

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JUNE 14, 2012

7:00 p.m.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Constantine Alexander, Vice Chair
Tad Heuer, Member
Slater Anderson, Member
Kevin Casey McAvey, Member

Sean O'Grady, Zoning Specialist

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INDEX

<u>CASE</u>		<u>PAGE</u>
10243	--	3
10250	--	18
10257	--	22
10092	--	61
10265	--	73
10266	--	105
10267	--	118/258
10268	--	130
10269	--	172
10270	--	170
10271	--	189/244
10272	--	195

PROCEEDINGS

(7:00 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Slater Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will hear case No. 10243,173 Coolidge Hill. Mr. Gates, if you could reintroduce yourself for the record and state your address.

JOHN GATES: John Gates, 173 Coolidge Hill, Cambridge.

BRENDAN SULLIVAN: And why are you here?

JOHN GATES: I'm here to ask if you would remove the condition that the dormers on my third floor line up with the windows on the floors below them. That was a condition put on a Variance that this Board granted me several months ago. And, you know, I should say first, I am so sorry that I'm here. I'm embarrassed that I'm here.

CONSTANTINE ALEXANDER: So am I.

JOHN GATES: You're nice to all

smile. I know that probably Mr. Heuer is ready to like throw me out on the street. But, you know, it's embarrassing. Look, the honest to God truth is I was trained as a lawyer and I own a bread company. But as a lawyer, I know that this is a public body and I'm wasting your time to have been in front of you three times on this matter. I come hat in hand. So I'm very sorry that this has come again.

The basic idea was that the Variance was granted for me to build three dormers, and at the end of the hearing there was a condition attached, the outside edges of the dormer line up with the window -- the outside edges of the windows on the second floor and the first floor below them. In fact, the way that was written in the grant it said that the right dormer line up with the right edge in the window. So it actually got a, I think, a little mistranslated from the way we talked

about it at the Board level. I sat with it and to be honest, you know, I talked to Sean more recently, and I think I was confused about what the impact was because I went home and I found out that, in fact, those windows were misdrawn by my architect and they were a foot and a half further in. So it changed the whole project. It turned the dormer and it pushed it through one of the walls most particularly on one of the dormers on the front side of the house. And it started the dormer halfway across. But then as I was talking to Sean what I realized was that may not even be what the Board intended me to do. In other words, since the windows weren't where they were shown on that schematic, my interpretation that that meant that I had to move the dormers in might not even be correct. I wasn't -- in the end after talking to Sean, sure exactly what my situation was. What I'm hoping is that if the Board would grant me

relief from that one condition.

CONSTANTINE ALEXANDER: You would like us to basically go back to the plans that you had presented to us with regard to the location of the dormer on the face of the building.

JOHN GATES: Correct. I've resubmitted with the package you have in front of you, the actual locations. It's in that picture that you have in front of you, Mr. Sullivan. The actual location of the windows. And what I'm hoping is that you would approve, as you've already approved the dormers, but take away the condition that they line up with the outside edges of the windows below them. The public policy reason as I see it, the house faces a backyard. There's actually someone else's backyard and then a school behind that. All my neighbors are fine with this. And there's actually no place that you can stand in public

space and look and see whether or not the dormers line up with the windows. It's not -- it's a condition that doesn't necessarily bear any relationship to the --

CONSTANTINE ALEXANDER: Well, I think going from memory, and speaking only for myself, I think the reason we did that was we were disposed to give you relief, and if we were going to give relief, we thought we could it in a way that would be aesthetically pleasing.

JOHN GATES: Right.

CONSTANTINE ALEXANDER: Which is the lining up which we thought --

JOHN GATES: Right.

CONSTANTINE ALEXANDER: -- could be done because of the way that the plans were submitted to us.

JOHN GATES: Right.

CONSTANTINE ALEXANDER: You're saying now we that technically, without

changing the project quite dramatically --

JOHN GATES: Correct.

CONSTANTINE ALEXANDER: -- we can't get there aesthetically.

JOHN GATES: Correct, correct. And I'm also submitting that the aesthetic is theoretical. In fact, when you're in any place where you might be looking in my house from a public street or anywhere else really, because there's a row of trees in front of the view if you stand right in front, you're never gonna see whether or not they line up.

CONSTANTINE ALEXANDER: That doesn't make it a theoretical. Aesthetics are aesthetics. It's like a tree falling in the forest --

JOHN GATES: Right, okay.

CONSTANTINE ALEXANDER: -- doesn't make a sound.

JOHN GATES: Right. So the idea that aesthetically that their lining up would

be nice, in reality there's no view at which you would get that aesthetic?

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: Yes, I think that the intent way back, and it was sort of at the very tail end of everything, was a movement of maybe a couple three inches, you know, just --

JOHN GATES: Right.

BRENDAN SULLIVAN: You know --

JOHN GATES: That's what Sean said to me when --

BRENDAN SULLIVAN: -- just -- and I think you're absolutely correct. You would have to go pretty far back and defoliate your entire yard there to see the relationship. Then when I saw this, I said oh, no, that was never our intent. I think our intent is to let you conform to the dimensions on the roof and the relationship of the dormers and that dimension. And if it was a question of two

or three inches --

JOHN GATES: I wouldn't be here.

BRENDAN SULLIVAN: -- and that would not have impacted your project very much at all.

What is before us now is something that would totally impact your project and so I think I agree with Mr. Alexander, it's somewhat de minimus.

TAD HEUER: Mr. Gates isn't going to believe that I'm about to say this, but I agree and I think I can point to the section of the transcript. This is August 11, 2011, page 99 through 101, where Mr. Hughes states, quote: "I know this maybe isn't drawn to scale, but is it the intention that the dormer is not going to stick out farther than the line that these windows create on the two floors beneath, because it looks like it sticks out now."

It continues on, Mr. Gates says, "I saw

that the same way you're suggesting. I think I saw it in the way that Peter," meaning Peter Wright, quote, "drew it that it would not." Mr. Hughes says, I think that's the way it should be. Mr. Gates agrees. Mr. Hughes says that it should line up or even be inside that line because I think it's awkward outside of the line. Meaning the line of the right window.

And I think it's clear from the transcript there that the intent was to make it symmetrical. If you looked at the drawings, the left window and the right window were not symmetrical to their respective dormers. The intent was that that symmetry be preserved. I don't think it was necessarily an intent that the dormer be boxed in to the outside edges of those windows. It's just that dormer should be placed so they don't create an asymmetry wherever the windows happen to be located on

the facade.

JOHN GATES: Thank you. I appreciate that, because that's my intent going forward, is to have them be symmetrical.

BRENDAN SULLIVAN: Basically, Kevin, this was the drawing that was before us that night. We voted this in. And it was as Tad says, that possibly this edge line up with that edge.

KEVIN CASEY McAVEY: Yes.

BRENDAN SULLIVAN: And, again, we thought it was just going to be a little bit because the one was off centered from that. This here seemed to line up. That there did not. And so it was a question of just bumping this end to line up with that, but it was never the intent -- we thought that was a true representation of the lower second floor of the house, and it is obviously not. Anyhow, I think I would agree that -- maybe we all

agree that we go with the original roof plan.

SLATER ANDERSON: So that was my one question. I didn't sit on the case originally. The plan there that -- the roof layout there is the roof layout, the dormer layout that was proposed, it's just that the windows below aren't accurate?

BRENDAN SULLIVAN: Correct.

SLATER ANDERSON: I apologize.

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

Is there anybody here who would like to speak on the matter case No. 10243, 173 Coolidge Hill?

(No Response.)

BRENDAN SULLIVAN: There is nobody here, and there is no correspondence in the file, I think, reflecting this particular case. There were some letters of support for the previous case and the Board took that into consideration in its findings.

Okay.

CONSTANTINE ALEXANDER: Can we impose a condition that we grant the relief on the condition that you won't appear before us for at least five more years? That's tongue in cheek.

JOHN GATES: I can go one better. As long as I live in this house, I will never be back in front of this Board. I have so much egg on my face, you have no idea.

BRENDAN SULLIVAN: Okay. Any problem with granting the modification?

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: Let me make a motion, then, to amend our original decision to delete the condition of aligning the dormers with the edge of the windows on the second floor.

The Board finds that it was never the intent to totally restrict the size of the dormers.

The Board allows that the relief granted is for the dormer plan as per the drawing 04/28/12.

Anything else to add to that?

CONSTANTINE ALEXANDER: I think we should incorporate the findings we made in the last case for the Variance, the hardship and the like, should be incorporated into this decision as well, same thing.

BRENDAN SULLIVAN: And the Board finds that the reasons for granting the relief remain the same and shall be incorporated as part of this decision. That should be made a part thereof.

Anything else to add?

TAD HEUER: No.

BRENDAN SULLIVAN: All those in favor of granting the amendment to the original decision.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer,
Anderson, McAvey.)

JOHN GATES: Can I ask one question?

BRENDAN SULLIVAN: Sure.

JOHN GATES: As far as now pulling a permit and maybe, Sean, I should come to you privately, just tell me if that's the case. Do I need to do the normal wait for the Variance process before I come for a permit?

SEAN O'GRADY: Yes.

JOHN GATES: Okay. I didn't know if this was a small enough twist that I didn't have to go through that extra step.

CONSTANTINE ALEXANDER: It's a new Variance.

JOHN GATES: Okay. Thank you very much.

BRENDAN SULLIVAN: Yes, this unfortunately delays.

JOHN GATES: I understand.

BRENDAN SULLIVAN: As if it's a de

novo relief.

JOHN GATES: I understand. Thank
you very much.

CONSTANTINE ALEXANDER: Good luck
again.

JOHN GATES: Thank you.

(7:15 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Slater Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will hear case 10250, 45 Trowbridge. Is there anybody here interested in that matter?

(No Response.)

BRENDAN SULLIVAN: We have correspondence.

SEAN O'GRADY: Yes, there should be a letter. Well, I know that there was a request.

TAD HEUER: There's a waiver if he hasn't appeared.

SEAN O'GRADY: Here we go.

BRENDAN SULLIVAN: The Board is in receipt of correspondence from Peter Wright, 106 Larch Road. (Reading) Cambridge Zoning Board: We wish to have a continuance on the hearing for the windows at 45 Trowbridge Street to the next possible

hearing.

And the next possible hearing?

SEAN O'GRADY: Is going to go the second meeting in July and that's going to be --

BRENDAN SULLIVAN: 7/26?

SEAN O'GRADY: 7/26 precisely.

BRENDAN SULLIVAN: I make a motion, then, to continue this matter until July 26, 2012, at seven p.m. on the condition that the Petitioner change the posting sign to reflect the new date of July 26th and the time of seven p.m. And that the sign be maintained as per the Ordinance requirement.

The Board notes that there is a waiver of statutory time for a decision for a hearing, and the statutory decision to be rendered in the file. And that any new submissions be in the file by five p.m. on the Monday prior to the July 26th hearing.

All those in favor of continuing this

matter to July 26th.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer,
Anderson, McAvey.)

CONSTANTINE ALEXANDER: You know, Brendan, on the point of the waiver being on the file, didn't we have that training session with Legal, didn't they tell us something about where you have to get those things signed all over again in their view? Not that I believe it. Am I wrong? I thought I had a recollection they said something about that? No? Forget about it.

TAD HEUER: Well, do you want that -- do I want to have that discussion now?

CONSTANTINE ALEXANDER: I don't know.

BRENDAN SULLIVAN: Well, I was not part of so I don't know.

CONSTANTINE ALEXANDER: You weren't

there, I know.

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: I have a vague recollection, but I don't know the specifics. But they shocked me where they said we should be doing that and they said we should be doing that and that was the end of it.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: We can go off record.

BRENDAN SULLIVAN: We can do it maybe after and we'll accept --

TAD HEUER: All right.

BRENDAN SULLIVAN: I'm sorry, did I do a vote of five in favor?

TAD HEUER: Yes.

BRENDAN SULLIVAN: Okay. Five in favor of continuing. The matter is continued.

(7:20 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Slater Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will hear case No. 10257, 27 Myrtle Avenue. If you would introduce yourself for the record, please.

DEBORAH BELLE: Yes, I'm Deborah Belle.

BRENDAN SULLIVAN: Let me just -- we don't have mics tonight. If you could just maybe speak up that's all if you can.

DEBORAH BELLE: I'm Deborah Belle. And this is my husband Timothy Hart.

BRENDAN SULLIVAN: Okay. And just elaborate on what you would like to do.

DEBORAH BELLE: We would like a Variance so we can put in a compact parking space at the side of our house both to allow us to own a plug-in electric Prius and also

to be more convenient when my husband's multiple myeloma progresses and he is more mobility impaired like he is now.

BRENDAN SULLIVAN: Okay.

Currently you're parking on the street as best as possible?

DEBORAH BELLE: Exactly.

BRENDAN SULLIVAN: And the hardship to you is more than a practical one, I would think. It's -- I mean, it would just very difficult for you to be able to park and have easy access to the house at this time because of the unsureness of being able to park close to the house, is that basically the case, the way it is?

DEBORAH BELLE: We sometimes need to park around the corner on Magnolia. And I think that the alternative would be a designated parking space in front of our house, but in that case when we're not there no one -- other than another disabled person

is using the space. So our neighbors would in general prefer that we do this, and it certainly would be the most convenient thing. We are -- we could not -- there is no parking on our side of the street, so all of the parking is on the -- is across the street from us.

BRENDAN SULLIVAN: Okay.

Any other questions by the Board at this time?

CONSTANTINE ALEXANDER: No questions. I have comments, no questions.

BRENDAN SULLIVAN: Okay.

Kevin, any questions at this time?

KEVIN CASEY McAVEY: No.

BRENDAN SULLIVAN: Slater? Tad?

TAD HEUER: I have some questions. One is a procedural question. Are we here on the stair alterations? Or are those -- you don't need relief for the stairs, do you?

BRENDAN SULLIVAN: Well, it's to

install the driveway and to rework the side entry stairs. So I think as part of the proposal, that the side entry stairs which are --

TAD HEUER: And that's because they're in a setback?

DEBORAH BELLE: They need to come back, come out at a different angle to make the amount of space that we would need.

BRENDAN SULLIVAN: The stairs are currently here.

TAD HEUER: Right.

BRENDAN SULLIVAN: And I believe they have to remove that and then build them down here. So these have to come off and they have to be relocated down here, which obviously would be, I believe, in the side yard setback in order to allow for the creation of the parking space. So it's two parking spaces, but also that the stairs now have to be relocated.

Sean, on Myrtle Avenue; is that correct, that the -- it's a two part, obviously the parking which is dimensional violations, but also the stairs which are being relocated also?

SEAN O'GRADY: The stairs are actually okay themselves. It's the -- the size of the parking pad in question, the compact rather than a full size, and then location of it on being partially in the front yard.

TAD HEUER: Right. So we're not here on any -- there's no relief being sought for the stairs?

SEAN O'GRADY: No. The stairs are actually as of right even though they're in the setback because they're uncovered and they're below four feet and they're less than ten feet from the foundation.

TAD HEUER: Okay.

When you say that there are

others -- that Myrtle Street has a number of other off street parking spaces. It's my impression from going up and down Myrtle Street, that most of those are larger off-street parking spaces than you would have even with the expansion of the pad that you're proposing by taking out the porch. Am I right about that or is that incorrect?

DEBORAH BELLE: On our side of the street I think many of them look small. The cars are frequently almost abutting, almost coming out on to the street.

TAD HEUER: I'm sorry, in terms of width.

DEBORAH BELLE: Width?

TIMOTHY HART: I haven't measured so I don't know.

DEBORAH BELLE: We have some photographs.

TIMOTHY HART: I think just looking at the photographs is the best at this point

that we could probably do in trying to figure that out.

TAD HEUER: So the space will be -- what is it? Seven-five, and then there will be another three-foot, 3.2 feet to the property line which --

TIMOTHY HART: Right.

TAD HEUER: And then if I'm looking at -- eyeballing this correctly, the distance between the neighbor's property line and the house may be a foot and a half?

TIMOTHY HART: Right.

TAD HEUER: It's very --

TIMOTHY HART: It's a very narrow walkway, yeah. My feeling is, you know, once we -- if we do this, and we brick this area, which we intend to do all the way back, the neighbors are gonna have a much nice -- they have an entry to the apartment that's back here.

TAD HEUER: Okay.

TIMOTHY HART: Generally that's going to be much improved because instead of in theory walking a one and a half foot concrete walkway, they would be able to walk on the bricked area that we would put down.

TAD HEUER: Right.

And then you can't -- if you remove the entirety of the porch, that's impossible because you would have no access?

TIMOTHY HART: That's right. Our apartment access is at the back end of the porch.

SLATER ANDERSON: This is you here? This?

DEBORAH BELLE: That's our house, yeah.

TIMOTHY HART: That's us.

DEBORAH BELLE: And the first floor is a tenant apartment, and that is their entranceway. It's through that porch.

SLATER ANDERSON: The one

on -- which one?

DEBORAH BELLE: That's our entrance. The stairs that go up to the second floor. The porch on the left, which we want pushed back in the tenant's entrance on the left of the picture as you're looking at it.

SLATER ANDERSON: This is the tenant's here? This is yours?

DEBORAH BELLE: Yes.

SLATER ANDERSON: The parking's going to be right here?

DEBORAH BELLE: Yes.

TIMOTHY HART: Yeah.

KEVIN CASEY McAVEY: And they're on the first floor?

DEBORAH BELLE: Yes.

TAD HEUER: When you say that you could apply for a designated parking space on the, I guess, the opposite side of the street from where you are.

TIMOTHY HART: Handicap space.

DEBORAH BELLE: Handicap space.

TAD HEUER: Yes.

Those are -- I guess one question or one observation. It may not be a question, is that those are time delimited essentially. They're there for the duration that an individual needs one is located in the area, and once that individual is no longer there, the space can be reverted back to a normal on-street parking space which essentially provides the solution of access for the individual who needs it while preserving the future viability of a general purpose on-street space to some future date going forward. In granting a Variance, we'd be permanently authorizing a parking space, an undersized parking space for your structure that, you know, a hundred years from now when -- maybe you'll both be here, but I don't think even I'll even be here, that parking

space will still be attached to that house, the curb cut will still be depressed in. Wouldn't it make more sense to go with the temporary deprivation of a street parking space rather than the permanent position of an off street -- noncompliant off street parking space?

TIMOTHY HART: Well, on the other hand, if we have our own driveway parking space, that's permanently going to free up another space for everybody in the neighborhood.

DEBORAH BELLE: It's a very tight street for parking. I mean I -- I don't see it as the neighborhood suffering a loss. I see it as the neighborhood largely experiencing a gain. Aesthetically as you go down the street on our side and on the other side, everybody, I think -- there was one house that is an exception to this, but I don't think there's more than one other.

Everybody has a parking space beside their house. So I think that the -- I mean, theoretically, you know, a hundred years ago when the houses were new and they weren't then -- you know, to put the first one in, does something to the tone of the neighborhood. But I think ours, as Tim said, the way we have envisioned doing it, will actually aesthetically improve the tone of the neighborhood. And our neighbors are in general enthusiastic about this both for our sakes and for freeing up an extra parking space which at this point is a worthwhile thing to do.

BRENDAN SULLIVAN: You have one vehicle?

DEBORAH BELLE: We own one vehicle, yes.

BRENDAN SULLIVAN: Okay.

TAD HEUER: I'm going to ask a personal question that I regret having to ask

but we see these cases before the Board and we had one a couple months ago where this issue came up and we found out about, unfortunately a little too late and I think the Board was played quite frankly. So with that being said, I'm going to ask. You can decline to answer of course. When you say that your condition will progress in the future and that you need to have the access to this space, you know, one of the issues in my mind of granting relief is that the relief has to be necessary at the time it's being requested. For instance, if I came in before the Board in my thirties and said, you know, when I expect to be in my sixties, it would be nice to have a parking space right next to my house. I would respond if I were the Board that well, come back when you actually need it because you're going to get a lot of advantage of it at a time when you can't demonstrate the hardship and the need. So I

guess my question is is the space necessary now in terms of the hardship standard that we have to find? And if it's not necessary immediately, would it be necessary -- could the degeneration happen quickly enough that you would not have the ability to come to us, wait for the period to run, etcetera, once you've realized that you need that gap, the procedural delay from knowing that you actually needed it, would be substantial enough that it would be prudent for us to grant it early?

TIMOTHY HART: Let me provide an anecdote. Deborah's son was over this afternoon. We were about to take off for a few weeks to the Cape, and I need dialysis supplies which are boxes that weigh about 95 pounds. He moved them for me. We were parked halfway down the block. My dialysis is peritoneal dialysis which is in the peritoneum and I've gotten hernias from it.

So I've actually found it very helpful to have him -- I could do it, but I don't do it easily. So I see this progressing.

DEBORAH BELLE: If I may say something else. This is a man who walked across the Grand Canyon and has been an avid hiker and rock climber and very active. Now we don't really hike. We take walks, and I think this is the direction it's going. I -- doctors can't tell us, and we haven't pressed them on this. And, you know, the life expectancy of these conditions is variable. And we hope that a hundred years from now we will not need this parking space, but I, I think that things can very well proceed quickly and more quickly than we would be comfortable to wait this out.

TAD HEUER: Okay.

BRENDAN SULLIVAN: One observation that I have is that if you go down your side of Myrtle Avenue, that the parking areas are

sort of from house to house and it's hard to distinguish where a potential property line is because it seems that the two owners have agreed to just pave that area or something or however they use it or whatever it may be. So that I guess what you're proposing is not inconsistent, and if it's all said and done, would probably be hardly noticed as standing out or being something different or something that doesn't fit in. I guess that's my observation on it.

Any questions?

CONSTANTINE ALEXANDER:

Observations but no questions.

BRENDAN SULLIVAN: Okay.

SLATER ANDERSON: I have one question. Is I assume there is not a curb cut there currently?

BRENDAN SULLIVAN: There is not.

SLATER ANDERSON: So you have to go through that process as well?

TIMOTHY HART: That's right. I have to learn about that. The next hurdle.

BRENDAN SULLIVAN: That's City Council and they're going to take July off and August off, anyhow. But that's down the road a bit, anyhow.

Anything else, Slater?

SLATER ANDERSON: No.

KEVIN CASEY McAVEY: What was the name of your condition again?

TIMOTHY HART: Multiple myeloma.

KEVIN CASEY McAVEY: I'm just so sorry to hear about it.

TIMOTHY HART: If you Google it or something, at some point you see the life expectancy is three or four years. This is old figures. It's better now. Lots of a good stuff is going on. And my neighbor in Utah, he lasted 10 years but I wouldn't have wanted to last five years or maybe the last six years.

CONSTANTINE ALEXANDER: As an encouragement to you, I have a friend who has multiple myeloma in his 19th year.

TIMOTHY HART: Wow.

DEBORAH BELLE: Wow.

CONSTANTINE ALEXANDER: I hope you're as fortunate as he is.

KEVIN CASEY McAVEY: And he didn't hike the Grand Canyon.

CONSTANTINE ALEXANDER: No, right.

BRENDAN SULLIVAN: Any other questions of the Board at this time?

KEVIN CASEY McAVEY: No.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on the matter of 27 Myrtle Avenue?

(No Response.)

BRENDAN SULLIVAN: I see nobody in the attendance. There is correspondence on the letterhead of HMFH Architects actually

addressed to Ms. Goodwin.

(Reading) This is to notify you and the Commission -- which would be the mid-Cambridge Neighborhood Commission -- that my wife and I will not be able to attend the hearing due to previous commitments. Nevertheless, we want to take this opportunity to let you and the mid-Cambridge Neighborhood Conservation District Commission that we strongly support Deborah Belle's endeavor to have a new curb cut and create a parking pad. This will not only allow for one less car in the streets of our neighborhood at night, but it will help Ms. Belle with her hardship due to illness in her family. It will be much easier for her needy family member to arrive at home.

There is correspondence on the letterhead of Dana Farber. (Reading) To Whom It May Concern: Tim Hart is my patient. I'm treating him for multiple myeloma, a form

of cancer that attacks the bones and blood. Given the likely progress of this disease, Mr. Hart will begin to be impaired in his mobility. It will be necessary for him to have a parking space close to his house. I understand that he could ask the city to grant him a handicap parking space, but he has an alternative in creating a parking space besides his house. I am writing to endorse Mr. Hart's request for this parking space beside his house to accommodate his prospects for decreased mobility. Signed Robert Schlossman, S-c-h-l-o-s-s-m-a-n, MD. Dana Farber.

There is correspondence from the mid-Cambridge Historical Commission. (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 driveway and

alterations to the side entry stairs were reviewed and approved. For the certificate of hardship, see the attached. Certificate of hardship, and the wording is that the shortened -- to shorten the existing side porch, reuse the ornamental trim work to accommodate one new compact parking space, the Commission approved the proposed work with the following recommendations explore, retaining the full expanse of the existing porch roof, adding an angle brace if needed. Basically not to shorten the roof over the stairs.

Okay.

DEBORAH BELLE: Yes.

BRENDAN SULLIVAN: And the date of certificate is March 30, 2012.

There is correspondence from the Planning Board leaving the case and the decision to the Board of Zoning Appeal.

I believe that's the sum substance of

the correspondence. You don't have any others to add at this time?

DEBORAH BELLE: No.

BRENDAN SULLIVAN: All right. Anything to add at this point?

DEBORAH BELLE: No.

BRENDAN SULLIVAN: No? Okay.

We'll close the public comment presentation part and let the Board talk about it among themselves.

Mr. Alexander.

CONSTANTINE ALEXANDER: Well, I guess it's cases like this that makes me wish I spent most of my Thursdays watching Red Sox on television at home rather than having to decide a case like this. Even the Red Sox in their present form. I can't support relief. We have a long -- well, both this Board and the Planning Board have in recent years, and there are several years, against front yard parking, No. 1. I recognize that there is a

bit of front yard parking in your neighborhood, but it, it's -- it's in there for a long time. More front yard parking even increases the density or the appearance of density in the district. And we're talking about a parking space that's inadequate in size for what our Zoning law requires. I mean, it's nice to say and it is true, albeit for a compact car, but for the next person who lives in the property, they may not want to have -- they may not have a compact car. And the fact of the matter is that relief, if we grant the relief, would be as Mr. Heuer pointed out, forever. And there is an alternative, an adequate alternative. Handicap parking designated by the city directly across the street. The inconvenience of walking across the street to be sure you can't have an electric car I suppose. And yes, you would be taking a parking space away from the neighborhood.

But that's what the city does when it created the idea of handicap parking. The city has made a determination, which I highly endorse, is that they will inconvenience the neighborhood for the benefit of someone who needs protection, needs a designated parking space. And as Mr. Heuer very gently made the point that when the handicap -- the need for the handicap space disappears, that parking space will revert to the neighborhood unlike a front yard parking which will be there forever more. So I really, I really do appreciate your personal situation. I wish I could come out differently emotionally, but I think as a legal matter and my responsibilities as the Board member, I can't support the relief. I'll vote against it.

BRENDAN SULLIVAN: Slater, what are your thoughts?

SLATER ANDERSON: Can I see the plan again?

Personally I'm inclined to support it. I don't feel like while it is in the front yard setback, I think it's not inconsistent with what exists in the neighborhood. And I think there's a hardship, albeit not a, not totally attributable to the land but the parking in the neighborhood is an issue. I know that area pretty well. It's dense. It's parking only on one side of the street as you noted. And I think the alternative of the space across the street, given some of the things you characterized of having to transport things across the street is an ideal solution. So, you know, there's still some width here on this space. So I am inclined to support the request as reasonable.

BRENDAN SULLIVAN: Okay. I think I would agree with your sentiments. I have sentiments that I expressed, too, that I think it would be more deleterious to the neighborhood to even have a designated

handicap spot across the street, less convenient for the Petitioner. That the granting of this relief would not be exceptional relief, that it would not be consistent with the neighborhood. And so I would be inclined to grant. I would have one condition, but I'll let members have their thoughts anyhow. The one concern -- let me be -- while Mr. Heuer is thinking, is the tree which is facing your house to the left of that, even though the main trunk of the tree lines up with probably the property line. It would be the roots that may be impacted. And one of the conditions that I would impose would be that the tree not be harmed in the process of installing the curb cut and the driveway. That the city arborist would have to basically sign off and say that either there's no harm to the tree, the tree could be saved. Or in the alternative that the tree is not worth saving and could come down.

And that would open up and be a clear way for your driveway. So one or the other anyhow I think. But anyhow, they actually would have to sign off anyhow because being so close to the tree, but I would just highlight that condition.

Mr. Heuer.

DEBORAH BELLE: That is a magnificent tree. We love that tree, too. And I totally endorse that.

BRENDAN SULLIVAN: Okay.

TAD HEUER: So, the tenor of my questioning probably indicated this is a difficult request. That sounds very simple, but as a legal matter it's much more difficult at least in my mind. My main concern is not that, you know, it's not going to be a well done space. You know, certainly if this would just bring in the cheapest person and slap some asphalt down and tear off the porch and just leave it as is, certainly that would

make it easier to make a decision. Here you've done a very nice job in preserving the ornamentation for the porch. I don't think that that's going to be deleterious.

Obviously the brick pavers will make it a more attractive parking space as parking spaces could be called attractive. I guess what I'm still struggling with, and I'm not quite sure where I'm going to come out even right now, is this notion of the viable alternatives. And in the world of Zoning alternatives that we see, rarely do you have as clear a viable alternative as an essentially reserved space within a distance that many people have to walk from their house to their garage anyway unless dense neighborhoods. You know, certainly the advantage of having a space right next to one's house is obvious. The balancing that against the fact that the space we created wouldn't even be a permissible space because of size and depth,

and also because of the temporal nature of the relief. As I noted earlier, a Variance is permanent, it runs with the land. The next owners of the house could come in with a minivan and say, yeah, I realize it was granted on the basis that it could fit a compact car, but I've got a Ford Explorer and I'd like to park in my off street parking space. And I think Mr. Alexander's pointed out that's essentially what the Ordinance is trying to guard against; people making very tiny pocket parking spaces with very large cars and bulking up the street and having them kind of snout out into the toward the sidewalk. And I guess my real issue is that the space can't be limited. I suppose it could be. We could grant a Variance limiting the time of the parking space and guide the parking space for a period of years. But you've create a substantive entity in your front yard that I don't think anyone would be

eager to go and remove physically in a 5 or 10 or 15 year time limitation if the Variance were granted.

CONSTANTINE ALEXANDER: If we didn't renew the Variance, then they would have to tear up the asphalt. That's not a good alternative.

TAD HEUER: Correct. Or you turn it into a very nice patio which we've required them to do on Linnaean Street.

So I mean I'm very sympathetic to the need for parking. I'm still struggling a bit as to whether that need, although not ideally filled, can be substantially filled with reserved parking under existing conditions of the provisions of City Ordinance.

TIMOTHY HART: It's sort of another note. I'm an electrical engineer. I want an electric car. You can't have that if your car is parked across the street. I've ordered a plug-in Prius for delivery towards

the end of the summer. I mean, that could be canceled. That was optimistic.

DEBORAH BELLE: We have a grandson arriving in August and we are intending to give him our current Prius and be able to buy another one.

TAD HEUER: Sure.

BRENDAN SULLIVAN: So, have you concluded?

TAD HEUER: Not yet. I have concluded my comments but not my determination.

BRENDAN SULLIVAN: Okay, self-deliberation.

TAD HEUER: Yes.

BRENDAN SULLIVAN: Okay. And your thoughts?

KEVIN CASEY McAVEY: My thoughts are three-fold. I am going to echo some of the concerns that have been spoken of so far. It's just when you have a compact spot, what

happens to that after you no longer have a compact car? And also when you have a handicapped option alternative that is on the street that does seem viable. I don't -- those are my concerns.

My third thing is I -- this is my first meeting tonight and I have had a number of family members in similar positions and I really feel for what you're going through. And, like, if I was your neighbor or in your family, I would want to do everything I possibly can. But sitting in the chair that I have to sit in tonight, I have to think about consistency and precedent and what we are here to do. And so I don't quite know where that lands me, but I do want to let you know that I do feel for your situation. And whatever the outcome, I do admire your tenacity through everything.

TIMOTHY HART: It seems like if you look at the street, you look at all of the

other houses, all but two actually have not counting us, do have spaces and they all project into the front yard area. I assume they were all put there before the Zoning rules were in place. Just to -- it almost seems like fairness.

DEBORAH BELLE: Many people presume when they come to visit us, they presume that the driveway next to us is ours because it's so close to our house.

BRENDAN SULLIVAN: Okay. Should I make a motion?

CONSTANTINE ALEXANDER: Fine by me.

BRENDAN SULLIVAN: Slater, are you ready?

SLATER ANDERSON: I'm ready.

BRENDAN SULLIVAN: Yes, all right.

Let me make a motion, then, to grant the relief requested as per the plan submitted.

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

Ordinance would involve a substantial hardship to the Petitioner.

The Board notes that the medical condition of the Petitioner and the need to have a parking area as close to the house as possible to have ease of entering the house and also exiting and being close to the car in case of emergency conditions, situations.

The Board finds that the hardship is owing to the size and shape of the lot, the siting of the house they're on, and predates the existing Ordinance. And that any relief of this nature would require some relief from the Board, and that there is no other practical solution. Albeit an as of right solution to their situation.

The Board finds that desirable relief may be granted without substantial detriment to the public good. Finds that the public would gain an additional space on the street by the creation of this off-street parking

space.

And 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 as requested.

(Show of hands.)

BRENDAN SULLIVAN: I'm sorry, two in favor.

(Sullivan, Anderson.)

BRENDAN SULLIVAN: Opposed?

(Show of hands.)

BRENDAN SULLIVAN: Three opposed.

(Alexander, Heuer, McAvey.)

BRENDAN SULLIVAN: I'm sorry, not receiving the necessary votes, it's denied.

CONSTANTINE ALEXANDER: On the basis of that they did not satisfy the conditions, the statutory conditions for a Variance. That the hardship was personal to

the Petitioner and not running with the land.

And that further that the hardship is not owing to soil conditions. I forget the other two. The requirements for a Variance which are a limited number.

So although they didn't satisfy either of those, those are the findings we made to deny the relief being sought.

BRENDAN SULLIVAN: Tad, anything to add?

TAD HEUER: In addition, that the Board believes that there was a viable alternative that mitigated the value of the hardship, and if that alternative had not existed, there might have been a potentially stronger case for hardship. With the ability to obtain a designated parking space within the immediate proximity of the home through other existing Ordinance provisions did not allow the Board to reach the determination that a hardship necessarily

existed in this instance.

BRENDAN SULLIVAN: Okay. Sorry.

DEBORAH BELLE: Is there any appeal?

BRENDAN SULLIVAN: Yes, there is.

And there will be -- this will have to be typed up. It will be sent to you, and there is an appeal procedure that will also be sent to you and you can follow that if you wish.

DEBORAH BELLE: I want my photographs back, please.

BRENDAN SULLIVAN: Well, no, that's part of the file.

DEBORAH BELLE: Those were our copies.

BRENDAN SULLIVAN: Oh, there are two sets there?

TIMOTHY HART: Yes. We can make more if you need them.

CONSTANTINE ALEXANDER: Just so you know, you have to appeal within 20 days of the courts. Within 20 days that you're notified

of our decision. You have a tight time table if you wish to appeal.

DEBORAH BELLE: And who hears the case the second time around?

CONSTANTINE ALEXANDER: Superior Court.

DEBORAH BELLE: It goes to the Court?

CONSTANTINE ALEXANDER: It's no longer an administrative or a City of Cambridge matter. It's now a Commonwealth of Massachusetts matter with the courts.

TIMOTHY HART: What's the 20-day?

CONSTANTINE ALEXANDER: You have to file your appeal to the courts within 20 days of the written decision has been reached. If you don't do that, then you have no appeal rights.

BRENDAN SULLIVAN: It may take two or three weeks for the decision to be given back to the Law Department. They then give

it to me to sign. You'll then be notified and the date when the clock basically starts. If you have any questions, Sean has all the answers to all of those. It will be quite clear as to your legal rights if you wish.

TIMOTHY HART: Okay.

DEBORAH BELLE: Thank you.

(7:55 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Slater Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will hear case 10092, 350 Main Street. Is there anybody here on that matter?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

Are there any letters in the file from the Petitioner?

SEAN O'GRADY: Nothing.

BRENDAN SULLIVAN: For the record, we note that first of all, the Petitioner has failed to even pick up the required posting

sign and as such failed to post it, which is a violation of the notice requirement.

The Petitioner has also failed to communicate their intent regarding this matter. Let the record show that we had given the Petitioner a six-month plus or minus time in which to continue this matter and that they have failed to respond --

CONSTANTINE ALEXANDER: Sure.

BRENDAN SULLIVAN: -- in any meaningful way. And lack of communication and lack of posting, their lack of interest, and their lack of following through in the process, I would make a motion that we deny this case before us.

CONSTANTINE ALEXANDER: I don't feel -- if I may speak. I don't feel terribly opposed to what you're doing, but it seems to me like in the dog bite case, you get the first bite free. This is a new case. They've been before us before. They

continued, they continued. But they made a new filing. We have had others who have not picked up the sign. We have had other people who have not communicated. We have to seek them out. I would give them one more shot. My view would be to continue the case, and if it's the same lack of interest, then I would deny. But I think the first --

BRENDAN SULLIVAN: I think if we made them re-file the case because of the length --

SEAN O'GRADY: For notice purposes. Yes.

BRENDAN SULLIVAN: Right. So that it's the same case. But because of the six-month extension, it was that we felt that they should re-advertise.

CONSTANTINE ALEXANDER: No, that's true. But the point is that they're not ready to proceed. We weren't happy -- if you go back to the case. We were happy to

continue the case because we wanted to get the input of the study for Kendall Square. This is part of a much bigger happening.

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: And to, you know, the only detriment to us is that it clogs up our docket a little bit. Give them a nine-month continuance. So if they decide they're interested in doing this, they have to wait a long period of time.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: That's what I would do.

BRENDAN SULLIVAN: All right, well, I would deny it.

Slater, what do you think?

SLATER ANDERSON: Well, I would say continuances are kind of my pet peeve on this, I guess, and I don't see compelling reason to continue it, but I don't know the history necessarily with this particular case or this

property, so I'd go along with, you know, a six-month out or something like that. But I don't know, I don't see -- this is a two-party effort here between the Board and the applicant, and I don't see the applicant making much of an effort. So I could see it both ways.

BRENDAN SULLIVAN: It appears to me to be a total lack of interest and lack of respect for the process on the applicant's part.

SLATER ANDERSON: And we have other people that have been inconvenienced by the inability of not getting on an agenda. Even though we put them six months out, some case that four months from now is going to get continued is going to get bumped because of that spot.

BRENDAN SULLIVAN: They're taking someone's slot.

SLATER ANDERSON: They're taking

someone's slot and that bothers me.

BRENDAN SULLIVAN: Kevin, the history of this is that they have come down before us some six months or so ago, and that they had asked for a continuance. But also, as Gus has said, that we were waiting the Goody Clancy study for it. In the interim, they -- there's that posting. They never picked it up. Maria has called them at my behest because they never picked up the sign, which sort of made me wonder whether they were even going forward, and there was lack of response from them.

SEAN O'GRADY: They were actually e-mailed and two telephone calls.

BRENDAN SULLIVAN: Correct.

KEVIN CASEY McAVEY: They were fully aware of their responsibilities?

SEAN O'GRADY: Right.

CONSTANTINE ALEXANDER: Brendan, I have a perfect compromise. Continue this

case for two years. It's the same thing as turning it down. It's a two-year postponement.

BRENDAN SULLIVAN: Well....

CONSTANTINE ALEXANDER: It comes out the same way.

BRENDAN SULLIVAN: So anyhow, that's a little bit of the history of it. But they have failed to communicate in any way, shape, or form on this particular.

Mr. Heuer?

TAD HEUER: I would point out that in the transcript of September 8, 2011, pages 10 and 11 -- and I don't usually do this, but there seems to be a theme for this evening. I stated that we're telling them to come back three months from now, and it's largely I believe because we have cases that are continued in the interim, there are cases that are administrative continued. These are placeholders in the event that come to

fruition that may or may not. And I'm increasingly worried that we're filling up three or four continued slots at each of our meetings in cases that are being continued for what seems like a sufficient period of time but never go anywhere and they're clogging, for lack of a better word, our docket. And I would like those slots open for our ability to give them to people who actually are going to need them in the next two weeks, four weeks. People have small requests and not find ourselves having to question whether we should balance or taking an overload of cases on the agenda when we are consistently faced with seven or eight cases on the regular agenda. We're controlled by the notion of continuing the cases for the sake of continuing when that is actually deleterious to the people who use actually use those continued slots substantively given the limited resources.

So, my sense is that this case has gone on. If they wanted to have it continued, it's a very simple process. They say we acknowledge your time, we acknowledge your notices to us, and we would like a continuance. We receive those routinely and we grant them routinely. As long as someone has made the minimal effort to send a one line e-mail requesting a continuance. Here that has not been done. I don't see any particular reason to favor the applicant in this particular matter seeing as not only as it's been continued several times, but it is on the record at the time it was last continued that we were not in favor of issuing continuances and they were sitting in front of us and heard those words expressed as I have stated them in the record.

SLATER ANDERSON: I wasn't aware of the hearing piece that there was that actual record so I'm inclined to vote against it

anyway.

BRENDAN SULLIVAN: Vote against the continuance?

SLATER ANDERSON: Yes.

BRENDAN SULLIVAN: And you would?

TAD HEUER: I would vote against the continuance.

KEVIN CASEY McAVEY: Yes.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: I'm going to abstain. I don't feel strongly one way or the other.

BRENDAN SULLIVAN: Okay. Let me make a motion to deny the petition, case No. 10092, 350 Main Street, on the grounds that the Petitioner has failed to appear this evening, has failed to communicate their intention, has failed to pick up, display the notice board, and as such has failed in a major requirement public notice of this hearing, and has failed to respond to

communications from the Inspectional Services Department regarding their intent on this particular case.

Anything else?

CONSTANTINE ALEXANDER: I think you should add, Brendan, just to button it up, that they have also failed to satisfy their burden of proof that they're entitled to a Variance. They have the burden. Any Petitioner has the burden of demonstrating to us that they meet the requirements for a Variance. The only thing we have that goes with that, is their statement, whatever they put in the file. And I think the Board might find it's insufficient, and therefore they don't meet the requirements for notice. They have not complied with our Zoning By-Law for notice, and they have not satisfied the requirements for a Variance. So two things.

BRENDAN SULLIVAN: Okay. Anything else to add?

TAD HEUER: No. Only that the Petitioners were on notice in their physical presence September 8th hearing that future continuances for administrative purposes would not be viewed favorably and here they have not even met their minimum burden to request such a continuance and allow the Board to consider that request on its merits.

BRENDAN SULLIVAN: Okay.

In the transcript I had said six months. It's actually in fact nine months since the previous hearing.

So anyhow. All those in favor of denying the petition.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor of denying.

CONSTANTINE ALEXANDER: And I abstain.

BRENDAN SULLIVAN: The petition is denied.

(Sullivan, Heuer, Anderson,
McAvey.)

(8:00 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Slater
Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will
hear case No. 10265, 2269 Mass. Avenue.
Anybody here on that matter?

If you'd introduce yourself for the
record and please state, spell your last name
and give us your address.

CHARBEL SALAMEH: Charbel last name
is S-a-l-a-m-e-h. And it's for -- you want
the business address? Sorry, or my home
address?

BRENDAN SULLIVAN: Some address so
we know.

CHARBEL SALAMEH: Just to make sure.

It's for cafe bar at, 2269 Mass. Ave.,
Cambridge.

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

CHARBEL SALAMEH: We're seeking
relief from the parking requirements in an
effort to increase our seating capacity which
will allow us to essentially have outdoor
seating at the property.

BRENDAN SULLIVAN: So you
increase -- how many additional seats will
there be on the inside?

CHARBEL SALAMEH: We'll be
increasing total -- and from what I
understood this is how we would do and make
sure it comes out right. We would be
increasing 30 seats.

BRENDAN SULLIVAN: 30 currently?

CHARBEL SALAMEH: We currently have
19.

BRENDAN SULLIVAN: Okay.

CHARBEL SALAMEH: Inside. We would increase it to 49, additional 30 seats. And those -- the way we came up with that number 30 is that's -- we were actually approved I guess -- we were a little confused as to how to go through this whole process and to get those seats.

We went before City Council, and I guess the Mayor's office and the Department of Public Works and they signed off on 30 seats for the outside based on 10 to 12 tables.

CONSTANTINE ALEXANDER: And these 30 seats additional which created the need for, under our Zoning, additional parking is only seasonal. In the wintertime you'll be back to the 19 seats inside?

BRENDAN SULLIVAN: No.

CHARBEL SALAMEH: No.

CONSTANTINE ALEXANDER: No?

CHARBEL SALAMEH: I guess I was told that we could use them inside in the winter

as well if we're doing this amendment.

CONSTANTINE ALEXANDER: You have additional room inside to --

CHARBEL SALAMEH: We do, yes. There is a counter space that we would pull out.

CONSTANTINE ALEXANDER: Got it.

CHARBEL SALAMEH: We have a booth that we don't use that's not on the floor plan, you know, and that would add it. And a lot of the tables could actually fit more seats on them.

CONSTANTINE ALEXANDER: Got it.

CHARBEL SALAMEH: And once we eliminate one of the counters that we use for the cash register, that would actually add a couple more tables.

CONSTANTINE ALEXANDER: And as best you can tell, your patrons at your restaurant, do they drive there and park on the street or do they walk? A majority?

CHARBEL SALAMEH: Being honest, honestly there are some days you look out the window, there's no one parked outside and you're full. Other days it's the complete opposite. You know, there's tons of people. You know, it's all relative. But you do get a bit -- because Davis Square is less -- about two blocks away. Porter Square is now maybe close to a half mile or so. The 77 bus line runs right down Mass. Ave. You know, and there are honestly plenty of parking meters especially if you go one or two blocks either way of the building, especially in front of Pemberton. You know, so I think we get a wide mix. They put in those new bike racks all along Mass. Ave. You know, people bike a lot. But then you do get a lot of the people who live relatively in the area.

CONSTANTINE ALEXANDER: The reason I ask the question, if we're going to grant the Special Permit you're seeking, one of the

things we have to find is that granting the relief will not substantially reduce parking availability for other uses. And what I'm trying to draw from you is that most people don't park anyway to come to your restaurant, it tends to be a neighborhood restaurant, adding more tables is not going to really increase -- reduce the availability of parking?

CHARBEL SALAMEH: No, I don't honestly I don't think it would.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: I think actually the location where you are there's a block of stores on the other block, it appears to be somewhat of a low intensity use and that the on-street parking does handle, I think, probably whoever would drive to it, it tends to be somewhat of a neighborhood --

CHARBEL SALAMEH: Yes.

BRENDAN SULLIVAN: -- destination

if you will.

CHARBEL SALAMEH: Yes, that's correct. Yes.

BRENDAN SULLIVAN: There seems to be plenty of meter parking spaces. You know, where I think probably a lot of people just sneak into St. John's and park there and walk across the street.

CHARBEL SALAMEH: Well, I got to be careful now.

BRENDAN SULLIVAN: But at any rate, whatever. Anyhow, Sean, what is the calculation on the number -- well, first of all, there's no parking available on the site at all?

CHARBEL SALAMEH: We have -- there are four parking spaces in the back of the building.

BRENDAN SULLIVAN: In the back of the building.

CHARBEL SALAMEH: And we were told

those do not count into that.

BRENDAN SULLIVAN: Right.

CHARBEL SALAMEH: Other than that, we do not -- there is -- it's just all the meter parking on the street.

BRENDAN SULLIVAN: Which is typical of any of those shops on your block but also the other block.

CHARBEL SALAMEH: Pretty much. You know, I know that actually the building on the same block asked us -- they do have a parking lot, but they're all condoed, so they're --

BRENDAN SULLIVAN: Right.

CHARBEL SALAMEH: -- everyone has one or two. So, you know, at one point we did look at seeing if we could somehow rent from them, but because they're all kind of same situation, not enough --

BRENDAN SULLIVAN: Right. And what is the formula?

SEAN O'GRADY: One per five with the

forced four spaces or 20 seats exempt.

BRENDAN SULLIVAN: Okay. So right now you have 19?

CHARBEL SALAMEH: Yes.

BRENDAN SULLIVAN: Is that correct?

CHARBEL SALAMEH: Yes.

BRENDAN SULLIVAN: Now, do you have facilities for men's and ladies' restrooms?

CHARBEL SALAMEH: There's one bathroom currently. There is the possibility to add a second bathroom right next to it because they were the ten-inch.

BRENDAN SULLIVAN: Yes, because once you get over the number -- that number is 19, the magic number is 19; is that correct?

SEAN O'GRADY: That's my understanding. Have you spoken with the plumbing inspector at ISD?

CHARBEL SALAMEH: No, no, I haven't.

SEAN O'GRADY: I think Brendan's

right. Expect to put mother bathroom in.

CHARBEL SALAMEH: That would be fine. There's just a closet next to the bathroom. And we were told -- we looked into it in the past and we were told --

BRENDAN SULLIVAN: Yes, once you go over that 19, you're going to have to provide two toilet facilities.

CHARBEL SALAMEH: Yes.

TAD HEUER: I think your increase in number of customers would also appreciate that. It would be to your advantage as well as theirs.

I just had a quick question on the -- so on your dimensional form, you list that you have no parking spaces currently. You have requested condition 6, but that's not true, you're actually requesting to us to allow you to continue to have zero parking spaces; is that right?

CHARBEL SALAMEH: Honestly I don't,

I don't know.

TAD HEUER: Okay.

CHARBEL SALAMEH: I mean, I had a hard time with the paperwork, I'll be honest. I confused myself a lot. My -- we had hired -- we had a lawyer friend who helped us out with it, and I think we're essentially doing what I just told you.

TAD HEUER: Right. You want it to look exactly the same as it is now even though you're adding more seats.

CHARBEL SALAMEH: Adding more seats, yes.

TAD HEUER: I believe the requested conditions is zero.

BRENDAN SULLIVAN: Right.

TAD HEUER: And, Sean, what's the calculation for the number of spaces required?

SEAN O'GRADY: One per five seats.

TAD HEUER: So they would need --

SEAN O'GRADY: You were saying 40 seats.

TAD HEUER: They have zero. They have 49 seats.

SEAN O'GRADY: 49 total?

TAD HEUER: Right.

SEAN O'GRADY: It would be up to just shy of ten.

TAD HEUER: So that becomes nine or ten. You round up?

SLATER ANDERSON: Wait, didn't you say there was an exemption?

SEAN O'GRADY: I love these pop quizzes.

SLATER ANDERSON: In the first nine --

SEAN O'GRADY: There is, but it depends on the history of the grandfathering of the seats.

SLATER ANDERSON: That may have been where the six came from. The 30 seats would

be six parking spaces; right?

SEAN O'GRADY: There's 30 seats there today?

SLATER ANDERSON: No. That's the addition.

SEAN O'GRADY: That's the swing.

SLATER ANDERSON: That's what they're looking to add.

SEAN O'GRADY: Most favorable that would be correct. Or could be correct.

SLATER ANDERSON: Could be ten if you did all 49.

SEAN O'GRADY: You want a number?

TAD HEUER: I want something to put in that space when people look at this.

SEAN O'GRADY: And the question is on the required?

TAD HEUER: Number of ordinance requirements for a number of parking spaces.

CONSTANTINE ALEXANDER: I would have thought, Sean, that the current 19 are

non -- legal non-conforming. If they only need relief for the additional 30 so it's --

SEAN O'GRADY: It could be. But the technical answer to that question is actually if you came in for 49 seats. I mean, even if you came in for 21 seats or if we round it up, 24 seats, as soon as you go over the four to the fifth one, you don't owe one, you owe five. So it would depend on the history of the building. But if we just want to answer the question what does the Ordinance require? Then we know that answer would be ten.

SLATER ANDERSON: And there are four but you said the four didn't count.

CHARBEL SALAMEH: Yes.

SLATER ANDERSON: Is that because of their --

SEAN O'GRADY: Why doesn't the four count?

CHARBEL SALAMEH: To be honest I don't remember who we spoke to. And this is

years back.

SEAN O'GRADY: Are they attributable only to your store?

CHARBEL SALAMEH: To the building.

SEAN O'GRADY: Are you the only tenant?

CHARBEL SALAMEH: We -- yes, so we are a tenant in the building.

SEAN O'GRADY: You're not the only tenant, right?

CHARBEL SALAMEH: No, no. But our landlord told us that we could use them, you know, essentially when they -- after hours.

SEAN O'GRADY: And are any of them tandem?

CHARBEL SALAMEH: As in --

BRENDAN SULLIVAN: Yes.

SEAN O'GRADY: You park behind. So two and two?

CHARBEL SALAMEH: It's four in a row.

SEAN O'GRADY: It's four in a row?

CHARBEL SALAMEH: Yeah.

SEAN O'GRADY: Okay.

BRENDAN SULLIVAN: It's in the rear of the building.

SEAN O'GRADY: That's just a loading area. Just go with us on this one.

CHARBEL SALAMEH: I'll leave it up to you guys.

TAD HEUER: All right. We're going to say ten and your form is now complete.

I just had a quick question as to what exactly we are -- are we approving if we grant the relief requested, simply the reduction of parking and we do not tie that to a plan as proposed? Or does that get tied to the plan --

CONSTANTINE ALEXANDER: I don't think we need to tie it to a plan. It's just a reduction of parking.

TAD HEUER: Okay.

CONSTANTINE ALEXANDER: Number of parking spaces.

TAD HEUER: I mean, the reason I raise this is because when I look at the proposed outdoor seating plan, certainly I think your distance from Mass. Ave. it's, you know, you've got an expanse.

CHARBEL SALAMEH: The entire project is located on the building's property.

TAD HEUER: Right.

CHARBEL SALAMEH: So it's not on any -- it's not on sidewalk.

TAD HEUER: Right.

CHARBEL SALAMEH: But there's still plenty of -- there's more sidewalk space on the front side than there is on the side of the building.

TAD HEUER: That's more of my question. From, you know, I certainly see on the Mass. Ave. frontage there's space for

transit as well as pedestrians as well as having a number of tables. My question is more on the Dover Street side that it's, it seems to be making that sidewalk excessively narrow. Particularly because if I'm looking at this plan there actually is signage, street signage on essentially between Mass. Ave. and your stairs that actually makes the transmittable area coming up or down the Dover Street sidewalk narrower than otherwise. I guess my concern is that you would be putting a narrow passageway if you have these three additional tables that extend beyond the stairway at the side of the Dover Street stairway.

CHARBEL SALAMEH: Yeah.

TAD HEUER: Personally I would be more comfortable with just having them on the Mass. Ave. proper extending out to the width of the Dover Street stair and not have the additional ones pushed out towards Dover

Street.

My only question is is that within our jurisdiction?

BRENDAN SULLIVAN: I don't know. Who regulates that, Sean, is it Licensing by way of City Council?

SEAN O'GRADY: All the chairs are on your property not on the city sidewalk?

CHARBEL SALAMEH: Yes. So they're all on our property. Department of Public Works came out. They did their inspection of the space and, you know, we went over -- I showed them, you know, kind of exactly what we were doing and how we were going to do it.

SEAN O'GRADY: So, no, the City would not be able to control it. You would have to put a condition in. I would just suggest that if you do put a condition in, put it in the form of no chairs beyond a certain point as opposed to chairs having to be in a certain area just because they're seasonal.

CONSTANTINE ALEXANDER: Can I suggest we don't go there. It's an apples and oranges issue. The Zoning issue is they want to have 49 tables and they don't have 10 parking spaces. And will we grant them relief? And we can under a Special Permit. That's all it is. I mean, to get to the layout of where the tables are going to be, that's not for us for Zoning. It could be, but it's not the issue before us tonight. The issue is simply number of tables, number of parking spots.

TAD HEUER: Well, that may be true but I think the response is, I think, 49 seats is too many given where they would have to be placed in order to satisfy the requirement. I would say that if you -- I mean, partly this is mitigated somewhat because the applicant is saying we can move some of the seats inside. And if this were purely exterior seating, I would say I think that's -- that

overburdens in terms of crowding of the sidewalks, this -- and I don't think that granting relief for that amount of parking which would allow this number of tables, is something that we would want to do. I understand where you're coming from. You know, that this is simply a parking space and we can grant a thousand exemption because no one is still going to drive there regardless of how many tables we allow them to have. But I don't think that's the intent of the Ordinance in that respect because otherwise we would just have do you drive or do you not drive requirement in the Special Permit condition and we don't. We have conditions in a Special Permit about does this, you know, create crowding, etcetera, etcetera. And I think that it does. The fact that it's ancillary related to parking I think is beside the point. We still have to make that finding.

CONSTANTINE ALEXANDER: I wouldn't go there, but....

BRENDAN SULLIVAN: Okay, any other questions?

KEVIN CASEY McAVEY: No, I'm good.

BRENDAN SULLIVAN: Slater, any questions at this time?

SLATER ANDERSON: No questions. Some comments.

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

Is there anybody here who would like to speak on the matter of case No. 10265, 2269 Mass. Avenue?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

There is correspondence here from Amerprise, A-m-e-r-p-r-i-s-e Financial at 2285 Mass. Avenue, suite 206. (Reading) As a business located at 2285 Mass. Avenue, I

would like to express my full and unconditional support for Mr. Charbel Salameh's request to increase his seating capacity and offer outdoor seating at 2269 Mass. Ave. Cafe Barada is an excellent neighbor and brings high quality customer traffic to North Cambridge which benefits the other businesses in the area. There is sufficient parking in this area to support this additional seating, and I have no objection to this request. Thank you very much, Johanna, J-o-h-a-n-n-a Schulman, S-c-h-u-l-m-a-n.

And that is the sum substance of any correspondence. Let me close the public comment part.

I don't know if you have anything else to add to your presentation?

CHARBEL SALAMEH: I guess, you know, I understand I guess where you are coming from on the sidewalk. I mean, I would -- we would

never essentially put anything that would, you know, if we do essentially layout the layout and it is, you know, encroaching on the sidewalk space, you know, we have no problem if it's, you know, six, eight inches cutting it, you know, in. You know, we don't want, you know, so I guess, I don't know.

TAD HEUER: Yes, no, I certainly don't --

CHARBEL SALAMEH: We don't want anyone walking by --

TAD HEUER: You don't want pedestrians walking by and picking through your customers.

CHARBEL SALAMEH: You know, eventually or -- I don't know. We know that's the space, you know, that's what's there and, you know, kind of figure it out and see.

BRENDAN SULLIVAN: We think it's a smart businessman if you're getting any

complaints or what have you, you don't want to tick off potential customers either. So you're going to react to any potential discomfort or concern of anybody else in the neighborhood. That would be my feeling anyhow.

TAD HEUER: Are you planning to demark the space, though, with any kind of temporary short fencing or anything? Or is it just going to be the tables with what you know are the lot lines?

CHARBEL SALAMEH: It will have fencing of some sort because we will be serving alcohol outside and it has to be enclosed.

TAD HEUER: Okay.

CONSTANTINE ALEXANDER: It's like Christopher's on Mass. Avenue or Elephant Walk on Mass. Avenue?

CHARBEL SALAMEH: Yeah. But essentially something --

CONSTANTINE ALEXANDER: Some kind of barrier.

CHARBEL SALAMEH: We haven't honestly picked anything out, but it would be something along those lines. But probably not as -- I want to say not as thick and wide, kind of huge in the sense because they have pretty big planters.

BRENDAN SULLIVAN: Okay.

Slater, any comments?

SLATER ANDERSON: Just that that stretch along Dover there, I feel like -- I happen to walk that daily, and that ramp there going along Mass. Ave. I just feel in the schematic there that, you know, baby carriages, things like that, it looks like it's a little --

CHARBEL SALAMEH: Actually, can I -- do you have the copy of that? Actually now that you say that, because we did -- after doing it I think we've -- so it will --

SLATER ANDERSON: Yes, a little bit off the corner there.

CHARBEL SALAMEH: Yeah. It will be -- so, yeah, it will be cut, you know, and also the sidewalk right there, it dips down a little bit, so then it might be a little further in.

SLATER ANDERSON: That's my only, that's my only concern and comment. But the flip side is I feel like outside seating, vibrancy in the neighborhood there is very important, and I think that that contributes what you're trying to do to what has been an erosion of ground floor retail and pedestrian friendliness that exists that I would like to see exist more along that stretch of North Mass. Ave.

CHARBEL SALAMEH: That's why I said we want to do something a little bit smaller. Where Elephant and Christopher's is nice and bulky, we won't go bulky only because, you

know, people do -- there are a lot of strollers and, you know, try to keep it --

BRENDAN SULLIVAN: You want to make it attractive, too, and inviting.

CHARBEL SALAMEH: Yes.

BRENDAN SULLIVAN: Anything else?

TAD HEUER: No.

KEVIN CASEY McAVEY: I'm looking forward to going to another outside wonderful dining establishment.

CONSTANTINE ALEXANDER: Again, I would point out also, the City Council has endorsed outdoor seating for restaurants. So by no means will we be derogating from the intent of the Ordinance. We will be promoting it.

BRENDAN SULLIVAN: Let me make a motion to grant the Special Permit to increase the seating capacity to 49 and to reduce the required parking per the Ordinance.

The Board finds that a Special Permit shall be granted only if the Board determines and cites evidence in its decision that the lesser amount of parking will not cause excessive congestion, endanger public safety, substantially reduce parking availability for the uses or otherwise adversely impact the neighborhood. And that such lesser amount of parking will provide positive environment or other benefits to the users of the lot and the neighborhood, including assisting in the provision of affordable -- well, that's not applicable.

In our decision we shall also find the availability of surplus off-street parking in the vicinity of the use being served and/or the proximity of the MBTA transit station.

The availability of public or commercial parking facility in the vicinity. And we notice the metered parking is prevalent in that area.

The Board then finds in granting the Special Permit that it appears that the requirements of the Ordinance can be met. Traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character.

The continued operation of or development of adjacent uses as permitted in the Zoning Ordinance would be adversely affected by the nature of the proposed use.

There would not be any nuisance or hazard created to the detriment of the health, safety and/or welfare of the occupant of the proposed use or to the citizens of the city.

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.

We find that the intent of the City

Council in rezoning the section of Mass. Avenue is to encourage this type of retail use and outdoor activity to increase the commercial attractiveness of the area. Anything else to add to the granting?

TAD HEUER: Also find that the property is located in proximity to public transit, both the MBTA subway as well as the MBTA bus lines, further reducing the need for available parking on-site for patrons which the Petitioner has represented are largely walk-in trade or local community trade, and that the requirement for additional parking would not substantially -- would not lead to a substantial requirement of the addition of the -- the addition of tables that would require additional parking for the Petitioner.

BRENDAN SULLIVAN: So said.

All those in favor of granting.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer,
Anderson, McAvey.)

BRENDAN SULLIVAN: Good luck.

CHARBEL SALAMEH: That's it?

BRENDAN SULLIVAN: More to follow.

(8:25 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Slater
Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will
hear case No. 10266, 38 Porter Road.

If you would introduce yourself for the record and spell your last name.

JOHN HILGEMAN: My name is John Hilgeman. Last name is H-i-l-g-e-m-a-n. And I'm here for my clients, the petitioner, Peter and Stephanie Choo. They apologize they're not able to be here. They're out town. Alistair worked with me on this project and he's going to pipe up in case I forget something.

TAD HEUER: And the project architect?

JOHN HILGEMAN: I'm the project architect, yes.

BRENDAN SULLIVAN: Okay.

JOHN HILGEMAN: Okay, so this is their residence. It's a live/work loft at 38 Porter Road. Let me hold this up for you. Basically here's Porter Road. The entrance to the parking area in front is right here. It's sort of like a train/car type

construction. Theirs is wood frame. They're trying to extend the canopy over the front deck which is right here. The reason we need the Variance is because it's currently over the FAR. So, this is -- I put together for you existing and proposed, and we're looking to extend that awning by about 90 square feet. And the issue right now is behind this privacy wall here there's a lot of ice and snow buildup in the winter. Not last winter but the one before was a lot more. And the deck itself is becoming degrading. It's getting difficult for them to shovel snow out. And basically this decking is getting very rotted down on the end there. So we're looking at basically just repairing the deck and extending the awning. However, because it's an awning, it increases the FAR which is already over.

One of the issues is that this was originally built as an industrial building in

an industrial district, and it was since -- it was grandfathered in as it is in a Residential B, I believe, district. So considering all of the requirements on the Residential B, we're just asking for relief in order to extend this awning.

TAD HEUER: And is the awning itself, would that extend beyond the privacy wall?

JOHN HILGEMAN: Actually, I have it extending almost just parallel with this edge so that water and snow will go to the parking area as opposed to falling on or in behind on to the deck there.

TAD HEUER: Right. I guess that was my question. Is that, is that depth sufficient to get the water and snow over the privacy wall or is it just enough that the water and snow will drop in right behind the privacy wall and you've got the same problem you've got now?

JOHN HILGEMAN: Yeah, we thought about that. I believe if there's a strong wind driven rain or snow, it will get into there but to a much lesser degree than it is now.

BRENDAN SULLIVAN: Do you have a gutter there?

JOHN HILGEMAN: We do. A gutter that runs all along here and a rain chain spout coming down.

TAD HEUER: Okay. Are you changing -- is the current awning over the door, is that pitched the same way or is that going to be replaced and you don't need FAR relief for that because it's already covered?

JOHN HILGEMAN: This here, this will be removed. I don't know that there's a pitch on it. I'm not really sure. It's kind of a shotty construction. I'm not really even sure how it -- oh, there is a downspout here. I'm not sure. That might be

connected to the existing.

TAD HEUER: But essentially you're going to be removing all of the awning --

BRENDAN SULLIVAN: It looks pretty flat.

TAD HEUER: -- there?

JOHN HILGEMAN: Yeah.

TAD HEUER: -- to get a pitched awning for the length of the --

JOHN HILGEMAN: Yes. Yeah.

TAD HEUER: Okay.

JOHN HILGEMAN: This awning basically is currently here and it will be removed and then we'll put this pitched awning full length.

TAD HEUER: That's fine. My only concern was that you would be creating a useful awning on your privacy screen side and you'd still be creating an ice standing awning on the other side.

JOHN HILGEMAN: Oh, okay.

TAD HEUER: That's fine.

What's your lot size right now?

JOHN HILGEMAN: The lot size is, lot size 3400 square feet, which is about 1600 below the minimum for this district anyway.

TAD HEUER: Right.

JOHN HILGEMAN: So there's a number of dimensional issues here which is a result of the Zoning District having been changed.

TAD HEUER: Right.

Would these properties -- you may not know this, were they subdivided?

JOHN HILGEMAN: Yes, yes.

TAD HEUER: It was a single building on a single lot and then Planning Board granted a subdivision and then retain them as viable even though they were no longer industrial?

JOHN HILGEMAN: Yep. There's actually an interesting history. These were originally all wood frame to about here. I

believe it's four units, then two of them had a fire. And they were rebuilt as CMU, masonry structures. And --

CONSTANTINE ALEXANDER: There was a gas station back there, too.

JOHN HILGEMAN: Yes, yes, there was a gas station back here. And I think it was 1982. I have a copy of the --

CONSTANTINE ALEXANDER: '82 decision we granted relief.

JOHN HILGEMAN: Yeah, yeah. And they allowed this subdivision in the live/work lofts that would -- you know, trying to make this more residential.

TAD HEUER: Right.

CONSTANTINE ALEXANDER: In '82 they said it was on the basis they were going to be artist studios.

JOHN HILGEMAN: Yes.

CONSTANTINE ALEXANDER: Although they did say in the opinion we expect over

time that it will evolve into living spaces.

JOHN HILGEMAN: Yes.

CONSTANTINE ALEXANDER: Is that what it is now, are they basically residential units?

JOHN HILGEMAN: They are residential, but I believe there's an architect here. This is used for, you know, she has bookbinding processes and things that go in here. It's still live/work.

CONSTANTINE ALEXANDER: Do the people live in the units?

JOHN HILGEMAN: Yeah, for the most -- I mean, they don't live there full time, but they use it, it's fully residential and there's -- she does some bookbinding in the back here. So, that, the whole purpose is still in place.

This, I'm not sure about this one, but this one down on the end is a -- I believe she does sculptures or something.

TAD HEUER: I guess my main point is that we granted this subdivision into very unusually shaped lots. My sense is that if these structures were on -- were deemed, were viewed as one structure on that large lot, it would still be a situation in which there would be either relief required but not as much. But because we've granted a subdivision, we've artificially granted a small lot in order that enabled these buildings to be continued on. So the addition of FAR is something that we've almost created ourselves because of the lot size that we've chosen to give these structures.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: Any questions at this time?

(No Response.)

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody who would like to speak on the matter of 28 Porter Road?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

There is correspondence in the file to the Board of Zoning Appeal dated June 8th. (Reading) We are writing to voice our support for the Petitioners in this matter at 38 Porter Road. As neighbors, in that stretch of building we're familiar with the proposed work and endorse it going forward. Sincerely, Peter Miller and Maria T. Nortz, N-o-r-t-z.

And that's all the correspondence that you're aware of anything else to add?

JOHN HILGEMAN: No, I don't think so.

BRENDAN SULLIVAN: All right. Let me close the public comment and the presentation part of the hearing.

Mr. Alexander, what are your thoughts?

CONSTANTINE ALEXANDER: I'm fine.

BRENDAN SULLIVAN: Thoughts,
Slater?

SLATER ANDERSON: I'm fine with it.

BRENDAN SULLIVAN: Mr. Heuer?

TAD HEUER: I'm fine. The shape of
the lot is dispositive to me.

BRENDAN SULLIVAN: Kevin.

KEVIN CASEY McAVEY: I'm satisfied.

BRENDAN SULLIVAN: Okay. Let me
make a motion, then, to grant the relief
requested which would be to replace existing
awning and increase the size of a new awning
to cover the existing porch area as per the
plan submitted.

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

needed covering to a porch area.

The Board finds that it is quite hazardous in inclement weather, especially in the winter, to safely traverse and also to maintain the existing structure because of the lack of sufficient covering.

The granting of this relief, the Board finds is de minimus in nature and would alleviate this particular hazardous condition.

The hardship is owing to the size and shape of the lot, and the structure thereon which renders the existing building non-conforming and any work of this nature would require relief from this Board.

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

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

On the condition that the work proceed as per the plan submitted and initialed by the Chair.

Sort of a big drawing for a little covering.

All those in favor of granting the relief requested.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Anderson, McAvey.)

BRENDAN SULLIVAN: Good luck.

(8:35 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Slater Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will hear case No. 10267, 4 Hancock Park.

Okay, if you would introduce yourself,

whoever is going to speak and whenever you're going to speak.

NANCY DINGMAN: My name is Nancy Dingman, and my address is 53 Dunster Street in Cambridge. And I'm the architect and this is the owner.

ANDREA BACCARELLI: Andrea Baccarelli, Four Hancock Park, and the last name is B-a-c-c-a-r-e-l-l-i.

NANCY DINGMAN: Okay. So, I'm going to stand up so you can see this. The house as it exists now is a two-family house with a unit in the basement, and currently the basement has two little windows. This is a bedroom right here and a stairway. And what we would like to do by Special Permit is to increase the size of these two windows and add a third. And the driving force behind the whole thing is to get an egress window in the bedroom which is right, the bedroom which is this window here. And we would put

accompanying egress window well here and either smaller window wells on either side.

The reason that we need to get a Special Permit is that it's too close to the side yard setback. It's, I think, we're required to have 11.4 and we have 9.5 feet. And it's -- our thought is mainly it's a safety issue for the people in the basement. They could live there now, but it's -- we'd like to have them be able to get out. And I don't think it will affect the privacy from the neighbors across the street. We took this -- the neighborhood Historic Commission approved it, and before that we took drawings around to all of the neighbors and nobody said anything. And one person came to the meeting but wanted to talk about the fence rather than anything else. So it doesn't appear unless you have some newer information that anybody objects to it.

CONSTANTINE ALEXANDER: This is an

existing two-family house now?

NANCY DINGMAN: Yes.

CONSTANTINE ALEXANDER: Is it a legal two-family?

NANCY DINGMAN: Yes.

CONSTANTINE ALEXANDER: Okay. How long has it been a two-family?

NANCY DINGMAN: Well, it was originally two-family and a family bought it and they kept the whole thing. And then when Andrea bought it they wanted to restore it.

CONSTANTINE ALEXANDER: When was that? When did you buy it?

ANDREA BACCARELLI: We bought it six months ago, but it's always been a two-family for I guess more than ten years, maybe more. I'm pretty sure --

NANCY DINGMAN: I would say it's more than ten years.

ANDREA BACCARELLI: The previous owner been there close to ten years.

CONSTANTINE ALEXANDER: Was it a non-conforming two-family and then it was abandoned because it became a one-family?

SEAN O'GRADY: I, if I remember correctly, when this house hit the market, it was an illegal three-family.

Was that the case? How many kitchens? Was there an attic kitchen?

NANCY DINGMAN: I think you're right.

SEAN O'GRADY: Because I think I remember this one.

NANCY DINGMAN: I think that's right.

SEAN O'GRADY: But, yes, we determined it was a two.

CONSTANTINE ALEXANDER: It's now a legal two-family?

SEAN O'GRADY: It's considered to be a legal two, yes.

CONSTANTINE ALEXANDER: And I

assume there are not only safety issues with the window, really if you're seeking to make the units more habitable more like --

NANCY DINGMAN: Yes. And the one that's in the stair also is for more light and just to make it easier to go up and down the stairs.

TAD HEUER: Are those double hung?

NANCY DINGMAN: No. Because they're -- they have to be egress windows so they have to be of a certain size. We would have liked them to be double hung, but we couldn't fit them in.

TAD HEUER: So it's just you have no false divided lights or anything like that?

NANCY DINGMAN: No.

BRENDAN SULLIVAN: Okay. Any questions at this time?

CONSTANTINE ALEXANDER: I'm fine.

BRENDAN SULLIVAN: Questions, questions?

TAD HEUER: I just have one question. It's kind of strange because you sit at the end of Hancock Park. Is it the determination of ISD that that is indeed a side yard and not a front yard?

SEAN O'GRADY: Let me just take a look at it.

TAD HEUER: I'm fine either way. So the windows are there and they're....

SEAN O'GRADY: They're here. Yes, this is classic.

NANCY DINGMAN: It's on a bulb.

SEAN O'GRADY: Yes. I think you failed both of them.

TAD HEUER: Well, front yard what do you fail?

SEAN O'GRADY: What's your actual setback?

NANCY DINGMAN: 9.5 feet.

SEAN O'GRADY: And you're in a C or an A Zone. That would be a fail for the

front. And if the side, and if it's a calculated setback, it would be a fail for the side, yes.

TAD HEUER: How is it a Special Permit for a window in the front setback?

SEAN O'GRADY: Well, if we were to consider that the front setback, we would still send them here because of the privacy issue going this way. That's what we're trying to protect. Because we sort of -- because it's arguable which way to go, we would just say better safe than sorry to get yourself a Special Permit.

TAD HEUER: Right.

SEAN O'GRADY: But I do see what you're saying.

TAD HEUER: Okay. And just quickly, you've spoken the folks at 2 Hancock who would be the people most directly affected and they don't have any problems?

NANCY DINGMAN: Right.

ANDREA BACCARELLI: No.

BRENDAN SULLIVAN: Is there anybody here -- let me open it to public comment. Is there anybody here interested in the matter of case No. 10267, 4 Hancock Park?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance. There is correspondence from the mid-Cambridge Neighborhood Conservation District. (Reading) The mid-Cambridge Neighborhood Conservation District hereby certifies pursuant to Title 2, Chapter 2.78, Article Section of the Code of the City and the City Council Order establishing the Commission, that the construction described below is not incongruous to the historic aspects or architectural character of the building or district and to enlarge two existing basement windows and create one additional basement window with required egress to match Building Code. Plans and

specifications that were submitted with the application are incorporated into the certificate which is non-binding on the applicant.

And that is the sum substance of any correspondence.

You're not in possession of any other correspondence from anybody?

NANCY DINGMAN: No.

BRENDAN SULLIVAN: All right.

Nothing to add or delete, change?

NANCY DINGMAN: No.

BRENDAN SULLIVAN: Final words of wisdom?

NANCY DINGMAN: No.

BRENDAN SULLIVAN: Nothing?

Gus.

CONSTANTINE ALEXANDER: I'm fine.

BRENDAN SULLIVAN: Slater?

TAD HEUER: I'm fine.

KEVIN CASEY McAVEY: I'm good, thank

you.

BRENDAN SULLIVAN: Okay. Let me make a motion, then, to grant the Special Permit to enlarge two existing basement windows and add one new basement window with window wells as per the plans submitted and initialed and dated by the Chair.

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

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

The Board notes the letter from the mid-Cambridge Conservation District which finds that the proposal is not incongruous, and that patterns of access would not be affected and emergency egress will be improved as a result of the proposed window changes.

The Board finds that 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, and/or welfare of the occupants of the proposed use. In fact, it would be the welfare and the co-compliant aspect of this would enhance the liveability of the structure and would not be detrimental to the citizens of the city.

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

All those in favor of granting the Special Permit.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Anderson, McAvey.)

(8:45 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Slater
Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will

hear case No. 10268, 8 Lincoln Lane.

Okay, if you would introduce yourself. And whoever is going to speak and whenever you're going to speak, please spell your last name and give us an address.

NICK WINTON: I'm Nick Winton, Anmahian Winton. That's A-n-m-a-h-i-a-n. And I'll be speaking on behalf of my clients, Jennifer Keddy and Stuart Levinson. And this is my colleague Julia Davis.

BRENDAN SULLIVAN: What is it you would like to do?

NICK WINTON: The house is on Lincoln Lane which is a cul-de-sac. It's a Variance that was granted in '83 which was a creation of a covered park, parking space and deck. And we're essentially recreating that as -- so instead of a single covered parking space, we're creating a double enclosed parking garage in roughly the same footprint with a small addition off the back side of the

house of about roughly 110 square feet.

The property is non-conforming as is, and we believe it was non-conforming when the original Variance was granted in '83. So, the sort of constraining elements of the Variance are, if you want to call them the hardship, is that the site is irregular in shape. It has a very steep slope on the driveway and so there's really no option for changing the location of the driveway. And the driveway is also a shared element between this property and the adjacent property. So the driveway itself is not a reasonable parking place.

TAD HEUER: Is it shared by cross easement or just by custom?

NICK WINTON: I'm sorry say it again?

TAD HEUER: Is it shared by cross easement or just by custom?

NICK WINTON: Well --

TAD HEUER: My question is if you wanted to, could you park there and your neighbors would be out of luck?

JENNIFER KEDDY: No.

TAD HEUER: Or are you required to give them access through --

NICK WINTON: There's an easement.

TAD HEUER: Okay.

NICK WINTON: So it has to remain open.

The Lincoln Lane cul-de-sac is a tight cul-de-sac, and it's used for public parking. The current under deck parking space is open so it's exposed to the neighbors, the abutting neighbors. And we're proposing to build an enclosed version of that. And in doing so we would add a second space so that the both cars of the owner would be parked off street. The owners have obtained four letters of support from the four abutting neighbors which are, I think --

JULIA DAVIS: Three. But they were submitted this week.

NICK WINTON: Three. And do you have --

JULIA DAVIS: Of they should have copies of it.

BRENDAN SULLIVAN: The letters?

JULIA DAVIS: Yes.

BRENDAN SULLIVAN: Yes, from the Cronins, from the Spauldings, and from the people at 55 Fayerweather.

NICK WINTON: The amount of square footage being added in the with respect to the parking area is minimal. We're actually just straightening a couple walls. It's a matter of, you know, a few square feet actually. So the overall footprint of that is I would say roughly equal. And we have actual dimensions, but the -- and the addition off the back side of the house, north side, is not visible from the street but does

face the abutting neighbors who we have their approval.

TAD HEUER: Can you walk us through how you get to what I calculate is 512 square feet of additional space? Because if what you just said --

NICK WINTON: No, no, not 512.

TAD HEUER: Good. Because your form says 512 additional.

NICK WINTON: I stand corrected.

TAD HEUER: And I just wasn't -- looking at your additions, they don't seem to add up to that number or anywhere near it.

NICK WINTON: Well, it's a two-fold. The deck itself is -- wraps the west end of the house. And on that end of the house we're adding approximately 110 square feet; is that correct? Which is the bay. The enclosed bay of the addition. And then the deck itself we're expanding in

one -- eastwardly to create the enclosure around the west end of the house, and that's the additional square footage.

JULIA DAVIS: Yeah, and then addition, that additional square -- the parking space.

TAD HEUER: So start over and bring me down that list again.

NICK WINTON: So, the bay off the north which is approximately 110 square feet.

TAD HEUER: That's the additional parking space?

NICK WINTON: Right.

TAD HEUER: All right.

NICK WINTON: And then the deck itself, the additional square footage of the deck is another -- I have to -- I can't, I don't see the calculus here, but I think it's approximately --

BRENDAN SULLIVAN: We're going to

need to get that number exact.

TAD HEUER: And then your -- it's an eight-by-twelve addition to the kitchen.

NICK WINTON: Roughly, yes.

TAD HEUER: It's 110 square feet.

NICK WINTON: 110 square feet.

JULIA DAVIS: On this page here.

You can see the -- which is page 7. So this is the existing square footage for all of the floors. So the lower floor we're going from 1800 to 2,210. And on the first floor we're going 2,035 to 2,158.

TAD HEUER: So you're adding 180 square -- sorry. So 122 square feet in the first floor is your kitchen addition; is that right?

JULIA DAVIS: Uh-huh.

TAD HEUER: And the lower floor covers the --

JULIA DAVIS: This is the lower floor.

TAD HEUER: Right. The space under your expanded deck?

SLATER ANDERSON: This space.

STUART LEVINSON: This is existing and this is proposed.

SLATER ANDERSON: But there's no space under that deck; right?

STUART LEVINSON: There's no space here. And so it's creating that space.

JENNIFER KEDDY: Just this piece to fill it out.

JULIA DAVIS: And then this is the existing first floor, removing this bay here and adding on in the back here.

SLATER ANDERSON: So this lower level's walk out, full height walk out?

JULIA DAVIS: Yes.

NICK WINTON: The deck plan is more easily seen in this illustration, landscaped illustration. It's a combination of floor plan and site plan. This is a recent

addition to the --

CONSTANTINE ALEXANDER: This is stuff that's in the file already; right?

JULIA DAVIS: That one page is not in the file.

NICK WINTON: This one page is new.

CONSTANTINE ALEXANDER: Is it comprised of information in the file, it's sort of --

NICK WINTON: Yeah, we have a site plan that indicates the same configuration.

BRENDAN SULLIVAN: It's an elaboration of what's already in the file if you will?

NICK WINTON: That's correct.

BRENDAN SULLIVAN: Well, okay. Well, again going back to Mr. Heuer's original question, how do we come up with 75 -- 114 square feet in the application form?

TAD HEUER: I mean the math -- the

math -- I think it's because you're bringing your deck up off from grade where it doesn't count and you're making it a first floor deck where it does count so it's covering the space --

NICK WINTON: The footprint is nearly identical, but the calculus of square footage grows.

TAD HEUER: Is the elevation of your deck --

NICK WINTON: It's now occupiable square footage as a garage.

TAD HEUER: Well, not just occupiable space as a garage, but also the space underneath -- it's really the space underneath the deck.

JULIA DAVIS: The space currently underneath the deck is about six feet so they use it for storage.

TAD HEUER: Yes.

JULIA DAVIS: And so, yes, when we do

raise it up to the same level of the rest of the deck, you can occupy the space.

TAD HEUER: Right. And can you walk me through how adding a parking space requires an addition to the kitchen?

NICK WINTON: They're not related. The parking space is really about the limitations to the driveway and the -- let's say the limit of space in the cul-de-sac. So the cul-de-sac is shared among three neighbors.

TAD HEUER: Right.

NICK WINTON: And it's a source of conflict and it's a very small --

TAD HEUER: It's a position that a lot of residents of Cambridge would love to have three parties fighting over essentially a designated set of multiple parking spaces on the street I would suspect; right?

NICK WINTON: Well, I'm only speaking from what I've heard. And so I

think -- and thus the support of the neighbors. I think they see it as a benefit obviously to them because there's fewer cars parked.

BRENDAN SULLIVAN: I think what really happens is that somebody who comes to visit, the previous owner of the Strauses will park more to the left of their house blocking the Cronin's access down the side there. That's -- and people not really knowing --

NICK WINTON: Where to park.

BRENDAN SULLIVAN: -- where to park. And sorry, you know, but it's, that's really what the --

STUART LEVINSON: We felt that it would be beneficial to have a place to put two cars and take less cars off.

BRENDAN SULLIVAN: So that people coming in will park more to the right side.

STUART LEVINSON: Since, you know,

the neighbor --

JENNIFER KEDDY: We would like to change the way people park in there.

STUART LEVINSON: The Cronins are parking here and so -- they don't want to park in their driveway or garage. We thought it would be a benefit to the neighborhood to --

BRENDAN SULLIVAN: Yes. The owners, the residents police themselves. It's the occasional visitor who doesn't understand and that's really what the source of the aggravation is.

NICK WINTON: Yeah. And there are two -- there's an entrance itself, Lincoln Lane, and then there's the shared driveway and also the Cronin driveway. So there's quite a complements of curb cuts and actual parking, allowable parking area along the curb is very limited. So if you blend out to the parking.

(Several people speaking at once.)

JENNIFER KEDDY: There actually is no curb.

CONSTANTINE ALEXANDER: This is going to be tandem down the driveway.

BRENDAN SULLIVAN: So, okay, did you get the original question answered?

TAD HEUER: The kitchen.

STUART LEVINSON: I just want to say one more thing about the garage and then the Strauses turned it into a waiting room.

JENNIFER KEDDY: And a carport.

STUART LEVINSON: And a carport. And so we're bringing it back into being a garage.

TAD HEUER: And your addition here, this small space next to the garage, is that a -- what is that? I see you're squaring off that house. Is it a --

NICK WINTON: So on the lower level it's additional garage space. Bicycle

storage. And then above is deck.

TAD HEUER: And how is it fronted?

NICK WINTON: With a normal garage space. There's two bays. One regular, customary garage bay and one half size for sort of bicycle storage.

JULIA DAVIS: And trash.

TAD HEUER: Functioning?

JULIA DAVIS: Yes.

TAD HEUER: So you have a kitchen?

NICK WINTON: So the kitchen came about in a couple different ways. One is that the current house has a winder stair that we need -- that we're going to replace. It's a non-conforming stair. It's illegal or what would be -- I'm sure it could be grandfathered because it's very awkward and a strange stair. Original with the house. When we replace that, we're going to consume some additional square footage inside. The idea was to expand the kitchen in a direction

that we felt would accommodate that additional stair and improve the views and like for the house.

TAD HEUER: So where's the kitchen now and where's it --

NICK WINTON: The kitchen stays roughly where it is.

JULIA DAVIS: This is the non-conforming winder stair.

TAD HEUER: Right.

JULIA DAVIS: And then this is the stair that we would be adding in.

TAD HEUER: Right. So you're running the stair up through, is that a closet?

JULIA DAVIS: That's a pantry.

NICK WINTON: So we're -- the kitchen is in roughly the same part.

SLATER ANDERSON: It seems to be moving around the corner. The kitchen's here and it's going around the corner there.

NICK WINTON: It's changing the orientation so that the kitchen now has a view out to the back of the house instead of the side of the house.

I don't know if this is what you're asking. We're not actually adding kitchen. We're really adding essentially living/dining space with a kitchen overall.

TAD HEUER: Right.

JENNIFER KEDDY: And replacing what's lost here and creating a pantry in this area.

TAD HEUER: Right.

BRENDAN SULLIVAN: Did we determine that that 75 is a correct number?

TAD HEUER: Yes.

BRENDAN SULLIVAN: It is.

Any questions at this time?

SLATER ANDERSON: Is the new deck that's wrapping around, that's sort of replacing the old deck there, am I to

understand that the elevation of that deck is moving? Level?

NICK WINTON: It's a yes and no.

SLATER ANDERSON: It's probably in the elevation.

JULIA DAVIS: May I share this?

NICK WINTON: The current -- yeah, that's actually a good illustration, the two views before and after. The current deck is stepped and has two elevations.

SLATER ANDERSON: Okay. Yes, I see that.

NICK WINTON: And we're levelling it out to continuous.

SLATER ANDERSON: Okay. So the rear of the deck is --

NICK WINTON: Is a little bit higher.

SLATER ANDERSON: -- is going to come up a little bit.

NICK WINTON: Yeah. And that's how

we're able to create the tandem parking below.

JULIA DAVIS: In addition the existing deck was found to be unsound structurally in the home inspection, so something needs to be done to it where it's unsafe the way it's currently built.

BRENDAN SULLIVAN: Okay. Anything else at this time?

SLATER ANDERSON: I'll wait.

BRENDAN SULLIVAN: Gus, anything?

CONSTANTINE ALEXANDER: No questions, no.

BRENDAN SULLIVAN: Tad?

TAD HEUER: Not right now.

BRENDAN SULLIVAN: Anything at this point?

KEVIN CASEY McAVEY: No.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anyone here who would like to

speak on the matter case No. 10268, 8 Lincoln Lane?

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance.

There is correspondence in the file.
(Reading) Dear Ms. Pacheco; We, the undersigned support the proposed alteration to the residence of Stuart Levinson and Jennifer Keddy at 8 Lincoln Lane as submitted in the BZA application. We support the creation of the enclosed garage as a replacement for the current open parking space and the reduction of off street parking on the cul-de-sac. We also support the proposed bay on the back of the house. We have seen the drawings included in the application and believe that this would be a benefit to the neighborhood. From Paula and Philip Cronin.

Philip Cronin used to be the city

solicitor many years ago.

Also we're in receipt of correspondence from Monique and Oak Spaulding at 15 Gurney Street which would be directly behind and probably the most -- well, affected with the Cronins I guess. (Reading) We, the undersigned, support the proposed alteration to the residence Stuart Levinson and Jennifer Keddy at 8 Lincoln Lane. We support the creation of the enclosed parking space as a replacement for the current open parking space and reduction of off street parking on the cul-de-sac. We also support the proposed bay on the back of the house. We have seen the drawings, including the application, and believe that the project will be benefit to the neighborhood.

And from Kate and Chuck -- well, what is --

NICK WINTON: (Inaudible).

BRENDAN SULLIVAN: How do you spell

their last name?

JENNIFER KEDDY: B-r-i-c-i-u-s.

BRENDAN SULLIVAN: At 55

Fayerweather. (Reading) We, the undersigned, support the proposed alteration to the residence of Stuart Levinson and Jennifer Keddy at 8 Lincoln Street. We support the creation of an enclosed garage as the replacement for the current open parking space, the reduction of off street parking on the cul-de-sac. We also support the proposed bay on the back of the house. We have seen the drawings, including the application, and believe that the project will be of benefit to the neighborhood.

So they obviously think alike because they speak as one.

And that is the sum substance of the correspondence. I will close public comments.

Anything to add at this point?

NICK WINTON: No.

BRENDAN SULLIVAN: Okay.

TAD HEUER: Can I ask just another question? I'm sorry.

The deck is covering the rear -- a full area of the rear portion where the -- essentially the tandem space is going; correct?

JULIA DAVIS: Yes.

NICK WINTON: That's correct.

TAD HEUER: That only counts once for FAR not twice, am I right? It counts for the space that it's covering which is -- like, you wouldn't count the deck area that covers it and the space underneath it. You just count the space underneath it.

NICK WINTON: For one car, correct.

TAD HEUER: Well, you exempt one car; right?

NICK WINTON: That's right.

JULIA DAVIS: Right.

TAD HEUER: But the portion that's being added, you're not --

JENNIFER KEDDY: You only have to count it on the single floor instead of here and here. Is that what you're saying?

TAD HEUER: Yes, my question is is it being double counted in some respect because it's counting this area in here --

JULIA DAVIS: Is here.

TAD HEUER: Yes.

JULIA DAVIS: And then this is the eating area that's the space here.

TAD HEUER: Okay.

SLATER ANDERSON: So the only, the additions are what's outlined in red basically --

NICK WINTON: That's correct.

SLATER ANDERSON: -- at each level? That's the map that you're talking about. That's the 517.

NICK WINTON: Uh-huh.

TAD HEUER: And what's this in black?

NICK WINTON: That's the lead in. That's removed in the demolition. This area. That would be considered part of the FAR calculation that's being removed.

TAD HEUER: Okay.

BRENDAN SULLIVAN: Okay? Anything else? Slater, anything?

SLATER ANDERSON: Is there a full basement under the whole house?

NICK WINTON: Yes.

SLATER ANDERSON: And what's the ceiling height?

NICK WINTON: It varies. The floor changes height. So it's -- I think by our calculus --

JULIA DAVIS: About seven and seven and a half feet.

NICK WINTON: Well, it counts towards FAR.

SLATER ANDERSON: All of it?

JULIA DAVIS: With the exception of the mechanical spaces.

NICK WINTON: Yeah, I think so. But it's unfinished.

STUART LEVINSON: It's six feet with pipes.

BRENDAN SULLIVAN: Not very usable space.

SLATER ANDERSON: No.

My only question is it's about the kitchen addition. Is -- I understand the aesthetic necessity of it, speaking for myself, it's a big house and I'm not compelled for the need to make it bigger through the Variance process to accommodate the kitchen. I mean, I understand the aesthetics of it. And, you know, you're remedying a stair situation there, but we, you know, deal with people dealing with a lot tighter situations, and you are over the FAR. So I think the

parking solution makes sense. I have no real issues with that. I think it's better than the existing condition. I just need to get over, get a little farther in my understanding of the kitchen addition. So that's my initial thought.

NICK WINTON: Well, I might just add to that. I -- it's not a counter, maybe just a side note, that the house does -- is non-conforming in nearly every dimension literally and figuratively; the FAR, height, the setbacks. And so in a way there's somewhat of a handicap. Regardless of the size argument, and I wouldn't disagree or argue with that, but it doesn't impose a little bit of a hardship in that regard. In the sense that anybody performing almost any kind of innovation or even the most mild addition would fall within that same problem.

TAD HEUER: Well, the flip side is that the city would say -- playing devil's

advocate or not, what you're entitled to is 4,000 square foot house. You lucked into a 7,000 square foot house. You actually don't have a hardship of not being able to add another 100 square feet. You've got a bonus that nobody else can get today of 3,000 square feet that no one else could get if they tried to build on that lot.

JENNIFER KEDDY: Can I speak to this design?

TAD HEUER: Sure.

JENNIFER KEDDY: So it's kind of my -- it's kind of my fault that we're asking for this because we have two young children. I spend a lot of time in the kitchen between, you know, four and seven. What's existing is a galley kitchen, and it doesn't -- it's really difficult to imagine interaction between young children and the kitchen. You're sort of closed off from everybody when you're in it. So for this to work for our

lifestyle, for our daily -- I mean, literally a daily activity, I need to be able to have them where I can see them, where I can walk, where they can get to me without it being dangerous, you know, because there's no space to move through. And this was the only way we could get it, by flipping it around so that the kitchen space is open to the table and chairs and the kids can pull up stools. It's just wasn't possible. Nick really tried really hard to leave it the way it was. And we looked at three or four different versions of it, and I couldn't see it working.

STUART LEVINSON: And I would give up half the house on the other side for her to have the kitchen and the space with the kids. It's not -- I mean, we come here tonight and not believing that we have this space and we need more space. It's not about that. It's about we want to love this house and we want to put money into making this

great in the neighborhood and getting rid of that stair that we felt was dangerous and putting in this in the way that Jennifer described is the way we feel we can live in this house. And so it's a hardship in that way.

BRENDAN SULLIVAN: The existing kitchen is somewhat of an L shape. It's a galley.

JENNIFER KEDDY: It's really galley, yeah.

BRENDAN SULLIVAN: And then there's sort of an eating area which would be the leg or one of the L shape.

JENNIFER KEDDY: And they had a very small table and chair set there. It's just not -- it worked for them. And I thought -- we actually went really deep into this -- the design process in that way, and saying, you know, me saying okay, this is gonna work this is gonna be fine. I finally

got to the point where I felt this is not gonna work for us. We couldn't get comfortable with that.

BRENDAN SULLIVAN: The original house was built in an era where people would eat in the dining room. The food was prepared in the kitchen.

JENNIFER KEDDY: Right.

BRENDAN SULLIVAN: That there were quarters for help in the basement. And when the Strauses bought the house, they tried to update it and do a nice kitchen, but it was still an L-shaped and it had its limitations because they had to stay within the existing envelope.

JENNIFER KEDDY: Right. And they had a column in the middle of the kitchen.

BRENDAN SULLIVAN: Correct.

JENNIFER KEDDY: And they had the column in the middle of the kitchen.

SLATER ANDERSON: So just, what is

the width here on the existing kitchen there, would you say? I know it's one-eighth.

NICK WINTON: It's roughly nine feet.

SLATER ANDERSON: Is it about nine feet wide?

TAD HEUER: That's wall to wall?

JULIA DAVIS: Yes.

NICK WINTON: Wall to wall, yes.

SLATER ANDERSON: And the dimension of this space here?

NICK WINTON: Of the existing plan? Outside of the kitchen?

SLATER ANDERSON: 18 by 18, is that safe to say, something like that?

JENNIFER KEDDY: (Inaudible).

SLATER ANDERSON: And was this the dining room?

NICK WINTON: That was the original.

SLATER ANDERSON: So this was sort of sitting room or something?

JENNIFER KEDDY: Yeah. They had a table and chair here. They had a little couch and a little TV and, you know, so they sort of made this the heart.

SLATER ANDERSON: They lived in this part?

JENNIFER KEDDY: Exactly. In that tiny space.

SLATER ANDERSON: I've seen it before. Okay.

JULIA DAVIS: I would say in addition to that, you know, the way we have the mechanical space laid out right now, the lower -- the basement level is 2200 square feet, but at about seven feet, it's not really liveable space, you know, besides some storage and -- well, a lot of storage space. It's not, it's not going to ever become something that's really occupiable and homey for them.

JENNIFER KEDDY: Yeah, you can't

really count that as, you know.

STUART LEVINSON: I just wanted to say one more thing about the kitchen because you bring up a good point. But we, we got to a point where we decided we were going to sell the house and then we found this solution and we really want to be in this house. But it was a hard thought kind of thing for us to get to this point. This will work and we can make this work and we can still buy this house and love it. It wasn't a light decision of we need more space in our lives.

JENNIFER KEDDY: We know we don't need more space. Right here we need more space. If we can chop off part of it and put it there, and then but -- we even looked at flipping it, but, you know, it's just tried --

TAD HEUER: So if you're at -- as I'm reading your dimensional calculations, your basement is 2210.

JULIA DAVIS: Yes.

TAD HEUER: Is that right?

So -- oh, sorry, your existing basement is 1818. So if you were to take that out of your current FAR for the sake of argument, you'd still be over your allowable FAR just. You'd be just maybe 0.51 and this addition would push you a bit more over. So you'd already be non-conforming to FAR even if you moved the basement.

JULIA DAVIS: The FAR for the lot has 0.5 and currently we're at 0.7.

TAD HEUER: Sure. And I'm saying if you took out 1800 square feet, you'd be at just over 5,000 square feet anyway.

JULIA DAVIS: Yes.

BRENDAN SULLIVAN: Okay, anything else?

SLATER ANDERSON: I'm good now.

BRENDAN SULLIVAN: Okay.

Concerns? Questions? Comments?

TAD HEUER: Standard comments from me which is I'm not that thrilled about the additional FAR for the kitchen. I understand the need for the parking. I think it's reasonable.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: If this house were located in a different part of the city, it might give me pause to grant the relief you're seeking. But given where it's located, it's a wooded area, it's sloping down. The backyard is sort of secluded. The cul-de-sac presents sort of unique parking issues. For all of those reasons I think we should grant relief and I'm in favor of granting relief.

BRENDAN SULLIVAN: Okay. Do you have any thoughts?

KEVIN CASEY McAVEY: No.

BRENDAN SULLIVAN: Should I make a motion?

TAD HEUER: Yes.

BRENDAN SULLIVAN: I'll make a motion, then, to add a bay at the rear of the house to convert an existing wood deck and covered one parking space into an enclosed two-car parking deck as per the plans submitted.

And these are the plans. There will be no changes?

JULIA DAVIS: No.

BRENDAN SULLIVAN: Okay.

The plans which will be initialed and dated by the Chair.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude the Petitioner from creating a second parking space which is of public benefit and to the abutting residences in the cul-de-sac.

That it would also preclude the Petitioner from realigning the existing kitchen area to make it more habitable and bring it up to current standards.

The Board finds that the hardship is owing to the existing non-conforming nature of the structure and the siting on the lot.

The Board notes that the lot is unusual in shape and also topography and makes any other viable solution impractical.

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

The Board notes that the letter from the immediate abutter endorsing the additional parking area as being advantageous to him and to the other residences in the cul-de-sac.

And the Board finds that the 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 as per the application.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Alexander, Anderson, McAvey.)

BRENDAN SULLIVAN: And one dissenting. Any --

TAD HEUER: Because I'm precluded from splitting a vote on a single petition, I would be in favor of parking that's requested and I would not be in favor of the addition for the expansion of the residence because I don't believe the standard for a hardship in Chapter 40-A in the Ordinance has been met.

BRENDAN SULLIVAN: So having received the necessary four affirmative votes, the petition is granted.

JENNIFER KEDDY: Thank you.

CONSTANTINE ALEXANDER: That was a

nice submission you made. That was quite good.

TAD HEUER: Yes, very useful particularly with something that has many moving parts.

NICK WINTON: Thank you.

(9:15 p.m.)

(Sitting Members: Brendan Sullivan,

Constantine Alexander, Tad Heuer, Slater Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will hear case No. 10269, 21 Trowbridge Street. Is there anybody here on that matter?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

The Board is in receipt of correspondence. (Reading) To the Zoning Board: We wish to request a continuance to the first hearing in August 2012. Thank you very much, Peter Wright.

Sean, the date in August?

SEAN O'GRADY: Oh, they want to go to August? Did they say --

CONSTANTINE ALEXANDER: First one in August.

SEAN O'GRADY: First one in August. That would be August 9th.

BRENDAN SULLIVAN: So on the motion

to continue this matter until August 9, 2012, at seven p.m. on the condition that the Petitioner change the posting sign to reflect the new date and time.

That any new submissions be in the file by five p.m. on the Monday prior to August 9th, and that any submissions be absolutely correct for the Board to consider.

Anything else to add? On the motion, then, to continue this matter until August 9, 2012.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor of continuing the matter.

(Sullivan, Alexander, Heuer, Anderson, McAvey.)

(9:25 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Slater Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will

hear case No. 10269, 6 Berkeley Street. Ms. Booz, if you would introduce yourself for the record.

MAGGIE BOOZ: I'm Maggie Booz, B-o-o-z, architect to the project for Errol and Anna DeSouza.

The DeSouzas have a single car garage at the rear of their property which is located on Hastings Avenue. We found out it actually has a name when looking at the site plans. Hastings Avenue, because it is a public way, is considered a street in the rear what would appear to be the rear of the yard, has a front yard setback requirement. The garage currently is 4.7 feet from the property line, and it's a single car garage that faces Hastings Avenue. So the door of the garage opens to Hastings Avenue. It's a, it's very small. It's a metal structure and the DeSouzas would like to replace it with a two car garage and they'd like to face the garage

doors not onto Hastings Avenue but facing their side property line. So we've moved it back away from that. We've sited the proposed garage away from the side property line a little bit further so they can make the turn and get into the garage and back up appropriately. And have made it the sides of a two car garage that is -- it's 22 feet wide and it's 26 and a half feet in-depth. It has a portion in the rear for garden tools. We have a large lot. And the violation that we have is the -- as I say, the front yard setback.

We're placing the garage about two feet from the actual property line so that we can, so the DeSouzas can pass between the property line and the corner of the garage.

And the in order to meet the 15-foot requirement in height we've made a double gabled structure so that we don't just have a big broad flattish pitched roof.

We sought through Historical, I believe you ought to have a letter in your file from Historical with the approval for the garage. And we don't have any neighbor objection.

There are already -- there are currently three garages that open directly on to Hastings Ave. in various states of, you know, that were built about the same time. Probably I think a couple of them -- I think the other ones might be metal garages as well. And I have photographs of them. But Hastings Avenue is a -- it's a city street, but it is of basically a parking lot. And, you know, a service way for trash trucks and loading docks for the back of Lesley. And I have photographs here that -- that Anna took that are, you know, very, just very telling. The back of their property, if you just want to look at all those, you can kind of get a sense for the nature of Hastings Avenue. There are no curbs. There are no sidewalks. It's a

seamless parking, loading area. And just one of those situations where --

CONSTANTINE ALEXANDER: So the current garage is somewhere behind one of these cars?

MAGGIE BOOZ: That's correct, yes.

CONSTANTINE ALEXANDER: You're right. You wouldn't think it's a street.

MAGGIE BOOZ: It's just asphalt up to the property lines.

BRENDAN SULLIVAN: You would not have thought that it was a public street.

MAGGIE BOOZ: You really wouldn't have.

TAD HEUER: Don't tell Mr. Hastings that. He thought he was getting a great deal when he got a street named after himself.

ANNA DeSOUZA: I think Hastings maintains that.

MAGGIE BOOZ: Lesley plows.

BRENDAN SULLIVAN: Lesley plows it

for ease to their property and their people.

ANNA DeSOUZA: It's pretty much their maintenance area there.

TAD HEUER: And in of those photographs there's a car that looks like it's parked.

MAGGIE BOOZ: It belongs to the DeSouzas.

TAD HEUER: Oh.

MAGGIE BOOZ: I was wondering about that car as well. Although --

SLATER ANDERSON: The Land Cruiser?

MAGGIE BOOZ: Although people could --

TAD HEUER: Oh, no, no.

MAGGIE BOOZ: No, in front of the garage.

TAD HEUER: Yes, so there's a car parked in front of the garage. There's also a car --

MAGGIE BOOZ: That's their

driveway. They have a driveway.

TAD HEUER: So that's your car parked in the driveway?

ANNA DeSOUZA: Yes.

TAD HEUER: Okay.

Is there any delineation between where your property line is and your neighbor up Brookford Street to the north?

MAGGIE BOOZ: Yeah, there's a fence.

ANNA DeSOUZA: The end of the driveway there.

TAD HEUER: Right, okay.

So are those -- this white fence I see in the background, that extends -- that demarks your yard from your driveway, right?

ANNA DeSOUZA: The picture -- you should be able to see -- I'll show you that picture.

SLATER ANDERSON: It's existing site plan?

MAGGIE BOOZ: That's an existing

site plan.

SLATER ANDERSON: Yes, property line is around here, go.

TAD HEUER: Right.

MAGGIE BOOZ: We've got about 20 feet between the side of the garage and then west on Hastings Ave., you know, to the next property and Berkeley Street. And there's a fence, there's a hedge.

TAD HEUER: And are you intending on, well, I guess --

MAGGIE BOOZ: Increasing the size of the driveway by five feet because we're going five feet over in that direction.

TAD HEUER: Right.

And are you planning on extending the fence line that's here to go up to the edge of -- will that implicate the new garage?

MAGGIE BOOZ: Will what implicate the new garage?

TAD HEUER: So right now you have a

fence that goes up to the south end of the garage, and then obviously the door.

MAGGIE BOOZ: It goes right to here, yeah.

TAD HEUER: Right.

MAGGIE BOOZ: And it will be, it will peel back five feet.

TAD HEUER: Okay.

MAGGIE BOOZ: To where the new corner of the garage is.

TAD HEUER: So it's essentially going to be spun 90 degrees. Spun this way.

MAGGIE BOOZ: Right.

TAD HEUER: Will the north facing front of the garage be behind the fence line entirely?

SLATER ANDERSON: That's this proposed right there.

TAD HEUER: Okay.

SLATER ANDERSON: This is the garage it would be moved over here.

MAGGIE BOOZ: We would be looking at the side of the garage.

ANNA DeSOUZA: And the yard.

TAD HEUER: Okay.

BRENDAN SULLIVAN: Slater, any questions at this time?

SLATER ANDERSON: No questions.

BRENDAN SULLIVAN: Okay. Tad?

TAD HEUER: No.

BRENDAN SULLIVAN: Gus?

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: Kevin?

KEVIN CASEY McAVEY: No.

BRENDAN SULLIVAN: Let me open it to public comment. Is there anybody who would like to speak on the matter at 6 Berkeley Street.

(No Response.)

BRENDAN SULLIVAN: There is nobody.

There is correspondence in the file on the letterhead of Lesley University.

(Reading) To the Board of Zoning Appeals: I am the vice President for administration at Lesley. Lesley University owns two buildings directly across Hastings Avenue from the proposed garage. The DeSouzas have communicated with me regarding their interest in upgrading their garage. During the almost four years of being neighbors, Lesley University has only had positive experience in dealing with the DeSouzas and consider them to be outstanding neighbors. I believe that the proposed design is architecturally appropriate and that it is not an incompatible use and therefore supports the DeSouza application for and encourage the Board to grant the requested Variance. Sincerely, Mary Lou Batt,
B-a-t-t.

On the letterhead of the Episcopal Divinity School. (Reading) Dear Zoning Board: I write in reference to BZA case No.

10269. The EDS campus abuts the rear yard of No. 6 across Hastings Avenue, the President and Dean's house, my residence is at No. 4 Berkeley Street. I wish to advise you that we have no objection to the proposed garage, and are appreciative that the DeSouzas are taking such care that it be attractive and in harmony with the design of the house. Feel free to contact me. And it's by the very Reverend Katherine Hancock Ragsdale, R-a-g-s-d-a-l-e.

And is that the correspondence? There should be something from Historical.

From the Cambridge Historical Commission regarding 6 Berkeley Street. (Reading) The Cambridge Housing Authority hearing on April 5, 2012, approved the application. In addition to complete demolition of a building, following reactions requiring demolition -- well, anyhow they basically approved the proposal.

It really has to do with the demolition of a building, I believe, does it not? And I think they probably, because it's not visible from the public way -- did they get into that?

MAGGIE BOOZ: It is visible from the public way.

CONSTANTINE ALEXANDER: Hastings is a public way.

MAGGIE BOOZ: It is. They vote, you know preferable conservation. Whether demolition is allowable and whether it would be preferably preserved.

BRENDAN SULLIVAN: Okay. And so they deemed it not preferably preserved.

MAGGIE BOOZ: In light of the replacement.

BRENDAN SULLIVAN: Okay.

TAD HEUER: Similar to the situation we had at the corner of Brattle and Appleton we had three years ago, where there was an old garage in the rear corner lot, and they were

pointing it to the front and Cambridge Historical suggested that the old garage was not properly preserved and then they came here for a similar situation. They wanted a modest decision in height because Historical thought it would be more conforming.

BRENDAN SULLIVAN: And that's it for the correspondence, I believe; is that correct?

Okay, anything to add at this point?

MAGGIE BOOZ: Just that the neighbor to the north also expressed no objection to the -- all the neighbors are all contacted by the DeSouzas. And the ones who were interested either wrote letters or expressed verbally that they were -- that they had no objections.

BRENDAN SULLIVAN: Okay. Let me close the public comment and the presentation part. The Board will discuss it.

Gus.

CONSTANTINE ALEXANDER: I'm in favor.

BRENDAN SULLIVAN: Okay. Kevin?

KEVIN CASEY McAVEY: I'm in favor.

BRENDAN SULLIVAN: Slater?

SLATER ANDERSON: Normally, a new garage in a front yard, but this is not any ordinary front yard obviously. I sympathize with the situation you have behind you there, and I think a structure to further insulate you from what goes on back there is well worthwhile and at this point --

BRENDAN SULLIVAN: Mr. Heuer.

TAD HEUER: The city did not have the intent and purpose of its Ordinance to deem this a front yard setback, in my opinion, and relief is appropriate here.

BRENDAN SULLIVAN: Let me make a motion to grant the relief requested to demolish the existing one car garage and to erect a new wood frame two car garage as per

the plans submitted, initialed and dated by the Chair.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude the Petitioner from removing the existing outdated metal structure and to replace it with a suitable and properly functioning garage as has been done in other abutting properties in the immediate area.

The Board finds that the hardship is owing to the size of the lot and the location of the building thereon which renders this particular proposal non-conforming.

As to location, the Board finds that there was no other practical location for the proposed structure than what is proposed.

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

The proposed garage set up approximately in the same location as the existing garage which has a similar relationship to Hastings Avenue as other garages on abutting properties.

The Board finds that no additional shadow is cast nor sky or fresh air is obscured to adjacent properties, and no density is increased nor traffic intensified through the proposal.

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.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Anderson, McAvey.)

BRENDAN SULLIVAN: Okay.

MAGGIE BOOZ: I think I
inadvertently handed over a plot plan.

(9:40 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Slater
Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: The Board will
hear case No. 10271, 62 Foster Street.

If you would introduce yourself for the
record and please spell your last name and
provide an address.

ELLEN HERRICK: I'm Ellen Herrick,
H-e-r-r-i-c-k, 62 Foster Street.

CRAIG BUTTNER: I'm Craig Buttner
representing the Herricks, 59 Webster
Street, East Boston. B-u-t-t-n-e-r.

BRENDAN SULLIVAN: What is it you
would like to do?

CRAIG BUTTNER: We're not

increasing the FAR at all. We're basically looking to use alternative windows on three sides of the house and we're looking to relocate the staircase that's currently there. It's tight to the west property line. Relocate the -- let me roll out some plans here.

This is a staircase that's here currently. That's tight to this property line. You can see the shape of the lot. We're hoping to relocate that staircase back to here. Right now this is a current bay window. It's a glass bay window. And we're hoping to maintain the same size so not to trigger any FAR issues, and basically create a doorway out at this point, out this way. We're looking in -- the last thing is to change out what is currently a door here, change it to two -- there's a door and a window currently here. We'd like to change two small windows on this side. This end of the

house there actually was a window here at one point. It's been boarded up. But we'd like to replace it with two windows here. And then in the kitchen here there's currently one window and we want to increase it to two windows. So really the whole scope of the work is only this area of the house.

CONSTANTINE ALEXANDER: Have you spoken to your abutters regarding the windows, and they had no problems?

ELLEN HERRICK: No.

CRAIG BUTTNER: We went to Historical on April 9th and that went very well. And then a couple of them came to the meeting and they were very pleased with pretty much everything. It gives them -- by relocating the doorway here, we're not right on their property line. We're not looking right into their backyard. And this is probably the most private area of the lot. So we figured by opening to the back everyone.

UNIDENTIFIED WOMAN: I'm sorry, would you mind saying what property you're talking about?

CRAIG BUTTNER: I'm sorry.

ELLEN HERRICK: 62 Foster Street.

CONSTANTINE ALEXANDER: You're welcome to come up to the front if you'd like.

TAD HEUER: You can come up if you like.

BRENDAN SULLIVAN: I'll open it to public comment in a minute anyhow if you wish. Have you reviewed these?

UNIDENTIFIED WOMAN: No, not in detail, no. Just saw the notice of the meeting and --

BRENDAN SULLIVAN: All right. And what is your address?

UNIDENTIFIED MALE: I'm a neighbor actually. I live at 54 Foster Street.

BRENDAN SULLIVAN: Okay. We can do one of two things. We can sort of --

ELLEN HERRICK: Do you just want to come in?

BRENDAN SULLIVAN: No, no. Well, two things. We can go to the next case. I can recess this for a minute. And if you want to, you can go in the other room and you can discuss it among yourselves and be --

UNIDENTIFIED MALE: I don't want to interrupt your proceedings.

BRENDAN SULLIVAN: No, no, it's perfectly fine. We can go to the next case and hear that and come back if you wish.

TAD HEUER: We do it all the time. It's fine. Don't feel like you're imposing.

BRENDAN SULLIVAN: Yes. And you'll have a leisurely talk and a more informed talk.

UNIDENTIFIED MALE: Sure.

BRENDAN SULLIVAN: On the motion, then, to continue this matter in a few minutes to allow the Petitioner and the abutter or

someone in the community time to discuss it.

TAD HEUER: It's a motion to recess.

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: I think the Chair can do it without a vote. You have a right to do it.

BRENDAN SULLIVAN: Okay, so we'll go to the next case and you come back.

(Case Recessed.)

(9:45 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Slater Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: Let me hear case No. 10272, 1734 Mass. Avenue.

Okay, introduce yourself for the record.

MICHAEL BENTLEY: My name is Michael Bentley, I'm the owner at 1734 Mass. Ave.

KATIE BOUCHER: I'm Katie Boucher at

Building Science Corporation at 30 Forest Street in Somerville.

MICHAEL BENTLEY: So we're -- I developed in 1997 -- we developed a -- the boarding house into, you know, what we hoped is a low impact office building where a single tenant -- we've been there, outside of the new 1885 house is fine, but the part that we built in 1997 has a lot of building envelope. And if you look at -- it's in your packet, and I will show you -- so basic -- so we've got some, you know, really spectacular -- this is not like.

SLATER ANDERSON: That's textbook stuff.

MICHAEL BENTLEY: But we didn't have to look for this one place. We've got the big elevation that shows you sections that are -- okay. So this is the south elevation. The -- this will be the third time I've built a swamp. So we wanted to re-engineer it.

You know, get some really high end engineering thinking behind it. The analysis unfortunately as we pull every piece of wood off of it, pull off the rotted material out and basically recreate the wall, using a rain screen design that allows drying and.... This is a perfect time for what -- if it were motivated for other reasons, would be a deep energy retrofit. We're trying to repair a wall so there are lead points that, you know, we're not setting out to do that. We really don't want to be doing this at all, but it's our one chance to do it. To do this means basically applying two inches of hard foam and then some breathing room. And so the stretch codes, which we're not required to meet for this, have lots of carve outs for almost everything. But there's no carve out for Zoning. So we, we talked to Inspectional Services about, you know, what do we do here. And the -- we don't want to start the project

until we can really make sure that we can -- there are so many dimensional changes. I mean, we're talking about two inches in a lot of places, but connections with the roof line, corner connections, all these. I mean it's a lot of drawing. So we're asking for an extra, we have a seven-foot setback now. This is a non-conforming wall. So I had a nicer set of dates when we asked for this in City Hall before, but so we're already non-conforming. We want another foot so we do have a six foot setback. Along the way or in the bargaining when we're fooling with this wall, this is the time also to put in windows. This is a windowless staircase, which means there's -- there's a skylight, but basically the lights are on all the time and it's also not very nice. So -- and we want to make this, as much as possible, a main stair for the building because the 1885 stairwell which we preserved through lengthy

negotiations with the fire department and all sorts of fire inspection, but it's not made for 200-pound, 21st century guys pounding up and down all day. It's just -- it's loosening up and so we really need to take a load off of that. So the idea is to make a more attractive staircase. The existing 1885 staircase is beautiful. It's got windows, you know, it's an inviting, beautiful thing. And so, we want to put some fenestration in additionally facing bankers. So we're facing a brick -- windowless brick wall and basically, you know, kind of a side yard that's -- well, it's going to be six feet.

We're also asking for two windows facing the street. Probably, it's one of these things where it may be conforming. It may not be conforming. Most of it will be inside, inside of the zone but there may be a few inches of window depending on what

problem gets done to structure which brings it closer to corner.

TAD HEUER: As in the front setback you don't need.

MICHAEL BENTLEY: No, but it's still within the 10 feet of the side yard.

TAD HEUER: But facing which way?

MICHAEL BENTLEY: It's facing, it's facing the front street.

TAD HEUER: Right. Side intrusion of, side intrusion of a front facing window isn't an intrusion in the side yard setback, am I correct?

MICHAEL BENTLEY: We were insecure because it's not conforming -- sorry.

SEAN O'GRADY: Yes and no. The window wouldn't be, but the nine inches, and now a foot or something definitely would be.

TAD HEUER: Right, but just as to the placement of a window.

SEAN O'GRADY: Well, you can move

the window. I mean, if this is the setback, you can move it this way without doing any disturbance. But you can't go this way. That is we would say if your wall doesn't move and you want to move a window around the wall, and you're a Special Permit.

TAD HEUER: Right.

SEAN O'GRADY: But if you want to move the wall, then no matter where the window goes, it's a Variance.

TAD HEUER: Right. But here you're talking about a window facing front --

MICHAEL BENTLEY: But we're extending, if you give us the foot --

TAD HEUER: Yes.

MICHAEL BENTLEY: -- that wall will grow into this setback that we're asking you.

TAD HEUER: And the window will go into the setback?

MICHAEL BENTLEY: And the edge of the window will be in that area.

TAD HEUER: Right. But do you have
a --

MICHAEL BENTLEY: Kate, this is
yours.

KATIE BOUCHER: Sure.

TAD HEUER: The front face of the
window -- I need to see a picture now and I'll
be able to figure it out.

KATIE BOUCHER: So that's the
elevation based on Mass. Avenue. And so
we've got these two windows. We have a
gutter.

BRENDAN SULLIVAN: You may have to
speak up. She's trying to pick up your
voice.

KATIE BOUCHER: Sure. So these
windows here may just need to scoot over
closer to the corner.

TAD HEUER: Okay.

KATIE BOUCHER: And so since we
are -- we're asking to bump this wall out to

add the insulation --

TAD HEUER: Right.

KATIE BOUCHER: If it comes close to that, we just want it to cover these windows should they end up in the problem area.

SEAN O'GRADY: You don't know whether they're going to?

MICHAEL BENTLEY: Well, we --

SEAN O'GRADY: Because you have to build according to go plans so that we can --

KATIE BOUCHER: Yeah, I know. I mean these windows are going here. And most likely -- they're -- we just wanted to add them in because, like, right now here's the line. If we add, you know, two inches, they're not gonna go like a foot over into the wall.

SLATER ANDERSON: Well, the part that I don't --

KATIE BOUCHER: We wanted to make sure we understood what we needed to ask for

to have the additional wall.

SLATER ANDERSON: I think the part that's confusing to -- and I'll speak for myself, but I sense from others, is that you talk about two inches of insulation, but asking for a foot of dimensional relief that -- what's the 10 inches between the insulation?

KATIE BOUCHER: Yeah. So we're adding -- we're also adding like a three-quarter inch furring strip when we add the new siding on.

SLATER ANDERSON: Okay. So we're down to nine and a quarter.

KATIE BOUCHER: If we -- I'll just pull up our dimensional form here real quick, too.

SLATER ANDERSON: The detail drawing that I saw of the construction doesn't reflect -- it has a note on it, an opaque note about -- saying that if granted,

we'll add something. But we don't have a detail that shows what's being added; is that correct?

KATIE BOUCHER: It's just -- it's showing the same as here. Just the foam here that I have shown in this detail. It's just two inches of foam and the three-quarter inch furring strip.

CONSTANTINE ALEXANDER: From your plans, I couldn't -- like Slater, I couldn't figure out why you needed relief looking at the plans. It didn't give me any help.

MICHAEL BENTLEY: I mean, it was a bit of a chicken and an egg. We went to Zoning. I'll just start again.

We needed to submit some plans to show Historical what we intended to do. Although we didn't have Zoning relief to do it.

CONSTANTINE ALEXANDER: Right.

MICHAEL BENTLEY: We spoke to Ranjit about the wall. And it was a borderline case

of maybe you don't need any relief at all, maybe you do. I don't want to be in an awkward position, you know, I don't want to quote -- basically it was -- there's a process for this. This is right on the line of what -- he was concerned that the, the code as it is would not make it easy for him without having to kind of create a special situation and he felt that it was --

CONSTANTINE ALEXANDER: Can I take a step at a time? You took plans and you went to Historical?

MICHAEL BENTLEY: Yeah.

CONSTANTINE ALEXANDER: And they approved or disprove.

MICHAEL BENTLEY: Yeah.

CONSTANTINE ALEXANDER: Those very plans are the plans that are before us right now?

KATIE BOUCHER: Yeah, these are the same. We have the Certificate of

Appropriateness.

CONSTANTINE ALEXANDER: Yes, on those plans. And you got the plans you have a Certificate of Appropriateness are the plans you're bringing before us tonight?

KATIE BOUCHER: Yes, that's correct.

CONSTANTINE ALEXANDER: Okay.

And you're here before us tonight because, as I'm hearing, Ranjit thought that this is a borderline case as to whether you needed Zoning relief. And I guess out of excess of caution, you're seeking that Zoning relief.

KATIE BOUCHER: That's right.

MICHAEL BENTLEY: I mean, you know, it didn't feel excessive at the time since we certainly want to build a plan that we submit and we need to get the approval. And the windows came up as in the discussion as -- I mean, we didn't -- well, we actually spent

about 40 minutes with him. We were in the little room.

TAD HEUER: Right, so there are two issues: There's wall in the setback and there's a window in the setback.

KATIE BOUCHER: Yes.

TAD HEUER: Is that right?

KATIE BOUCHER: Yes.

TAD HEUER: Okay.

So just going with wall in the setback your options, I think, were to either extend to lose interior space by building your insulation barrier into your -- in toward the center of the wall. Right? So you can keep the same building line and therefore the same setback, lose interior space by taking up interior space by adding your insulation barrier if you wanted to.

MICHAEL BENTLEY: Um. In that --

TAD HEUER: You could have.

MICHAEL BENTLEY: I would say that

in any practical world that would -- I'm not the right person to say that. In that we own the building and we have the right to tear it down, you're correct. But what is, I don't believe -- I mean, how would you describe it? That's not the way this is done.

KATIE BOUCHER: Yeah. I think what -- so are you talking about then --

TAD HEUER: Well, I'm only halfway through so why don't you wait for the other half and maybe --

KATIE BOUCHER: Would it be -- would your proposal just be moving the stud wall in? Is that what you were suggesting?

TAD HEUER: I'm saying you could and you wouldn't need any Zoning relief because you'd be building within your existing expanding into your setback.

KATIE BOUCHER: If we move the stud wall, correct?

TAD HEUER: If you moved the stud

wall into the center of the building and took that space. You don't want to do that and I get that. So your option is to go the other way, out into vacant space which is out into the setback. And since you're already violating the setback where the existing wall is, I'm not sure it's to me it's a borderline case. Any further intrusion into the setback will require relief, period. And because you're going an inch, you're going a foot, you're going --

MICHAEL BENTLEY: And that's why we're here.

TAD HEUER: -- three feet you'd be --

SEAN O'GRADY: 22 already says they can have four extra inches.

KATIE BOUCHER: If we're within -- if we don't go passed seven-foot, six.

SEAN O'GRADY: So it's already

invaded that.

BRENDAN SULLIVAN: You cannot be less than seven-foot, two to -- so you're already there.

TAD HEUER: So you're already there.

KATIE BOUCHER: Yeah.

TAD HEUER: Right. So you need relief because you want to invade your setback further with a stretch code material. Solely on the wall question, now that you know you're going to invade and you need a Variance, I think the question that's really being asked is why you -- you can request in inches. You don't need to request in denominated units of feet. Was this simply we're asking for less than a foot but more than no feet and therefore we put down we need a foot? Or was this we actually need 12 inches worth of space from our existing wall, and if so, what fills that 12 inches?

KATIE BOUCHER: We don't actually

need the 12 inches of space.

TAD HEUER: Okay. How much space do you need?

KATIE BOUCHER: We need two and three quarters.

TAD HEUER: Excellent.

MICHAEL BENTLEY: Plus maybe, I would say three-quarters of, say, like give us an quarter of an inch for fun.

TAD HEUER: Indeed. Right.

KATIE BOUCHER: Yeah.

TAD HEUER: Okay. So we're -- a lot of us, I think, when we read this were confused as to why you needed to insulate the wall with a foot. You would be baking something in there.

KATIE BOUCHER: Yes. And one thing to point out, I hope this doesn't confuse things, is on our dimensional application we have our side yard setback as seven feet.

TAD HEUER: Okay.

MICHAEL BENTLEY: Oh, yeah.

KATIE BOUCHER: So left side
seven feet on our plot plan --

TAD HEUER: Yes.

KATIE BOUCHER: -- it says at the
corner 6.5 feet.

MICHAEL BENTLEY: So after the --

TAD HEUER: And your plot plan is in
this packet?

KATIE BOUCHER: It is. It's at the
very end. The second to the last page.

TAD HEUER: Is it numbered?

KATIE BOUCHER: I can just show you
this one.

BRENDAN SULLIVAN: Yes.

TAD HEUER: All right. So it shows
various --

KATIE BOUCHER: Yeah, 6.6 in this
corner and then 6.5 feet among the south side
there.

TAD HEUER: Right.

MICHAEL BENTLEY: So we have two stamped surveys that we plotted in the last ten years that turned out after we got into this process to disagree with each other by a few inches.

KATIE BOUCHER: So the one from the 1997 and what was on the original -- the 1997 Variance application was requesting a seven-foot setback.

TAD HEUER: Okay.

KATIE BOUCHER: The plot plan that we had done for this Variance says that we're at 6.5. So six-foot, six.

TAD HEUER: Okay.

KATIE BOUCHER: So the Variance was granted for seven. There's a wall that's at six-foot, six. And so we wanted to just -- we asked for the six feet. So knowing that we're now six-foot, six --

TAD HEUER: Yes.

KATIE BOUCHER: And asking then to

go to minus three inches --

TAD HEUER: So you're asking really for an additional four-tenths of a foot that would get you down to six feet at your closest to your left side lot line. You're saying essentially what you're asking for is that almost a two part Variance. It's a Variance to technically amend your old Variance to make sure that the seven is actually a six, six and that's the starting point. And then you're asking for an additional four-tenths to actually do the insulation. And when you do that, you're down to --

KATIE BOUCHER: Three-quarters.

TAD HEUER: Right. Or I'm sorry, you're asking for --

KATIE BOUCHER: Or a quarter. We'd would going three inches, whatever.

MICHAEL BENTLEY: We're asking for -- is that 10 inches that we're asking for?

SLATER ANDERSON: I see how we're getting close to a foot on one side.

KATIE BOUCHER: I mean, we're just trying to rectify that 1997 Variance with what was applied for so someone didn't see --

TAD HEUER: Right.

SLATER ANDERSON: The building was built in the wrong place basically.

MICHAEL BENTLEY: I think we're actually coming to the bottom of that may take us -- I think we would hire a third surveyor. I mean, this is all along. This gets all --

TAD HEUER: Right.

SEAN O'GRADY: Can I interject?

TAD HEUER: I can say what you're about to say if you like. But go ahead.

SEAN O'GRADY: Yes. The discrepancy, is there discrepancy only on the dimensional form or on the drawings? Because at the end the day --

KATIE BOUCHER: On the dimensional

form. The drawings -- we have -- the survey that says 6.5 feet is from the corner to the lot line and we're going -- we're asking in our application for six. So we want to --

SEAN O'GRADY: Okay, you have to understand --

KATIE BOUCHER: Yes.

SEAN O'GRADY: I'm hearing two inches of insulation. A foot of this. Six -- two different dimensional forms. The numbers are flying all over.

KATIE BOUCHER: It's -- yep.

SEAN O'GRADY: Just let me say this: When it gets to me to do a Building Permit, inches matter. And if you -- a half a foot and throwing two different surveys, and not sure what thicknesses are and maybe we'll have six inches here.

KATIE BOUCHER: No, I understand that. We know what the -- we know what we're wanting to build.

SEAN O'GRADY: I don't.

KATIE BOUCHER: And so what we have -- well, what we've shown is what we want to build. We have the detail that shows the wall section. And we have what we're asking for is the six feet. If we want to -- if you're asking that we modify that to be six-foot three and a quarter. Then --

SEAN O'GRADY: No. What I'm saying is if it comes down and the building inspector says to me how far is it supposed to be off of the lot line? And I say well, I'm not sure because I have two different surveys.

KATIE BOUCHER: We're asking for the Variance at six feet.

MICHAEL BENTLEY: But what we're going -- what we're trying to do just to be clear is we're trying to say we applied -- we can't change the facts. We thought we -- you know, the 1997 thing is where it is. We just did a survey. We got six and a half feet

according to the most recent survey. So for purposes of your measurement or compliance at this point, we're taking the more challenging, more restrictive survey, we're then measuring -- so which is, which it takes us six inches closer to the line than we want to be.

SEAN O'GRADY: What's happening on the other side of the house?

MICHAEL BENTLEY: We're okay. But can I just -- there are enough people and let's just focus on one thing because I want to stick with your numbers flying around.

So from our application that we originally made that we reconciled where we started with with where we're going; right? I mean, that's part of the format is you have to show where your last application was. So we're from six feet, we subtract six inches because of this discrepancy. Then we're, then we're asking for, I guess, another three

inches; is that right, Katie?

KATIE BOUCHER: We're asking for the six feet.

MICHAEL BENTLEY: But I mean just to make three inches --

KATIE BOUCHER: Yes.

MICHAEL BENTLEY: -- for the exterior insulation and the furring strip detail.

KATIE BOUCHER: So we would be at six-foot, three.

MICHAEL BENTLEY: So we've lost nine inches. At that point I think our self-confidence and shakiness or whatever --

SEAN O'GRADY: Did your lot just get six inches wider? Did your house just mover over six inches? Is there more inches on the other side?

KATIE BOUCHER: The original Variance is at seven feet --

SEAN O'GRADY: You're getting

another --

BRENDAN SULLIVAN: Survey.

CONSTANTINE ALEXANDER: It seems to me we have two inconsistent surveys. And I think the most recent one is the one you're basing it on.

KATIE BOUCHER: Right.

CONSTANTINE ALEXANDER: So why shouldn't we proceed on the basis of the most -- I think, you're confusing us frankly.

KATIE BOUCHER: Yes.

MICHAEL BENTLEY: Well, we're confused.

CONSTANTINE ALEXANDER: I know you are. But we'll start with the most recent survey which is by a licensed surveyor and start from there. Forget about what it said in the past. We've had cases before where surveyors have made a mistake and a new surveyor comes in and corrects it. So let's start with that premise.

MICHAEL BENTLEY: So then from his six and a half feet that we're not, we need another three inches.

CONSTANTINE ALEXANDER: So you're looking for relief for three inches?

MICHAEL BENTLEY: From the six and a half feet.

KEVIN CASEY McAVEY: That would be nine inches.

CONSTANTINE ALEXANDER: You're only going to get three inches closer to the lot line from where you are right now.

KATIE BOUCHER: That's correct.

MICHAEL BENTLEY: Right, exactly.

CONSTANTINE ALEXANDER: And you're allowed for insulation up to four inches closest to the lot line. Why are you here for relief?

TAD HEUER: Because they're under seven feet.

KATIE BOUCHER: Because we're under

seven feet.

SLATER ANDERSON: Well, what's confusing on here is you've got four details on here. Only one of them shows the insulation detail.

KATIE BOUCHER: Right.

SLATER ANDERSON: So what's confusing is you've got these other ones which are -- don't represent the inclusion of the insulation.

KATIE BOUCHER: That one's pending the -- the optional pending BZA approval is how we plotted that title.

SLATER ANDERSON: Understood. What usually happens here is it gets approved according to the plans and these plans don't show the insulation.

KATIE BOUCHER: Right. Well, as Michael mentioned earlier, that with the roof and you take a look at the picture, there's lots of different details on this building,

and so that we weren't getting into all of the detailing of the foam --

SLATER ANDERSON: Understood.

KATIE BOUCHER: Because of that.

Okay.

SLATER ANDERSON: I'll leave it to the Chair to decide how he wants to deal with it. But this was confusing me to me because there was no insulation and there was insulation.

MICHAEL BENTLEY: So, are we straight now just on the wall and the insulation and the survey?

BRENDAN SULLIVAN: Going back to the dimensional form on the existing conditions, left side setback. You're showing seven feet. I'm going to change that to six-foot, six inches.

TAD HEUER: Six inches.

BRENDAN SULLIVAN: Six inches.

CONSTANTINE ALEXANDER: That's

exactly the way to do it.

BRENDAN SULLIVAN: And that then clarifies why you're requesting for six feet.

TAD HEUER: No. They're requesting for six-foot, three inches.

BRENDAN SULLIVAN: Right. But I was going to say that's why -- that's where that foot came in.

KATIE BOUCHER: Yes.

BRENDAN SULLIVAN: All right. So what we're going to do, then, is change that to six-foot, three inches.

KATIE BOUCHER: Okay.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: Okay? And that gets you to the finish line.

MICHAEL BENTLEY: It does get us there.

BRENDAN SULLIVAN: And that will correct the dimensional form.

TAD HEUER: Right.

So now that we're -- we haven't gotten to the canopy yet but we're going to do the window.

KATIE BOUCHER: Maybe can we stick with the canopy since it's on that south wall? Canopy's a little bit of an --

TAD HEUER: The canopy's in the --

KATIE BOUCHER: It is.

MICHAEL BENTLEY: Why don't we just -- you've got the window in your head so why don't we stick with the window for right now and we'll come back.

TAD HEUER: So we have the windows. Where's our site plan or our dimensional form?

SEAN O'GRADY: Sorry.

TAD HEUER: So those two windows are on the south side. They're going to be in this new wall that you're putting together and, therefore, they're going to move closer

to the lot line and, therefore, they're in the setback and --

MICHAEL BENTLEY: They didn't exist at all. Just a flat wall before. There was no open.

TAD HEUER: Okay. So there are new windows in the setback you need relief for.

On the front, where's your --

MICHAEL BENTLEY: Right. This is the east. This is facing Mass. Ave.

TAD HEUER: Right, so on the front elevation, you have two windows.

MICHAEL BENTLEY: Totally new.

TAD HEUER: Totally new.

MICHAEL BENTLEY: Flat wall before.

TAD HEUER: Flat wall before. They are facing front even though the cross section of that window, perpendicular to that window, is a wall face that is in the setback. The glass is not facing into that setback. Even though the physical frame of the window,

that's on the glass, may be sitting perpendicular to the setback and invading it, that does not constitute a setback violation when the glass is entirely facing front; is that right?

SEAN O'GRADY: Well, I guess I would say that that's a moot because as soon as you increase the envelope of the building, then we know -- it's like -- we no longer think about the window. It's just a brand new wall. It's as if they're building an addition, otherwise we just say give us a Special Permit.

TAD HEUER: Right, and I almost think they should be here on a Special Permit. We'll have that discussion at a later point. I think they should be here for a Special Permit for those two windows or nothing at all because they're in the front setback.

SEAN O'GRADY: Well, to the extent that you feel that they should be here for a

Special Permit, then they would be because it would face front.

TAD HEUER: Yes. That would be my -- that's always been my opinion.

BRENDAN SULLIVAN: That the relief being requested should be the relief that's being sought.

TAD HEUER: Well, to the extent that it's being advertised as a Variance for windows, I don't think that those windows are the windows that require relief to be granted. It's certainly not under a Variance standard. I think they're front facing. I think they're glass front -- front facing glass.

BRENDAN SULLIVAN: And the Department's opinion is that the Variance being a higher standard would cover that.

SEAN O'GRADY: I'm going to go with yes. I'm guessing, not trying to speak for Ranjit here.

BRENDAN SULLIVAN: And I think his feeling is that because you are extending that wall out, that wall requires a Variance and hence a window in that wall would be encompassing. If we approve that wall extension, then we can encompass the windows that are being built on that wall as part of the Variance.

CONSTANTINE ALEXANDER: That's exactly right, Brendan.

TAD HEUER: But it's into a front setback so it would never matter. Let's say you extend your wall and need a Variance into your setback, let's say you bring it all the way up to the street line. Putting a window in that wall regardless of where it physically exists in the cross section --

BRENDAN SULLIVAN: It would be no different than an existing wall which we if we grant windows on both sides of the house, but we don't need to grant them on the front

side.

TAD HEUER: Absolutely.

BRENDAN SULLIVAN: Okay. So --

MICHAEL BENTLEY: This is well above my level.

BRENDAN SULLIVAN: We can take both windows out of the equation basically.

TAD HEUER: Right.

BRENDAN SULLIVAN: But we'll approve or discuss the plan in toto and that's one -- okay.

MICHAEL BENTLEY: Just if you're ready to discuss canopy?

TAD HEUER: Yes.

MICHAEL BENTLEY: None of the -- these -- there is no canopy here. They were flashed but they --

KATIE BOUCHER: There was no existing.

MICHAEL BENTLEY: There was no canopy here in the beginning.

TAD HEUER: And those are existing doors?

MICHAEL BENTLEY: Those are -- well, they were the doors that we were -- we got into this thing because they were rotting badly and we were trying to figure out what, you know, we start taking stuff apart and trying to figure out where to connect to and it just became clear that we had a big mess. So the other component is this canopy which comes further in, you know, further into this side yard setback which is clearly a Variance kind of thing.

CONSTANTINE ALEXANDER: Right.
How much more? How much does it extend?

KATIE BOUCHER: Three feet.

CONSTANTINE ALEXANDER:
Three feet?

KATIE BOUCHER: From our wall.

CONSTANTINE ALEXANDER: Three feet from the six inches.

KATIE BOUCHER: So from our six-foot, three we would go to three-foot, three.

MICHAEL BENTLEY: Do we have a plot plan, Katie?

KATIE BOUCHER: Yes.

MICHAEL BENTLEY: Can you get those?

CONSTANTINE ALEXANDER: And the purpose of the canopy is?

MICHAEL BENTLEY: To -- basically there's a step --

CONSTANTINE ALEXANDER: Right.

MICHAEL BENTLEY: -- and there's just doors.

KATIE BOUCHER: One door comes out of the main stair, and the other door comes out of the studio space. So it's just purely a shelter covering for people coming out.

CONSTANTINE ALEXANDER: A shelter.

KATIE BOUCHER: Yeah.

MICHAEL BENTLEY: I'm thinking it

might be opposite.

TAD HEUER: And that's going to be a pitched canopy?

KATIE BOUCHER: Yes.

SLATER ANDERSON: And that's just above the doors, right?

KATIE BOUCHER: Yes.

CONSTANTINE ALEXANDER: And we've had this kind of case before where people want to extend into a yard to put overhead and make it easier to get into the building and it needs -- and they need a Variance to do that because they're invading a setback. Here you're increasing your invasion of the setback is what I'm hearing.

BRENDAN SULLIVAN: Okay. Any other questions?

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: Kevin any questions?

KEVIN CASEY McAVEY: No.

BRENDAN SULLIVAN: Slater? Tad?

Let me open it to public comment. Is there anybody here who would like to speak on the matter of 1734 Mass. Avenue?

(No Response.)

BRENDAN SULLIVAN: I see nobody. And there is no correspondence from any abutters or concerned citizens.

You have no letters of support. There is correspondence from the Cambridge Historic Commission which is dated April 24, '12. Has checked preservation restriction or easement as recorded.

And that is the sum substance of their communication and the communication in the file.

Okay, is there anything else to add?

MICHAEL BENTLEY: That's it.

BRENDAN SULLIVAN: No? Let me close the public comment and the presentation part and let the Board discuss it.

Gus, your thoughts.

CONSTANTINE ALEXANDER: It's been painful to get where we are, but I'm in favor of granting relief.

BRENDAN SULLIVAN: Slater.

SLATER ANDERSON: Now that I understand what --

MICHAEL BENTLEY: I apologize for that.

SLATER ANDERSON: -- we are on the -- I think I'd just be clear on the plans that the insulation is to be, you know, the details are to incorporate I guess the insulation that is shown. But three inches, I'm fine with that.

BRENDAN SULLIVAN: Okay, Tad.

TAD HEUER: I'm fine.

BRENDAN SULLIVAN: Kevin.

KEVIN CASEY McAVEY: I just have one question for the Board and maybe even the city. Are these discrepancies and numbers

going to cause any issues when it actually comes --

SEAN O'GRADY: I -- yes. Yes, they are.

MICHAEL BENTLEY: That's part of what we're trying to handle.

CONSTANTINE ALEXANDER: We understand.

KATIE BOUCHER: The results today are the numbers we have in our dimensions.

BRENDAN SULLIVAN: So we're going to go by the drawings as submitted and the latest plot plan, certified plot plan.

SEAN O'GRADY: And is there another plot plan coming did you say?

KATIE BOUCHER: No.

MICHAEL BENTLEY: Not if this is good enough. I mean, we'll leave it alone.

KATIE BOUCHER: Why are you looking like there's another one coming?

TAD HEUER: So, that's fine. I

think Sean's only point is when he goes out with the tape measure, it better be six-foot, three inches to the extent that you put insulation in six-foot to the six inches to the extent you have, and if it isn't, then we'll have to come back again.

KATIE BOUCHER: There would have to be a survey to locate the property line; right?

TAD HEUER: Right.

KATIE BOUCHER: Because I mean --

BRENDAN SULLIVAN: And probably the surveyor would have to certify as built.

SEAN O'GRADY: Oh, yes.

BRENDAN SULLIVAN: Yes, okay. So the onus is really on the surveyor to get it right.

MICHAEL BENTLEY: And we've got certified -- I mean we did this once and ended up with seven feet to the property line.

SLATER ANDERSON: That's an old

survey. We're going with the new survey.

BRENDAN SULLIVAN: I'll make a motion to grant relief from the side yard setback requirement to allow the repairs to the building envelope, to install insulation, to install four new high efficiency windows, and two doorway overhangs as per the application and the drawings submitted.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude the Petitioner from making necessary repairs and energy-efficient improvements to the existing building by adding two inches of hard foam insulation to the face of the building, and it would also preclude the Petitioner from installing much needed windows to allow for light and fenestration.

The Board finds that the hardship is owing to the existing placement of the building on the lot which is existing, non-conforming in nature. And the need to basically maintain the building in an energy-efficient manner.

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.

This relief is granted on the condition that the work be in compliance with the drawing as submitted and the dimensional form as amended.

All those in favor --

MICHAEL BENTLEY: With your amendments.

SEAN O'GRADY: Let it go.

TAD HEUER: Can we -- this is

unusual. We are -- it is on the condition that the distance from the lot line to the finished structure is six-foot, three inches or more.

CONSTANTINE ALEXANDER: Suppose we're not. Would we deny relief? I mean, I think we're cutting the salami very, very finely here. I mean, if you want to do it, fine. But that's not what's driving this case, a few inches here, a few inches there. We had to understand what's going on, which we do now, and I don't think it makes a difference. But if you want to make that condition, the Board wants to do that, that's fine.

TAD HEUER: Well, inches make a difference because if they didn't, we wouldn't be here at all.

CONSTANTINE ALEXANDER: Yes, I know.

MICHAEL BENTLEY: This isn't a play

for some kind of like a --

KATIE BOUCHER: The building needs repair badly.

MICHAEL BENTLEY: We're not -- we're taking the existing building and adding --

BRENDAN SULLIVAN: Well, I think the bottom line is they're going to have to comply with the proposal, with the plan, and also the dimensional form which has been amended to reflect the presentation and the fact that they're going to be six-foot, three inches. And that if the building department may require them to certify that, that that would be the Building Department's requirement. And the onus would be on the surveyor. And then once we grant the relief as per the plans submitted and the dimensional form, then the onus is on them to build to that.

TAD HEUER: Yes.

BRENDAN SULLIVAN: Okay.

SLATER ANDERSON: So just on that

detailed plan that the details don't all reflect the three inches of insulation and sheathing that's going to be installed. There's only one detail that shows that for what it's worth.

BRENDAN SULLIVAN: Okay.

TAD HEUER: It's the detail marked Detail 1 is the detail to be -- that has been approved and it is to be approved by the Building Department.

BRENDAN SULLIVAN: Right. At the end they're going to have to say here's the lot line, here's our finished building. We are the dimension of six-foot whatever it is, three inches.

Okay. All those in favor of granting the relief.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Anderson, McAvey.)

MICHAEL BENTLEY: Thank you very
much.

(10:20 p.m.)

(Sitting Members: Brendan Sullivan,

Constantine Alexander, Tad Heuer, Slater Anderson, Kevin Casey McAvey.)

BRENDAN SULLIVAN: Okay, Foster Street. We can reconvene. Let me reopen case No. 10271.

There's been a lot of controversy on Foster Street and anything raises eyebrows.

CRAIG BUTTNER: True.

CONSTANTINE ALEXANDER: Could you represent to us what the outcome of your meeting with the neighbors is.

BRENDAN SULLIVAN: You heard some of it.

CRAIG BUTTNER: Yes. They're very nice. They were just curious. They don't live right next-door. They're down the street.

CONSTANTINE ALEXANDER: I know that.

CRAIG BUTTNER: But in general they were just curious because they were walking

by.

CONSTANTINE ALEXANDER: They didn't express to you any opposition?

ELLEN HERRICK: Oh, no.

CRAIG BUTTNER: No, nothing. And when we did go to Historical, the neighbors that are adjacent to the property are very supportive.

TAD HEUER: And there's a fence along your rear line?

CRAIG BUTTNER: Yes.

ELLEN HERRICK: Oh, yeah.

TAD HEUER: How high is that fence roughly?

ELLEN HERRICK: It's that ugly chain link thing?

CRAIG BUTTNER: Yeah. Five, six feet.

TAD HEUER: And there's a garage.

CRAIG BUTTNER: Yep.

TAD HEUER: There's a solid wall,

the abutter's garage that forms part of that lot line, right?

ELLEN HERRICK: Exactly.

CRAIG BUTTNER: Solid brick construction.

TAD HEUER: And is that on the lot line itself or pretty close to it?

CRAIG BUTTNER: That's this property line and they're right up to it. Close to it.

TAD HEUER: So part of your chain is actually being shielded by the most affected abutter's own structure?

ELLEN HERRICK: Right.

TAD HEUER: And the relief that you need is because you're invading the rear yard setback with the creation of the stairs?

CRAIG BUTTNER: Yeah, the Variance listed is relocating this stair in the rear.

TAD HEUER: Right.

CRAIG BUTTNER: So that's the

Variance part.

TAD HEUER: Right. So it's not necessarily the removal of the existing stairs. The relief you need is the addition of the new stair on the south side; is that right?

CRAIG BUTTNER: Correct.

TAD HEUER: And then all of the windows, are they all in the setbacks? So certainly the ones in the west are.

CRAIG BUTTNER: Yes. It's basically everything within here, all within the setback issue.

TAD HEUER: Okay.

CRAIG BUTTNER: Besides, you know, and can I go side by side and describe what we're doing window by window if that's helpful.

TAD HEUER: If you can do it within 30 seconds, sure.

BRENDAN SULLIVAN: Just talk fast.

CRAIG BUTTNER: Okay.

We're using -- the window that's there now I'm actually making smaller. There's one window in the back here, we're going to add two because it's the kitchen out this way.

TAD HEUER: That's the south side?

CRAIG BUTTNER: Yes. Here as I've mentioned is a glass, just a bay window. That's going -- we're going to add doors to. There was a window here at one point which mirrored this one. It's been covered in.

TAD HEUER: Again on the south side?

CRAIG BUTTNER: Yep. We're going to add two here.

And then this door -- this was a door out, and then a larger window. We're adding two very small windows up high. And the neighbors were very happy with that.

TAD HEUER: And that's on the west side?

CRAIG BUTTNER: Yes. Because

that's the one that looks right into their backyard. So their backyard is going to be more private to them than to the Herricks.

BRENDAN SULLIVAN: So it adds sunlight and fenestration to the house --

CRAIG BUTTNER: Yes.

BRENDAN SULLIVAN: -- basically. And obviously you're adding side lights to the front.

CRAIG BUTTNER: And we reviewed all these things with Historical all the way around.

BRENDAN SULLIVAN: Yes. Do you have any correspondence from Historical?

CRAIG BUTTNER: I was hoping it would be in there. It was April 9th was our meeting.

BRENDAN SULLIVAN: That's Half Crown, isn't it?

CRAIG BUTTNER: Yes.

BRENDAN SULLIVAN: I don't see any.

CONSTANTINE ALEXANDER: Did they impose any conditions when they gave you relief? Other than in accordance with the plans you submitted, any other conditions?

CRAIG BUTTNER: No. The only -- they were very supportive of the whole thing. The only issue there were a couple brackets in the front of the house, and we proposed to move them outwards. Or that's basically. That was the resolution. They're allowing us to push them outwards so we can use a proper size front door.

BRENDAN SULLIVAN: There's nothing from them in the file. Do you have a copy?

CRAIG BUTTNER: I'm not sure if I have one in there.

SLATER ANDERSON: Are you replacing the front door?

CRAIG BUTTNER: Yeah. Right now it's a four-foot door but it's a double so it's pretty cumbersome. I initially pointed

out that it wasn't -- although it wasn't the original door to the house. This house was actually a two-family at one point. So it was split so there were two doors.

CONSTANTINE ALEXANDER: Really?
It's small house for a two-family.

CRAIG BUTTNER: I know.

BRENDAN SULLIVAN: Workers'
cottages.

CONSTANTINE ALEXANDER: Brendan, I think we can proceed on the basis of their representation because we don't the letter in if the file unfortunately. Their representation to us that --

BRENDAN SULLIVAN: And make it part of the file.

CONSTANTINE ALEXANDER: Unless you have a copy that you can give us.

CRAIG BUTTNER: I can give you a copy of the submission we -- I gave to them.

BRENDAN SULLIVAN: No, that's okay.

We'll get a copy from them and insert it in the file and make it part of the conditions.

CRAIG BUTTNER: I can call them over there in the morning.

BRENDAN SULLIVAN: We can get it from them, they're right upstairs.

Let me open it to public comment. Is there anybody here interested in the matter at 62 Foster Street?

(No Response.)

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

The presentation is you have spoken to your abutters. You have gone through the process of Historical, which the proposal has been fully vetted, and there seems to be -- appears to be no opposition.

Anything to add? Any other comments?

CONSTANTINE ALEXANDER: No. When we get to the decision, we've got to make a

special finding under 8.22.2.

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: We'll get it at that point.

BRENDAN SULLIVAN: Okay.

Any comments at this point on the matter?

KEVIN CASEY McAVEY: No.

BRENDAN SULLIVAN: Tad?

TAD HEUER: No.

BRENDAN SULLIVAN: Slater, anything?

SLATER ANDERSON: No.

BRENDAN SULLIVAN: Okay. Make a motion then?

Let me make a motion, then, on the Variance to grant the relief requested as per the plan submitted to relocate the west entry to the south elevation at the existing bay window location with steps to the grade.

The Board finds that a literal

enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude the Petitioner from creating an improved use of the structure and a much better entry and exit from the residence.

The hardship is owing to the size and shape of the lot, and the siting of the house thereon which predates the existing Ordinance and is non-conforming in nature.

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

Now 8.22.

CONSTANTINE ALEXANDER: That's the Special Permit.

BRENDAN SULLIVAN: So on the motion, then, to grant the Variance.

(Show of hands).

BRENDAN SULLIVAN: Five in favor of that.

(Sullivan, Alexander, Heuer, Anderson, McAvey.)

BRENDAN SULLIVAN: Now, for the Special Permit to alter the windows on the east, south, and west elevations.

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

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

The Board finds that the Historical Commission has approved the proposed changes.

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

not be adversely affected by the nature of the proposed use. And there would not be any nuisance or hazard created to the detriment of the health, safety, or welfare of the occupant of the proposed use or to the citizens of the city.

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

8.22.C.

CONSTANTINE ALEXANDER: No. It's right on the early part. We've got to make a finding that what you want to do will not be substantially more detrimental to the neighborhood than the existing non-conforming use. That's in the introductory paragraph to 8.22.2.

BRENDAN SULLIVAN: C.

CONSTANTINE ALEXANDER: Well, C, but the language --

BRENDAN SULLIVAN: All right, yes.

CONSTANTINE ALEXANDER: It applies to all three.

BRENDAN SULLIVAN: That's the opening. So we also find under 8.22.C that they comply.

CONSTANTINE ALEXANDER: That they will not be substantially more detrimental to the neighborhood than what now exists.

BRENDAN SULLIVAN: Okay.

All those in favor of granting the Special Permit.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

CONSTANTINE ALEXANDER: Good luck.

(Sullivan, Alexander, Heuer, Anderson, McAvey.)

(10:30 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Slater Anderson, Kevin Casey McAvey.)

TAD HEUER: So I would move to reopen case No. 10267, 4 Hancock Park.

CONSTANTINE ALEXANDER: And make the same additional finding that we just made there.

TAD HEUER: I need three votes to reopen.

(Show of hands).

TAD HEUER: Five in favor.

BRENDAN SULLIVAN: Yes.

(Sullivan, Alexander, Heuer, Anderson, McAvey.)

TAD HEUER: So I would propose that the case No. 10267, 4 Hancock Park now reopened, grant the Special Permit that was granted by this Board be amended to state that

the Board makes a finding per Section 8.22.2.C in Section 8.22.2 that the proposal to enlarge the two existing basement windows and add one new basement window with window wells is not substantially more detrimental to the neighborhood --

CONSTANTINE ALEXANDER: To the neighborhood than the existing --

TAD HEUER: -- than the existing non-conforming use that now exists.

All those in favor of making that amendment to the decision.

BRENDAN SULLIVAN: I'd like to be a dissenting vote.

Five in favor.

(Sullivan, Alexander, Heuer, Anderson, McAvey.)

(Whereupon, at 10:30 p.m., the Board of Zoning Appeal Adjourned.)

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

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

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

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ATTACH TO BOARD OF ZONING APPEAL

DATE: 06/14/12

REP: CAZ

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

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

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

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of June 2012.

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

My Commission Expires:
April 23, 2015

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