this area, but it's pretty tight.

TAD HEUER: You can flip your toilet let 90 degrees; right?

EDRICK van BEUZEKOM: Yeah.

LYNNE RILEY: So we're talking moving the shower where?

EDRICK van BEUZEKOM: Bring the sink over there.

PAUL KRONER: Moving the sink over here, the toilet here, and scooting this in seven inches.

TAD HEUER: Right, and I don't know if that's doable, but if it would, it would make me a bit more comfortable because then you only have the one violation of the dormer guidelines, which is the one I think is kind of necessary because you're trying to cover the existing stair.

EDRICK van BEUZEKOM: Right.

LYNNE RILEY: That doesn't give enough space coming in.

EDRICK van BEUZEKOM: If we put the shower there I'm just worried we won't have enough room. I mean, I suppose if we flip it around, it's tight but we might be able to make that work.

TAD HEUER: Yes, yes.

And my other -- my third question on that, I understand the need for the rest and I get that. My question is did you or historic have any comments about the length of it? And my question is only if I'm looking at your plan, the kitchen plan, all the appliances are on the far side away from that.

EDRICK van BEUZEKOM: Uh-huh.

TAD HEUER: Is it possible to switch the windows and the door which would make your balcony shorter, or was there an expressed desire for that length being

aesthetically --

EDRICK van BEUZEKOM: Well, I think that if the balcony ended over the windows below instead of going to the end of the windows, that would be pretty awkward. But it's also just trying to get that door closer to the bedroom. So it's that issue of remoteness.

LYNNE RILEY: We were surprised we were even able to do -- we thought we were going to have take it all the way over to --

TAD HEUER: Right, you were going to have to run the length of the L.

LYNNE RILEY: Yeah, that's what we were originally told. But they were able to --

TAD HEUER: Okay.

BRENDAN SULLIVAN: Mr. Myers, any questions?

DOUGLAS MYERS: No. Are we at the point of Board discussion?

BRENDAN SULLIVAN: Yes.

DOUGLAS MYERS: We are at the point of Board discussion. Well, I'd like to proceed constructively based on Mr. Heuer's last questions to you. And rather that -- I mean, I had intended to kind of make remarks explaining my position in a formal way and with a conclusion that I was prepared to vote against it. With the conclusion I was prepared to vote against your application, however, wanting to be constructive and focusing on what was -- what were my primary concerns and listening to Mr. Heuer, and in order to save time. Although I ask you and the public to realize this is the only chance we as a Board have a chance to talk among ourselves. We've never talked about this case among ourselves in any way prior to this, so I'm not only commenting to you, I'm discussing it with the Board at the same time. But, if you were able to modify your proposal

both with respect to the shed dormer in terms of the distance from the side wall and the reconfiguration suggested by Mr. Heuer and to proceed as of right with as-of-right dimensions for the roof deck that you wish to build, that would obviate my objections and I would vote to approve. If not, then I would just simply state my position more elaborately and we would have more discussion. That doesn't mean I'm adamant to oppose it, but that's how I would see the proceedings from that point.

BRENDAN SULLIVAN: Okay.

SLATER ANDERSON: Well, I'm -- Mr. Heuer covered the three points I was going to make which is there's a way to do the dormer I think. I understand the need for it, but to do it within the guidelines. There's a way to do the roof deck by right. And the second egress, you know, I don't -- the building inspectors, the

Building Department, if they're saying that we want this second egress to be in a particular place, it seems to me in looking at the floor plan, that, you know, if you put a few more feet down the wall and you already have a door blocking that stair going down which, you know, I don't know if that's a fire door, but could be a fire door, that run of balcony, it seems sort of unnecessary to me. That's my view of it. You know, I think we're giving some leeway on the redevelopment of this creation of this egress and redevelopment of that back door with the roof and the small deck below it, you know, into the rear yard. You know, whereas -- and I respect not pushing it into that courtyard area that you have. I mean, that's an attractive element, but I don't totally get the extension. So what I sort of feel cumulatively is that there's sort of three, three modest overreaches. The egress one,

I, you know, potentially defer to the Inspectional Services. If that's really saying what they want to see, fair enough. I feel like it needs to be scaled back and still achieve what you're doing. And I respect what you've done with the home obviously. And but we're, you know, we're here to see if there's a way to do this in the most -- the least non-conforming, you know, creating a few non-additional non-conforming issues as possible. I tend to confer with both Doug and Tad on their perspectives on it.

BRENDAN SULLIVAN: Okay. Tim, what's your --

TIMOTHY HUGHES: You know, I think that the hard sell on this one is the roof deck. I don't have a problem with the dormer. We already know how I feel about the guidelines. They're guidelines. And it's obvious that one of the guidelines has to be superseded in order to build this thing. It

has to go out to the side wall because that's where the staircase is. It's already hugging the wall. The extra six inches I think is just being picky. You know, that's me. I would give them the six inches. You know, let them build it the way it's constructed. But if they can redesign it and it makes the Board members happy in order to get this passed, then that's fine. I wouldn't belabor that point, that six inches.

As far as the deck is concerned, because it's, you know, the neighbors most immediately affected are in support of it and because it's designed in part for the maintenance of a green roof, I think there's a tradeoff there for the community which I like. And because it's an accessory to, you know, not living space, not dining room space or kitchen space but sleeping area of the house, I don't see that as a problem in terms

of what traditionally could be a problem with a deck. You know? Like overcrowding, cooking, parties, and stuff like that.

So I'd be willing to grant the whole thing as is, but I want to see them get what they need out of this and so, you know, I'd be willing to compromise, too.

BRENDAN SULLIVAN: Are you willing to vote with some modifications?

TIMOTHY HUGHES: Oh, yes, indeed.

BRENDAN SULLIVAN: Okay.

Mr. Heuer.

TAD HEUER: I stated my position.

BRENDAN SULLIVAN: Okay. Can we take the stated positions and markup a drawing just so that we are clear?

Let me just throw this out: Did you want to have us go on to the next case, have you huddle in the back room and come back?

EDRICK van BEUZEKOM: No, I think we're prepared to agree to some changes here

and we can mark it up. You know, we're willing to try to redesign the bathroom and fit it into a shorter dormer.

BRENDAN SULLIVAN: With reference to sheet No. A1.2, the length of the dormer now at 12-foot, six and one half inches, the revised dimension would be?

TAD HEUER: It's less that and more that the dimension from the rear wall now reading two feet, eleven inches would be three feet, six inches.

SLATER ANDERSON: Is it from the rear wall or fascia?

TAD HEUER: The edge of the roof.

EDRICK van BEUZEKOM: The edge of the roof.

TIMOTHY HUGHES: The side wall of the dormer to the edge of the roof.

EDRICK van BEUZEKOM: Yeah.

SLATER ANDERSON: So we want three and a half feet of exposed shingle is what

we're talking about?

TAD HEUER: Yes.

TIMOTHY HUGHES: Correct.

TAD HEUER: And what you choose to do with the configuration inside is not our concern.

BRENDAN SULLIVAN: Then on the new roof deck, we're pulling --

PAUL KRONER: Just before we move on from that, if we look at this and it just seems to work better the way it is, what's the process for us dealing with that?

BRENDAN SULLIVAN: I'm sorry, if you --

EDRICK van BEUZEKOM: In terms of --

PAUL KRONER: If the reconfiguring just doesn't work out, what is the redress or how do we deal with that from a process standpoint?

LYNNE RILEY: If they don't approve it?

TIMOTHY HUGHES: If we approve the Variance with the proviso that it's three-foot six from the back, then you don't have any other process.

TAD HEUER: You can come back.

TIMOTHY HUGHES: Or you can come back with another proposal.

PAUL KRONER: I just want to make sure I understand.

TAD HEUER: I mean, the alternative is to come back, you know, a month from now with a redesigned plan.

TIMOTHY HUGHES: Even longer.

EDRICK van BEUZEKOM: Yeah.

BRENDAN SULLIVAN: Now, on the new roof deck.

EDRICK van BEUZEKOM: For the roof deck what I would suggest is that we say that it will be setback seven-foot, six from the side yard property line.

TAD HEUER: In which case you're not

requesting relief at all.

EDRICK van BEUZEKOM: Exactly.

TAD HEUER: And quite frankly I think you can go as long as you want out as long as you're within your setback.

EDRICK van BEUZEKOM: Okay.

TAD HEUER: So essentially that's being removed from your request because you're going to make it conforming.

EDRICK van BEUZEKOM: Exactly.

BRENDAN SULLIVAN: Okay, those are the only two changes? Doug, you're --

DOUGLAS MYERS: I'm satisfied.

BRENDAN SULLIVAN: Slater?

SLATER ANDERSON: I'm satisfied.

BRENDAN SULLIVAN: And, Tim, you're good.

TIMOTHY HUGHES: I'm good with it.

BRENDAN SULLIVAN: And you approve?

TAD HEUER: Yes.

BRENDAN SULLIVAN: Let me make a

motion to grant the relief requested to expand the existing house with the addition of a third floor dormer to accommodate a new bathroom and some additional height in the stairway to construct an addition of a second floor deck and an egress stair in order to provide a second means of egress for the existing dwelling unit.

And that the roof deck is being done as of right.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner as it would preclude the Petitioner from providing a reasonable and yet code-compliant second means of egress out of the second unit of the house.

It would also preclude the Petitioner from providing adequate headroom at the stairway. And in conjunction with this to

providing an additional bathroom at the third floor level of the house, which is a fair and reasonable request seeing that there are bedrooms up at that level.

The Board finds that the hardship is owing to the siting of the house on the lot which is fairly narrow in shape and is inherent, non-conforming nature, so that any work of this type would require some relief from this Board.

The Board finds that the relief is also very necessary in some aspects and also de minimus in other aspects.

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

The Board notes the letters of support from the neighbors, and also a letter of support from the Cambridge Historical Chairman.

The Board finds that relief may be

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

The Petition is approved with the notations, the adjustments to the length of the dormer. The fact that the dormer must comply with the three-foot-six setback as noted on the drawing, and also that the roof deck has been pulled inward to comply with the side yard setback requirement not needing any relief from this Board.

So noted and initialed by the Chair.

Anything else?

TAD HEUER: You want to correct the dimensional form.

BRENDAN SULLIVAN: And a corrected dimensional form reflecting those changes and also a remarked up sheet No. A-12 to reflect the changes as part of the granting of the relief.

Anything else? All those in favor of

granting.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hughes, Heuer, Myers,
Anderson.)

BRENDAN SULLIVAN: So the drawings
and the dimensional form should come in
before I sign the decision. That may hold it
up.

EDRICK van BEUZEKOM: Thank you.

(8:15 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Douglas Myers, Slater Anderson.)

BRENDAN SULLIVAN: The Board will hear case No. 10256, 38 Union and 369 Windsor.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman. I believe this is the continued case, is it?

BRENDAN SULLIVAN: No. We're going to go to the regular agenda one; is that correct? Because we cannot go to the continued case because Gus is not here and he sat on that. Unless you want to go with four.

RANJIT SINGANAYAGAM: They withdraw the first case.

ATTORNEY JAMES RAFFERTY: No, we haven't --

TAD HEUER: You don't want to do that yet.

TIMOTHY HUGHES: Gus isn't here.

ATTORNEY JAMES RAFFERTY: When we re-filed, the dimensional relief for the parking wasn't in the earlier application, so I think the successor case probably requests all the relief that the prior case did and has --

TAD HEUER: The successor case, the subdivision?

TIMOTHY HUGHES: Yes.

ATTORNEY JAMES RAFFERTY: I believe it does, yes.

BRENDAN SULLIVAN: Yes, it does.

ATTORNEY JAMES RAFFERTY: That's my only question.

BRENDAN SULLIVAN: We're doing the 10256 which is the successor case.

ATTORNEY JAMES RAFFERTY: Right. And I think what we did is we took everything and added parking. So yes, I think the new case, the successor case is the subdivision

and the dimensional relief for the single-family dwelling and the dimensional relief for the parking. And the case that's been continued was only the subdivision and the dimensional relief for the dwelling. We hadn't -- we had a different parking layout there that wasn't looking for relief.

BRENDAN SULLIVAN: Correct.

ATTORNEY JAMES RAFFERTY: So four of the Board -- of this Board sat on the prior case.

BRENDAN SULLIVAN: Correct.

ATTORNEY JAMES RAFFERTY: And that case was continued because if you voted to continue, you would --

BRENDAN SULLIVAN: It was somewhat deficient.

ATTORNEY JAMES RAFFERTY: That's how we landed here.

So --

BRENDAN SULLIVAN: On case No.

10256.

ATTORNEY JAMES RAFFERTY: 10256, good evening, Mr. Chairman, members of the Board, James Rafferty on behalf of the Applicant. Seated to my right Jayakanth Srinivasan, J-a-y-a-k-a-n-t-h S-r-i-n-i-v-a-s-a-n. And Mrs. Srinivasan, whose first name I always forget.

NAIRA SRINIVASAN: N-a-i-r-a.

ATTORNEY JAMES RAFFERTY: These Applicants, you'll recall, are the perspective owners. They have a contract to purchase this lot. This is a property that was merged as a result of some title changes where the owner of property on Windsor Street inherited this property from her father, and because there is a point where they are contiguous, for Zoning purposes have been a merger. So we filed an application in a prior case seeking to subdivide and to allow for construction of a home. We've come up

with a revised design for the home that essentially, from a dimensional perspective, would have the effect of treating this property as though the merger had not occurred, and essentially allowing it to avail itself of the provision in the Ordinance that says undersized lots which are less than the minimum width and less than the minimum lot area, can have the benefit of seven and a half foot side yard setbacks.

The earlier house was in the original application had a somewhat unconventional design. It wasn't particularly well detailed. The Srinivasans hired an architect. In this exercise they provided I think a very well detailed and scaled home that fits nicely into the context of the neighborhood. The front elevation, I think, is particularly helpful in allowing the Board to see the relationship of the proposed house to the two abutting structures. Both of

those abutters are in favor. One of those abutters is here today. This will be a single-family house. It will be within the FAR allowed for the lot if the subdivision were to be approved. The new form of dimensional relief asks that the existing driveway, a curb cut be utilized for a parking space. As the Board knows, the minimum width of a parking space in Article 6 is eight and a half feet, although compact cars can be seven and a half feet, but to qualify for compact cars, you have to have at least five spaces before you can take advantage. So, I offer that by way of suggesting that it's not -- it's not the case where a seven and a half feet has been found to be an unworkable dimension for a space. It just so happens that compact spaces all around the city are allowed at seven and a half feet. So the request is for a Variance to allow for one foot reduction in the eight and a half

foot width requirement. The parking is not within this front setback, and it can be located in this area because it's a single-family home with relationship to the side yards. This was the driveway in the location. The curb cut is existing when the prior house was there.

So, the application before you seeks essentially three things. It seeks to allow for a subdivision that will result in some non-conformities to the Windsor Street, lot because today the FAR of the structure on Windsor Street is determined by the entire lot size. None of those dimensions has changed.

This structure, if the subdivision were allowed, would be essentially conforming in terms of FAR, height. The front and rear setbacks conform. We're looking to have seven and a half foot side yard setbacks which I noted would have been the setback had this

lot, had these lots not merged because it was a lot that was on record prior to the adoption of Zoning Ordinance.

So the relief, then, is related to the side yard setbacks on this lot, plus whatever dimensional relief is needed for the Windsor Street property and also dimensional relief for the parking space to have the width of that space at seven and a half feet.

BRENDAN SULLIVAN: So if you can just run through, again, very briefly the relief. It's obviously an undersized lot and the --

TAD HEUER: Or it will be once we grant.

BRENDAN SULLIVAN: Once the subdivision goes through, you're going to -- right now the existing lot is 5528 with a subdivision. This particular lot on Union Street, 38 Union Street, will be 2697 of -- the Ordinance requires 5,000 square

feet.

ATTORNEY JAMES RAFFERTY: It would be 2728 or 2627?

SLATER ANDERSON: This plan says 2697.

ATTORNEY JAMES RAFFERTY: I apologize, 2697 for the Union Street, yes.

BRENDAN SULLIVAN: So after the subdivision, then you have a substandard lot at 38 Union Street. The ratios are at 0.72 in a 0.75 so we're in compliance there.

The lot area lot dwelling unit, the Ordinance required 1500 and you're providing 26, so you're fine there.

The width of the lot, and the Ordinance requires 50 feet, but you're providing 33.

ATTORNEY JAMES RAFFERTY: Well, that's unchanged essentially because the width is the width.

BRENDAN SULLIVAN: The width is the width. Okay.

And the depth of the lot is?

ATTORNEY JAMES RAFFERTY: It is changed but there's no dimensional requirement associated with depth.

BRENDAN SULLIVAN: Okay.

The front of the setback is in a 10-foot -- the Ordinance requires 10-foot eight, and you're providing 10 feet. And I'm just wondering why that be in compliance.

ATTORNEY JAMES RAFFERTY: I'm not sure why the Ordinance requires 10. Is it, because of the formula.

RANJIT SINGANAYAGAM: Ordinance was 10 feet minimum.

ATTORNEY JAMES RAFFERTY: Ten feet, I think that's a misprint on our part.

BRENDAN SULLIVAN: Ten foot, eight is not correct?

ATTORNEY JAMES RAFFERTY: You're correct.

BRENDAN SULLIVAN: The rear

proposes 34. The requirement is 25.

ATTORNEY JAMES RAFFERTY: Correct.

BRENDAN SULLIVAN: The left side, the Ordinance requires nine-foot, one, and you're providing seven-foot five. And on the right side, the Ordinance requires nine-foot, one and you're providing seven-foot, five.

And is there any particular reason not to be compliant with that?

ATTORNEY JAMES RAFFERTY: Well, it's a question of function. The house, if you look at the footprint of the house now, it's exceptionally narrow. And the floor plan of the house, then, is only 18 feet wide now. The thinking behind the seven-and-a-half foot side yard setback is that that is the permitted side yard setback for an undersized lot. So the relief has the effect of essentially undoing the merger that occurred as a result of the conveyance. So

when we were here last time, and we discussed this, we said we think we can come up with a footprint and a plan that has the effect of meeting the dimensional requirements as if the merger had not occurred, and that is what we've done here. So the seven -- the prior house had three and a half foot proposed side yard setbacks with parking occurring on the front. So we left here last time with the understanding that the seven and a half feet side yard setback that is permitted for lots of less than the required width and the required lot area, would be the benchmark that we would attempt to arrive at.

BRENDAN SULLIVAN: And where is that in the Ordinance?

RANJIT SINGANAYAGAM: 5.22.1.

ATTORNEY JAMES RAFFERTY: 5.22.1.

BRENDAN SULLIVAN: 5.22.1 is useable open space. Am I reading the wrong?

ATTORNEY JAMES RAFFERTY: I always

bring my Ordinance and I didn't today.

BRENDAN SULLIVAN: All right.

Okay, in cases of such lots of less than the required width, the sum of the two required side yards may not be more than 30 percent of a lot width except that each side yard shall be a minimum of seven feet, six inches. In case such lots of less than the required width, which is his, the sum of the required need not be more than 30 percent of the lot width. Which would be --

ATTORNEY JAMES RAFFERTY: 15 feet of 33.

BRENDAN SULLIVAN: Right. And so except that each shall be a minimum of seven feet, six inches.

ATTORNEY JAMES RAFFERTY: We meet the 30 percent but the minimum seven and a half. So that's -- so we designed to that standard based upon the deliberations at the last hearing that the lot would have but for

the conveyance where the current owner included her husband's as a tenant by the entirety on this lot in the mid-nineties, had that not occurred, this lot would have qualified. We had the conversation, you recall, as to whether it was a buildable or unbuildable lot. In reality it was a buildable lot until such time as it's merged not withstanding its small size because it qualified for that exception.

BRENDAN SULLIVAN: Okay.

The height you're in compliance, 34 feet proposed and the Ordinance requires 35. The length, again, is the length. And so -- well, the length of the structure is at 38 and there was no Ordinance requirement. It's a math of the side yard setbacks. And the width is at 18 feet which, again, taking the seven-foot, five under 5.22.1 brings you to the 18-foot width. You take the width of the lot, come in seven-foot, five on the side

yard and except for the front -- well, no, it would be the same. It's seven-foot.

SLATER ANDERSON: Seven-foot six.

BRENDAN SULLIVAN: Seven and a half feet. It says here 7.5 feet. So that's seven-foot, six inches.

ATTORNEY JAMES RAFFERTY: Right.

BRENDAN SULLIVAN: And the other one is at some at 7.8 inches.

ATTORNEY JAMES RAFFERTY: Right, it's not --

BRENDAN SULLIVAN: Or 7.8.

TAD HEUER: Can I ask about that? So you have a number of parking spaces; existing two, requested one, Ordinance requires two?

ATTORNEY JAMES RAFFERTY: Well, no. I mean, two is when it's a single lot because the other property has a two-car driveway. And then required is two, one for each dwelling. But on the lot itself it's only

one. So we're only proposing to have one.

TAD HEUER: And the same with the number of dwelling units. You're requesting two, that's the two on Windsor Street; is that right? You're requesting an additional one which will lead to three for the combined lots if they remain combined but they won't be two on Windsor Street and one on Union.

ATTORNEY JAMES RAFFERTY: Correct. But the combined lots can have three. So the density doesn't change. Because when you treat it as a combined lot of 4100 square feet, they can have three.

TAD HEUER: Would the Petitioners be open to submitting a dimensional form that clearly lists what the existing is for the merged lots and then what the existing are for the unmerged lots just for future reference should anyone go back to this file and not have the case history so they would see --

ATTORNEY JAMES RAFFERTY: Yes,

well, I would have hoped that this does that. The first column is existing. It's treating the combined lots.

TAD HEUER: Yes.

ATTORNEY JAMES RAFFERTY: The second column as requested, separates the column into the Union Street lot and the Windsor Street lot.

TAD HEUER: It does? Well, I guess my question is really can there be a second column for Windsor Street because Windsor Street's numbers are going to change?

ATTORNEY JAMES RAFFERTY: I'm using it from the other case. I think that dimensional form is only modified for the parking. I apologize. Maybe I should submit this.

TAD HEUER: That would be great.

ATTORNEY JAMES RAFFERTY: That's in the other case just what you suggested. The two.

TAD HEUER: Yes, that's much more usable.

BRENDAN SULLIVAN: All right, so, these numbers are reflective of the both plot plans and subdivision plans?

ATTORNEY JAMES RAFFERTY: Yes.

BRENDAN SULLIVAN: Both Windsor and also for Union Street.

ATTORNEY JAMES RAFFERTY: And the only change -- can I see that for a minute? I'm noticing when we got the survey back, the lot area, we have here -- I just want to make a change. The proposed lot area that is on this dimensional form is off by two or three feet from the subdivision plan.

I apologize. So the lot area on this form should be --

BRENDAN SULLIVAN: For which house? Which lot?

ATTORNEY JAMES RAFFERTY: For both. It's 2821 for Windsor and 2697 for....

BRENDAN SULLIVAN: For Union.

ATTORNEY JAMES RAFFERTY: For Union.

BRENDAN SULLIVAN: Okay. Any questions, Doug, at this point?

DOUGLAS MYERS: Just one. You mentioned, Mr. Rafferty, earlier in connection with tonight's ruling there would be relief for the Windsor Street lot. Aside from not enforcing the merger doctrine, what other -- under what relief do you contemplate for the Windsor Street lot tonight?

ATTORNEY JAMES RAFFERTY: Well, what happens then is the FAR of the Windsor Street lot gets reduced because the size of the structure remains the same, but the lot area gets reduced.

TAD HEUER: Increased. FAR increased.

ATTORNEY JAMES RAFFERTY: I apologize. The FAR becomes increased

because right now that structure sits on the combined lots. Nothing happens to that structure in terms of alterations, but by reducing the size of the lot, there are two changes. That lot in its current form, I'm not sure has a rear setback because it runs between the two streets between Union and Windsor. There might be a little piece where it does, but that setback changed. The sides and the front don't change. I'd say the significant change to the Windsor Street lot is it returns to the FAR it had prior to the merger of the lots.

DOUGLAS MYERS: Okay.

BRENDAN SULLIVAN: So the number goes up because the land comes away?

ATTORNEY JAMES RAFFERTY: Exactly. The denominator gets reduced and thus the FAR.

DOUGLAS MYERS: That's all.

ATTORNEY JAMES RAFFERTY: But

overall not by much. I mean, if you see the numbers, it's pretty -- I mean, it does get reduced but....

BRENDAN SULLIVAN: All right.

Slater?

SLATER ANDERSON: No comments.

BRENDAN SULLIVAN: Tim, anything?

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: Tad, anything at this point?

TAD HEUER: No.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on the matter case No. 10256, 38 Union and 369 Windsor Street.

(No Response.)

ATTORNEY JAMES RAFFERTY: There was an abutter present, but she had to leave.

BRENDAN SULLIVAN: Abutters's name and address.

ATTORNEY JAMES RAFFERTY: Do you have a name? We have a rendering of her home.

NAIA SRINIVASAN: Jayakanth has it.

ATTORNEY JAMES RAFFERTY: She was present.

BRENDAN SULLIVAN: Was it 34 Union?

JAYAKANTH SRINIVASAN: 36 Union, sir.

BRENDAN SULLIVAN: I'm sorry, the one at 36 Union?

JAYAKANTH SRINIVASAN: Yes, sir.

BRENDAN SULLIVAN: Nuien van Thnah, T-h-n-a-h.

JAYAKANTH SRINIVASAN: Yes, sir.

BRENDAN SULLIVAN: Let the record show that the abutter at 36 Union Street was present, did not voice any opposition.

ATTORNEY JAMES RAFFERTY: And we would represent, and the Board can attach whatever weight they choose appropriate to this representation, but we were sitting with

the abutter and she was supportive but did have a time constraint and wasn't sure she would be able to remain.

BRENDAN SULLIVAN: All right. And there's no other correspondence in the file. Let me close public comment at the point.

And Mr. Rafferty, any last comments?

ATTORNEY JAMES RAFFERTY: Only that I appreciate -- I know the Board has spent a considerable amount of time in this case. It is a case that I think because of the unique shape of this lot, we had extensive conversation in the prior case that I would think is relevant here in terms of the unique shape. This, the contiguous nature of this lot is limited. It does not line up as a perfect rectangle. It does result in a strange configuration. It was commented upon by other Board members that it creates a gap in the streetscape. It's not as though it's a side yard. In some neighborhoods when

a merger occurs, it provides a nice open space and separation in properties. Such is not the case here. And for the reasons that the Board -- four members of this Board found it compelling to continue this case, I would ask that the Board find that there's a necessary hardship here to grant the relief for the subdivision for the construction of the new home and for the reduction in the size of the parking space.

BRENDAN SULLIVAN: Okay.

All right. Mr. Myers anything?

DOUGLAS MYERS: Always me.

BRENDAN SULLIVAN: I always turn to the right first.

DOUGLAS MYERS: Well, no, let's hope I'm right on this one. This is a good example of the series of lesser evil choices that arise once the Board decides not apply the merger doctrine. But given that I was not in favor of applying the merger doctrine in this

case, I am content with where the series of lesser evil choices have brought us, and I believe that the designs submitted for this house at 38 Union Street is consistent with what the Board has said and asked for in previous hearings and I believe the it's very attractive and it will add to the streetscape of Union Street on a lot that has historically supported the building of similar stature so I would be in favor.

BRENDAN SULLIVAN: Slater.

SLATER ANDERSON: This has been a process, and I think it's come to a good conclusion. I think the redesign of the house is favorable, and I think it's a reasonable house for an undersized lot, and happy to undo a mistake in merger that occurred in the past as a good outcome I think of this. And I think it will improve the streetscape and add favorably to the city's housing stock. So I'm in favor.

BRENDAN SULLIVAN: Okay. Tim.

TIMOTHY HUGHES: I'm in favor of, it too, for all those reasons that were already said. And rest assured I live about four blocks away and it's not going to be the smallest house in this neighborhood. And you can raise kids in the house this size, too, if you're so inclined.

JAYAKANTH SRINIVASAN: That's our wish.

ATTORNEY JAMES RAFFERTY: Well, they've started with one. But depending how late the hearing goes....

TIMOTHY HUGHES: Once they graduate from college, the house becomes down right spacious again.

NAIA SRINIVASAN: Looking forward to that.

ATTORNEY JAMES RAFFERTY:
Six months old?

BRENDAN SULLIVAN: Mr. Heuer.

TAD HEUER: I'm in favor of it. As I said in the previous hearing, my preference would be to minimize the amount of relief required from this Board and it would be to condoize the lot instead of creating an unmerger of a merger that makes conformity out of lot that was previously nonconforming. That being said, I understand the practicalities that's been represented that the neighbor who owns the existing structure would find it difficult to comprehend through a firmity. If I'm recalling correctly, why condoization of a two structure single lot would at all be desirable or possible. And because there is a gap in the streetscape, I think that in this case equitable grant of a de-merger is preferable to the potential complications created what I would prefer which is a condoization.

I would say that, you know, the design of the structure is much improved from the

utilitarian large shed that was proposed the first time. It's a very nice design. I'm very impressed that you were able to come into this and respond to the concerns of the Board, and also to be able to present us with a plan that only invades side setbacks. And even then as Mr. Rafferty pointed out, if this lot had not been demerged, it would be a practically conforming house that would be difficult to constrict anywhere in the city of Cambridge. So I'm just very impressed in that respect.

BRENDAN SULLIVAN: Let me make a motion. It will be two forms of relief: One is the Variance to subdivide the two lots that were merged as a result of the title conveyance in 1999. So let me make a motion to grant that Variance to subdivide the two lots, and subsequently to construct a single-family dwelling on the lot at 38 Union Street with insufficient setbacks, and to

install parking within, an insufficient width.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would require that these two lots at Union Street and also Windsor to be permanently joined which would severely limit their value, their marketability, and that the Ordinance hopes to alleviate.

The Board finds that the hardship is owing to the unintentional merger of the lots which created the single lot under common ownership, and as such requires some relief from this Board in order to have two structures on two separate lots having their own standing alone.

The hardship is owing to the narrow width of the lot and the unintended merger of the two lots into one.

The Board finds that desirable relief may be granted without substantial detriment to the public good, and that the granting of this relief will not nullify or substantially derogate from the intent and purpose of the Ordinance.

The Board notes that the Petitioner has made a substantial and good faith effort to bring the proposed two-story house into as much compliance with the Ordinance as is practical and possible.

Anything else to add to that relief?

ATTORNEY JAMES RAFFERTY: Could I inquire? Because it's a Variance case, the windows on the seven and a half foot walls, I think these walls may theoretically be non-conforming notwithstanding this relief, but in Variance cases it's subject to the plans submitted. Would the Board's position be that the Variance to allow for the construction of the house of this dimension

and with elevations which show windows in those locations, that the dimensional relief of that Variance is adequate to construct the house as submitted with those windows?

BRENDAN SULLIVAN: I think that would be my feeling.

TAD HEUER: You say you've spoken to the neighbors on both sides?

ATTORNEY JAMES RAFFERTY: Yes.

TAD HEUER: So, you can represent that both of them seen the plans, where the windows sited and where they are and voiced no objection?

ATTORNEY JAMES RAFFERTY: Yes.

DOUGLAS MYERS: Windows per plan?

ATTORNEY JAMES RAFFERTY: Windows per plan as part of the Variance relief. And I think that's the general principle. I mean, if you -- a Variance can -- I don't think you need a Special Permit if you get a Variance and you approve -- the Variance is

a higher form of relief. The Variance is a higher form of relief.

BRENDAN SULLIVAN: As per the plans submitted. Correct.

Okay. And the granting of the Variance granted as provided that the work be in compliance with the drawings as proposed, entitled Haydon H-a-y-d-o-n Design, LLC for 38 Union Street. And it's dated 5/8/12, initialed by the Chair.

On the Variance, all those in favor of granting the Variance.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor granting the Variance.

(Sullivan, Hughes, Heuer, Myers, Anderson.)

BRENDAN SULLIVAN: On the Special Permit, to locate the driveway in the compact care parking space within the setback.

The Board finds that the requirements

of the Ordinance can be met. That Section 6.44.1G allows for modification to the parking setback requirement upon the issuance of a Special Permit, when such as in this case, where the lot is exceptionally narrow, site specific factors favor such modifications.

The Board find that traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character. The established neighborhood character contains many lots where the driveways are located within five feet of the property line.

That the Board finds that the continued operation of or development of adjacent uses as permitted to the Zoning Ordinance would not be adversely affected by the nature of the proposed use, and that there would not be any nuisance or hazard created to the detriment

of the health, safety or welfare of the occupants of the proposed use or to the citizens of the city.

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

The Board finds that the Ordinance specifically recognizes modifications for driveways and parking spaces for one, two, and three-family dwellings.

All those in favor of the granting the --

TAD HEUER: Wait a second.

ATTORNEY JAMES RAFFERTY: Mr. Chair, just a quick question. Did the Variance ask for reduction in the width of the parking space?

BRENDAN SULLIVAN: That's correct.

ATTORNEY JAMES RAFFERTY: Okay. The setback is from the side yard setback.

Thank you, right. Okay. This is the other one. I apologize.

BRENDAN SULLIVAN: That's correct.

All those in favor of granting the Special Permit.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hughes, Heuer, Myers, Anderson.)

ATTORNEY JAMES RAFFERTY: I just knew we couldn't do the width reduction by Special Permit. This is because it's within the side yard setback.

BRENDAN SULLIVAN: Correct.

ATTORNEY JAMES RAFFERTY: Thank you very much for the time and effort the Board put in this case. I know Mr. and Mrs. Srinivasan just are happy.

(8:50 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Mahmood Firouzbakht, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case No. 10257, 27 Myrtle Avenue.

Is anybody here interested in that matter?

(No Response.)

BRENDAN SULLIVAN: The Board is in receipt of correspondence dated May 7th to Ms. Pacheco. (Reading) We will be unable to attend the BZA hearing on Thursday, May 24th and request a continuance until the next meeting which we understand will be June 14th. Thank you, Deborah D-e-b-o-r-a-h. E. Belle, B-e-l-l-e, 27 Myrtle Avenue.

To continue 27 Myrtle.

DOUGLAS MYERS: To what date?

BRENDAN SULLIVAN: To June 14th.

RANJIT SINGANAYAGAM: 14th, yes.

BRENDAN SULLIVAN: A case not heard.
A decision has to be rendered by July 5th.
So we're okay as far as the time. Okay.

So let me make a motion to accept the request for the continuance until June 14, 2012, at seven p.m. on the condition that the Petitioner change the posting sign to reflect the new date, June 14, 2012, at seven p.m. And maintain the sign as per the requirements of the Ordinance.

That any changes to the Petition, to the documents already submitted, be re-filed and be in the file by five p.m. on the Monday prior to the June 14th hearing.

All those in favor of accepting the continuance request for the continuance.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

RANJIT SINGANAYAGAM: They have a waiver, too.

BRENDAN SULLIVAN: Well, there's no waiver, but the decision has to be rendered by the 5th.

TIMOTHY HUGHES: Of July?

TAD HEUER: Yes.

BRENDAN SULLIVAN: Look at the back of that there.

RANJIT SINGANAYAGAM: Okay.

(Sullivan, Hughes, Heuer,
Firouzbakht, Myers.)

(8:50 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Mahmood Firouzbakht, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case No. 10258. 31 Crescent.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman. James Rafferty on behalf of the applicant. And seated to my right is the applicant's contractor David Ricci, R-i-c-c-i.

This is an application for a very modest request, essentially to allow for a window seat to be constructed in a kitchen in a single-family home on Crescent Street. One of the more desirable streets in Cambridge generally regarded.

So I have here in floor plans where that window seat is. And it's a small house, and the dimensions of the window seat are

two feet -- it's two feet, six inches and about a little over seven feet.

MAHMOOD FIROUZBAKHT: Small house by whose standards Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Well, that's a good point.

TIMOTHY HUGHES: Is it wider than 18 feet?

ATTORNEY JAMES RAFFERTY: Well, it's a wonderful house. It's not small, that's correct. What it is it's -- it's -- the space is at a premium. So it's a small addition. The kitchen is being redone. As part of the kitchen redo, this is an area where it was hoped that we could add this. And this is the current condition here. It would be in the area on that blank wall. That portion of the wall actually is a conforming wall. So it's the setback issue that arises -- there are two issues associated with it. It's really the rear

setback. But the feature about the rear setback, is there is a zero setback concrete garage here. So this abutter who owns a multi-family home, can't even see into this yard, but because we're, we have the adequate setback on the side, what's proposed here is we need the relief in two areas; one, because the house is already over square footage. So that's -- its impact on the rear setback is what creates the setback violation here.

DOUGLAS MYERS: Question? Is there also a request for relief regarding a front entry porch?

ATTORNEY JAMES RAFFERTY: Yes.

DOUGLAS MYERS: There is. You haven't mentioned that yet, sorry.

ATTORNEY JAMES RAFFERTY: I haven't gotten there yet. That area constitutes about 20 feet. Two and a half times, seven and a half.

RANJIT SINGANAYAGAM: 18.

ATTORNEY JAMES RAFFERTY: 18? And then there's a similar size covering over front entry.

Now some members of the Board may recall this case was actually before the Board a few years ago where they actually allowed some relief to redo the front, and someone suggested at the time well, why don't you put a covering over the front door? Well, they had designed it that way and they were content with it. Now that they were coming back for this, they said, you know, we probably should have -- it's a feature that we kind of miss, which is that the front door has no covering over it. So....

TAD HEUER: How did they miss it when it was proposed to them at the hearing?

ATTORNEY JAMES RAFFERTY: Well, because a lot of people don't willingly accept design advice from lawyers. And I think that's wrong. You know, they defer to

the architects and they think the architects know everything. But some of us who have been around know that always isn't the case.

BRENDAN SULLIVAN: (Inaudible) the lawyers either.

TAD HEUER: I think I know where the suggestion came from.

ATTORNEY JAMES RAFFERTY: I read the transcript, I know exactly where it came from. In my attempt to be uncious, I wanted to say it was a great idea. And had they only thought of it then, they wouldn't be asking for it now.

So it's a convenience. It represents a little bit of setback issue, and a little bit of GFA. And, again, it's modest and de minimus.

And the third area of relief involves adding some, a door and window on this side of the house. The bulkhead would go away and there would be a door right here into the

lower level and that's --

BRENDAN SULLIVAN: Now, are you -- you're not expanding the landing. You're just being a little bit of a roof over it; is that correct?

DAVID RICCI: Right. Just the landing, existing.

ATTORNEY JAMES RAFFERTY: Totally unchanged, right.

BRENDAN SULLIVAN: So all it is is just a projection of the roof?

DAVID RICCI: That's right.

BRENDAN SULLIVAN: For some covering of that deck.

DAVID RICCI: That's right, yeah.

BRENDAN SULLIVAN: Okay.

DOUGLAS MYERS: It's also a reduction of the front setback; isn't it?

ATTORNEY JAMES RAFFERTY: Well, I think the front setback is -- it goes into the front setback. I think the front setback is

already -- I think the stairs are in the front setback, because in order for them to be exempt, they have to be on the conforming wall. The impact -- the front setback is already being impacted by the stairs. So if you do the setback of this house, you'd say that it's probably the bottom step. You're right, so the relief is related to -- in both cases, the window seat and the covering over the door, it's a combination of setback and GFA. Modest in both, about 20 feet in both areas. Really about functionality and liveability and because of the relationship.

DAVID RICCI: 20 square feet.

ATTORNEY JAMES RAFFERTY: 20 square feet for each element. The window seat and this in rough numbers for about a 40-foot overall GFA increase.

BRENDAN SULLIVAN: So we're dealing with two sets of drawings. One which is as-built, it's entitled as-built plan 31

Crescent Street by the Boston survey which covers the window seat. And then the other drawing is.

DAVID RICCI: That's an architectural drawing.

ATTORNEY JAMES RAFFERTY: The other is more of an elevation showing the covering over the front entry.

BRENDAN SULLIVAN: And that's entitled Politi, P-o-l-i-t-i house, 31 Crescent Street, showing the front elevation of the proposed roof over the front landing. Two sets of drawings; is that correct?

ATTORNEY JAMES RAFFERTY: Yes.

BRENDAN SULLIVAN: Okay.

TAD HEUER: Is the bay window constructed or not? I only ask because there's a photograph of a bay window in the file. Is it there now or is it not there now?

ATTORNEY JAMES RAFFERTY: It's there now.

TAD HEUER: Oh, okay. I just wanted to make sure the record -- I couldn't tell.

ATTORNEY JAMES RAFFERTY: Is there a photograph in the file?

TAD HEUER: Indeed.

ATTORNEY JAMES RAFFERTY: If it's an attempt of honesty or an oversight. I'll leave that to your judgment. But, yes, to be candid, this was a decision made in the field by the designer and it was then unearthed and the project frankly was stopped. And Mr. Ricci is here to remedy that oversight.

BRENDAN SULLIVAN: Okay.

Mr. Myers, any questions at this point?

DOUGLAS MYERS: Well, I just wanted to confirm. So the -- in the 2010 case, in the prior case, there was setback relief given with specifically with respect to the front setback in that case?

ATTORNEY JAMES RAFFERTY: I'd be working off memory, but my understanding is

that was a porch with a side entrance and it looked like they relocated the entrance to the front of the porch, but I wasn't on the case and I venture to say, I don't think Mr. Ricci had any involvement.

DOUGLAS MYERS: Was the enclosed -- what looks to be the enclosed porch on the enclosed bump, adjunct bump out to the house in front, was that constructed as a result of the 2010 relief?

DAVID RICCI: I believe it was, but I believe they also eliminated the bump out on the other side where the entry was originally. This was I think a two-family house and the owners converted it back to a single.

DOUGLAS MYERS: My question is only aimed at determining whether or not relief was given for the front setback in connection with --

ATTORNEY JAMES RAFFERTY: Oh, I

suspect it was, sure. Yes. And I think I read the transcript and I did see Mr. Heuer's suggestion when they were doing this, he said why don't you put a -- why wouldn't you want to put a covering over this? And they said well -- the architect said that's the way they drew it. That's the way they left it.

TAD HEUER: Yes, while we're on that point. So this is June 24, 2010, of the transcript page 173, it appears that I asked the following question:

Is there any reason you decide -- and this is a quote. (Reading) Is there any reason you decide not to open it back up as a porch?

That meaning the front aspect which is highly massed.

(Reading) I mean, you already have significant massing in the front of the building. You're looking to bring it even closer to the street, albeit uncovered. The

images that you show of your neighboring houses are not massed towards the street there in an open porch. Is there any thought about making this an open porch as well as putting more glass in it?

And the response from the owner was that it would be too expensive to undo what someone has already done and they figured because it would be a huge undertaking to do so; that is, to reduce the front area, it would be very nice to do our front porch but not just feasible. The architect then responded it was not part of the project that I was engaged to design. We are only proposing a stoop and steps.

ATTORNEY JAMES RAFFERTY: My understanding of that case was that these stairs used to go off to the side and they were reoriented to the street.

TAD HEUER: That's right.

ATTORNEY JAMES RAFFERTY: And that

was the relief associated with it. That's just from reading the transcript and talking to the property owner.

TAD HEUER: Yes, so originally for those who weren't on the case, there was a window where the front door is and the front door opened out into the side yard. And they wished to reorient that to have a front door facing on to the street properly. And my question at the time was essentially that the case that I think we're faced with now which is that there's massing that was created by what appears to be an enclosing the front porch and creating an entry room, a mudroom with a side entry, that reoriented the door to the front of this bumped out massed piece, and then said we'd just like to put the door there. My question was why not set the door back into the plane of the house and use that mass portion of the front porch?

DOUGLAS MYERS: I happen to think

that's a very apt question because to me the door on the street emphasizes the effect of the massing of that front adjunct or bump out if you want to call it that because it creates a rather vivid contrast with every other house on Crescent Street.

TAD HEUER: Correct. And that was my concern at the time. Here what I see is that they've not taken that route in the 2010 case, but have come back and have essentially asked for the same relief I was discussing at that point, but intruding further into the setback. Thus instead of requesting a porch, if they want a porch, my thought was that they should create a porch out the existing massing on the front. Here they've elected to try to keep the existing massing and then create a further porch on top of it. To my mind it gives somewhat reminiscent of the approach taken at certain funeral home establishments where there's a long or at

hotels where there's a long covered canopy all the way to the street. I'm not so certain, particularly given the streetscape, I don't think any other house on Crescent Street has that extension out to the street. I'm not quite sure why it's warranted here. I certainly understand the desire to have a covered stoop, but given the choices that the owners have made previously when presented with the option by at least one member of this Board and they declined to take it, I am not quite sure why this relief would be necessary here. It seems to be a desire rather than a --

ATTORNEY JAMES RAFFERTY: Right. Well, it's a convenience. And I advised the client that it would be unlikely that a Board member that couldn't support the Variance for the steps would likely be supportive, and that was passed on a four to one vote. So I accept that reality. This really was a

matter of convenience. Their understanding of that exercise was that they didn't enclose that porch. It was already enclosed. The design modification suggested by one of the Board members would have resulted in reconfiguring that whole area, and they just -- as I said, that wasn't part of what -- it was there already. They were trying to create a street-facing orientation. But, you know, it's -- while it's a single application, certainly the relief is quite different. The window seat is the primary focus. When we discussed the need to apply for it, they said well, you know, maybe this would be the time to ask about that. But I think those comments are certainly valid and as I said, it's a matter of convenience, but it does represent front setback relief on a set of stairs that already has front setback relief. So I don't think the -- if that was tenor, I think I could say

that the applicant would be prepared to withdraw that portion of the application.

DOUGLAS MYERS: I don't want to preclude comments from other members of the Board or their argumentation on it.

ATTORNEY JAMES RAFFERTY: If that's two people's view then we might as well.

MAHMOOD FIROUZBAKHT: So I guess in the 2000 case.

TAD HEUER: 2010.

MAHMOOD FIROUZBAKHT: 2010 case, the relief sought for a front setback was reconstructing for the stairs?

ATTORNEY JAMES RAFFERTY: Correct.

MAHMOOD FIROUZBAKHT: The front porch was an existing element of the house?

ATTORNEY JAMES RAFFERTY: That's correct.

MAHMOOD FIROUZBAKHT: So additional relief wasn't granted for the front porch per se, but just for the stairs. And so was there

a roof on top of the front porch?

ATTORNEY JAMES RAFFERTY: I don't know.

TIMOTHY HUGHES: I think you'd have to say it was the deck and the stairs.

DAVID RICCI: Yeah, there was not a roof on that either.

ATTORNEY JAMES RAFFERTY: Right. Well, when you say that, you mean the landing in front of the door?

TIMOTHY HUGHES: The landing and the stairs. The relief was granted for that.

ATTORNEY JAMES RAFFERTY: Yes.

MAHMOOD FIROUZBAKHT: For the landing and the stairs?

ATTORNEY JAMES RAFFERTY: Yes. Well, that was the effect of relocating the door into that portion of the house. So, and it was granted for an unroofed set of landing and stairs.

TIMOTHY HUGHES: Landing and

stairs, and now they want to roof the landing.

ATTORNEY JAMES RAFFERTY: Well, they really don't even -- I mean, that's what they're asking for.

TIMOTHY HUGHES: I'm not going to say salami.

MAHMOOD FIROUZBAKHT: I mean, just from a commentary point of view, you know, precedent is one thing. When you look at the front of this house, it makes sense for that front stoop to have a roof on it, and it looks more attractive, you know, that way. It does. And I think it would fit better with the streetscape. And I know of one particular house on Crescent Street that has the exact same look and appearance, and so I guess I don't think it would be out of character with, you know, what the other houses on the street sort of look like. I think it would just look better. And the relief required is fairly insubstantial.

BRENDAN SULLIVAN: Doug, any questions at this point?

DOUGLAS MYERS: No questions.

BRENDAN SULLIVAN: Tim? Tad?

Let me open it to public comment.

Is there anybody here who would like to speak on the matter at 31 Crescent Street?

(No Response.)

BRENDAN SULLIVAN: I see nobody and there is no correspondence in the file. There is correspondence from the Planning Board which says they have reviewed the above case and leaves the cases to determination by the Board with no comments or recommendations.

ATTORNEY JAMES RAFFERTY: I apologize, we do have one letter from the abutter who faces the bay window.

BRENDAN SULLIVAN: The Board is in receipt of correspondence from Doctor Douglas Kornfeld, K-o-r-n-f-e-l-d.

(Reading) To Whom It May Concern: I reside at 33 Crescent Street. I'm writing to support the Zoning changes as by Jason and Lindsey Politi, P-o-l-i-t-i at 31 Crescent Street. Please contact me if there's anything I can do to expedite the Variance changes they are requesting. Sincerely, Douglas Kornfeld.

Okay. We'll accept that and make it part of the record.

Okay, Mr. Rafferty, anything else to -- I guess the one question that I have, on the plan, you're asking for a Special Permit.

ATTORNEY JAMES RAFFERTY: There's a door and two windows in the kitchen.

BRENDAN SULLIVAN: To install the basement door and relocate the windows on the non-conforming wall. And if there is a drawing which you can point me toward that.

ATTORNEY JAMES RAFFERTY: Do you

have that elevation, the side elevation? It appears on the floor plan.

There was a single larger window or there is over the sink. Was that the stove?

DAVID RICCI: It was the sink, yeah.

ATTORNEY JAMES RAFFERTY: So they're separating it into two smaller windows.

BRENDAN SULLIVAN: Okay, and there's no elevation to that?

ATTORNEY JAMES RAFFERTY: And the door is right there. I'm not seeing an elevation.

DAVID RICCI: No. All I have is a floor plan. There was a window, a larger window over the existing sink that was in this spot here.

ATTORNEY JAMES RAFFERTY: I think he got that.

BRENDAN SULLIVAN: The usual and I think expected procedure is that we would

have another drawing to look at and also reference and to approve.

ATTORNEY JAMES RAFFERTY: I apologize, it would appear that that elevation doesn't exist. The door is door at grade and then the window that's occurring about -- it might be in the....

BRENDAN SULLIVAN: I'd fill it out. How does the Board want to proceed with a missing element if I so correctly categorize it? Without having a sketch or drawing without the requested relief.

DOUGLAS MYERS: Why don't we hear from the contractor about the impact of that on the character of the file.

BRENDAN SULLIVAN: I mean, does anybody have an issue with it?

MAHMOOD FIROUZBAKHT: Would we be able to maybe mark the plans that we have with a location of the door and the window that's being proposed?

BRENDAN SULLIVAN: We don't have an elevation of it per se.

ATTORNEY JAMES RAFFERTY: We don't have an elevation.

BRENDAN SULLIVAN: Location is one thing.

MAHMOOD FIROUZBAKHT: On the floor plans. That's what I'm saying. You locate it there, mark it there, and then with the understanding that the contractor and petitioner would submit elevations.

ATTORNEY JAMES RAFFERTY: We could supplement the file and the Chair could sign -- these windows, if you can see from the floor plan, they're actually rather narrow panes.

DAVID RICCI: Yeah, they're smaller. There was one large window over the existing sink. It used to the face the neighbor's window that looked -- when they both did dishes, they looked at each other in

the window. The neighbors were in favor of them moving the windows so the side and put a stove here. So the glass size actually got smaller but the location's changed on that wall. I'm sorry we don't have an elevation of that. We do have it on the floor plan here.

BRENDAN SULLIVAN: Point out my original.

TIMOTHY HUGHES: That wall is in the setback? Is that the non-conforming part of it?

ATTORNEY JAMES RAFFERTY: Do you have the site plan?

DAVID RICCI: Technically that one is not in the setback.

TIMOTHY HUGHES: What's the non-conforming nature of it though?

ATTORNEY JAMES RAFFERTY: I --

MAHMOOD FIROUZBAKHT: I thought it was a rear setback.

ATTORNEY JAMES RAFFERTY: I don't think at that --

BRENDAN SULLIVAN: It says here to install a basement door and relocate windows on the non-conforming wall.

ATTORNEY JAMES RAFFERTY: Basement door is clearly in the side yard setback. It's right there. In this proposed -- do you have the -- like this that shows. Right, so the -- so the dimension -- I think the minimum here is seven and a half. And I think we determined that it's -- it was so close. It's seven-six. So the location of the two windows are like that. And the door to the basement, which is -- which is at ground level. You take -- you go down a couple steps and that's where the door is. It's actually half the door is below grade. I mean, you're down so the door is below grade. So there's no privacy impact from the door because there's a fence here and the door, the

door doesn't even begin to come --

BRENDAN SULLIVAN: Yes, but there are two issues. No. 1, something for us to look at and to approve. The other thing is for the building inspector to make a value judgment does the work conform with the relief granted? And, you know, now it's sort of a moving target. And it's, you know, I think I would want to know location, size, and -- yeah.

ATTORNEY JAMES RAFFERTY: Well, we could --

BRENDAN SULLIVAN: Which is very normal for any kind of relief asking.

ATTORNEY JAMES RAFFERTY: No, no, it's not unreasonable at all. And it's oversight on our part that it's not in the application. I acknowledge that. There was a certain urgency here because the work had to stop. The family is living in the home. I would ask that the Board might

consider allowing us to supplement with that elevation. We can produce it I imagine.

DAVID RICCI: Oh, yeah, quickly.

ATTORNEY JAMES RAFFERTY: Within a day or two.

BRENDAN SULLIVAN: Back to my original question, Tim, do you have any problem?

TIMOTHY HUGHES: Well, can we, can we split it? Continue the Special Permit part until we get drawings and we'll vote on the Variance.

ATTORNEY JAMES RAFFERTY:
Technically -- well, I mean, no, it's a single decision I think if it was two separate cases. So I think the case wouldn't --

BRENDAN SULLIVAN: The whole thing would have to be continued.

ATTORNEY JAMES RAFFERTY: I mean, you could theoretically vote one aspect of

the relief and continue for the other aspect, but it doesn't affect the timeline of the ultimate recording of the decision.

BRENDAN SULLIVAN: Right, it has to be all done together. Tad, what's your --

TAD HEUER: I mean, that's my, that's more my question. So if we're talking about windows, I think our practice has always been, and I don't think we've ever varied from it, that we require an elevation because the floor plan shows where a window sits in relation to everything else. I don't think most neighbors, the reason for the setback Special Permit is not the location of the windows along a linear plane of the house, it's what the windows appear to the abutters and how much they impact them which is why I think the elevation is necessary because you can see where the windows are placed, how large they are, etcetera. Where they are. Like I said, on the linear plane the house is

almost immaterial. They're either in the setback or not in the setback. And the setback runs perpendicular to the windows. So.....

ATTORNEY JAMES RAFFERTY: Mr. Ricci informs me that he's reviewed this with Mr. O'Grady, and that the windows are not within the setback. That the distance here is eight feet and --

RANJIT SINGANAYAGAM: Because it's a non-conforming lot minimum setback. Is lot size is not conforming and the windows are not conforming. You can have seven and a half feet. These windows probably maybe okay.

ATTORNEY JAMES RAFFERTY: It's the door. The door, he said Sean tells him that the door, which again is half at -- a basement door, in this, in the midpoint of this projection, so the windows I think we wouldn't need the relief on.

TIMOTHY HUGHES: But that doesn't really help our situation. We don't have an elevation on either one of them, do we?

ATTORNEY JAMES RAFFERTY: Well, no, but we're moving in a good direction. A good direction would be if you went back there and you drew up an elevation of it. That would be a good direction.

DOUGLAS MYERS: Are we losing elevation or gaining elevation?

ATTORNEY JAMES RAFFERTY: We might have a photo of the area of where it would be going.

BRENDAN SULLIVAN: Well, I would want something marked up so that we can go with an -- and approve it and then also ultimately pass it on to the building inspector because right now it's rather sloppy.

DOUGLAS MYERS: If that point is more or less decided, Mr. Rafferty I have no

desire to be difficult. Let me ask for elucidation. Did you say that all work, all work on the property had stopped for these various reasons?

ATTORNEY JAMES RAFFERTY: No. The work -- oh, I can show you where it's going to be. The work stopped until the Zoning application was filed. It's proposed that where this -- where that window is now, we could draw it, would become a door right through the foundation. And below that.

DAVID RICCI: Same size.

TAD HEUER: As soon as you made the application you were then --

ATTORNEY JAMES RAFFERTY: The stop work was lifted.

TAD HEUER: The stop work's lifted, you're proceeding at risk under the condition that --

RANJIT SINGANAYAGAM: No. The entire job was stopped. Once they get the

application, the rest of the work not from the Variance.

ATTORNEY JAMES RAFFERTY: We weren't required --

TAD HEUER: You were doing other work?

ATTORNEY JAMES RAFFERTY: It's a full renovation of the ground floor. We haven't touched the bay window since, but we weren't ordered to rip it off either.

BRENDAN SULLIVAN: Are you back here on June 14th?

TIMOTHY HUGHES: No, I'm not.

MAHMOOD FIROUZBAKHT: You know, this is quite sloppy. You know, especially given the circumstances of why you're here now and given some of the work that's proceeded. This really is, you know, not good. Certainly in terms of the impact on the -- the impact it could have on the owners. Having said that, you know, would it make a

difference in my mind if I saw an elevation of what that door looked like precisely in the exact dimensions? In my mind, no because, you know, you know the door's going to go there with the condition that they would submit plans with, you know, precise dimensions and elevations so that the Building Department would know exactly what, you know, is approved and subject to the Chair's approval. It's sloppy but it's just, it's -- I would hate for the homeowner to be further negatively impacted because of what was missing and that shouldn't have been.

BRENDAN SULLIVAN: Right, but in the whole history of my sitting here on Thursday nights and there has been a plethora of inadequacies, incompleteness, and so on and so forth and we have sent those people back to give us a completed document. You know, you're asking for relief and the least we can

expect is to have a completed document.

MAHMOOD FIROUZBAKHT: You know, I totally agree with that. And frankly this -- Mr. Chair, this case shouldn't be in front of us. This case shouldn't be here tonight because of that very reason. And it's -- and, you know, there's a -- and so I think you're absolutely right. But it's unfortunate.

DOUGLAS MYERS: Why jury rig a procedure. The defect is in the file and we shouldn't have to jury rig a procedure.

TIMOTHY HUGHES: And if we're going to send them off to give us an elevation, I need some clarification. The excavation -- if you're going down a few steps, the excavation in the setback going down those steps to put a basement door, and does that require specific relief?

RANJIT SINGANAYAGAM: No, it's below grade.

TIMOTHY HUGHES: Oh, okay.

RANJIT SINGANAYAGAM: Only the door requests.

BRENDAN SULLIVAN: Mr. Chair, did I hear you say June 14th would be an opportunity?

TIMOTHY HUGHES: I wasn't planning on being here.

BRENDAN SULLIVAN: Mr. Hughes is not going to be here unless you want to hear the four members.

ATTORNEY JAMES RAFFERTY: Would it be possible to vote the Variance now and continue the Special Permit? The elevation only affects the Special Permit and if the four members were here --

BRENDAN SULLIVAN: No. I think myself, I'm not going to vote on -- I'm not going to split decision. It's going to be the application before us which is in two parts. So that would be my feeling.

ATTORNEY JAMES RAFFERTY: If I could just speak to that for a second. They're very unrelated parts. And the Petitioner, when he returns, would only have four members so his burden would be higher. And if there's a full five members, we have nothing more to offer on the Variance case.

BRENDAN SULLIVAN: I think that the next time the petition be in order.

RANJIT SINGANAYAGAM: I don't think you can split it because it's one case. Somebody appeals it, you know.

ATTORNEY JAMES RAFFERTY: I'm not suggesting. It's a decision.

BRENDAN SULLIVAN: I think I've extended the courtesy to even get to this point as I think you have alluded to -- or you have alluded to with the presentation being incomplete and inadequate, but I am not going to split my vote on it anyhow.

When are you back?

TIMOTHY HUGHES: The second meeting in June whatever that is, the 28th.

DOUGLAS MYERS: 28th.

BRENDAN SULLIVAN: I would make a motion then that we continue this matter until June 28, 2012, so to allow the Petitioner sufficient time to bring the documents. Most specifically the elevations for installing the basement door and whether or not the relocated windows require a Special Permit as per some discussion with the Zoning Specialist. And that they be in the file by five p.m. on the Monday prior to the June 28th hearing.

That the Petitioner change the posting sign to reflect a date of June 28, 2012, and it be maintained, and that any changes be in the file that's not currently here before us with special attention to the constructing of the front entry porch cover which you may want to rethink in light of some of the comments,

that's all.

ATTORNEY JAMES RAFFERTY: I'm sorry, what's expected?

BRENDAN SULLIVAN: In other words, if it's still part of the petition.

ATTORNEY JAMES RAFFERTY: Well, I mean I think the Petition's been filed whether we proceed on it.

BRENDAN SULLIVAN: You may want to rethink that prior that's all. And if you want to go forward with that part, that's fine, too.

ATTORNEY JAMES RAFFERTY: Well, yes, I mean, I don't think we'd file a separate application.

BRENDAN SULLIVAN: No, no. No, no, I'm just saying to give time to think.

ATTORNEY JAMES RAFFERTY: I think we've made a conclusion on that. But it's my understanding and I apologize for interrupting because it's not my style, would

the June 14th be available, but there would be only four members available at that time.

BRENDAN SULLIVAN: Correct.

ATTORNEY JAMES RAFFERTY: And you need all four members. I would advise you to go to June 28th.

BRENDAN SULLIVAN: Anything else to add to that?

TAD HEUER: No.

BRENDAN SULLIVAN: All those in favor of continuing this matter to June 28th.

(Show of hands).

(Sullivan, Hughes, Heuer, Myers, Firouzbakht.)

ATTORNEY JAMES RAFFERTY: And I do apologize for the negligence of filing, and I understand the Board's position with regard to this.

DOUGLAS MYERS: It's offset by many good files.

(9:25 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Douglas Myers, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will now consider case No. 10215, 38 Union, 369 Windsor Street.

ATTORNEY JAMES RAFFERTY: Thank you, Mr. Chairman. The applicants would request permission to withdraw the case.

BRENDAN SULLIVAN: On the motion to accept the request for the withdrawal.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hughes, Heuer, Myers, Firouzbakht.)

BRENDAN SULLIVAN: And case No.

10215 is withdrawn.

ATTORNEY JAMES RAFFERTY: Thank you very much.

(9:25 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Douglas Myers, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: We'll now here case No. 10259, 107 Reed Street.

Okay, if you could please present your case, spell your last name and your address and tell us what you want to do.

RACHEL RUBIN: Rachel Rubin, R-u-b-i-n, 107 Reed Street.

JEFFREY MELNICK: And Jeff Melnick, M-e-l-n-i-c-k. We're asking for relief to build an addition on back the our house at 107 Reed Street, one of the desirable blocks in all of Cambridge. We've lived there for 15 years. The house is fewer than

1100 square feet. We're asking for relief to build this addition as a family room, mostly as a music room, put a piano and some other things that we can't really fit in the existing property. We want to submit just an informal petition we asked neighbors to sign. All abutters seem to be in favor we can represent. Some of our neighbors in fact came out. Our next-door neighbor Norma Golduck (phonetic) came out to offer support, and as far as we know, there's nobody in opposition to the plan.

The plot plan we submitted, I think, demonstrates that a number of the properties on the block have the same addition that we're requesting. There is at least one that has a two-level addition. We're asking for a one level addition. Won't cast any shadows, won't change anybody's view of anything.

BRENDAN SULLIVAN: Okay. It is my initial thought of it is just kind of

planning, seems to be like a something that sort of stuck in the back of the building and maybe that's the intent of it. But I'm just wondering if it wasn't something that could be done to make it look a little bit more aesthetically pleasing rather than just this, you know.

TIMOTHY HUGHES: Box you mean?

BRENDAN SULLIVAN: Well, bomb shelter or something.

JEFFREY MELNICK: Well, I don't know if this is an answer or not, but it does conform to the existing style of these additions on our block in North Cambridge. Again, I'm not sure whether the plot plan represents that completely, but folks who have had these additions, they more or less got boxes. And we tried to keep -- we asked our architect to design it to keep it more or less in keeping with --

DOUGLAS MYERS: Do your immediate

abutters have additions to this of such comparable dimensions?

JEFFREY MELNICK: Immediate abutters, no, but, I don't know, you call the next level down, you know, two houses down, three houses down.

DOUGLAS MYERS: What would be closest number on your side of the street if you know that has the addition or has a comparable addition.

RACHEL RUBIN: 113. There's seven of these identical workers cottages in a row. We're the seventh one. The first five have the additions.

JEFFREY MELNICK: And one of those five is a two floor addition.

DOUGLAS MYERS: I looked at 113 this afternoon. It's little hard. I couldn't get into the back yard. And even I went around to Harrington Street, and couldn't quite see through there. But I saw a railed

deck, but I didn't see an extensive addition on the back of the house. There was maybe a little porch something -- or maybe a room, a mudroom that had been closed in.

JEFFREY MELNICK: That's an addition and then the deck was built beyond that into the yard.

DOUGLAS MYERS: The rail deck I saw.

BRENDAN SULLIVAN: I don't know. I just felt that something a little more aesthetically pleasing could be done. That's just from my outside look.

I mean, now, getting back into the numbers you're going from 1,035 to 1237 which is 202 square foot addition. You're going from 0.55 which is over the allowance to a 0.66 which is --

TAD HEUER: 20 percent increase.

BRENDAN SULLIVAN: -- in a 0.5 area. The front yard setback remains the same. It's just that there's very little of the

house that really complies. Front yard is supposed to be 15. It's at 15 and that's existing. The rear is at 25 feet minimum. And right now it's 33 and you're going to 20, so you're encroaching on the rear setback. Your left side is not conforming nor is the right side because of the existing house. The height you have here at 27, but that's not the height of the addition. I don't know, what's the height of the addition? Nine, ten feet something like that?

RACHEL RUBIN: Ten, yeah.

JEFFREY MELNICK: Ten and change, yeah.

BRENDAN SULLIVAN: I know an awful lot of those houses fill up an awful lot of the lots. It's not uncommon, but I don't know, I just felt that it, it needed something to make it look a little bit more attractive than a box at the back of the house.

JEFFREY MELNICK: I mean, when we

went into this our idea was to have as little impact on the neighbor's property and on the scape of the -- it's, you know, the backyards of our block and the abutting houses on Harrington, so it's shared space. And we're trying to make as little impact as possible in terms of height, in terms of design, and, you know, just in terms of general space taking up in the yard.

BRENDAN SULLIVAN: How long have you been there, 15 years?

JEFFREY MELNICK: 15 years.

TAD HEUER: How old is the house?

RACHEL RUBIN: The house is --

JEFFREY MELNICK: It was built in the 1890 s.

BRENDAN SULLIVAN: And right now you have kitchen, dining room, living room on the first floor and your family room is where?

RACHEL RUBIN: What do you mean?

BRENDAN SULLIVAN: Well, I mean you

have a kitchen, you have a dining room, and living room on the first floor.

RACHEL RUBIN: That's it.

BRENDAN SULLIVAN: And the second floor is just bedrooms and bathrooms?

JEFFREY MELNICK: Yes.

TAD HEUER: That entire space is dining room?

JEFFREY MELNICK: Yes.

RACHEL RUBIN: Yeah.

BRENDAN SULLIVAN: All right. Any questions by the Board at this time? You have any questions at all?

DOUGLAS MYERS: No. Just refresh my memory without my looking at the file, how many bathrooms do you have at the present time?

RACHEL RUBIN: We have one bathroom on the second floor, and then a half bathroom in the basement.

DOUGLAS MYERS: Nothing on the first

floor?

RACHEL RUBIN: No.

DOUGLAS MYERS: Okay. That's it
for me.

BRENDAN SULLIVAN: Mahmood?

MAHMOOD FIROUZBAKHT: I don't have
any questions.

TIMOTHY HUGHES: I don't have any
questions.

BRENDAN SULLIVAN: Tad?

TAD HEUER: No.

BRENDAN SULLIVAN: Let me open to
public comment.

Is there anybody here who would like to
speak on the matter at 107 Reed Street?

(No Response.)

BRENDAN SULLIVAN: I see nobody in
attendance.

TAD HEUER: We have a hand.

BRENDAN SULLIVAN: Oh, I'm sorry.

NORMA BOULDOC: I'm the next-door

neighbor and I have no objections to it whatsoever.

BRENDAN SULLIVAN: If you just give us your name, please.

NORMA BOULDOC: Norma Bouldoc, B-o-u-l-d-o-c.

BRENDAN SULLIVAN: Okay. And there is correspondence -- anybody else wish to speak on the matter?

DOUGLAS MYERS: What is your address, Ma'am, if I may ask?

NORMA BOULDOC: 101 Reed.

DOUGLAS MYERS: You're at 101.
Thank you.

BRENDAN SULLIVAN: Okay. Anybody else wish to speak on the matter?

(No Response.)

BRENDAN SULLIVAN: I see none.

There is a correspondence in the form of a petition. We the undersigned neighbors of Jeffrey Melnick and Rachel Rubin of 107

Reed Street support their proposal as put forward to build an addition on the back of their house at that address, and it's signed by 11 people: 109 Reed Street, 113, 115, 100, 99, 99, Ms. Bouldoc at 101, and No. 102 and No. 2 Reed Street Terrace are in favor.

And that is the sum substance of the correspondence.

Let me close public comment part and I don't know, anything to add?

TIMOTHY HUGHES: Is there a piano involved?

JEFFREY MELNICK: There is.

TAD HEUER: Is it an upright or grand or mini grand?

JEFFREY MELNICK: Good question.

RACHEL RUBIN: It's a standard smaller and an upright.

TAD HEUER: Smaller than an upright?

TIMOTHY HUGHES: A spinet?

RACHEL RUBIN: Yeah.

TIMOTHY HUGHES: I don't know how you want to spin that.

JEFFREY MELNICK: We heard better jokes at other cases earlier.

TIMOTHY HUGHES: Yes, I did. I'm getting tired.

BRENDAN SULLIVAN: Doug, what are your thoughts?

DOUGLAS MYERS: Well, my thoughts are I'm impressed that the abutters don't object. It does seem to me that the addition is inconsistent with the existing pattern of backyard use in the immediate adjacent properties by in large. I'm also, I'm also -- I take note that it's 20 percent increase in FAR, and I think the Board thinks twice or we perk up our ears when we hear about that large of a request, and I don't -- I'm not a, you know a particular master of architectural aesthetics, but I take the Board, the Chair's comments seriously. So

my thought is just as a preliminary to discussion more style and less space is what I'd like to see.

BRENDAN SULLIVAN: Okay.

MAHMOOD FIROUZBAKHT: My first reaction was when I saw the plans, why aren't they doing more? Which is probably not the right response to have, you know, from viewing it from a Zoning Board perspective, but I think aesthetically I think it could look better, and to the extent that I don't know, you could come up with a design that has not a negative impact on abutters, I think that would be -- it would make for a better project. If I had to vote on this tonight, I would be in support because I think it's a small house. I think the relief you're requesting is not that substantial, and visually though I don't think it looks as good as it could, I don't think it's very visible from the street. So in that regard, you

know, it is kind of tucked away in the back. There's a fair amount of rear yard space to accommodate, you know, this size addition, but I do wonder whether with a little bit more thought, you know, and time on the design whether you could come up with something that's, you know, that could be even better than what you're proposing. And that's sort of where I stand.

BRENDAN SULLIVAN: Tim, what's your comment?

TIMOTHY HUGHES: I'm not going to get into the aesthetic argument at all because it's really not a zoning issue. But as far as -- and I'm less concerned with the idea of 20 percent as I am with the, you know, the square footage. It still doesn't make this a very large house. I mean, it's -- you know, it's a small house and they could use some space. If they, you know, want to make a box on the back of their house, that's

really up to them. It's up to us to decide whether we're going to allow them to have the square footage not how they should build it. And so I'm in favor of it.

BRENDAN SULLIVAN: Okay.

Mr. Heuer.

TAD HEUER: So I tend to agree with Mr. Myers and somewhat with Mahmood. I am concerned about the size and partly because it seems to be in my mind a question that comes before this Board about is there a minimum house size now in the City of Cambridge. You know, we get a number of people coming to us and saying I can't live in a thousand plus square foot house anymore, I need more space. It's almost as though there's some theory or minimum house size that we've not been informed about that's somewhere in the vicinity of 12 to 1400 square feet and only a house at that point is liveable any more and anything under that requires relief. I'm

not quite sure I'm sold on that. I think there are all kinds of house sizes in the city and they are of use to various different people at various different stages of their lives. And part of it is here when, you know, Mahmood mentions that it's not visible because it's tucked behind the house, to me that's part of the issue because these houses are so close that you can't see it because they're all tucked behind everything. These houses are packed on to small lots. Clearly this was done before Zoning, so we have to live with that. But, you know, the fact that it's, you know, going to intrude into the rear yard setback and adds FAR means that essentially there will be no conforming element of this house or at least remnants of conforming elements at the moment. And that does trouble me somewhat, you know, given we're talking about a large percentage increase even though the net number

202 square feet, you know, is in the upper range of what the Board tends to see and grant.

I think my preference would be along the lines of Mr. Myers'. If I'm looking -- this is the rear, correct? That's your rear now.

JEFFREY MELNICK: Yeah.

TAD HEUER: And Mr. Sullivan that perhaps you look at something that it's, that's more centered on the, you know, between your -- you know, my initial thought, and, again, I'm an attorney, not an architect, is something that puts you more centered in the house, perhaps bringing a gable up between your two existing windows. Perhaps pulling it in slightly from the rear to minimize the amount of rear yard setback that you're asking us to give you, and perhaps a bit of a taller ceiling to make up for the depth issue that you're getting. But I'm seeing -- Mahmood says he's wondering why

we're not doing more? I think it's a lot given the sides of the lot. It's a tiny lot which constrains really what you can do and starts making the numbers look difficult, the more square footage that gets added on.

MAHMOOD FIROUZBAKHT: What's the rear yard setback requirement here?

DOUGLAS MYERS: 25 feet.

MAHMOOD FIROUZBAKHT: Okay.

DOUGLAS MYERS: The proposal is 21.8.

MAHMOOD FIROUZBAKHT: Right. That's a -- I mean guess.

DOUGLAS MYERS: It's 10 percent now. That was something I forgot to mention. Again, not decisive, I'd hate to be put in a position to vote yes or no on tonight's proposal. I really would not want to do that if possible. But, you know, we're creating a new non-conformity in the backyard. You're presently compliant and you'll be

non-compliant and we have to try to minimize that I think. Minimize its impact. Try to.

JEFFREY MELNICK: Am I allowed to speak now? We also have to do it in a way that's within a reasonable budget. As I said before, within the aesthetics of the neighborhood. Mr. Heuer is suggesting things that sound lovely but also are quite different from what any house anywhere around us looks like especially in terms of an addition. That's been a real interest of ours since we've moved to North Cambridge is we never changed the exterior of our house in any way. We've been interested in living in this lovely small house as it's been. You know, and we're not interested in bells and whistles or frills or anything like that. So I ask you to take that under advisement as part of your decision, which is that we very happily live in a house that's under 1100 square feet. We can certainly happily

continue to live in a house like that. And I totally understand the historical argument and, that's an interesting argument, but, you know, we're asking to do this in a way as simple as possible.

DOUGLAS MYERS: You are entitled to live in a simple house of your own choosing. No one should force you to embellish your house that is, you know, out of keeping with the way you want to live.

MAHMOOD FIROUZBAKHT: And when I said more, what I had in mind is pretty much what Tad was just describing, gabled roof. I think it would just be -- would make more sense. But having said that, that may have an impact on the folks around you and so that's a consideration that you may be even closer to than we are.

BRENDAN SULLIVAN: Let me add to that because I think maybe along all those lines is I would like to break up this long

wall of this house here, and I think that that was my thought, too, was to pull this and to center it on to the back of the house. You know, I know there's a door here now, but your new door's going to be here. And, again, it just breaks up this long plane here of that -- and I mean I just -- and I think obviously aesthetics is a consideration of mine and it's protected in the Ordinance that we have to -- aesthetics is part of our consideration.

So there's a couple of things that I would like to see is that this addition come off of that plane, come off of that side yard setback, No. 1. And rather than having a flat roof, even if it's just a pitched roof of some kind, just to make it more residential looking rather than what it is. To me it just looks, it almost looks like a garage, you know. And, again, I'm not being critical of -- and everything obviously has a cost

factor, too. I understand that. But I think what you're asking for is a tremendous amount of relief vis-a-vis the Ordinance. You know, you're violating almost every aspect of the Ordinance. So basically what you're asking us to do is, you know, set the Ordinance aside and, you know, let us, you know, not regard it in a sense. Now part of the existing house is obviously well before the Ordinance so it's non-conforming, but you're asking us to continue that non-conforming almost to continue along in error, you know.

TAD HEUER: I think one of the reasons -- just to clarify. One of the reasons I suggested the gable was not necessarily not solely aesthetics but also because if you're talking about volume of the space that you want to create, you know, it gives you a bit more height may allow you to pull in a bit from the rear. And, you know,

particularly if it's going to be used for family space, music space, a bit higher to ceiling may be a tradeoff that will allow you to pull in the distance from the rear setback and make you a bit more conforming on your rear side. Again, this is a tight neighborhood. It's not just your side yards, but it's the people you're backing on to the Harrington. And yet the intent is to kind of create this green space in the rear of all these houses that's able to be used in common. You're in a C or a B. You're in a B. I mean, to my understanding that was the intent of a Res B District is to be able to create a green space behind the houses which is why the depth of the setback is so great as opposed to a Res C District where it's shorter. So, you know, anything you can do to be able to pull that setback to avoid treating the setback as far as you could in my mind would be preferable. And in my mind

my thought is if you're looking at the volume of the house, you can get that volume back out instead of going up.

BRENDAN SULLIVAN: Well, so now you've heard our comments and possibly you can go back and digest it. You may very well go back and say well, my suggestion would be that you go back and reconsider the comments. You may very well come back and say no, this is what we want to go with and then we'll vote accordingly. Or you may come back and reconsider some tweaking it as per our comments and come back with an alternate plan.

MAHMOOD FIROUZBAKHT: What the Chair is suggesting that you continue this case as opposed to having us vote on it tonight because you may not get a favorable decision. But to the extent that you continue to the next available hearing date, and you go back and you refine your plan given

what you've heard tonight and you are responsive to what you've heard tonight, you come back and re-represent at the next hearing, you could then consider that and then proceed to maybe get your decision at that point.

RACHEL RUBIN: Can I ask you a historical question?

BRENDAN SULLIVAN: Sure. If I can answer it.

MAHMOOD FIROUZBAKHT: If anyone is going to answer a historical question, you've got a good crowd here.

RACHEL RUBIN: Okay. It's just of those seven houses in a row it's the biggest yard, and the other additions were fairly recent. So I'm just wondering did something change? I mean, I know the houses were built before Zoning, like that much is clear. I'm just asking about the various decisions.

BRENDAN SULLIVAN: The Planning

Board, the Community Development, the City Council decided that the desirable setback was 25 feet. And because it doesn't work, I think one of the reasons why we have the book that we have which, is yay thick, is because they didn't want to keep propagating all of the mistakes of the past where people just sort of built houses wherever they wanted to.

RACHEL RUBIN: No, no, I understand that. Houses in the backyard.

BRENDAN SULLIVAN: And at some point planning and what makes sense comes into play and, you know, over the years things keep changing.

RACHEL RUBIN: It just changes a lot.

BRENDAN SULLIVAN: Yeah. And so it's not a perfect instrument by any means, but it's the one that's given to you and said here enforce it.

RACHEL RUBIN: I'm just interested.

BRENDAN SULLIVAN: Or vary it under extreme conditions. So that's basically what we do.

So anyhow, I guess my thought would be that maybe you would consider a continuation, go back and rethink about it and then come back to us with something.

JEFFREY MELNICK: A couple technical questions. If we ask for a continuance, then that means we need a whole new set of drawings? If we think the suggestions you made are good ones. A whole new set of drawings, whole new set of elevations, plot plan still okay.

BRENDAN SULLIVAN: Yes, correct.

TIMOTHY HUGHES: And new dimensional form.

BRENDAN SULLIVAN: Right, that's correct.

JEFFREY MELNICK: Okay. And that has to be how soon before?

BRENDAN SULLIVAN: Well, it has to be in on the Monday before some date to be determined. The question is what date. How long do you think this will -- the process will take? We are now May 24th. There's a July 26th. Does that push it off -- I'm sorry what?

JEFFREY MELNICK: We'll be teaching overseas for all of July.

BRENDAN SULLIVAN: Oh. There's August 9th. We are full for June 14th. We're full for the June 28th, and there would be a possibility of July but you're saying you're not available. After that it's July 26th and August 9th.

DOUGLAS MYERS: June 28th really isn't possible?

BRENDAN SULLIVAN: June 28th we have 1, 2, 3, 4, 5, 6 continued already plus the regular agenda.

DOUGLAS MYERS: Sounds difficult.

BRENDAN SULLIVAN: So, what are your thoughts?

JEFFREY MELNICK: How many votes we need?

TIMOTHY HUGHES: Four.

TAD HEUER: You need four.

BRENDAN SULLIVAN: What do you think, August?

DOUGLAS MYERS: Do you want to go out and consult and let us know? We don't mean to put you on the spot right this second.

TAD HEUER: The other reason we suggest continuance, because if we vote and you don't get four votes, you can't come back for two years with a similar plan.

JEFFREY MELNICK: So the stakes are high.

BRENDAN SULLIVAN: The stakes are high.

Let me make a motion, then, to continue this matter until August 9, 2012, at

seven p.m. to allow the Petitioner sufficient time to consider the proposal before us and to consider comments by the Board.

On the condition that the Petitioner sign a waiver to the statutory requirement for a hearing, and completed hearing and a decision to be rendered.

And also that any changes to the documents be in the file by five p.m. of the Monday prior to the August 9th hearing. Also that the posting sign be changed to reflect the new date of August 9, 2012, and the time of seven p.m. and to be maintained at least 14 days prior to which is a requirement of the Ordinance.

Anything else?

DOUGLAS MYERS: No.

BRENDAN SULLIVAN: All those in favor of continuing the matter until August 9th.

(Show of hands).

DOUGLAS MYERS: By implication
everybody is here?

BRENDAN SULLIVAN: Yes.

(Sullivan, Hughes, Heuer, Myers,
Firouzbakht.)

(9:50 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Douglas Myers, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10260, 2528 Mass. Avenue.

CYNTHIA HUGHES: My name is Cynthia Hughes, H-u-g-h-e-s.

TIMOTHY HUGHES: I know how to spell it.

CYNTHIA HUGHES: And I'm a manager at a barber shop next-door to this property.

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

CYNTHIA HUGHES: We would like to move our existing business that has been a

barber shop for more than 50 years in the same building to next-door because our building is going to be sold in a year or so. And we thought we'd take the opportunity to try to move and grab a space now so we can stay in the neighborhood because it's a very small commercially buildings that we could actually to move to without having to relocate to another city.

We have a lot of seniors that live across the street on Churchill Ave. and they really rely on us because it's hard for them to get around, and we have quite a nice clientele. We have a lot of supporters with us. And so while the building next-door, which is 2528 is available had been a storefront for many years, and the barber shop that was ours before us was also in that location. I've submitted photos of it, what it used to be. And I have also a photo of what it would look like if we moved next-door.

There's no structural change. Everything's up to code. There had been a fire there in the previous business. Everything's signed off by city inspectors. And it's just no, non-conforming -- it's just completely just a move of two barber chairs.

TAD HEUER: Was the building that you're moving into, you said it used to be a shop or a store or something?

CYNTHIA HUGHES: It's been a lot of shops over the years. It was residential, business, residential again.

TAD HEUER: So what was it most recently?

CYNTHIA HUGHES: A dog grooming salon.

TAD HEUER: When did it cease being a dog --

CYNTHIA HUGHES: Last winter there was a fire. So there's been nothing in there since.

TAD HEUER: So there's been no abandonment of a continuous commercial use in that space according to ISD?

RANJIT SINGANAYAGAM: The dog grooming is different use.

CYNTHIA HUGHES: There's been many different uses.

TAD HEUER: Well, but you know where I'm going.

CYNTHIA HUGHES: I have a copy that law. There has been no abandonment. For, more than 10 years it's been strictly rented complete and straight through.

TAD HEUER: Two years.

CYNTHIA HUGHES: Well --

TAD HEUER: Two.

CYNTHIA HUGHES: The law states 10 years. And I have --

RANJIT SINGANAYAGAM: I think what you're saying is commercial use there's no abandonment.

TAD HEUER: Okay.

CYNTHIA HUGHES: Right. Which I thought we qualified under, but I just want to make sure everything goes smooth and do it right and by, you know, legally. So....

BRENDAN SULLIVAN: Under the Table of Use contents, the proposed use of a barber shop is not currently permitted in the Zoning because it's a residential district.

TAD HEUER: So it's a prohibited use?

BRENDAN SULLIVAN: It's a prohibited use.

TAD HEUER: It's currently grandfathered into its existing location.

CYNTHIA HUGHES: Correct.

BRENDAN SULLIVAN: Correct.

TAD HEUER: So this is a use variance.

BRENDAN SULLIVAN: It's a use variance, correct.

TIMOTHY HUGHES: Did the dog grooming shop require a use variance?

BRENDAN SULLIVAN: Well, we don't know that.

TIMOTHY HUGHES: Because that would be curious.

BRENDAN SULLIVAN: Grooming of one and grooming of other, I don't know that.

DOUGLAS MYERS: Would you be able to shed any light on other commercial uses in the premises?

TIMOTHY HUGHES: Shed.

CYNTHIA HUGHES: Before the dog grooming shop there was a tile and granite shop for about a year or less. And then there was a psychic studio there for many years. And before that --

DOUGLAS MYERS: Did she charge money?

CYNTHIA HUGHES: Well, I didn't see any customers.

DOUGLAS MYERS: I meant for psychic services such that it was commercial.

CYNTHIA HUGHES: I would assume.

BRENDAN SULLIVAN: She couldn't foretell her demise.

CYNTHIA HUGHES: And when the owner bought the property in the nineties, it was a variety store. Which it had been many, many years. It had been many businesses over the years. And the owner's sitting here and she bought the property and she doesn't speak very good English or any English very much. And her husband and her had lived there and he moved out of the country, and she just continued to own the property assuming because it was already a variety store for many years.

We have letters from the abutters, but we also have the abutter that's abutting the new property in the room tonight. And he knows the history of the building. He's been

there are for 44 years and he knew every business that had been in there.

BRENDAN SULLIVAN: Okay. So in summation, you're located next-door. Have been there for how many years?

CYNTHIA HUGHES: We have personally been there for seven years, but previous barber shop was 50 years.

BRENDAN SULLIVAN: Okay. And your current location is being sold and so this is vacant and so you basically want to move 20 feet --

CYNTHIA HUGHES: Yes, if that.

BRENDAN SULLIVAN: -- to the next spot.

CYNTHIA HUGHES: Correct.

BRENDAN SULLIVAN: And that's basically it in a nutshell I guess.

Any questions?

DOUGLAS MYERS: I should mention to the Board that in taking the course of viewing

this property this afternoon, I had a chance to meet with Ms. Hughes. She was sitting outside in front of the shop, I could hardly avoid talking to her. So I had a chance to ask all of my questions at that time.

Thank you.

MAHMOOD FIROUZBAKHT: No questions.

TIMOTHY HUGHES: No questions.

TAD HEUER: I'll have comments later but no questions now.

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

Is there anybody here who would like to speak on the matter of 2528 Mass. Ave.?

Let me start at the back. Mr. Flynn. Just give your name and address for the record.

THOMAS FLYNN: E. Thomas Flynn, 25 Madison Avenue. As I've been here before, lifetime resident of Cambridge. And seeing that barber shop that you're talking about

was Henry's Barber Shop when I was kid. But anyway, the change from one doorway to the next it's, you know, it fits the hardship and it's a continuing business. And I like to see it passed.

BRENDAN SULLIVAN: Okay.

THOMAS FLYNN: Appreciate it.

Thank you.

BRENDAN SULLIVAN: Okay.

Anybody else wishes to speak on the matter? Yes. If you please give us your name and address.

CAROLYN MEIK: Carolyn Meik at 15 Brookford Street right around the conner from the barber shop. They are a fine business neighbor, no nuisances. I highly recommend that they be allowed to move from the present location to the new location.

BRENDAN SULLIVAN: Great, thank you.

Anybody else wish to speak on the

matter?

FRED FREDRINI: Fred Fredrini, F-r-e-d-r-i-n-i, 2524 direct abutters to this. Although very colorful we would appreciate if we could move the barber shop over. I lived there for 56 years and have gone through many, many changes on that piece of property. It would be nice to see it back to the originally what it was meant to be about 30 years ago, a barber shop. Although colorful, it would be nice to see it go back there.

BRENDAN SULLIVAN: Okay, thank you. Anybody else wish to speak? Yes.

JAKE WARK: My name is Jake Wark, J-a-k-e W-a-r-k. I live in Arlington, and every two weeks I go to Fast Phil's and I pass probably three or four barber shops on that stretch of Mass. Ave. between my place and Fast Phil's. If I'm going from the other direction, I pass three or four between

Harvard and Porter Square. I always go there for five years. They serve a, I think a clientele in the neighborhood but also people outside the neighborhood as well. I'll always stop by and get a cup of coffee and a piece of pizza afterwards. I'd like to see them stay in business for ten years or more.

BRENDAN SULLIVAN: Thank you.

Anybody else?

RICHARD MILLBURY: Richard Millbury (phonetic), Seven Waldo Ave., Somerville. I formerly lived across the street on 40 Hooker Avenue in Somerville which is right next-door to Matignon High School. And Phil just moved there when I was -- when I bought my condo closer to East Somerville and I've gone back there ever since. He's very accommodating. He's somebody you would want as a business owner in the neighborhood and he's always -- he's donated, he's been a good donator of charity bike rides I've done in the

past. He's let me bring in concern for customer safety and bring in bikes and make sure they're locked up.

BRENDAN SULLIVAN: Okay. Great, thank you.

Mr. Clary.

RICHARD CLARY: Richard Clary, 15 Brookford Street. I live about a block from this location. The past two years or more the community has been having meetings with the Community Development Department to discuss ways to improve Massachusetts Avenue -- North Massachusetts Avenue. And one of the products of those discussions is something that came out two weeks ago which has been produced by the Community Development Department and labelled the North Massachusetts Avenue Overlay District.

One of the express purposes of this district is to foster retail use of the scale proportion to what the retail use is existing

there. The feeling of the community was that for a number of reasons, including the city's fondness for lucrative large residential developments was not fostering or not helping the first floor retail use to flourish along Massachusetts Avenue. And it was agreed that they would try to enact the overlay district to foster more retail uses. And if they had looked for one, they could hardly find one more suitable to what the people wanted than this barber shop which is very popular and obviously must be local because it's so small, those little shops are so small that there's no threat of a national franchise coming in to be a retail user at that property. So, I think the Community Development Department, if they were here, would strongly endorse this Variance.

BRENDAN SULLIVAN: Great, thank you.

Anybody else wishes to speak on the

matter?

(No Response.)

BRENDAN SULLIVAN: I see nobody.

Let me -- I see nobody else in attendance. There is correspondence in the file.

(Reading) To Whom It May Concern: My name is Rafael Godisman (phonetic) and I'm the owner of 2534. He has no problem with Fast Phil's moving next-door and staying in the neighborhood.

There is a petition. (Reading) To our Fast Phil's customers: Fast Phil would like to stay in the neighborhood as a continued business and we would like your support. If you would like our business to stay in the immediate area, please show your support by signing this with your name and address. There is some --

CYNTHIA HUGHES: 700 signatures.

BRENDAN SULLIVAN: -- 700

signatures. People in the immediate neighborhood, some people from the neighboring towns which tells me it attracts people to the neighborhood which is I think what Mr. Clary alluded to.

There is correspondence from Jack's Gas across the street. He's the owner and he's an abutter who would like to say (reading) that I have no problem with the issue of Fast Phil's moving directly next-door from 2530 to 2528. It's a great thing when a small local business can stay in the neighborhood and continue doing business.

There is correspondence (reading) To Whom It May Concern: My name is Paul Corvo (phonetic). I'm a tenant in the back of 2530 Rear Mass. Avenue between the two properties. Fast Phil's has been a great local neighborhood business for many years, and I have no issues with his business. I would like to see him stay here and continue his

business.

There is correspondence from Craig Kelley. (Reading) Dear BZA Members: I write in support of the application for BZA case No. 10260, a request to allow a barber shop at 2528 Mass. Avenue. In its best form, Zoning is a blunt instrument and awkward as it may be, Cambridge has long looked at Variance requests as a way of better defining this land use planning tool in this manner. And I'm sure as you are know, there is a fair amount of efforts being put into developing a Zoning program that encourages exactly this sort of retail use on North Massachusetts Avenue; mom and pop ground floor neighborhood based. While this particular piece of property may not be covered by the Zoning proposal, the thought behind the proposal and the general neighborhood sentiment to support this sort of retail establishment indicates that this application absent some

unforeseen complications should be granted. I hope that you will review the application favorably. Please feel free to contact me directly with any questions or concerns. Many thanks for your efforts on behalf of the city.

Even though not always, but at least thank you for this particular one. We will accept his good wishes.

That is the sum substance of the public comments, and I will close public comment at this time.

Is there anything else to add, delete, change?

CYNTHIA HUGHES: No, but I just ask that you guys would consider this for our future because we love our jobs and we love our customers and we really would hate to locate to another city and possibly potentially lose the good customer that we have. We could, you know, we could actually

bring more, you know, if something passes, we have a lot of people that are in the neighborhood that do, you know, that a lot of times generally they're getting an inspection sticker across the street while they're getting their haircut. They're going to Dunkin' Donuts getting a cup of coffee. You know, we all work hand in hand and support each other. We follow the rules. We never had any issues. We've never had the police called. We've never had any parking issues. You know, everyone respects each other. We just want to stay in business, that's all. We're unfortunately afraid that if we don't get this, we could be Watertown, Arlington, and Somerville somewhere else that we don't want to be.

DOUGLAS MYERS: How many employees do you have including part time?

CYNTHIA HUGHES: Three. Two at once though. So we shift off. It's

200 square feet our current location. It's very small. And the new location is under 400 square feet.

BRENDAN SULLIVAN: Okay. For more stuff on the walls.

Okay.

TIMOTHY HUGHES: You can sweep the hair up into a bigger pile before you have to pick it up.

CYNTHIA HUGHES: That's true.

BRENDAN SULLIVAN: Let me close then the presentation part and let the Board discuss it among themselves.

For the Board's and everybody else's edification, I'm in receipt of a correspondence from the Planning Board to the City Council dated April 9th. The subject was the North Mass. Avenue map change. (Reading) the Planning Board is pleased to submit for consideration a petition to amend the Zoning map of the City of Cambridge for

the area along North Massachusetts Avenue. The petition amends the Zoning map of the City of Cambridge by changing the Zoning designations of the area indicated on the attached map in the vicinity of Charlie Square and Linear Park and from Business A-2 to Residence C-2B.

If you read through this, it also basically covers from that area all the way up to the Arlington line which covers this particular property.

The proposal which will be acted on next month at the City Council has, I think, as Mr. Clary said has been a two-year plus process to change some of the dimensions, but also some of the uses of this particular area.

As part of the Massachusetts Avenue Overlay District, it shall be divided into three districts:

District 1, the Aggassiz Neighborhood, as we have gone through before.

District 2, which is at Porter Square.

And overlay districts, subdistrict 3 at North Cambridge, which basically goes from Creighton Street up to Cottage Park Avenue, northwesterly on the avenue from the center of Beech onto the east to the Business A-2 Zoning District on the west and basically up to the Arlington line. It is the purpose of this section to augment base zoning regulation in the district in order to create a more harmonious and consistent image for development along the avenue and adjacent areas to encourage good building design and site development that enhances the pedestrian experience of walking along the avenue to ensure that the changes along the avenue are compatible with the scale and character of the abutting neighborhoods.

(Reading) and to encourage such changes where current site development is inconsistent with these purposes, to

encourage the retention of existing buildings of historic value, and to encourage uses, especially retail uses, that serve the abutting neighborhoods and to discourage new development inappropriate in both scale and design. As part of the proposed change, the following changes apply to North Massachusetts Avenue from Porter Square to Residence B, BA-2 Zoning Districts. And in part of this would be a change in the use from under Section 4.3A retail sales to allow barber shop, beauty shop, laundry, and dry cleaning pick up, shoe repair, etcetera, etcetera, etcetera, which are presently not allowed. So the intent of the Community Development Planning Board and the proposal before the City Council is to change the use so that this particular use before us tonight would be permitted.

TAD HEUER: Mr. Chairman, I'm not -- I'm going to be in the minority on this,

but when I look at the Zoning map proposed, when you mention it goes to the Arlington line, it doesn't necessarily go to the Arlington line. If I'm looking at this map, am I correct that the existing Zoning ends just short of Richard Avenue? My question is is this property covered by the new extended Zoning change?

DOUGLAS MYERS: It doesn't seem to be.

CYNTHIA HUGHES: You want a bigger one?

TAD HEUER: And that's not this one.

BRENDAN SULLIVAN: In discussions with Community Development, it was the intent maybe of -- well, anyhow, regarding this particular case, it was the intent to augment that and to carry up to the line as what was presented to me. This just came in and I had not really viewed the map. It's obviously Dudley Street here. It looks like it's just

short of that.

TAD HEUER: Yes.

CYNTHIA HUGHES: We're on Churchill. Smack across the street. We're directly on Churchill. We're before Churchill.

DOUGLAS MYERS: Passed Cottage Park Avenue in the direction of Arlington.

CYNTHIA HUGHES: Correct. Well, we're between Cottage Park and we're at Churchill.

DOUGLAS MYERS: As you walk out towards Massachusetts Avenue, you cross Cottage Park Avenue.

CYNTHIA HUGHES: No, Cottage Park's to our right. If you walk out into Mass. Avenue Cottage Park's to our right. We're actually a building before Churchill towards Harvard Square.

DOUGLAS MYERS: Okay.

TAD HEUER: When I look at 20.110.3

proposed, it says the following changes apply to North Massachusetts Avenue from Porter Square to the Res B/BA business A-2 Zoning District line. Just for my own edification, does that mean when I'm looking at this map, this accompanies that, that it's the existing BA, that the overlay district covers the BA-2 district? Or does it intend to go into the Res B District? I think it goes from Porter to the Res B District.

BRENDAN SULLIVAN: To the Res B line.

TAD HEUER: Right. To the Residence B Zoning District line on the left.

BRENDAN SULLIVAN: Okay.

TAD HEUER: Right.

BRENDAN SULLIVAN: Okay.

Mr. Myers.

DOUGLAS MYERS: Well, members of the Board will recall that I have frequently expressed myself in favor of very cautiously,

exercising our discretion to grant use variances. However, there is a time and a place for everything, and that includes exceptions to my general disapproval of use variances. It seems to me that a use variance is eminently justified in this case. The overlay ordinance to which you just referred, encouraged those uses in areas adjacent to the overlay zone. I think this is a good example of the case when the Board should exercise its discretion to encourage commercial use, thriving commercial enterprise that serves hundreds of Cambridge residents and has established its bona fide over a ten-year period at least. So I think the Board should exercise its discretion. Functionally it's hard for me to conceive any difference in the effect of approving this use variance in any negative sense except possibly in a technical sense that I don't think that doesn't -- or wouldn't be

persuasive to me in any event. So, I've examined the premises at 2258 Massachusetts Avenue. They've historically had almost a continuous commercial use. They're attractive premises. They're suitable for this business, and I think that this is an occasion when the Board should exercise its discretion and grant the use variance.

CYNTHIA HUGHES: Thank you.

BRENDAN SULLIVAN: Mahmood.

MAHMOOD FIROUZBAKHT: Wonderfully said. I agree.

BRENDAN SULLIVAN: Mr. Hughes.

TIMOTHY HUGHES: I agree also.

BRENDAN SULLIVAN: Mr. Heuer.

TAD HEUER: Everyone knows where I'm going to go. So I'm very sympathetic to this. As an attorney, there's absolutely no way I can vote for this. As a land use attorney, my concerns are entirely technical, have nothing to do with the

petitioners. The Ordinance that we're required to enforce under Chapter 40-A speaks nothing at all about owners about neighborhood value etcetera, even though maybe it should or could or it would be better off if it did. It's solely about the use of land. And as Mr. Myers pointed out, use variances are highly disfavored by the courts. Even exceptionally rare circumstances or something to that effect is the direct language. I would be more sympathetic to Mr. Myers' comments were it not for both the previous precedent of this Board and also the Zoning Overlay District that we've just been presented with by the Planning Board as submitted to City Council. As this Board is aware, several weeks ago we had in my mind a nearly identical situation. We had a commercial property within -- on Massachusetts Avenue, that was seeking a use variance. It was a Dunkin' Donuts. We

received a very nearly identical letter from Councillor Kelley suggesting that Zoning is a blunt instrument and should not be used in a manner contrary to how the Ordinance is written. That it should be enforced as it is and whether other options should be enforced. I was somewhat surprised that Councillor Kelley's letter today which indicates the same substantive argument by the opposite conclusion.

In my mind, and we've had a similar case with the Harvard House of Pizza, which had a very similar request, again, within the same Zoning District, wished to move several storefronts down, and I voted against that as well for the same reasons, that the hardship was not owing to the use of the land, it was owing more to the concerns of the owners. And at law there's nothing that would entitle me I don't believe to vote in that respect.

My last concern was with the overlay

district, and because one of the things that I think that we do consider is the extent to which circumstances change in the city so that they don't reflect what the Ordinance says. Here, however, we have the very clear instance that within the last 30 days the city has reviewed North Cambridge, they've decided to make different changes to the Ordinance, to reflect the uses that the Chairman's pointed out. And it expressly did not extend that district as it very easily could have, nor several blocks to encompass areas that the city clearly knows are grandfathered commercial uses. To the extent that the city had that option less than 30 days ago and chose not to exercise it, I would find it very difficult to say to the City Council that -- or to the Planning Board that they did not know what they were doing. It seems that they have the opportunity maybe to amend that going forward and extend it up

to these commercial properties. I would fully endorse that. But I don't think it's our place to do the City Council's work for the City Council has expressly decided not to and the Planning Board's expressly decided not to.

As a purely technical point on the abandonment issue, I would suggest that to the extent that this is -- this property's been filled seriatim by other commercial uses that have not been cured under our Ordinance as to their existence. My suggestion would be that because they had several seriatim uses of several years but not more, the commercial use was actually abandoned at that point which I believe is probably several decades ago. I don't believe the illegal continued operation without a Variance for a commercial use in residential district where it hasn't been cured would entitle grandfathering. And I think as a matter of

law, that maybe the situation that this space was actually abandoned as a commercial property and should not be allowed to re-enter a use as a commercial property even though it has all the characteristics of one.

Again, this is has nothing to do with the petitioners. It has nothing to do with the neighborhood. It simply has to do with the jurisdiction I believe the Board has which is limited and the differentiation between our role and that of City Council.

BRENDAN SULLIVAN: Okay. Let me make a motion to grant the Variance regarding the operation of a barber shop at the existing storefront location at 2528 Massachusetts Avenue as under Article 4, Section 4.35C which is a retail business and consumer service establishment.

To vary that part of the Ordinance the Board finds that a literal enforcement of the provisions of the Ordinance would involve a

substantial hardship so the Petitioner because it would severely limit the liability and the value of the property, and it would be near impossible for the Petitioner to convert this particular location to an Ordinance compliant use seeing that the historical nature of this particular location has been business, and that the size, shape, and function of this particular location is extremely difficult to convert to an Ordinance requirement to comply with the Ordinance.

The Board finds that the hardship is owing to the fact that the Ordinance does not permit such use in this particular location, and that it would again severely limit the liability and the value and the streetscape at this particular location.

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

And the Board finds that letters in support and a petition signed well over by 700 people in favor of this, and people in the immediate neighborhood who use the establishment and wishes it to continue in the proximity of this location.

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

All those in favor of granting the relief to allow for the barber shop.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Hughes, Myers, Firouzbakht.)

BRENDAN SULLIVAN: One opposed and so noted in the previous comments.

(Heuer.)

CYNTHIA HUGHES: Do we win?

BRENDAN SULLIVAN: You got it.

(10:25 p.m.)

(Sitting Members: Brendan Sullivan,
Timothy Hughes, Tad Heuer, Douglas Myers,
Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will
hear case No. 10261, 392 Cambridge Street.

CHRISTOPHER CHAN: Mr. Chairman,
members of the Board, Michael DiMaggio,
Chan Mock Architects. To my left is Michael
DiMaggio from Chan Mock Architects. And to
my right is Manuel Rogers who is the owner of
the property of 392 Cambridge Street.

CHRISTOPHER CHAN: I'm going to go

relatively quickly because I know this has been a long night for everyone. This is a straight forward case.

We have a side by side single-family houses built at about 1860s. I believe they're originally done by a captain and his brother. Let's see if we have -- this is a rear elevation. What we're looking at is -- we are a three season porch on the back of the property, which we are filling in to exit stair from the second floor unit. There is a first floor -- it's a multi-use building. First floor is a lawyer's office, second and third floor residential. The rear setback is what we are encroaching upon, the existing building. And as we fill it in, we need relief in terms of Special Permit.

TAD HEUER: Mr. Chan, you're requesting a Special Permit. Are you advertised for a Special Permit?

CHRISTOPHER CHAN: I believe we

were. I mean, that's what we had on our application I think.

TAD HEUER: I'm just looking at you're citing Article 5 and 5.33. Wouldn't you usually site Article 8?

CHRISTOPHER CHAN: Well, we're in the sides, in the rear setback.

TAD HEUER: Well, if you're in a rear setback and you're enclosing, doesn't that require a Variance?

CHRISTOPHER CHAN: There's no expansion of the square footage.

TAD HEUER: But you're extending your building into the setback.

BRENDAN SULLIVAN: Actually all they're doing is in-filling what's there. Under 8.22.2C they can basically in-fill that provided there is no further dimensional violations.

CHRISTOPHER CHAN: Correct. And we were under FAR to begin with.

BRENDAN SULLIVAN: And there is an under 8.22.

MAHMOOD FIROUZBAKHT: So there's a deck there already.

CHRISTOPHER CHAN: There's a three-season porch.

MAHMOOD FIROUZBAKHT: And you're enclosing that?

CHRISTOPHER CHAN: Yes, underneath, exactly.

MAHMOOD FIROUZBAKHT: So you're not encroaching any further?

CHRISTOPHER CHAN: Exactly. But the rear setback is restricted to 20 feet and the original building is 14. So I believe it is correctly a Special Permit. I did go over this fairly strongly with Sean before we filed it.

BRENDAN SULLIVAN: All right.

TAD HEUER: I'm just thinking of dormer cases where we have dormers in

setbacks and they're encroaching no further, but they're in the setback; right? I'm just trying to get the logic straight.

CHRISTOPHER CHAN: Well, the dormer would be potentially additional square footage.

TAD HEUER: Well, even if it weren't it would be a building in a setback; right? So if you had something right against the lot line, you put a dormer in, it's three feet back, you have a seven-foot setback, you're building's in the setback so you need setback relief. Even though you're not building any further into the setback because the rest of the main structure is already there; right?

BRENDAN SULLIVAN: Under 8.22.2, the following changes, extensions of alterations of a pre-existing non-conforming structure or use may be granted in the following cases after the issuance of a Special Permit. Such a permit be may granted

only if the permit granting authority as specified below finds that such changes, extension, or alterations will not be substantially more detrimental to the neighborhood than to the existing non-conforming uses.

TAD HEUER: But then you're citing from 8.22.2.

BRENDAN SULLIVAN: This is Business A. In an office, the Board of Zoning Appeal may issue a Special Permit for the alteration or enlargement for a non-conforming structure not other permitted 8.22 provided any alteration or enlargement of such non-conforming use or structure is not further in violation of the dimensional requirement in Article 5 or the off-street loading requirements in Article 6 for the district in which such structure is used. And that provided such non-conforming structural use not be increase in area or

volume by more than 25 percent since it first became non-conforming. Technically they're here for the Special Permit which is correct. Article 8.22.21 probably should have been cited as allowing them to come for the Special Permit. And I think it was an oversight on the Zoning specialists.

CHRISTOPHER CHAN: In terms of what's cited.

BRENDAN SULLIVAN: And possibly not citing that.

DOUGLAS MYERS: Unless it's absolutely fatal to the application, I must say that I'm not really troubled in terms of a decision on the merits. If it's absolutely fatal, then we ought to talk about it some more.

BRENDAN SULLIVAN: There is no change in any of the dimensional requirements or Ordinance requirements. There is no change in the GFA because it's an area already

included.

CHRISTOPHER CHAN: I mean, when you apply for the Special Permit, you don't necessarily cite that you're breaking the Special Permit. You cite what you're asking relief from I believe; is that correct?

BRENDAN SULLIVAN: Well, it's to be technical.

CHRISTOPHER CHAN: I mean, I've done many ones before.

BRENDAN SULLIVAN: Yes, 8.22 probably should have been cited because basically you're coming underneath that umbrella to allow you to apply for the Special Permit. In other words, if you satisfy 8.22, which says you're not in any further violation of the dimensional requirements, then you can apply for the Special Permit. So you've satisfied 8.22, and then you apply for the Special Permit.

CHRISTOPHER CHAN: I see.

BRENDAN SULLIVAN: If you were extending it or if you were changing any of the dimensional -- any of the dimensions that are currently there, then you would not satisfy 8.22. It gets technical, then you have to go for a Variance.

CHRISTOPHER CHAN: Right.

BRENDAN SULLIVAN: Is that correct?

RANJIT SINGANAYAGAM: I think what it's saying is that they didn't cite the proper section.

CHRISTOPHER CHAN: But even when I go for a Variance, I often don't cite the Variance statute. I cite the area that we're asking for relief from in the application.

BRENDAN SULLIVAN: Well, 5.22 is somehow pretty inclusive.

RANJIT SINGANAYAGAM: When you advertise anything under the 5, the dimensional relief. But I don't think you're asking dimensional relief; right?

CHRISTOPHER CHAN: No, we're asking for Special Permit. It is dimensional relief in that we are in the setback. We're not changing the dimensions.

TAD HEUER: Right. You're saying that when you cover for a Variance, you don't usually cite Section 10; right?

CHRISTOPHER CHAN: Exactly, exactly. I just cite Section 5. So why would I have to cite Section 8.

RANJIT SINGANAYAGAM: You're just closing existing roof porch; right?

BRENDAN SULLIVAN: Correct.

RANJIT SINGANAYAGAM: So you're not adding any further violations except there is a non-conforming structure. That's why 8.22.

BRENDAN SULLIVAN: It allows them to come under the umbrella of 8.22 in order to apply under the Special Permit.

CHRISTOPHER CHAN: Correct, right.

But what I was saying is that when I apply for a Variance, I often don't cite the Variance statute in my application. I cite the area that we're asking relief from.

RANJIT SINGANAYAGAM: Basically what you're doing is alteration to a non-conforming building.

CHRISTOPHER CHAN: I mean, if it's a question of advertising, then I'm advertising how I'm being successful. You know, not what the problem is which wouldn't make any sense; right? It would be more important to advertise what you're asking, what the issue is, I guess, that's why you would cite section. For instance, if I hadn't put Article 5 there at all and just put Article 8, then someone who is reading it wouldn't know why they should show up essentially.

TAD HEUER: Right.

BRENDAN SULLIVAN: Well, I think the

key part of the whole thing is as long as it's legible to Councillor Kelley is that you're enclosing an open area, so that's all that --

DOUGLAS MYERS: As long as it doesn't --

BRENDAN SULLIVAN: That's all the general public would care about.

DOUGLAS MYERS: As long as it doesn't deprive us of jurisdiction or render other judgment void, as long as the Special Permit is in fact the right relief, I think we're okay.

BRENDAN SULLIVAN: I would concur.

MAHMOOD FIROUZBAKHT: I would concur as well.

TIMOTHY HUGHES: In fact, I'm ready for a vote.

CHRISTOPHER CHAN: I knew you would be. I'll try to make it quick.

BRENDAN SULLIVAN: That's your presentation. Is there any questions by the

Board at this point?

DOUGLAS MYERS: No questions by me.

BRENDAN SULLIVAN: At this point.

All right. Let me open it to public comment. Is there anybody here who would like to speak on the matter at 392 Cambridge Street?

(No Response.)

BRENDAN SULLIVAN: Nobody cares. There is no correspondence in the file.

The Planning Board has reviewed the above case and leaves the case to the determination by the Board of Zoning Appeal with no comments or recommendations.

Okay. Anything else to add, delete, change? None. Okay.

CHRISTOPHER CHAN: I'll answer any questions if there are any.

DOUGLAS MYERS: I went, I saw, I'm convinced.

TAD HEUER: But did you conquer?

BRENDAN SULLIVAN: And give him a couple minutes.

DOUGLAS MYERS: I will vote in favor.

BRENDAN SULLIVAN: The proposal is an improvement over what is there.

DOUGLAS MYERS: Yes. I mean, the space is extremely unattractive. It's enclosed already and cut off by a fire escape, and functionally it can only improve. It has no chance of impairing the rear abutters who is separated by a high fence or a side abutter who is separated by a similar fence that's impertinent to the rear of this building. I'm completely satisfied.

MAHMOOD FIROUZBAKHT: This fulfills Special Permit requirements and I'm fine with it.

BRENDAN SULLIVAN: Okay.
Mr. Hughes.

TIMOTHY HUGHES: I'm good with it.

BRENDAN SULLIVAN: Okay.

Mr. Heuer.

TAD HEUER: I'm going to abstain.

BRENDAN SULLIVAN: Okay. Let me make a motion to grant the Special Permit to enclose the open area on the first floor under the second floor enclosed porch as per the drawings in the file and the dimensional form made a part of the application and initialed by the Chair.

The Board finds that the requirements of the Ordinance can be met. That the enclosed space below the existing three-season porch is not an increase in GFA. Relief is only required because the existing porch is within the rear yard setback.

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

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

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

All those in favor of granting the Special Permit.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Hughes, Myers, Firouzbakht.)

BRENDAN SULLIVAN: One abstention.

(Heuer.)

(10:40 a.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Douglas Myers, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10262, 151 Brattle Street.

Okay. Please introduce yourself. Do you have a business card at all?

JEANNE VANECKO: I do. I'm Jeanne Vanecko from Vanecko Limited in Cambridge

representing my clients from 151 Brattle Street.

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

JEANNE VANECKO: We're putting on a porch on the back of the house, replacing an existing porch, making a smaller porch. We'd like to put a roof over that porch. By doing so it makes it part of the liveable area in the FAR calculation. The present FAR calculation before putting that roof on and with the existing porch and the existing cover, there's a little awning on the existing structure. Our ratio is 0.55. Taking that existing porch off, taking the existing awning off, putting the new porch with the new roof on still keeps us at 0.55. What's required is 0.50. We're 50 square feet over the FAR.

BRENDAN SULLIVAN: From what it is now?

JEANNE VANECKO: From what it is now.

BRENDAN SULLIVAN: Yes, okay.

JEANNE VANECKO: It's in an area of the house that's been exempted by the Historic Commission it can't be seen from a public way.

BRENDAN SULLIVAN: Okay. What the is percentage of 15 feet into 10,434.

DOUGLAS MYERS: De minimus.

JEANNE VANECKO: If you take the percentage out a couple more decimal points, it shows up. But rounding it to the nearest --

BRENDAN SULLIVAN: Wing back? Rounding it down?

JEANNE VANECKO: It's exactly where we are now. It's just because of the way the Ordinance is written, we can't swap one overage for another overage.

BRENDAN SULLIVAN: Right.

DOUGLAS MYERS: It is less than what's paid in most money market accounts in the City of Cambridge.

TAD HEUER: I just have a couple questions about the dimensional form. You show a lot area per dwelling unit of 7,803 square feet. There's only one unit -- there's only one dwelling unit on this lot; right?

JEANNE VANECKO: That's correct.

TAD HEUER: So shouldn't that be that there is whatever the lot area is? Shouldn't that also be 19,030?

JEANNE VANECKO: Yes, it should.

TAD HEUER: And in the next column you're requesting no change in the lot area per dwelling unit, correct?

JEANNE VANECKO: Correct.

TIMOTHY HUGHES: Not unless they're going to rent out underneath that porch.

TAD HEUER: And you have ratio of

usable open space to lot area. And it's -- you've listed as a square footage not as a ratio. It seems to go up by 500 square feet. What's going on there?

JEANNE VANECKO: It does go up by 500 square feet, but the -- it still doesn't alter the percentage.

TAD HEUER: Really? 500 square feet out of -- that's, that would percent to someone.

JEANNE VANECKO: You have to take it out more decimal points.

TAD HEUER: So when I do the math you're going from a 0.66 presume because it's not from the relief requesting. From a 0.66 to a 0.71, certainly more decimal places, and you're in a 0.75. You have 50 percent slash 13442. I don't -- I'm not sure what that means.

JEANNE VANECKO: Well, if you take 50 percent of -- this is what the

requirements are, that last section? Is that what you're looking at? I'm sorry.

TAD HEUER: Yeah.

BRENDAN SULLIVAN: 50 percent of the lot area.

TAD HEUER: It has to be 50 percent of the lot, right?

BRENDAN SULLIVAN: Of 19,030.

TAD HEUER: So you need to have 9515. And you have 1248 and you have somehow that doesn't concern us to 13443.

DOUGLAS MYERS: Would you repeat that, Tad? From what to what?

TAD HEUER: So it's going from 0.66 to 0.71 in a 0.5 district.

DOUGLAS MYERS: Actual square footage?

TIMOTHY HUGHES: That's usable open space.

TAD HEUER: That's usable open space. It's going from 12,488 to 13,443

noting that that is a lot area larger than combined lots of everything we've discussed previously this evening where the lot area is 19,030.

TIMOTHY HUGHES: What percentage of the city is that?

TAD HEUER: You can probably count that accurately probably in decimal places.

BRENDAN SULLIVAN: Okay.

TIMOTHY HUGHES: So the dimensional form is corrected to satisfaction? Cool.

BRENDAN SULLIVAN: This is the drawing. I must comment that you are one of two or three people who have actually submitted a notification panel locator. I know it's a requirement. Nobody ever does. You did. So, you know, we'll give you a gold star for that anyhow. Being very thorough anyhow. So sheet A1-1 is really, is the detail of the work to be done.

JEANNE VANECKO: Correct.

BRENDAN SULLIVAN: Okay.

Is there anybody here who wishes to speak on the matter 151 Brattle Street?

(No Response.)

BRENDAN SULLIVAN: I see none.

There is correspondence from the Cambridge Historical Commission issuing a certificate of 12/16/11. (Reading) the Cambridge Historical Commission hereby certifies pursuant to the Massachusetts Historical District Act and the Cambridge Historical Commission Ordinance that the work described below does not involve activity requiring issuance of a Certificate of Appropriateness or hardship. And under three add divided like door at the west elevation with entry roof and stairs. And so they have basically issued a Certificate of Non-Applicability for their review.

And that is the in the file. And there are no other correspondence in the file.

I'll close public comments. You've got nothing else to add, change or delete. Okay.

Let me take it to the Board now.

DOUGLAS MYERS: No questions. No comments.

BRENDAN SULLIVAN: Okay.

MAHMOOD FIROUZBAKHT: Same.

TIMOTHY HUGHES: I'm good with it.

BRENDAN SULLIVAN: Mr. Heuer.

TAD HEUER: No questions.

BRENDAN SULLIVAN: Let me make a motion to grant the relief requested as per the drawing submitted entitled, "Renovation to 151 Brattle Street," and dated -- the last revision is August 31, 2011. Would that be correct?

JEANNE VANECKO: Yes.

BRENDAN SULLIVAN: Initialed by the Chair.

To remove the existing wood frame uncovered deck and construct a smaller wood

frame covered entry porch to serve as the primary side entrance to the residence.

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 to cover from the weather a smaller deck which will serve as a primary entryway into the dwelling unit.

If left uncovered and not allowed by way of relief from this Board, the porch would probably be a hazardous condition having snow and ice accumulating during the inclement weather.

The hardship is owing to the fact that the existing house is non-conforming in nature and having to do with the dimensional requirements, the siting of the house on the lot which precludes the existing Ordinance.

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 relief requested.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hughes, Heuer, Myers, Firouzbakht.)

JEANNE VANECKO: Thank you.

TAD HEUER: What's happening in the fonts of the house?

JEANNE VANECKO: The original porch was closed in at some point in a very unappealing way and we've now restored it to its original design. It's been under a blanket.

BRENDAN SULLIVAN: It's under wraps.

JEANNE VANECKO: It's been under

wraps so that we can work during the bad weather.

BRENDAN SULLIVAN: Waiting for the unveiling. I go by there everyday.

JEANNE VANECKO: There will be an unveiling very shortly.

(10:50 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Douglas Myers, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10263, 1707 Cambridge Street. Whoever is going to present.

BHUPESH PATEL: Hi, I'm Bhupesh Patel. I'm the owner's rep for 1707. I live

at Three Bowden Street representing DesignTank, Inc., the architect.

JASON ROAN: I'm Jason Roan, R-o-a-n in Concord, Mass.

SUSAN ARNOTT: Susan Arnott, A-r-n-o-t-t, 1707 Cambridge Street.

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

BHUPESH PATEL: Basically the existing house is a three-family and we're proposing that we are literally adding square footage approximately two percent and shaded in on this plot plan here. And let's just give you a reference of where it actually is.

You've got this in your packets this morning. It's four pages of architectural drawings and two pages of existing and proposed site plan. I'm going to flip this over so you can see what it looks look. And what it looks like symmetrically. Basically the dashed area is what's being proposed. At

present there is a door in this way. And the stair that comes down, this will be filled and this piece is existing and two-story house is existing. This is one of four houses that are antebellum houses that used to exist right next to the school of design. So it is on the National Registry. Two of the houses have been lost and two are remaining, and this is one of those houses. Basically they're side-by-side houses, so this does not conform with the side of the setback, but the other side of the setback, the house is actually 19 feet. But our proposal is 21 feet and what's required is 20 feet. So we don't -- basically we don't infringe on any of the setbacks, but there is an existing setback on the opposing side of the house because it's demising all the shares with the antebellum house.

So what it basically boils down to just the square footage increase by two percent to

create the space, and the real issue here is they're in-filling this space because there's a large apartment building next to here. And this is a space that doesn't actually get any sun so it's quite moisture drenched and they have an issue where a lot of the snow that comes down here, it melts but the snow at the bottom here doesn't get any sun so it doesn't melt. They've had an issue with it, but wanted to in-fill it with a roof. But we proposed basically a roof and a screened porch. So it's not a space that's going to be conditioned but it's merely a space that's going to be a porch with a roof to allow the icicles to be safely removed and snow conditions to be basically safely removed from the roof naturally without dealing with a porch that wouldn't have a roof. That's really it. We've obviously extended the staircase beyond that space. And the floor plan just shows that the two

dimensions that we proposed this on is just to fit the doorways, and it's brought in a little bit from the existing elevations because obviously the National Registry trying to preserve the corners of the existing house so there's a condition where they wanted to remove the screen porch, they wouldn't remove any of the existing trim work so it's sit in. So the only actual change on this trim work is sort of the seven courses of siding that's here. That could be replaced if that screen porch is ever removed. So it's basically an in-fill project that's put in in cladding system that's already on the existing house. And we actually didn't get this until seven p.m. tonight, but Sarah assured me that you already have the letter from the Historic Commission. But if you didn't have it, I have a copy of it here. But she did not have it as of five p.m. on Monday. I don't know

how she got it to you guys on time. So it's here. So that's that.

You already have two letters of support from abutters which basically if you look at the plot plan, there's actually letters from the two abutters, one side of the house, the abutter in the back, and eventually a very entertaining support letter that's in the apartment building. And so basically properties on both sides and property in the rear have support letters for the project.

You don't have two supports letters in the file so we'll submit them now. And you can read them in the file, but basically one of the abutters did send an image of him sitting on the front porch.

BRENDAN SULLIVAN: Mr. McCarthy.

JASON ROAN: Robert McCarthy.

BRENDAN SULLIVAN: We have that.

BHUPESH PATEL: So the one you probably don't have is the Humphrey Morris.

JASON ROAN: Irving Terrace.

DOUGLAS MYERS: Somewhat behind?

JASON ROAN: Yes, exactly.

BRENDAN SULLIVAN: Okay, that's it?

BHUPESH PATEL: That's it.

BRENDAN SULLIVAN: Any questions at this point?

MAHMOOD FIROUZBAKHT: One question. Will you then put gutters in to capture any of the melting ice, snow?

BHUPESH PATEL: Yeah, that's correct. We're actually incorporating a gutter that's shown in this section that follows the baseline of the roof so that disappears in the fascia. But it's basically a metal gutter that's engineered to hold up a lot of snow. It melts way up on the top of the roof, but the rest doesn't melt. It just sits there.

MAHMOOD FIROUZBAKHT: Right. Where is the downspout?

BHUPESH PATEL: The downspout is integrated into the inside of this elevation in this corner. And there's a condition of drainage that's already on the property that would allow us to actually -- allow that to be engineered into it. So we already have a drywall system on the property that could take that additional load. There is no change in water that's added (inaudible) it either goes to the ground or the roof.

MAHMOOD FIROUZBAKHT: Just diverting it.

BHUPESH PATEL: Yes, just diverting it in the direction it was going before.

MAHMOOD FIROUZBAKHT: Good. That should help.

BRENDAN SULLIVAN: Mr. Hughes, any questions at this point?

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: Mr. Heuer?

TAD HEUER: No.

BRENDAN SULLIVAN: Let me open it to public comments.

Is there anybody here who would like to speak on the matter of 1707 Cambridge Street?

(No Response.)

BRENDAN SULLIVAN: There is correspondence in the file from Laura Roberts and Ed Belove, B-e-l-o-v-e. (Reading) To Whom It May Concern: We're writing to support David Auburn and Susan's application for permission to modify the L of their house at 1707 Cambridge Street. Our understanding that the work will correct some problems with the roof line as well as creating a porch by confining the work to the rear of the house which has already been significantly altered. Over time this project will make the house more liveable while protecting its historic qualities. We urge you to approve our neighbor's application.

From Frederick C. Childs, C-h-i-l-d-s,

1709. (Reading) I'm the owner of the house adjacent or attached to 1707, and the 12 years that we have been neighbors and abutters we have cooperated on numerous renovations and/or home improvements projects. I fully support their plans to extend the roof line along the side of the house and to create a screened porch area outside the kitchen. And I see this project as improving and protecting the structure.

(Reading) To Whom It May Concern -- by Humphrey Moris, M-o-r-i-s, Eight Irving Terrace. My wife and I own the top two floors of Eight Irving Terrace making us abutters of 1707 Cambridge Street. The back of our house is on the property line as we look out over their garden. Today I went over their house and reviewed the plan they are proposing to add a screened in porch access through their kitchen and to extend an existing roof line. I wholeheartedly support their getting

approval to do this work. I can add that they're very good neighbors that bring an exemplary spirit of cooperation to the relationship. For example, when we asked to have access to the yard to have work done on the back of our house. Sincerely, Humphrey Moris.

From Mr. Robert McCarthy who lives at 1697 Cambridge Street, and he just wishes to support the petition.

TAD HEUER: Having sat in front of similar screen porch as a boy.

DOUGLAS MYERS: He's been at the property for a long time.

BRENDAN SULLIVAN: And picture of same is enclosed. He's in favor of it.

There is correspondence from the Cambridge Historical Commission regarding case No. 10263. (Reading) the property is located in the Mid Cambridge Neighborhood Conservation District where exterior

alterations visible from a public way are subject to review and approval. The proposed new screened in porch was approved, and to construct new screen inside the porch as per the plans. Work is to be carried out to the application material dated received on April 13, 2012. The plans and specifications that were submitted with the application are incorporated into the certificate which is binding on the applicant. And signed by Nancy Goodwin Chair. And the date of the certificate is May 24, 2012.

Okay. That's the sum substance of the correspondence.

Anything else to add?

BHUPESH PATEL: No.

BRENDAN SULLIVAN: You're increasing the proposal by 115 square feet; is that correct? Going from 0.57 to 0.59. So it's two percent.

BHUPESH PATEL: Correct. It's two percent increase, right.

BRENDAN SULLIVAN: And the house is existing non-conforming. So okay, let me make a motion then to grant the relief requested to in-fill the addition -- let me back up.

Let me make a motion to grant the relief requested to create the addition of a screen porch within a niche of the main two and a half story house and a one-story existing addition as per the plans submitted and initialed by the Chair. And the dimensional form to be incorporated thereof.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude them from creating this covered entryway and filling in this niche in the existing building.

The Board finds that the hardship is owing to the existing non-conforming nature of the house and any addition of any additional square footage. The proposal is 0.02 percent which is quite de minimus. And a fair and reasonable request would require some relief from this Board.

The Board finds that desirable relief may be granted without substantial detriment to the public good. In fact, it would enhance the public good by eliminating a potential hazard both to the occupant of the house and snow and ice and also alleviate a moisture problem as far as this in-fill in this section of the house which receives no sunlight to alleviate such moisture.

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

The relief is granted on the condition

that the Certificate of the Mid Cambridge Neighborhood Conservation District be incorporated and made part of this decision and is binding for the granting of the Variance.

Anything else to add?

All those in favor of granting the relief.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Hughes, Heuer, Myers, Firouzbakht.)

(11:05 p.m.)

(Sitting Members: Brendan Sullivan, Timothy Hughes, Tad Heuer, Douglas Myers, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10264, 25 Robert Kelley, R.C. Kelley Street.

Okay, whoever is going to present.

CARY FRIEDMAN: I'll begin. I'm one of the others Cary Friedman. And this is Ricardo Wellisch. We have a single-family home. We would like to add a gabled roof. We have currently a flat roof. We are I believe not the only, almost the only flat roof on our street. The hardship is that we have had roof leaks with the snow and ice of the New England climate, and it would be an improvement and a relief of the hardship to be able to build a pitch. We also have a growing family. We have currently three bedrooms. We had intended to have two children and got twins, and they are literally growing big, and are outgrowing the space. And so under the pitched roof we would like to add bedrooms to accommodate.

In terms of space, they also -- besides the numbers of bedrooms, the bedrooms are very low ceilings. So the actual volume of

the space we have for bedrooms is small. We also -- well, I mentioned the issue of the block. We actually have pictures of the block to show this will improve the appearance. We also had 15 signed letters from neighbors in support of the project including our next-door neighbor and our architect John Tittman.

JOHN TITTMANN: I could just elaborate a little bit on the description of the project. I'm John Tittmann, T-i-t-t-m-a-n-n.

As Cary said, I've been retained as their architect, but I'm also an immediate neighbor. The project is mostly the understood I think in looking at the section of building. The -- right now the building is a flat roof structure and the thought to deal with the snow and ice, of course, is to do what every other house in New England is pitched gable roof.

TAD HEUER: Three families?

JOHN TITTMANN: Three-families
don't obviously.

TAD HEUER: Are there a lot of
three-families in Cambridge?

JOHN TITTMANN: Yes.

TAD HEUER: Okay.

JOHN TITTMANN: I'm saying a lot of
houses have pitched roofs for solving the
snow --

TAD HEUER: But many have existed
for hundreds of years (inaudible).

JOHN TITTMANN: That is true.

TAD HEUER: Go ahead.

JOHN TITTMANN: It is not the only
reason for doing the gabled roof. But, you
know, your point is well taken.

You know, this is the picture of the
street. This is sort of a rough alignment of
the buildings as you walk down the street.
Most of the buildings on the street with a few

exceptions, a triple decker. Most of the housing that was done in the eighties over here that has flat roofs. But otherwise all the buildings are for the most part small gabled ended pitched roofs. With one exception is this project here, and so it seemed like an easy way to sort of kill two birds with one stone, fix the roof issues while expanding the house for the needed space. The -- one of the issues in this building is that the ceiling heights are seven feet high inside. So doing any significant work to bring the building up to code would be, you know, involved, completely reframing the building, essentially.

BRENDAN SULLIVAN: Seven feet is code right now.

JOHN TITTMANN: They've reduced the code? Reduced the ceiling height?

BRENDAN SULLIVAN: Chapter -- yes, seven feet.

RANJIT SINGANAYAGAM: You're talking with basement.

JOHN TITTMANN: No, I'm talking about --

BRENDAN SULLIVAN: Basement is six-foot, eight.

RANJIT SINGANAYAGAM: That's the building code.

TAD HEUER: But habitable is seven feet.

JOHN TITTMANN: Habitable spaces are seven feet now?

RANJIT SINGANAYAGAM: Seven, six for multi-family and I think seven, three if I'm not mistaken. Building Code I'm talking about.

BRENDAN SULLIVAN: Well, I don't know, I checked with the building inspector and he told me under the new code is --

JOHN TITTMANN: For habitable space?

BRENDAN SULLIVAN: For habitable space.

JOHN TITTMANN: I stand corrected on that point.

BRENDAN SULLIVAN: In the Ninth Edition.

JOHN TITTMANN: Yeah, okay.

BRENDAN SULLIVAN: But still low.

JOHN TITTMANN: It's still very low. And there's also another issue which is the energy improvement of the building. And so we've got a very high R value roof proposed for this which would significantly help. There is no insulation in this flat roof which is part of the problem of why there's ice dams and such. And so, again, it seems the most cost-effective way to deal with all the problems is put it under a gable roof. So, it's -- and then the proposed appearance of the building as you can see in these perspectives, is there are two photographs

taken not long ago with how we would see the additional reading. And so the only aspects of the building that would break the proposed roof plane would be the two dormers on either side. We put a gable dormer on one side which has the staircase, and a shed dormer that follows along the lines of all the dormer guidelines, setback from the edges and not more than 50 percent of the edge or length.

TAD HEUER: How long is it?

JOHN TITTMANN: It's at 12 feet which you can see here. So that's the shed dormer, 11 feet inside, 12 feet outside and then this is the gable dormer as you can see a roof plank here. So these two here are breaking that plane. They count. They're about 50 feet each, about 100 square feet, a little more than a 100 feet beyond the -- what the gable produces. The other aspect that we're talking about here is that there's 200 feet in the basement which is greater

than 611. So the thought is to fill that in and take that off of the FAR count. So even though the total ask on this is 500 by taking 200 off the basement, it becomes a 300 foot change to the building, off the basement.

CARY FRIEDMAN: 298.

JOHN TITTMANN: 298 to be exact. So what we're thinking is that the gable condition of the building is such a common form, that it makes no, you know, no deleterious effects, no adverse effect to the streetscape. In fact, we think that it makes an improvement on the streetscape.

MAHMOOD FIROUZBAKHT: And you say that as an architect and as an abutter?

JOHN TITTMANN: Correct.

DOUGLAS MYERS: Per chance do you live in No. 29?

JOHN TITTMANN: Correct.

DOUGLAS MYERS: That really makes you an abutter. A direct abutter.

JOHN TITTMANN: A direct abutter.

TAD HEUER: Is the space on the second floor that's open to the living room below, has that been calculated as the interior courtyard rules?

JOHN TITTMANN: I don't know the interior courtyard rules.

TAD HEUER: Ranjit, so this space here on the second floor dropping down to the living room below, that's interior courtyard?

RANJIT SINGANAYAGAM: Yes, it's got 20 feet minimum open area, yes. It could be considered a courtyard.

TAD HEUER: And that's counts as FAR?

RANJIT SINGANAYAGAM: FAR for each floor, yes.

TAD HEUER: So my question is how high is that, do you know?

JOHN TITTMANN: It would be -- it's

15 feet. Because it's two, seven-foot floors plus the floor deck.

RANJIT SINGANAYAGAM: So open all the way from ground to --

JOHN TITTMANN: Yeah, a previous owner of 20 years or more removed the second floor to create a little bit more headroom because it's a seven-foot ceiling on the first floor. So they opened it up so it's 15 feet to the ceiling.

TAD HEUER: Okay. Does that count in or not?

RANJIT SINGANAYAGAM: No.

TAD HEUER: Okay.

JOHN TITTMANN: You can see it here in this section.

TAD HEUER: Okay. The reason I ask is because courtyard then essentially we pretend that there's FAR in there even though it doesn't physically exist.

JOHN TITTMANN: Right. What

happens is one of the first suggestions in terms of well, where's another bedroom so we can fill the floor in. But then that creates another seven-foot ceiling. At the time we were making the discussion, we didn't know about the nine-foot addition, that only just came out. And so it was seven-foot, six is not building code. So then we'd run into other trouble. So we said well, part of the problem is the roof and that's how we ended.

BRENDAN SULLIVAN: It's just not practical or desirable. Seven-foot.

JOHN TITTMANN: It's very tight.

BRENDAN SULLIVAN: Well, it's, you know -- anyhow.

JOHN TITTMANN: The rest of the space feels very cramped and so it's hard to imagine filling in.

BRENDAN SULLIVAN: Okay. Any questions at this time?

DOUGLAS MYERS: Yes, one. You may

think it's extraneous, but it comes up before the Board and may have some marginal relevance. I hope you don't think it's impertinent. How old are the children?

CARY FRIEDMAN: Seven, five and five.

DOUGLAS MYERS: Thank you. That's all.

CARY FRIEDMAN: Okay.

MAHMOOD FIROUZBAKHT: No, this seems reasonable in scale visually. It does fit well with the streetscape. I think it's in line with other relief that we've granted in the past so I would be in favor of supporting this.

BRENDAN SULLIVAN: Tim?

TIMOTHY HUGHES: Yes, I like it.

BRENDAN SULLIVAN: Mr. Heuer?

TAD HEUER: I mean, in my mind the house is a mish-mash of stuff that's all been created in one place and turned into a house.

JEFFREY MELNICK: We love it, but you're right.

JOHN TITTMANN: Yeah, Sean O'Grady thinks it may have been a shop at one point.

TAD HEUER: Okay. You don't know if it happened to have a gable or anything?

JOHN TITTMANN: No. Nothing that we know of indicates that. And then Sean thought that the low ceilings, the flat roof maybe made him think it had been a shop.

TAD HEUER: Right. And the original is the front?

JOHN TITTMANN: Is the front, correct.

TAD HEUER: And the rear was added 10 years ago? Roughly.

CARY FRIEDMAN: Yes.

TAD HEUER: Was there an addition to it in between?

JOHN TITTMANN: There was. Well, there was an L which may have been very old.

Actually it's part of the original foundation. The L may have had an outhouse or something in it. But the L, the L was -- had a stone foundation which is still visible in the cellar.

TAD HEUER: Okay.

I guess my only real thought, and I'm not sure how big of a deal it is, is that usually when we're looking at -- so this -- you're 2576 going to 2874, and as you know, you're getting 200 some odd, 200 some odd square feet from in-filling the basement down to six, eleven. Usually what we see in these situations is people having counted the FAR in the basement because it's high enough and then saying don't look at, you know, don't count that against us because we can't use that space in the basement. Here we have the opposite situation where we're saying the basement doesn't count really at all, and all the FAR is above ground. In the past my

general thought has been FAR has really been the city's inarticulate way with dealing with bulking and massing. And to the extent that some of that bulking and massing expresses FAR is below grade, it doesn't really bother me very much unless you're trying to put another unit in there, and I think that's a different issue. Here essentially all of the FAR is above grade so you don't in my mind get the kind of grace period of saying well, FAR shouldn't really be relevant because it's underground. And so essentially you're adding 500 feet above ground to something that's already 0.52 in a 0.5 district. So in my mind I almost consider this, the numbers go to a 0.58 and it's really going to something a bit higher than that. Or going to a 0.64-ish I think.

TIMOTHY HUGHES: 0.61.

TAD HEUER: 0.61? Okay.

So I mean I guess that's kind of where

I'm looking at. I almost -- even though it's technically a 300-square foot net, I'm looking at it, a 500-square foot ad and all of that to the bulking of the structure which does trouble me a little bit.

JOHN TITTMANN: Well, when you're done, I have a comment on your point.

TAD HEUER: Yes. I mean, I fully acknowledge that, you know, the Ordinance says you can do this and you can't do this, and where it comes out, it comes out. I still think, you know, you're in a position where you're over 0.5. That's why you're here for a Variance. And you're over 0.5 because you were put over 0.5 by the 2002 edition.

CARY FRIEDMAN: Actually, if I could add. We weren't at the time because there's a bit of overhang which at the time did not count toward the FAR and now does. So at the time we did not go over FAR.

TAD HEUER: In the 2002?

CARY FRIEDMAN: Correct. The reason we needed a Variance then was a setback issue. We were enclosing the front porch which was over the setback, and that was the only reason we needed it a Variance and we did not for FAR at the time.

JOHN TITTMANN: The FAR calculation has increased in some, I don't know exactly what year it increased.

CARY FRIEDMAN: Because of the change in the overhang.

JOHN TITTMANN: The overhang, eaves are all now counted in the FAR count and 10 years ago they weren't counted.

TAD HEUER: When I look at this and it says three-story 2002 edition, that's -- that looks like the rear half of the house.

CARY FRIEDMAN: That's correct. But the original house was essentially 1500 and we essentially added 1,000 square feet.

We stayed under FAR at the time.

JOHN TITTMANN: When you calculate it under the current methods, the calculation requires you to measure some overhanging spaces as part of the --

TAD HEUER: Okay. I mean, essentially the point remains that you're here because you're over FAR.

JOHN TITTMANN: Correct.

TAD HEUER: And looking over FAR, again, it's in my mind a measure of bulking.

JOHN TITTMANN: Right.

TAD HEUER: And whether it's a little bit or a lot a bit, you know, it's still over and we still look at it and scrutinize it carefully. And my sense is that it's a lot of bulking I think mitigated by the fact that it's a pitched roof so you're not squaring it up.

JOHN TITTMANN: Right.

TAD HEUER: And you're essentially

going over your roof plane and covering it over.

JOHN TITTMANN: Right. I mean because -- I'm sorry.

DOUGLAS MYERS: Go ahead.

JOHN TITTMANN: The point that we always feel in our office is that the most important reading of a house is the eave line not the ridge line. So our argument here today to you and we do understand the math as such, is that the apparent bulking of this building is minimal, because essentially 400 feet of the ad is under the gable. 100 feet is in the dormers. So, you know, forgetting the math game that we're playing in the basement, it doesn't come. It's not free because they have to fill it in with concrete. But that 400 feet in a sense could always have been a part of this building, and it would feel very natural to have been part of it. And its impact on the street bulk

which is an ultimate goal on the FAR is not hindering or hurting the street. If we were adding a full third floor like a triple decker, then I think there is a volumetric imposition. But by doing the gable because the eaves stay low and this existing eave line is being maintained in the whole process is that our feeling our present, our presentation to you is that this is a yes, it's adding bulk but it's not perceptible bulk.

TAD HEUER: Sure. And I take that point and I think the width of your structure supports, you know, a larger gable than for instance, where we have people who come in and want to raise the roof on an existing 30-foot wide house. And they want to go from a two-and-a-half story to a three-and-a-half story. And they say well, I'm just going up to my height, so I'm going 35 feet. In my mind it looks ridiculous because you've

popped up the roof without any relevant increase in the width. So you've demolished your golden rectangle. Here I think you've got proportions that allow to you go up and you're right. I'm not saying necessarily it's dispositive for me. I'm pointing out it's a larger number than we see granting 300 is large. In my mind 500 is very large. And I understand the net. Usually we're seeing things at 150, 200.

JOHN TITTMANN: Understood.

TAD HEUER: Part of this is to get me, if I can, to a point where I'm comfortable that what you've done actually mitigates the bulk of the hard number that I'm seeing.

DOUGLAS MYERS: I didn't realize that we were going to actually express our opinion on the case. If I may?

BRENDAN SULLIVAN: We'll come back.

DOUGLAS MYERS: Okay, that's fine. It's hard to wait but I'll wait.

BRENDAN SULLIVAN: Let me open it public comments.

Is anybody here who wants to speak on the matter 25 Robert Kelley Street. Give us your name.

MEREDITH MOSS: My name is Meredith Moss, I live at 30 R.C. Kelley Street across the street and we're neighbors across the street and our children play together, so our kids are at each other's house quite a lot. So we're pleased to hear about the news that the ice situation will be abated by the roof. I think the issues around ice are particularly right at that front entrance area which is where we spend a lot of time ringing each other's door bells for the kids to come over, for my daughter and son to go to their house. So that's a nice thing. And then I think aesthetically the house is a bit anomalous in its flatness. It does look a bit like it might have been a store. So I

think for the kind of character of the neighborhood it would be a benefit and a positive.

BRENDAN SULLIVAN: Great, thank you.

UNIDENTIFIED MALE: I'm just here as a draftsman.

BRENDAN SULLIVAN: All right. There was nobody else in attendance. There is no correspondence in the file. I'll close public comment.

JOHN TITTMANN: There was. We sent in the letters.

RICARDO WELLISCH: There were 15 letters of support from the neighbors.

BRENDAN SULLIVAN: I think you're right. There is correspondence from the Planning Board who is leaving the determination to us. They expressed no opinion.

I'm sorry, there is.

MAHMOOD FIROUZBAKHT: Is it the same form letter?

CARY FRIEDMAN: 14 are the same and one by Mr. Tittmann is different.

BRENDAN SULLIVAN: Mr. Tittmann presented their feelings.

From David Kefor at 28 Kelley Street. (Reading) writing to support the petition. They have been neighbors since 2002. At the time they added the addition to the back of the house to accommodate the two children they hope to add to the family. Because of the unexpected birth of twins, they have three charming but rapidly growing children and being integral members of our child and family-centered neighborhood and often sharing the toys and scooters. We are particularly appreciative that the proposed addition has been carefully designed by their next-door neighbor and other valued members of the community. John Tittmann with the

neighbor's interest in mind. The addition of the pitched roof will add significantly to the appearance of our street. We enthusiastically support the application.

A letter in support, much of the same sentiments from 39 Robert Kelley Street. I have no idea of the name.

There is correspondence much to the same sentiment from Al Galaburda, G-a-l-a-b-u-r-d-a. Something like that. 200 Concord Avenue, Unit 1.

Much of the same sentiments from Lenny Solomon, Solomon, 50 Robert Kelley Street.

There is correspondence from 45 Kelley Street. Kurt is it?

CARY FRIEDMAN: 45 is Kent and Lana.

BRENDAN SULLIVAN: Kent.

JOHN TITTMANN: Christman. And Lida Kuth.

BRENDAN SULLIVAN: How do you spell that?

JOHN TITTMAN: K-u-t-h.

BRENDAN SULLIVAN: There you go.

Correspondence from Caroline.

CARY FRIEDMAN: Besty (phonetic).

BRENDAN SULLIVAN: Yes.

CARY FRIEDMAN: It's a very friendly block community.

TAD HEUER: And poor handwriting.

BRENDAN SULLIVAN: And support from 39 Kelley Street. Correspondence from John Haydon at 34 Robert Kelley Street. From 34 Robert Kelley Street. They must be all doctors because of the penmanship.

TIMOTHY HUGHES: You had them all over after wine was served and had them sign the papers.

BRENDAN SULLIVAN: It appears all of Robert Kelley Street is in support.

At 243 Concord Avenue unit No. 5.

RICARDO WELLISCH: Abutters of abutters actually.

BRENDAN SULLIVAN: 38 Robert Kelley Street. 30. We canvassed the neighborhood. And 35 Robert Kelley Street. So the neighborhood is in support.

Anything else to add, change?

JOHN TITTMANN: No.

BRENDAN SULLIVAN: These are the drawings. This is what you live and die by? Okay, now your sentiments.

DOUGLAS MYERS: Okay. They're not -- mostly they're responsive to what Tad said so that's why I wanted to come back and to have a chance to speak.

There's a lot of -- I mean, actually there's -- I took a walk down R.C. Kelley Street today, and there's a number of tall buildings and heavily massed buildings on the street. Across the street not so far away 3436 is a really tall building. And many of your immediate neighbors have one and a half stories or more. It just so happens your

buildings in kind of a low pocket of the street. Now your building and your immediate neighbor at No. 22, but the street is changing. There's been heavy development not so far up the street passed you in the direction is it --

JOHN TITTMANN: Donnell.

DOUGLAS MYERS: Is it Donnell Street?

JOHN TITTMANN: Yes.

DOUGLAS MYERS: And increased massing, not excessive but increased is not out of place. But we've taken this position on other cases I think recognizing that the neighborhood is changing and the form of housing is changing. And I think you've reached a point on R.C. Kelley Street where the preponderance is not massive massive, but is heavier massing of the structures. I don't think our application of the Ordinance requires that you as it were stand alone

against that change in your neighborhood. So even though the FAR is at the high end as Tad said of what we often approve, and the increase in the square footage is at the high end, although far from outlandish, I think the application is justified for the reasons stated. I stated and others have stated and by reason of the careful and conscious design so I'm in favor.

MAHMOOD FIROUZBAKHT: I am also supportive. It's appropriate in scale and it looks great.

TIMOTHY HUGHES: I agree with both my colleagues.

BRENDAN SULLIVAN: Okay.
Mr. Heuer.

TAD HEUER: I'll figure it out in a second. Is there a full return on your impediment? Does that come straight across.

JOHN TITTMANN: We're going to leave the existing eave line and so, yes, it will

be. We planned to integrate the break into the -- that horizontal return. So, you know, the horizontal is that not where you're talking about?

TAD HEUER: Yes.

JOHN TITTMANN: We do plan to keep that.

TAD HEUER: Okay. So you're going to end up, it will be a cover impediment because you're keeping --

JOHN TITTMANN: We're going to run this straight across. Fully integrated that the eave will break apart in a sort of Greek revival manner and the Greek will go up and the fascia board across.

TAD HEUER: All right.

BRENDAN SULLIVAN: Any thoughts, questions?

TAD HEUER: No.

BRENDAN SULLIVAN: Let me make a motion to grant the relief as requested to add

a gabled half story to the original section of the house to accommodate two bedrooms and one bathroom.

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 unable to accommodate a growing family in the current house where they have resided for 10 years. By adding the pitched roof, the additional area can be accommodated without increasing the building footprint and the proposed pitched roof will have an added benefit to facilitate maintenance.

The Board notes that the existing house predominantly has a seven-foot high ceiling, floor to ceiling, which is quite substandard for this type of house, this particular neighborhood.

The Board finds that the hardship is

owing to the particular lot and the siting of this house on the lot. The existing non-conforming nature of the house is so that any relief of this nature would require -- I'm sorry, any work of this nature would require relief from this Board.

The Board finds that the proposal is fair and reasonable.

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

The Board notes the letters of support from unanimous support from the immediate abutters.

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

And that the work be completed as per the drawings submitted and the dimensional form which is part of the application and initialed by the Chair.

All those in favor of granting the Variance.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Hughes, Myers, Firouzbakht.)

BRENDAN SULLIVAN: And opposed?

(Heuer.)

BRENDAN SULLIVAN: One. Any dissenting comments?

TAD HEUER: No. I think it's a very admirable plan. I think it's well designed. For me it's just a bit too much FAR given that it's already over and we go further. But I certainly concur with the other members of the Board to have reasonable opinion. I think it's a good project that will go forward. I personally can't get right there.

BRENDAN SULLIVAN: I'm always conscious of the fact of whether any of these

additions will make the house stand out, and again, massing, bulking, so on and so forth. This is one house that needs something. Just -- it stands out now and lacks and screams for something. And, you know, it's a nice street. And I only live just behind it. I'm on Gardner Street. And you're right, there is a tremendous amount of change going on whether it be new funds or new livelihood, something coming into that area, but I think it's tastefully done and good luck to it.

RICARDO WELLISCH: Thank you very much.

CARY FRIEDMAN: Thank you.

(Whereupon, at 11:35 p.m., the
Board of Zoning Appeal
Adjourned.)

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BRISTOL, SS.**

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I am not related to any of the parties

in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of June 2012.

Catherine L. Zelinski
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