

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JULY 26, 2012

7:00 p.m.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Acting Chair
Tad Heuer, Associate Member
Douglas Myers, Associate Member
Thomas Scott, Member
Janet Green, Associate Member
Kevin Casey McAvey, Associate Member
Mahmood R. Firouzbakht, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:00 p.m.)

(Sitting Members: Constantine Alexander, Tad Heuer, Douglas Myers, Mahmood R. Firouzbakht, Kevin Casey McAvey.)

CONSTANTINE ALEXANDER: The Acting Chair will call this meeting of the Zoning Board of Appeals to order. And as is our custom, we are going to start with continued cases. And the first case I'm going to call is case No. 10250, 45 Trowbridge Street. Is there anyone here on that matter?

Please come forward.

As you know, give your name and address to the stenographer, please.

HARRIET SCOTT: I'm Harriet Scott Scott.

PETER WRIGHT: I'm Peter Wright, 106 Larch Road, Cambridge.

CONSTANTINE ALEXANDER: The floor is yours, Mr. Wright.

PETER WRIGHT: Excuse me?

CONSTANTINE ALEXANDER: The floor

is yours.

PETER WRIGHT: First of all, I apologize for the previous presentation and as I was cleaning up, I realized I had inadvertently mixed up the north and east elevations and I can see why you were confused. So, and I, I made it cleaner about going to the center of this -- of the each one of the streets for the setback which I --

CONSTANTINE ALEXANDER: The plans now before us as confusion in the past, are three pages? Actually two of them seem identical.

PETER WRIGHT: Yeah. I assume that these three pages should suffice now for the argument, for, you know -- they should --

CONSTANTINE ALEXANDER: You're assuming. It's your burden.

PETER WRIGHT: Yeah, right, right.

CONSTANTINE ALEXANDER: Do they suffice?

PETER WRIGHT: Yeah, right. I tried to make it cleaner. It was a little cluttered before. I think I had a bit of too much stuff that was not relevant. So now I will stand by these calculations totally. I -- you know, and the two window areas that are inside the setback are the north mainly. I mean, there's five windows there. And concerning that elevation I show the elevation of that penthouse, which as you recall, is essentially a big tin can on top of the building, and it has presently no windows on that area. And these are the proposed windows, they're just short awning windows. And there had been some conversation with the people Calob who lives on the building across the cazm (sic) here and he had reviewed this and he had endorsed that. And then we had one window since that time facing the library over here, the Cambridge Public Library, that direction, and the

setback falls somewhere inside that window so therefore it is implicated. So, and I show this elevation here. There's one bathroom window, and we'll be adding that window Calob asked that these windows be shorter, so we shortened them as Jean had no problem with that, and then we talked about having one window where she can sit down on the patio and face the library.

CONSTANTINE ALEXANDER: And the purpose of these windows is?

PETER WRIGHT: Mainly ventilation.

HARRIET SCOTT: And light.

PETER WRIGHT: And light. It's really a box. It's very few windows. It has two very big large doors, but -- glass doors.

CONSTANTINE ALEXANDER: Is this building a condominium?

HARRIET SCOTT: Yes.

CONSTANTINE ALEXANDER: Have you gotten permission with from your

condominium?

HARRIET SCOTT: Yes, absolutely.

CONSTANTINE ALEXANDER: Do you have anything in writing with you?

HARRIET SCOTT: And I'm sure for the Building Permit we had to do it, too.

PETER WRIGHT: There is ongoing renovation and so --

CONSTANTINE ALEXANDER: Of your unit?

PETER WRIGHT: Of this very unit, but not including these windows.

CONSTANTINE ALEXANDER: If you have an extra copy, you can leave it with us, fine. If you don't, I'll take your representation.

HARRIET SCOTT: Yeah.

PETER WRIGHT: I didn't think....

CONSTANTINE ALEXANDER: Okay.

PETER WRIGHT: We can submit it.

HARRIET SCOTT: Yeah, we will again.
But it did --

CONSTANTINE ALEXANDER: At the end of the day, it's your issue because if you don't have it, you've got problems. We don't like to waste our time here.

HARRIET SCOTT: No. Actually, I have it here. It's actually this. It's the last paragraph.

CONSTANTINE ALEXANDER: And is this for the file? I can keep this?

HARRIET SCOTT: Yes, you may.

CONSTANTINE ALEXANDER: The Chair will read into the record the fact that there was a letter addressed to Jean Scott.

HARRIET SCOTT: And then I signed it.

CONSTANTINE ALEXANDER: I'm sorry?

HARRIET SCOTT: But then I signed it. I know, it's very silly.

CONSTANTINE ALEXANDER: I'm not going to read the whole letter, but it talks about the proposed work that was sent in by

you on -- in February of 2012. Is that the same work we have before us tonight?

PETER WRIGHT: Yes, but not including the windows. Right?

CONSTANTINE ALEXANDER: But then if it --

HARRIET SCOTT: No, yes, I did talk about the windows.

PETER WRIGHT: Right, right. I'm thinking permits. Excuse me.

HARRIET SCOTT: This is the original letter, and I said I was doing windows. I was adding windows.

PETER WRIGHT: I'm sorry, I mixed it up.

CONSTANTINE ALEXANDER: You said because I'm adding windows.

HARRIET SCOTT: Yeah, I'm adding windows to the bedroom.

CONSTANTINE ALEXANDER: And the letter back says -- it says that your request

as per this letter of February 21, 2012, to the condominium association, the letter in response which is dated February 24th, says that you were proposed -- the proposed work sent in by you in February of 2012 is considered approved as long as the following terms are met and signed off on. And then there are a number of terms, none of which are specifically relevant to the windows. Though talking about not impacting the structural integrity of the building.

HARRIET SCOTT: No.

CONSTANTINE ALEXANDER: The elevator will not be locked out while in use by your contractor.

That you use a licensed contractor, etcetera, etcetera. Okay.

So you do have I would think at least for our purposes sufficient approval from your condominium association.

You mentioned you have a neighbor, the

one who's affected directly across where your new windows are going to be. And I seem to recall from our earlier sessions there were some issues with that neighbor.

PETER WRIGHT: Oh, excuse me, before the hearing we finally reached him. He was travelling. And we showed him the proposed windows. He, he asked if those windows facing him, the north windows if they may be shortened.

CONSTANTINE ALEXANDER: You mentioned that earlier in your presentation.

PETER WRIGHT: Yes. And so I submitted the revision to him, and he signed off -- and he was actually present to at the earlier meeting -- earlier appeal meeting, he was present here to --

CONSTANTINE ALEXANDER: And those shortened windows are the shortened -- are on the plans you've given to us?

PETER WRIGHT: Yes, I've talked to

him today and he's still on board.

CONSTANTINE ALEXANDER: Well, questions by other members of the Board?

PETER WRIGHT: If I may add one point, which you might have forgotten. His perspective on this is probably the only one that can really see this. It's either far away or too high from anyone else.

DOUGLAS MYERS: I have one question, Gus. When you say north side of the building --

PETER WRIGHT: Yes.

DOUGLAS MYERS: -- in what direction is that facing?

PETER WRIGHT: It would be facing Harvard Square.

DOUGLAS MYERS: Facing Harvard Square. Which side of the building in your judgment is facing the library?

PETER WRIGHT: That would be the east window.

CONSTANTINE ALEXANDER: According to the plans that's what it shows.

PETER WRIGHT: You made me nervous.

DOUGLAS MYERS: No, no, I just wanted to make it clear. Okay.

PETER WRIGHT: And going to the east is no building, no residence that exceeds any more than three stories, I believe. This is the seventh floor until you get to the library which is pretty far away.

TAD HEUER: I suppose, I think I know where Mr. Myers is going, when I look at the plan, the face that looks more northerly is the one facing from Trowbridge towards Cambridge Rindge and Latin which in my mind is to the north. And the west face is towards Harvard Square, and it's Harvard Square is to the west of Trowbridge Street. But be that as it may, if everyone has an understanding in common of what these faces are, I suppose we could go with it. But my sense of common

cardinal directions would not be to indicate this faces the north face.

CONSTANTINE ALEXANDER: I agree with you.

Anything else from you before I open it to public testimony?

PETER WRIGHT: I'm fine.

CONSTANTINE ALEXANDER: Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one wishing to be heard. I don't believe there's anything in the files, any letters from the abutters or interested citizens of the city. So I will close public testimony.

I'll give you one more chance to add any final comments you may want to add.

PETER WRIGHT: I'm fine, thanks.

CONSTANTINE ALEXANDER: That's

done.

Discussion by members of the Board,
comments? You want to go to a vote? What's
the pleasure?

TAD HEUER: On the new window facing
it's denoted as the east front planar side of
the window, I believe that window doesn't
require relief because it is within a
setback. It's a planar side of the window
that counts, not the cross section that
counts.

CONSTANTINE ALEXANDER: Just that
you have applied for relief and they may not
need it. You don't have any problems if we
nevertheless sweep it into the decision.

TAD HEUER: I don't think we should
because it's not relief that's to be granted,
but if that's the way it's going to go, then
that's the way I'll vote.

CONSTANTINE ALEXANDER: Sean, how
do you feel, if we don't give relief

tonight --

SEAN O'GRADY: For the window that faces the other direction?

CONSTANTINE ALEXANDER: The east, yes. The only test to the setback which it faces. So that if it's not facing a violation, even though it's in the setback that it's not facing, we don't -- we pass that.

MAHMOOD FIROUZBAKHT: Yes, I would think that we wouldn't want to include it in our decision, because to the extent that there are -- then it would be restricted by our decision I would think, and so why do that if it's not necessary?

CONSTANTINE ALEXANDER: The only thing is if we don't do it tonight, I suppose, it's deemed to be denied and then for two years if they want to do something with that east window, they're going to have a problem with a repetitive petition.

MAHMOOD FIROUZBAKHT: But they wouldn't need to.

CONSTANTINE ALEXANDER: Yes, I'll take that back. I think you're right.

TAD HEUER: Unless they're planning to move the building several feet to the east, there won't be a problem two years from now or 20 years from now.

CONSTANTINE ALEXANDER: Okay, I think when it comes to making a motion, I'm going to just make the motion for the five windows in the north, as you identified, the north side of the building. Fine with everybody?

TAD HEUER: Yes.

CONSTANTINE ALEXANDER: Okay, the Chair will move that we grant the Petitioner a Special Permit with respect to the instruction of five windows on the north side of the building, north side as identified in the plans submitted by the Petitioner.

The Special Permit would be granted on the condition that the work proceed in accordance with and consistent with three pages of plans submitted by the Petitioner and initialed by the Chair.

And with respect to the granting of the Special Permit, the Chair moves that we make the following findings:

That traffic generated or patterns of access or egress resulting from this work will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of adjacent uses will not be adversely affected by what is being proposed.

That no nuisance or hazard would be created to the detriment of the health, safety, and/or welfare of the occupant or the citizens of the city, and that the proposed work will not impair the integrity of the

district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

With respect to all of these findings, the Chair would note that we would make these on the basis that the work is just to put five windows in a setback.

It is a Special Permit.

That neighboring properties do not seem to be affected. In fact, the neighbor most affected by this seems to be in agreement with the project as proposed. And there's a lack of any other neighborhood opposition.

So on the basis of all of this, I move that we grant the Special Permit based on findings I just pointed out.

All those in favor, say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Four.

(Alexander, Heuer, Firouzbakht, McAvey.)

DOUGLAS MYERS: Mr. Chair, I wish my vote to be entered as abstained.

CONSTANTINE ALEXANDER: Four in favor, one abstention.

(Myers.)

(7:15 p.m.)

(Sitting Members: Constantine Alexander, Tad Heuer, Douglas Myers, Mahmood R. Firouzbakht, Kevin Casey McAvey.)

CONSTANTINE ALEXANDER: The Acting Chair will call case No. 10283, 1 Highland Street.

Is there anyone here wishing to be heard on this matter?

ATTORNEY JAMES RAFFERTY: Good

evening, Mr. Chairman, members of the Board. For the record, my name is James Rafferty. I'm an attorney with the law firm of Adams and Rafferty located at 130 Bishop Allen Drive in Cambridge. Seated to my far right is the Petitioner and homeowner Robert Higgins, H-i-g-g-i-n-s. To my immediate right is Robert Calderaro, C-a-l-d-e-r-a-r-o. And Mr. Calderaro is with the Lombardi Design Firm, the landscape architect of the project.

Mr. Chairman, you may recall this case was originally filed seeking relief for parking in the front yard setback that was far more ambitious than the plan appears before you. There's been a revised plan filed on Monday, and you'll note the significant changes in the plan from the earlier submission. The relief, the original submission contemplated a double curb cut on Highland with parking across the front, nearly the entire front of the house or a

driveway in that area. It also showed two parking spaces in the setback on Sparks Street.

CONSTANTINE ALEXANDER: Excuse me, Mr. Rafferty. I want to make sure I have the right plans in front of us. You're referring to the plans dated June 25th?

ROBERT HIGGINS: No, there's a subsequent.

CONSTANTINE ALEXANDER: I'm having trouble finding it in the file.

ATTORNEY JAMES RAFFERTY: It's not June 25th?

ROBERT HIGGINS: June 25th with a revision date. What revision date do you have there?

CONSTANTINE ALEXANDER: I'm sorry, I didn't look up above. The revision 2012-7-6.

ROBERT HIGGINS: There is a subsequent --

ATTORNEY JAMES RAFFERTY: 7/23
revision date. It says No. 2 on the block.

CONSTANTINE ALEXANDER: Give me a
second to try to find it.

ATTORNEY JAMES RAFFERTY: It might
be there.

CONSTANTINE ALEXANDER: Yes, this
is it. Okay.

I'm sorry.

ATTORNEY JAMES RAFFERTY: No, no.
Thank you for pointing that out.

So there have been a number of plans.
The original plan, the original plan was the
one I referred to briefly. Parking in the
front setback on Sparks, lots more parking on
the front setback on Highland. That plan was
replaced by a second plan which removed the
relief sought on Sparks Street and also
removed the relief for new parking on
Highland, and merely focussed on the
expansion of the existing front yard parking.

But that plan did depict what, at that time was the property owner's intention to pursue an as-of-right curb cut along Sparks Street. There was a few Sparks Street neighbors at the hearing, we had an opportunity to speak to them, and they expressed concern about any driveways on Sparks Street given the volumes of traffic and sight lines. So Mr. Higgins has filed a third plan, and tonight we're before the Board with a plan that does not include any proposed --

CONSTANTINE ALEXANDER: This plan?

ATTORNEY JAMES

RAFFERTY: -- parking on Sparks Street. And what it really seeks to do, and I think Mr. Calderaro can show you the overlay, the difference, really seeks to take an existing condition, which existed for sometime, parking in the front setback, which currently represents actually non-conforming parking spaces under the Article 6 dimensional

requirements, and allows for the parking, not for additional parked vehicles, but allows for cars who will be parking in that area or drivers in that area more precisely to be able to back out and drive out directly on to Highland Street and thus improve the condition now for pedestrians and other traffic on Highland Street. That the maneuverability now provided in this approach allows for these two cars to drive out. Mr. Calderaro has provided, obtained some documentary research about the history of the property. And one of the hardships, frankly, is related to the historic nature of the open space. And I believe you had a plan for this garden to -- this expansive garden here is an Olmstead design garden from 1897. And while that certainly represents an as-of-right opportunity for a driveway, which I would acknowledge is a legitimate point of inquiry in evaluating the

application, the objective here is to essentially not disturb that area and allow for a modest increase in an existing condition that hopefully will improve public safety and leave one of the other principles of the Ordinance, the open space and vistas into this area to be undisturbed by driveways or unpaved surfaces.

CONSTANTINE ALEXANDER: Again, just speaking for myself, if we were to deny you relief tonight, you still have legitimate right to park in the front yard. You wouldn't accomplish anything because as a matter of right you have front yard parking right now.

ATTORNEY JAMES RAFFERTY: Oh, under existing conditions right now, correct.

CONSTANTINE ALEXANDER: All you're trying to do is improve the perspective of the occupants of the premise, the nature and the aesthetics of the front yard parking.

ATTORNEY JAMES RAFFERTY: I'd hope I'd said that, but to the extent I hadn't, I gladly accept your characterization, Mr. Chairman, because that's exactly what's attempted here.

And one word to think about further -- I mean, the driveway could take advantage of the curb cut, go in here, and you could have all types of hardscape. There's a design here to minimize the amount of hardscape, and there is an acknowledgement here and a willingness to not pursue an as-of-right driveway along this Sparks Street edge.

CONSTANTINE ALEXANDER: I appreciate that as well. And I'm going to propose when we make the motion, it's up to approval by my colleagues, that as a condition, if we grant you relief as a condition, there will be no parking on Sparks Street. You cannot later on decide well, as a matter of right, I'm going to put a parking

space there. One is going to be tied to the other. We're going to look at this parcel as an organic whole. And if you didn't want to do it, you have to come back before our Board and deal with the neighbors.

TAD HEUER: What kind of screening in terms of the landscaping is along Highland where the parking space is going to be?

ROBERT HIGGINS: In actuality what we have done is we've bettered the screening of the cars parked here. And these will be our green shrubs that will be about four or five feet in height. There is a low decorative fence that will basically mimic what's out there for those shrubs.

ROBERT CALDERARO: The goal was to make the cars more investable.

TAD HEUER: Right.

CONSTANTINE ALEXANDER: Any more?

ATTORNEY JAMES RAFFERTY: No.

DOUGLAS MYERS: I have one question,

please.

I noticed it on the original plan as I remember, the driveway that's being preserved in the present application, on an earlier version is shown as 18 feet, the opening?

ROBERT HIGGINS: The driveway width itself.

DOUGLAS MYERS: The width from the street, the opening from the street. And on the present plan this evening, the width is not indicated in so many feet. Is my memory correct?

ROBERT HIGGINS: Yes, it's correct.

DOUGLAS MYERS: And so I tried to scale it out, and it was -- seemed to be close, but do you happen to know the exact width of the opening?

ROBERT HIGGINS: The actual width of the opening is 17 feet now. And then with our curb returns it's an 18 -- or a 20 that

is the code requirement, maximum requirement. So, again, that is for maneuverability. We have a program called auto term, that gives us the ability to actually show cars and how their radius is moved from space. And with that addition of two feet, three feet actually I think it is, it gives you the ability to make that three-point turn and get out face first. That was our goal.

DOUGLAS MYERS: Say that one more time. The actual opening you said is 17 and a half feet?

ROBERT HIGGINS: Approximately.

DOUGLAS MYERS: And there's some other element of space, and then there's additional --

ROBERT HIGGINS: The curb returns -- the actual open itself is 17 feet. You have two small radiuses that return to the curbs.

DOUGLAS MYERS: I understand.

Okay, thank you.

CONSTANTINE ALEXANDER: Any other questions from members of the Board at this stage?

I will now open the matter to public comment. Anyone here wishing to speak on this matter?

TONI LEE DE LANTSHERRE: Yes.

CONSTANTINE ALEXANDER: Give your name and address.

TONI LEE DE LANTSHERRE: I'm Toni Lee De Lantsherre, D-e L-a-n-t-s-h-e-r-r-e. And I live at 65 Sparks. And I just have -- I'm really glad you're not going to put anything on Sparks Street because that's really a great improvement. But I do have -- this is one thing -- this is just a question, I don't even know if you need a permit for it. As of right now, you have a very nice open space, and I understand it,

you're going to replace it with a six-foot opaque fence. And on that part of the Sparks it's pretty open. And the only other opaque fence on that side is a house that's actually going to be torn down. That's at the corner just up there -- right across from the school, BB&N. And it has a big, dark fence. And I think it would be really nice for -- I mean, he has low fences on Highland. I don't understand the purpose of putting a six-foot opaque fence. Right now it's three and three and it's very nice. I understand it's going to be replaced.

And the other question I had, and this is about the large driveway. Is that Highland is an emergency artery, and I just want to be sure that we understand where the snow is going to go if they plow that whole thing, you know, 20 feet on the street there. That's a lot. That's a big driveway. So that's just a question for you guys to think

about. I have no idea if it makes any difference. So those are my comments.

CONSTANTINE ALEXANDER: You have questions, you're entitled to answers.

Answer the first question about the fencing.

ATTORNEY JAMES RAFFERTY: We heard about this comment. I don't think there's a definitive understanding on the part of the Higginses as to what the replacement fence is. I think the plan contemplates a replacement fence. But, frankly, we didn't see this particularly relevant to the application.

CONSTANTINE ALEXANDER: I assume there would be no objection for you to have continuing dialogue with your neighbor about the nature of the fence?

ROBERT CALDERARO: Well, I don't believe it is a six-foot opaque fence. Actually, we're trying to open it up. We're

actually moving the fence back. There used to be a fence here. We're trying to move it back to actually open it up. So I'm not sure I understand.

TONI LEE DE LANTSHERRE: Well, when I read the plan and maybe I'm wrong, is that on Sparks -- well, there was a different, you know, it said six on the other one, so maybe it's not the same. I thought it was a six-foot opaque fence. A six-foot opaque fence here. So, you know, it's -- it's short and then it's tall. And the opaque is all six feet. That was my question. Because right now it's really beautiful. You have such a beautiful house, and it's so nice there, so I just wondered why you were putting, you know, because there's no patio, there's no private area there, there's no place to sit. So I didn't know why you needed that. So I'm just raising the question.

ATTORNEY JAMES RAFFERTY: I don't

think the question is, it's just a prerogative that the property owner wants.

TONI LEE DE LANTSHERRE: That's a different thing.

CONSTANTINE ALEXANDER: It's not, but we also like to let the neighbors have dialogue with one another at these hearings.

ATTORNEY JAMES RAFFERTY: I am aware and very mindful of that. An as-of-right opportunity to create a driveway here has been removed out of consideration and concern expressed by this neighbor.

TAD HEUER: Is it possible, I remember the earlier plans, that the reason you wanted a six-foot opaque fence there was because in the original plan there was going to be a driveway and that would somewhat shield the way the driveway that goes into the lot. Is that perhaps a vestige of the original plan where there was going to be a driveway there?

ATTORNEY JAMES RAFFERTY: No.

ROBERT CALDERARO: Actually, you know, I think part of what's going on, first of all, there are two very important people in this plan, they're four years old. So what's actually happening here is there's no fence here. So it's -- we're trying to obtain a little play area over there as well. So that's what -- there wasn't a fence there. So once somebody was here they could get all the way to the street. So what we're trying to do is open it up here, but at the same time put a fence in here and then create a little bit of privacy and play area for the kids. That's kind of the goal. But not -- but still it's very busy street as you may know. That's part of what the whole issue was on Sparks Street, too busy. And so the goal was -- also this is around privacy for the kids and safety. My biggest fear is around this issue was if we're blocking this view of

the cars, my most horrible fear is that every morning backing out, that some kid is on the way to school and I'm backing out right there. So that's why this idea of being able to go out was -- and the other idea was to create a little bit more privacy for the kids on that side.

TAD HEUER: Yes, I mean, it's -- I don't think it's germane to what we have here. The one thing you might want to consider is you can have a solid up to four and then something that's less, you know, solid between four and six because that still gives you the privacy for short people.

ROBERT CALDERARO: That's what --

TONI LEE DE LANTSHERRE: That would be -- I was trying to see it the whole -- that's because it's right on the sidewalk, that wall effect. So many people are putting up these walls and I think it's nice not to have --

ROBERT CALDERARO: There are a bunch of things. I don't want to get into the Historic Commission, but it so happens that there's a geometric pattern that looked modern for me, but not worth redeeming that we're going to put on top of the fencing. And that we currently have, and where is it? The Longfellow House. So I figured maybe actually it is historic. We're trying to figure out how to maintain that look and feel.

CONSTANTINE ALEXANDER: The point being you heard the concern of the neighbor --

ROBERT CALDERARO: Yes. And we're trying to actually -- she's expressing the same thinking that we've been trying to pull off and while achieving the objective with the kids. And I think the main thing is to make -- actually, actually make the, house really, in this fence here make it more open to the front and actually move the fence back.

CONSTANTINE ALEXANDER: I follow you.

ROBERT CALDERARO: Four-year olds do tend to --

CONSTANTINE ALEXANDER: Your other question about snow removal is not before us tonight.

ROBERT CALDERARO: Let's kick it around. I appreciate the comment.

TONI LEE DE LANTSHERRE: So that's it.

CONSTANTINE ALEXANDER: I want to make sure you're finished first before I recognize her.

KATHERINE SHAVELL: Hello. My name is Katherine Shavell and I live at 47 Sparks Street. I would just like to thank Mr. Higgins for, and you for making the change because the Sparks Street issue was very important to me.

I've lived in the neighborhood for

31 years. It's a very busy street. It is one way for cars, but two ways for pedestrians and bicycles. And I agree with Toni, it's very beautiful to see some green and something open, I very much appreciate you keeping it in tact for the traffic problem on Sparks Street and just keeping it open.

Thank you.

CONSTANTINE ALEXANDER: Thank you.

Sir, you want to be heard?

STEVE LUCHAN: Steve Luchan,
L-u-c-h-a-n, 47 Sparks Street.

Yeah, I just wanted to concur that I really wanted to thank you for not impacting Sparks Street because of the traffic, and I use it a lot going up and down. And secondly, I also -- if I understood you correctly, that you're going to keep that fence lower and open because I think the aesthetics and the character of this neighborhood, especially around Sparks Street, was greatly improved

for the openness. In fact, on lower Sparks Street someone removed the fence and it's so much more pleasant and interesting. I'm from Manhattan so I know -- I came to Cambridge because of its nature in part because of the wonderful people here, so just thank you for that.

CONSTANTINE ALEXANDER: Let me be clear to everyone about the fence issue. I've allowed discussions. I think it's good to have dialogue even in a public forum between neighbors, but at the end of the day that's not a Zoning issue for you us. Okay? As long as they comply with the local laws regarding size of fences, they could put up whatever fence they want.

STEVE LUCHAN: Of course.

CONSTANTINE ALEXANDER: I believe and hope they take your and your view into account and you'll come up with a happy resolution. But that's not going to be

dictated by us tonight. You understand that?

STEVE LUCHAN: Thank you.

CONSTANTINE ALEXANDER: Anyone else wish to be heard?

(No Response.)

CONSTANTINE ALEXANDER: The Chair will close public testimony.

And, Mr. Rafferty, any concluding remarks?

ATTORNEY JAMES RAFFERTY: No, just briefly to the point of hardship as noted by Mr. Higgins, there is an active -- an elementary school that sees a fair bit of pedestrian traffic here, that has the modest existing parking in the front yard, will afford the homeowners the ability to drive out rather than back out across the sidewalk, and for the reasons as set forth in the application of the plan we would urge the Board to recognize that to be a valid hardship

and grant the relief requested.

CONSTANTINE ALEXANDER: Thank you.

We'll now deliberate as a Board.

Anybody have any comments they want to express? Views? None? Go to a vote?

MAHMOOD FIROUZBAKHT: Yes.

CONSTANTINE ALEXANDER: The Chair moves that a Variance be granted to the Petitioner with regard to the relief being sought regarding front yard parking on Highland Street on the basis of the following findings:

That a literal enforcement of the provisions of this Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that the Petitioner has front yard parking now, but it is not entirely desirable, particularly from a safety point of view. And we're talking about a neighborhood that at the corner of Highland Street where One is, borders on Sparks

Street, a very busy street, and there's an elementary school in the general vicinity of the property.

That the hardship is owing to circumstances relating to the shape and topography of the land. This is a large, for this area lot, one that has historic significance in terms of its landscaping. And that -- and the ability to park almost has to be in the front yard, or if not, we would derogate from the intent and purpose of our Ordinance, which is the last standard to be met by really lowering the quality of the aesthetics of this area.

On the basis of that I move that the Variance be granted on the condition that the Petitioner may not provide off street parking on Sparks Street. That it is prohibited in connection with and as part and parcel of granting relief for the front yard parking on Highland Street.

The Chair would also further note that with regard to the Highland Street, the relief being sought is rather modest. That front yard parking is now permitted. We're just talking about slightly expanding it and making it a more safer, and frankly aesthetically more pleasing parking in the front yard.

And also on the further condition that the work proceed in accordance with the plans submitted, the landscape plans submitted by the Petitioner. It is numbered L-1.00 and it's been initialed by the Chair.

All those in favor of granting the Variance -- I'm sorry, sir.

ATTORNEY JAMES RAFFERTY: It might benefit the record if that second revision date is reflected?

CONSTANTINE ALEXANDER: Sure. Okay. It's covered by my initial I think.

ATTORNEY JAMES RAFFERTY: I

understand.

CONSTANTINE ALEXANDER: I'll read into the record.

This plan L-1.00 that the Chair referred to is the one most recently revised and submitted dated July 23, 2012, and it's so marked on the plan.

ATTORNEY JAMES RAFFERTY: Thank you.

CONSTANTINE ALEXANDER: All those in favor of granting the Variance, say "Aye."
(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Heuer, Myers, Firouzbakht, McAvey.)

(7:35 p.m.)

(Sitting Members: Constantine Alexander, Tad Heuer, Douglas Myers, Mahmood R. Firouzbakht, Kevin Casey McAvey.)

CONSTANTINE ALEXANDER: The Acting Chair will call case No. 10284, 9 Montague Street/5 Ballord Place. Anyone here wishing to be heard on this matter?

MAHMOOD FIROUZBAKHT: Mr. Chair, before we proceed, I wanted to just disclose that Attorney Hope has represented family in Zoning matters. I want to disclose that for the record. I don't believe that that representation will impact my decision or interpretation or the review of my decision on this matter before us tonight.

CONSTANTINE ALEXANDER: Thank you.

You got that for the record?

And before we start, Mr. Hope, I want to congratulate you. You have foresight. When you made your request for a continuance, you addressed it to Chairman Alexander, but I'm not the Chairman. But tonight I am the Chairman so you saw the future.

ATTORNEY SEAN HOPE: Good evening, Mr. Chair, members of the Commission. For the record, Attorney Sean Hope with the Hope Law Offices. I'm here with the project architect Peter Quinn of Peter Quinn Architects and owner Charlie Mahoney.

So this is an application requesting a Special Permit and a Variance relief to alter non-conforming elements of a structure that was designed and built for non-residential purposes. These elements are increasing the head height by raising the roof line and adding shed dormers along the north and the west property line, reconstructing the

stairs that are in the setback along the two front setbacks as a Variance, and also lastly, adding skylights and openings via Special Permit relief. This structure is located on the corner lot in a Residence C-1 District on the private way of the corner of Montague and Ballord Place. This structure was built in 1901 as a multi-purpose religious building. Dimensionally the site is non-conforming. It's undersized for Residence C-1. Also, it was built for religious purposes so it has zero setbacks on both the front yards and minimal setbacks on both side yards. As part of the design as it was built, and we actually had this project in front of the Planning Board, Peter pays special attention to keep the exterior characteristics. One of the objects was to bring back and restore some of those characteristics that you see here today, and there's actually a picture on the front that

shows some of that original design of the building.

When we also looked at the site, the west and the north property line were the two sensitive edges. Those were the edges that were facing residential abutters.

Specifically on the west side setback.

There was at the peak of the roof there were six windows clustered at the top of the roof structure. We consolidated those windows into one window to respect the privacy of the residential abutter.

There were three commercial uses in that structure. There was a Japanese furniture builder, there a software company. There were all --

CONSTANTINE ALEXANDER: Software company?

ATTORNEY SEAN HOPE: Software developers using like office space at one time. There was a cabinet maker at different

times. There were all different types of artisans that used that building. Obviously now with the residential conversion, it's a different type of use, although it is a conforming use for the district. So one of the things we did was make sure that on the west property line that we tried to respect the privacy. Privacy was one of the considerations during the 5.28 Special Permit, one of the criteria that we had to meet in terms of getting the residential conversion. Also on the north property line there is a residential abutter. In terms of the landscaping and placement of the HVACs, we had meetings prior to the Planning Board hearing, and we actually moved the utility units and located them in a place that was going to be most appropriate in terms of cutting down the noise. They didn't have these utilities before. Also the landscaping, there was a series of tree

stumps, and I'll let Charlie Mahoney -- he worked it out with the neighbors to remove those. And this project in terms of respecting the residential abutters for the different types of use was also anticipated.

Just briefly I wanted to talk about the hardship. So the hardship is due to the fact that this was a building constructed, designed, and built for a non-residential purposes as a multi-purpose church building so that the setbacks, setbacks as well as the third floor roof height. So one of the elements we're asking for Variance relief is to raise the roof height and add shed dormers within the setbacks. Part of the reason why this building has a very sharp peak, and Peter can explain this, so there are areas that are below five feet near the edges of the property that aren't suitable for living so they create awkward living spaces. So what we did was we was -- outside of the setback in

certain areas, we actually raised the roof height so they can add for functional layout for bedrooms on that floor as well as shed dormers. We also primarily put all the new windows facing the street. So we, we achieved the light and air necessary for that third floor by having the windows -- the new windows facing the street as well as skylights instead of windows on the sides. That was a way to achieve that without adding privacy issues. Very similar to the Variance request is a Special Permit. The Special Permit is primarily there are certain windows that are within the setback and they're not facing the street. We believe that those windows will be not derogate or intent -- derogate from the intent and purpose of the Ordinance. It won't cause a substantial change to the neighborhood character. This was a non-commercial building in a residential district so the

conversion and the additional elements that we're adding will be in keeping consistent with that. We also believe there will be no nuisance or hazard.

So because the conversion to residential use has already happened, these elements are somewhat de minimus. I want to make the point to the Chair that -- and you'll see in the file, the different elements of Variance relief we're requesting was already anticipated by the Planning Board. They knew that they would have to get these. We would have to come before the Zoning Board. I'm not sure how clear that was to some of the neighbors and abutters initially. It was a long process to get to that point, but we reached out.

There was some comment about -- and Marsha, Mrs. Hamilton, she was here along the way and she has input. There was an issue about the posting. And the fact that the

legal posting was a lot broader than obviously this specific plans that they were approved. So the fact that they said we're going to raise roof heights, they don't say how much or how far. So one of the things I asked Mr. Mahoney to do was to write a letter to the file just evidencing that the plans that were approved by the Planning Board were the same plans that we're referencing tonight to help clarify some of that neighborhood issue. We're hoping we resolved that, but I know there was some -- there was a specific request that we actually go and have Inspectional Services change the posting to read more specifically. I did call Maria and, you know, I did explain to some of the neighbors that we don't control what the posting reads, that it's Inspectional Service's prerogative to write it and how they meet the legal requirements. So that was a concern that I don't know if we fully

addressed. So I wanted to bring that before the Board.

Did you want to talk about maybe the third floor and some of the --

PETER QUINN: If the Chair would like.

CONSTANTINE ALEXANDER: Yes, maybe I could just set the table a little bit.

PETER QUINN: Sure.

CONSTANTINE ALEXANDER: The relief you're seeking on the Variance, put the Special Permit aside, is setbacks. And it's really three setbacks. I guess it's front, left, and right.

PETER QUINN: That's correct.

CONSTANTINE ALEXANDER: And because of the stairs you're putting in there, it's understandable why you need those. Those wouldn't strike me as controversial.

The other, though, is the additional space. You're increasing the FAR, just for

the record. You're now at 1.95. You're going to go to 1.67, and the district is 0.75. So at the end of the day you're going to be more than twice what the Zoning Ordinance permits. And what you're doing is adding almost 500 square feet. And my question, is it's a very basic question, is does that come from the fact that you're going to have three units in there? What if you only put two units, two residential units? Putting aside the economics, which is not necessarily our concern, but is the reason for the additional space the fact that you're trying to get three units into the structure?

PETER QUINN: Well, I'll just answer it as straight forwardly as I can.

CONSTANTINE ALEXANDER: Please.

PETER QUINN: For the record, I'm Peter Quinn of Peter Quinn Architects, direct architect for this project. As the architect, my program is to design

three units. So I'll leave the question of, you know, two units to the client.

CONSTANTINE ALEXANDER: Fair enough.

PETER QUINN: But we have a third floor, which if you can imagine, a section comes down to essentially meet the wall of the second floor below. There's a small knee wall. So there's a vast space up there which you -- which is hard to use. It's just simply hard to use. It's hard to get a stairway up. It's hard to -- once you're up there to actually get liveable space within that. So what we've proposed to do is open up some dormers. And because some of that space now is under five feet. It is space within the building and can be used. It's under five feet, so technically it doesn't count as FAR. So the space that we're adding is simply by raising the dormer, you increase something underneath it above five feet so

technically we've added square footage to the building. It's still the same footprint as it always was.

CONSTANTINE ALEXANDER:

Understood. At the end of the day the modification is adding more floor space. You don't have to do that, unless you want to get three units in there, and that's why you're doing it. That's what I'm trying to get at.

PETER QUINN: So, I mean I think Attorney Hope can speak to this, but I think the intention of the 5.28.2 by-law which we received our Special Permit under was to allow for the, you know, for the reasonable re-use of these buildings and turn them into multi-use family. It's over 8,000 square feet. I'm sorry, over 7,000. So it's one of those things where, you know, in order to use this building in a way that's effective and it responds to the marketplace with respect

to size units that we have, actually under the by-law we would be allowed to have I think it was six or seven units. We're not asking for that. We're asking for three. I think that's how we got to this point. I'll allow the others.

ATTORNEY SEAN HOPE: The only thing I would add, we're not adding more floor space. The floor space is there. We don't have usable space. So by raising that height on the edge all we're doing is making space that was under five feet that's not counted liveable space. And I do think as Mr. Quinn said in terms of the intent in 5.28, you are going to have these buildings unsuitable for residential because they were constructed like that. I guess in terms of the design, we were granted -- we were granted three residential units. So that even if we didn't get relief, you'd have some really awkward space. I would say that this space is

necessary to have functional living space in that third floor. But I would prepare to say that you wouldn't just abandon that space as attic space. And as you can see with the layouts of the actual floor plans, it's not that one unit was all the way at the top and there's a unit at the second. And there is part of the second and third unit that uses space. So it wasn't just affecting one unit so you could have two suitable units. It actually would affect the layout maybe all except maybe the ground floor unit. So it is titled to using all three floors and as you see there are separate entrances on each side, so it's not like this is a three-decker and that you can't use the third floor as well. So I would say that because of the design of the building and the fact that you have these awkward living spaces, what we're asking for is the hardship is apparent to really make it suitable for modern living.

CONSTANTINE ALEXANDER: Questions from members of the Board at this point? Or anyone?

TAD HEUER: So it appears that am I right in saying that the existing -- or that the existing roof that's being raised to become a shed dormer, that is on the north face?

PETER QUINN: That's correct.

TAD HEUER: So that's the largest -- no, it's not the largest. It's over 2400-square foot unit; right? That's unit 3; is that right?

PETER QUINN: Yes, it is.

TAD HEUER: And the other dormer is going to cover both -- on the south face is going to give room for both unit 1 and unit 2; is that right? That goes over two bedrooms, it appears?

ATTORNEY SEAN HOPE: The south facing Montague.

PETER QUINN: Right.

ATTORNEY SEAN HOPE: Yes. Unit 2 and unit 3?

TAD HEUER: Yes, yes. I guess part of my question is on the north face, I mean, if you had a slightly smaller third floor -- if you had a slightly smaller second floor in unit 3, would you save the space in unit 3 on the third floor is really what your dormer is on the third floor to get you in a stair? I guess my question is on the north face dormer is that a space dormer or is that really a stairway dormer?

PETER QUINN: It's a stairway. You know, we've lifted it just the absolute minimum that we would need in order to get a stairway. An adequate stairway up to that top floor.

TAD HEUER: Okay. So when I'm looking at the north face dormer, that's essentially an access to use any of this space

in unit 3 that's demarcated as unit 3 on the third floor.

PETER QUINN: Right. If I can just clarify about the square footage. I know it sounds very large, but one whole level of this is actually a usable basement.

TAD HEUER: Right.

PETER QUINN: So it's not -- and as you probably know from townhouse, you know, having a big stairway going up is a very inefficient way to use your space. So a 2500-foot flat is a lot different than a 2400-foot square townhouse.

TAD HEUER: Right.

And then on the, I guess the flip side is on the south face dormer, and that dormer doesn't comply with the dormer guidelines I presume? It looks pretty long. I'm just eyeballing it.

ATTORNEY SEAN HOPE: Yes, I think it's three foot by six is the --

PETER QUINN: Part of it is existing and it's added on.

TAD HEUER: Well, that was kind of my question. So how much new dormer is going up on the south face?

PETER QUINN: If I can hold this up here. You can see the dashed lines, there's an existing peaked dormer there now. So we turned that into a shed and extend it to meet this and this is raised.

TAD HEUER: And that's coming out, right?

PETER QUINN: It's already out. It's just being --

TAD HEUER: Right, okay. So what's the rough distance between the L and the existing dormer?

PETER QUINN: That's about, it's seven or eight feet.

TAD HEUER: Okay.

PETER QUINN: We went over that not

only with the Planning Board, planning staff, but also with Historical, made an effort to check in with them and make sure that they were fine with that.

TAD HEUER: Okay. And they preferred the shed as opposed to a gable free bedroom for instance?

PETER QUINN: Yes. Actually they felt it was.

CONSTANTINE ALEXANDER: We don't have any official commentary from the Historical Commission.

PETER QUINN: It was an informal discussion.

CONSTANTINE ALEXANDER: You didn't need to get any --

PETER QUINN: No, we did not.

TAD HEUER: And on the Special Permit for the skylights, are any of those in your setback? I'm just looking at your roof plan, and I wasn't sure if this dotted

line --

PETER QUINN: So I think this one here on the back shed that you were talking about is in that setback.

ATTORNEY SEAN HOPE: Right. So that would be the Ballord, that would be Ballord -- this is the south facing elevation on Ballord Place.

PETER QUINN: That would be -- this is the back side facing north.

ATTORNEY SEAN HOPE: Oh, north? And it would only be -- so, on the north elevation, this plain?

TAD HEUER: This one here?

ATTORNEY SEAN HOPE: Okay, yes. So this setback here. This whole plain is outside of the setback --

TAD HEUER: Okay.

ATTORNEY SEAN HOPE: But this is within --

TAD HEUER: Okay.

ATTORNEY SEAN HOPE: So it's skylight here and then the skylight here would be in the setback and then along the front over here would be in the setback.

TAD HEUER: Okay.

PETER QUINN: Again, we're reusing skylights to efficiently use the space and not have more dormers than would be warranted.

CONSTANTINE ALEXANDER: Other questions?

DOUGLAS MYERS: May I follow up on a point raised by Mr. Heuer?

With respect to the elevations shown on page A5, what actually is then the length of the shed dormer from -- referring to this drawing, the left-hand side of the protruding L to the end of the shed dormer?

PETER QUINN: Okay. See if I can get you an answer to that question.

DOUGLAS MYERS: I mean, just

eyeballing the scale, if I have it right, one inch is eight feet.

PETER QUINN: That's right.

DOUGLAS MYERS: And it looks as if -- as I said, it looks as if it's maybe four inches?

PETER QUINN: Yes.

DOUGLAS MYERS: So that's 32 feet.

PETER QUINN: No, I don't think that's quite right. Yeah, I think it's closer to three inches.

DOUGLAS MYERS: 24 feet?

PETER QUINN: Yeah.

TAD HEUER: And just so we're clear, is that 24 feet from the peak of the L to the edge or is that the edge of the L to the edge?

PETER QUINN: Edge of the L, but keep in mind there is an existing eight foot or half of whatever that distance is is a dormer now.

DOUGLAS MYERS: And will be a shed

dormer if the plan is approved?

PETER QUINN: Right.

DOUGLAS MYERS: My point obviously, again, I'm simply -- this is nothing original, I'm just referring to the point raised by Mr. Heuer, but the dormer guidelines, again, if I have it right, recommend 15 feet maximum for a shed dormer or no more than half the entire length of that face of the roof. But this would be in any event considerably in excess of 15 feet.

PETER QUINN: Understood.

DOUGLAS MYERS: Just checking.

CONSTANTINE ALEXANDER: To my mind, and this is just one person speaking, the nature of this structure, the architecture of the structure is such that the usual problems with two big -- I think the dormer guidelines get to the single-family or maybe two-family houses, but these enormous shed dormers that go virtually from one end of the building to

the other end and are just eyesores. Here this is a very unusual structure and it doesn't strike me, just me personally, of a too large dormer is so wrong on this. So displeasing in this structure.

DOUGLAS MYERS: Then let me respond to that question by asking the architect a question. As much as I realize you stated what your task was, and you've also described the configuration of the third floor in some detail, just as a conceptual matter, what could you tell the Board how the third floor would be utilized if there were a two-unit design required or requested for this building?

PETER QUINN: Well, I had never laid that out. I don't know if it would even be economically feasible. Two units would be 3500 square feet each. That would be extraordinarily large. So I don't know, you know, probably you'd have a couple of

bedrooms up there and a stairway. I can say that if this weren't -- if this is not granted, you know, we would -- obviously we would still continue with the project, but we would probably only be able to have one bedroom up there and at least one, and maybe two of the cases to get that size of the stairway to come up and what's left with, you know, the difficult situation where, you know, it's not really a full footprint that you could use up at that level. You know, we would be very limited in what we could do.

CONSTANTINE ALEXANDER: Did I hear you say that you could still go forward if we denied the relief for the additional space, you could still go forward with a three-unit condominium? Or a three-unit structure?

ATTORNEY SEAN HOPE: Well, I would just like to point out that there's not an impossibility. You know, this is a structure that wasn't built for residential.

What we're trying to do is we're trying to convert it. I think this idea that it's impossible is probably overstating the fact, but I do think in terms of conversion to making it appropriate for, and that was the purpose for 5.28. But I think even further when the Planning Board has a letter in the file, that when they reviewed this, in terms of the size of the dormer and the layout of the bedrooms, they actually supported the additional Variances, and there's a letter in the file from Liza Paden saying as much. I would say for the size of the dormer, that I think the opportunity to shrink the dormer for the dormer guidelines was in front of the Planning Board in terms of the design of the building and the Planning Board staff. And we -- if there was that recommendation, we wouldn't have just shrunk it to make it the size of the dormer guidelines. But I think because of the massing in the front of the

building, and I also think because of the evenness of the windows, I don't feel that this looks as if it's a lopsided single-family with very large dormers. I actually think it's balanced. And I also do think it also allowed us, instead of putting more windows along the side, we were actually able to put the skylights and windows above. So it was a balance between creating light and air and head space. And I think we have achieved that with those, with those dormers. But to the point we recognized what the dormer guidelines were, and sort of the Planning Board, that we really sought to function into those spaces, and because the slant is so great and because the roof comes almost down to the floor, that we had to find a way to be able to use that additional 300, 400 square feet that we're adding now because of the additional dormers.

CONSTANTINE ALEXANDER: My only

response or comment on that is the Planning Board has a different agendas than we do. We respect the Planning Board's judgments, but they're not focusing in on the dormer guidelines and the Zoning issues. They saw an opportunity to create a derelict structure into three units and they're supportive of that. And that's understood. And I think if I were on the Planning Board, I would feel the same way. But I don't find it's that persuasive to say we should grant you the Zoning right because the Planning Board grants you --

ATTORNEY SEAN HOPE: Oh, that's not the rationale. But I also hope the Board understands as well, they are dormer guidelines and so it's not a prohibition against larger dormers. And I do think if there's going to be an exception to the dormer guidelines, it would be in a case where a structure was built in 1901 for

non-residential purposes. And in that conversion, if there was going to be an exception to that, I think that this going to be a case that it would. I don't think as you look in the design of the elevation, that one side far exceeds or it feels lopsided where I've seen you have a single-family with one larger dormer and the other side won't have a dormer at all, and it's inconsistent with the other housing in the neighborhood. And I also say even with raising the roof height, we stay below the height limit of the district. So it's not like we're exceeding, we're staying even within the footprint of the building. And we're not even coming up as high as the middle roof ridge to make a flat roof.

CONSTANTINE ALEXANDER: I'll just say one more thing and I will shut up. It's one thing to say that you need -- you can't comply the dormer guidelines to do what you

want to do. You can do what you want to do, have three units, you can't one of the units as big as you'd like if you complied with the dormer guidelines. That's what I'm hearing. And that troubles me from a Zoning point of view.

ATTORNEY SEAN HOPE: But also I will say, you know, back to the impossibility, I think there's a basic level of functional living space. And I mean, I think if you look at the layout of the rooms, it's not -- you can do lots of things, but in terms of making it marketable, liveable, and functional -- and as I said, this is not one third floor unit where the whole third floor -- this is parts of the other units. You may have one unit that it would work, but because of where the party walls are, you have another unit that -- Peter can speak better to the layout of the bedrooms, but I think it is essential to be able to have that size

dormers to make sure that both units on either side do work.

PETER QUINN: Is the Board's -- may I ask, is the Board's concern about this front dormer? Is that primarily what the question is? And the amount of length that has?

CONSTANTINE ALEXANDER: Yes. I mean, because it's not compliant with our dormer guidelines.

PETER QUINN: Right, right, no, I'm just saying that's a separate issue from approval for the back dormer, you know, where the one that, you know, where the roof is raised slightly for the stairway?

CONSTANTINE ALEXANDER: I'm not sure -- to me I can't break it up. The issue is you're adding additional space. Why? Where are you adding it? And by the way, you're adding it in a way that's in part does not comply with the dormer guidelines. I think that gives us all pause, that's the

issue as it seems to me.

DOUGLAS MYERS: And further, just to really -- to really respond to what you said. What's on my mind is this is a really, really -- I think it's commendable that you're going to have a viable attractive design and convert this to residential use. And this, and you're increasing the number of increase in GFA that you're asking for and the increase in FAR over what's there is not huge, it's about five percent on a rough calculation in each category. The problem is that as I see it, with respect to the Zoning Ordinance, the problem is that the building is already twice as -- over twice as much as the Ordinance permits already. And it's a large building for that neighborhood. And it's going to be even larger.

ATTORNEY SEAN HOPE: And I would only say that 5.28 specifically addresses buildings and structures that are out of

scale with the existing neighborhood. And so the 5.28 would allow us to even put as many as six units in that. So when the City Council drafted 5.28, they anticipated that there are going to be buildings that are out of scale in the existing neighborhood and that economic re-use means conversion would be to residential. I would add that that additional five percent of just roof height, this is not extra floor area, this doesn't allow us to do any of the in-filling which was prohibited or limited by 5.28. This just to have suitable living spaces on that third floor. So, you're right, it is five percent. It is large, but I think the City Council when they drafted 5.28, they specifically looked at buildings such as this, and they wanted it for economic re-use. And I think we laid out a plan that really provides us to allow us to do that. Without relief, I think part of the Variance that

third floor practical living space would be severely in jeopardy. I'm not saying that it's impossible, but I think what we looked at especially because we knew it was so large. We met with neighbors. We did not go for, you know, four units. I think we minimized the amount of units. We tried to maximize the living space. But because, though, the entryways and the way it's lined up, it did require that we have the dormers the size that they are.

CONSTANTINE ALEXANDER: Further questions at this point from members of the Board? We'll have time to discuss.

DOUGLAS MYERS: That's fine.

CONSTANTINE ALEXANDER: Very good conversation.

MAHMOOD FIROUZBAKHT: With the size of the units as they presently are proposed, what kind of buyer do you foresee purchasing this condos? These are going to be condos,

right?

CHARLIE MAHONEY: Yes. It's hard to know, but the units -- each of units also a space in the basement level what we call the first floor for a bedroom. So I foresee this to be young families. People who want to be on the square. Central Square area. You know, probably people, maybe young families.

CONSTANTINE ALEXANDER: How big of the units -- I know it's in the plans -- pardon me?

UNIDENTIFIED FEMALE: I couldn't hear what he said.

DOUGLAS MYERS: Young families.

CHARLIE MAHONEY: Between 22 and 2400 square feet.

CONSTANTINE ALEXANDER: And what's the price usually for condos per square foot? I'm trying to get an idea of the pricing that you're going to see on this structure when

you're done.

CHARLIE MAHONEY: We're anticipating something like 900 per unit.

CONSTANTINE ALEXANDER: \$900 per foot?

CHARLIE MAHONEY: 900.

CONSTANTINE ALEXANDER: You're going to get young families in for \$900,000 units?

CHARLIE MAHONEY: Townhouses both over a quarter of a million dollars to Raymond Street.

CONSTANTINE ALEXANDER: Where?

CHARLIE MAHONEY: Raymond Street.

CONSTANTINE ALEXANDER: Oh, I know Raymond Street. But Raymond Street is not this area.

CHARLIE MAHONEY: No, it's not.

TAD HEUER: That's why they're only 900.

CHARLIE MAHONEY: Yeah, right. I

mean, they were young people who actually moved there in both cases, because they had children in Cambridge Montessori School. And so it's -- I think is -- I don't know how they do it to tell you the truth.

TAD HEUER: I will point out and appreciate this comment, and I make this comment frequently on a near weekly basis, and I believe now the Board has heard that there's actually evidence, that I'm not off my rocker when I claim that these very high prices are actually those that young families contend with in Cambridge.

ATTORNEY SEAN HOPE: And I would say, too, this is, you know, this is a Riverside neighborhood. I know you want to try to be the disparity in this neighborhood. It's not Raymond Street, but it is across the street from a 4.7-acre park. You know, it has basketball. And it's also close to Central Square. So I do think there's change

from those who maybe want to live further out from our urban centers and are living closer. Obviously the market will bear what the market will bear. But because I think of the size of the units, it does lend themselves to 800-square foot, two bed that is really not suitable for a growing family these might be.

TAD HEUER: Would you also contend that if you had a two-unit at 3400 square feet, those would be rather unmarketable or would those just be \$1.5 million units?

CHARLIE MAHONEY: I would -- it would be definitely less marketable. I think the three bedroom condo seems to be the sweet spot. And 2200, 2400 square feet officially use the three bedrooms is, is really what the market seems to -- seems to really like.

CONSTANTINE ALEXANDER: I'm going to -- further comment at this point? I'm going to open this up to public testimony.

Is there anyone here wishing to be heard on this matter? Name and address for the record.

MARSHA HAMILTON: Hi. My name is Marsha Hamilton. I live at 23 Montague Hugh Street, and I'm a direct abutter on the north side for the entire length of this property. They know my issues so I'm just going to tell them to you. I received a Variance in the mail that just simply said we want a Variance, we want to make it larger, and we want to change the existing stairs. That's all it said. So I didn't know if I'm going to end up with a castle, a mosque, whatever. So I talked to Charlie, you know, he's come over and talked to me. And when we went to the Planning Board, because it was something that I didn't understand, like the Planning Board, you agreed to let it be residential, you agreed to certain plans. Now it has to come before here. So that kind of was my mistake.

So he kind of straightened me out about that. But the problem is he says he wants -- they say they want to make the structure larger. And then they came back and said well, we don't mean that we want to make it larger, it's according to the plans that you agreed upon at the Planning Board meeting, but we want to change the existing stairs. So I'm, like, okay, you want to make it larger, you're saying it's the same, but it's not the same because you want to change the existing stairs. So I have an issue with that, because I would say no. You don't have a blank check to make something as big as you want to make it and I live next-door and I was here first and this is my -- it affects my quality of life.

So, the other thing is I received a letter -- I don't know if you have this letter, and I'm just going to call them because I don't know everybody's name.

CONSTANTINE ALEXANDER: We do have a copy of this letter. Why don't you keep that, it's yours.

MARSHA HAMILTON: So this letter is saying okay, Marsha, we're really on the up and up. We're really talking about these plans right here. We're willing to say to the Board, okay, add these plans. Because they're saying that you won't or the city won't change this letter that just says make it larger. Nobody will change it. And I've never seen a Variance like that. It always had a kind of signs by this or this or something like that. So they're saying that they're going to put in writing that they are talking about these plans, but at the same time, change some stairs.

I'm still not sure, are those stairs that you're going to change on my side on the north side? When you said change existing stairs. I just get confused all the time

because I don't know how to read those things.

CONSTANTINE ALEXANDER: While they're coming up with their answer, let me just point out that the way our Zoning works and every community in the Commonwealth, when you get a notice that a Variance application has been filed, it's called what we say basically put you on notice that something is going on and then it's incumbent on you to go down to the building office, and if you did, you would have the exact same plans that they have here.

MARSHA HAMILTON: Well, I have the plans here. I've been to all the meetings. I'm not opposed to the project, but I am opposed to saying I'm going to make something larger. Are they done now? Are we going by these plans?

CONSTANTINE ALEXANDER: The answer to that is yes. If we agree --

MARSHA HAMILTON: That's okay with

me then, and I'm satisfied.

CONSTANTINE ALEXANDER: As long as you understand. If we grant relief, it will be subject to -- we're going to go forward on these plans. They can't change them without coming back before us and without giving you further notice.

MARSHA HAMILTON: Okay. And just a question that I have, just if you could clarify to me, the dormer that is on the south side is actually double the size dormer that the city usually makes? You're saying it's 32, it's not illegal but you could do it?

CONSTANTINE ALEXANDER: Let me explain that, too. We have in the Zoning area dormer guidelines. It's not legal requirements. But the city -- the Community Development organization developed some years ago guidelines for the Board to apply with regard to dormers. They don't want to say you can't do things, but you should try

to do -- you should try to make your dormers in the following way: Not longer than 15 feet, not set back from the ridge line if they're shed dormers, etcetera. So we don't always -- we generally enforce the guidelines. We generally say to people, these are guidelines and we expect you to comply with them and if you can't, we're not going to grant you Zoning relief. And we don't do that all the time. And one of the questions tonight is whether we should do it now. And when we don't follow the guidelines, it's because we think there are other considerations that are more important than literally complying with the guidelines. So they're guidelines, not legal requirements. They would have been promulgated by the Community Development organization, and that's how we work it. That's what we're talking about tonight.

MARSHA HAMILTON: Okay. So you're

gonna put it in writing, Sean? You already did it? Because, you know, this is like messing up my whole summer.

ATTORNEY SEAN HOPE: I know.

MARSHA HAMILTON: It is. It's messing up my whole summer. I have other things to think about. I'm afraid to go away because you're going to have another meeting, I'm not going to be here. I'm done.

Also, I had something on here. I had boundary issues which I submitted to the Planning Board in writing, and they were addressed by the Planning Board and they'll still be addressed by the contractor; right?

CHARLIE MAHONEY: Yes. Those are the stump removal?

MARSHA HAMILTON: The stump, the tree.

CHARLIE MAHONEY: The tree.

MARSHA HAMILTON: The fence.

CHARLIE MAHONEY: New fence, yeah.

MARSHA HAMILTON: All right. I'm set. Thank you very much.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down, and I'm sorry your summer's been ruined.

TAD HEUER: Sean, I have a question. So I'm looking at the dimensional form that you've given, you have your setbacks and you say, you know, once your code compliant stairs in the front, three-seven code compliant stairs on the left, four-nine code compliant stairs on the right, the Planning Board application suggests that yet -- suggests one-nine on the front, seven-eight on the left I guess, and seven-five on the right.

CONSTANTINE ALEXANDER: Yes, their application, the dimensional form is the same numbers.

TAD HEUER: No, it's not.

CONSTANTINE ALEXANDER: The numbers

I wrote down when I took my notes, is it an old one?

TAD HEUER: Did you submit an updated dimensional form?

ATTORNEY SEAN HOPE: I did.

CONSTANTINE ALEXANDER: Yes, I checked that and they do -- the Planning Board's and ours, the ones we have now are consistent.

TAD HEUER: All right.

Do you have a copy of the -- per chance? You must have seen a copy. You wrote it down.

DOUGLAS MYERS: It must be in the file. I made the same mistake Tad did.

CONSTANTINE ALEXANDER: The front you're going from 1.9 to 1.2, feet.

CHARLIE MAHONEY: Right.

CONSTANTINE ALEXANDER: One foot, nine inches so one foot, two inches. On the left setback, you're going to go from seven feet, eight inches to three feet seven

inches. And on the right setback you're going to go from seven feet, five inches to four feet, nine inches. That's what my notes show when I read the file.

TAD HEUER: Well, all right, that's what I have as a Zoning Board dimensional form. But when I look at the Planning Board decision, page 10, I have different side yard setbacks. Why?

CONSTANTINE ALEXANDER: It's the same -- you're right, it's the same as existing which is -- this is not prepared correctly.

TAD HEUER: No.

CONSTANTINE ALEXANDER: No, no. There's existing. There's existing, you're right. And then proposed it's the same as existing which is not correct, because you're going to reduce the setbacks.

ATTORNEY SEAN HOPE: Yeah. And that's why we need relief for those -- because

the setbacks are going --

CONSTANTINE ALEXANDER: I understand that. But I think Tad's comment is why didn't you tell the Planning Board in your application that you were going to need that type of Zoning relief? Because it suggests that you don't need that Zoning relief.

ATTORNEY SEAN HOPE: Yeah, the stairs. And I think -- correct me if I'm wrong, but part of when we were looking to submit this to the ZBA, and we sat down with Ranjit, we wanted to rebuild the stairs in the exact same place. And there was a requirement for Building Code to not just rebuild noncompliant stairs, but we actually had to make them the proper width. So that required us to then actually alter by a couple of feet to make it closer. So that triggered -- we thought we'd only need a Variance for the building height and the

additional shed dormers. But then we recognized that we needed a Variance for all the stairs, because all the stairs were within the setback. And because it's a change of use, it went commercial to residential, that triggered making it code compliant.

TAD HEUER: That's not -- I have no problem with code compliant stairs. My question is does the Planning Board know that you're getting code compliant stairs at those distances of the setbacks?

PETER QUINN: The plans we had showed had those distances, yeah.

TAD HEUER: Right. So what I'm looking at is that, that, and that. That's what you're telling me you want tonight, that's our Zoning Board form. And that's the Planning Board form that you submitted. And here where you've said here's your existing, you're saying here they're changing. And

the Planning Board you're saying same as existing. So my question is does the Planning Board think that for instance on your right side, on Montague you're at seven-five and you're going to stay at seven-eight, whereas you're telling us you're at seven-five and you want to go to four-nine?

ATTORNEY SEAN HOPE: One, I know the Planning Board is aware of our hearing, the application that we filed. But also I would say that the Planning Board could not grant the Variance that we were requesting. So I would only say that the change is de minimus. We're talking about a few feet only to require code compliant. And to be honest with you, we weren't aware -- and that's what Marsha said, when Charlie told the neighborhood that we needed to change the stairs, that wasn't -- we didn't anticipate having to change the stairs when we went to the Planning

Board. The location is the same but how wide, how close to the setbacks had to change by a couple feet and that is an observation. That is why at this point we did not recognize that we would have to -- we thought we could just rebuild the stairs in the same position they were with no relief and then when we met with Ranjit in anticipation of the hearings we were told -- so it's not like we're moving the stairs from here to anywhere else.

CONSTANTINE ALEXANDER: Well, as I see it, if there is an issue here, there is an issue with the Planning Board. The Planning Board could feel that they were misled in terms of what they were approving in regarding the stairs. I'm not sure it rises to a level of a Zoning issue for us tonight. It is what it is from a Zoning point of view, and you are asking for setback relief.

ATTORNEY SEAN HOPE: The Planning

Board requires us to go back and amend the Special Permit, then we would be happy to do that. My guess is that -- but either way that is accurate. There is a change in a few feet primarily to make these code complaint stairs.

CONSTANTINE ALEXANDER: And when I get to reading the letter of support from the Planning Board, I'll note -- you'll note that it does reference the entry stair alteration.

MAHMOOD FIROUZBAKHT: And I guess in terms of jurisdiction of which Board would rule on the stairs and the side yard or the setback infraction it would be this Board and not the Planning Board. So you're in front of the correct Board to rule on that relief sought.

TAD HEUER: Right except to the extent that they base their 5.28 grant on stairs being where they are, in which case they revoke it.

ATTORNEY SEAN HOPE: I would only say they didn't only base the decision on that.

CONSTANTINE ALEXANDER: It is a Planning Board issue if an issue at all. Not an issue for us tonight.

TAD HEUER: Yes. We are not precluded from acting on their request. I'm just saying they could safely be inconsistent if the Planning Board deems it.

ATTORNEY SEAN HOPE: We'll follow up and make sure that whatever steps we need to take with them if the Board seeks the approval.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is none.

There are no letters in the file.
There is a letter in the file from Mr. Hope

to the neighborhood explaining the process, which is part of the file, but it's just part of the background of the case.

The Chair would also read into the record a memo we received from the Planning Board regarding this case. It says:

(Reading) The Planning Board granted a Special Permit for the creation of three residential units in the existing building, and reviewed plans that included the entry stair alteration and shed dormers. The Planning Board supports these Variance requests as well as the Special Permit request to add skylights on the south-west property line as these proposed elements will improve the habitability of the new residences. And then they attach a copy of the Planning Board decision. And that's it.

Any further comments, Mr. Hope, at this point?

ATTORNEY SEAN HOPE: Not at this

point. I'll leave it to the Chair.

CONSTANTINE ALEXANDER: Okay.

The Chair will now close public testimony and I think we'll begin deliberations. And I would request that members of the Board sort of, in giving any comments, sort of give us an indication of how you're going to vote. Because depending upon what you're going to hear, you may wish to continue this case rather than having a -- I'm not suggesting it's going to happen, but being defeated here tonight.

ATTORNEY SEAN HOPE: Sure.

CONSTANTINE ALEXANDER: So, Doug.

DOUGLAS MYERS: I'll start. I'll have to disappoint you, I'm not ready to say how I'm going to vote and you'll see that from my question.

CONSTANTINE ALEXANDER: No, that's okay.

DOUGLAS MYERS: I would like to be

responsive to the Chair.

I would appreciate comments from other members of the Board based on Section 5.28 and whether or not that softens or tends to overcome the point of view that I mentioned earlier, because I would certainly respect my colleagues' judgment on that point. If no one wishes to comment, I'll go on to make my own decision. But if any Board member is inclined to comment along those lines, I would appreciate it.

Secondly, I would be interested to hear from other Board members who might be able to suggest modifications that would satisfy their concerns or be responsive to my concerns. And once again, when it comes around time to vote, I'll be glad to indicate what I think later on. I'm not trying to be coy.

CONSTANTINE ALEXANDER: You're entitled to coy.

And it's a little bit of imposition on my part that you have to indicate your vote, anybody's vote in advance.

DOUGLAS MYERS: That has nothing to do with it obviously.

CONSTANTINE ALEXANDER: Courtesy to the Petitioner.

Anyone else wish to speak?

KEVIN CASEY McAVEY: I'll say it's a great proposal. Ordinance 5.28, I believe, is meant to encourage housing in such development, and I really applaud the fact that a private entrepreneur is taking it upon himself to do so. Family friendly housing are not -- I think we do need housing in Cambridge. I think we particularly need family-friendly housing, but that's not an issue before us tonight. I think it's a great proposal and unless one of my colleagues convinces me otherwise, I will be voting in favor.

CONSTANTINE ALEXANDER: Thank you. This end of the table, does anyone want to speak?

MAHMOOD FIROUZBAKHT: Sure. You know, I certainly, I do think that Section 5.28, the Planning Board's review adequately deals with the intensity of the use, which I think is what some of the Board members here are having maybe a problem sort of resolving, and I think it's within their jurisdiction to review the intensity and the density of the proposal which they deem to be appropriate given that it is a change in use. So I pay deference to the Planning Board in that review and their determination that this is an appropriate scale and size and proposed use for this project. So for that I think it is a large building, the units, you know, are reasonably sized to accommodate growing families which I think is an important goal to support in the City of Cambridge. So

given that, you know, the neighbors and particularly some of my concerns that have been addressed, and that the location of this building is across the street from a very large open space and so maybe it's in an appropriate location for a more intense use, I would be leaning towards supporting the proposed project.

CONSTANTINE ALEXANDER: Thank you. Tad, you want to make any observations?

TAD HEUER: I think on the 5.28.8 question that Doug raised, I mean my sense is similar to Mahmood's, that 5.28 is designed for very large structures that don't divide easily into residentially sized spaces. And because of that there is a desire that there be some play in the joints as to how you add or subtract space from, you know, your many thousand square foot building to get down to, you know, 1800 square foot unit or 2,000 square foot unit or 2200 square foot unit.

I'm thinking for instance school conversions, you may have a 40,000 square foot building, depending on where your party walls are and depending on where your plumbing and everything else is, what you can do doesn't necessarily divide neatly into 20,2,000 square foot units. I think the desire is to make the maximum amount of that space usable. And if that requires adding a bit of space here and there, my sense is that the 5.28 suggests that that isn't to the derogation of the intent of the Ordinance.

So I think here if it were a two-unit space divided just amongst the floor area available amongst the 6888, you know, that gives you two units of 3500 square feet. You can sell pretty much anything you want in Cambridge, but I would agree that those are less marketable and viable than three units in the 22 to 2400 square foot range. That being said, I don't think that the Planning

Board having passed on a density provision necessarily is -- should wag the dog on the granting of a Variance for the relief that the Planning Board thinks would be necessary to make that project viable. I think they're two separate determinations.

I do think that the north dormer I understand because it allows an access for a stairway up. It essentially allows the equivalent of the south stairway in the L, and I think that's reasonable. The north dormer, I'm a bit less thrilled about because it does seem to be adding space simply for additional bedrooms. You know, the comments that you could do those units with fewer bedrooms on that side, I think it's probably true, however, given the fact that these are stacked and not four through units, I think there's something to be said to making the integrity of the unit to being able to create a three-bedroom unit and not have to put

bedrooms in the basement. I think looking at converting this building, I would want to keep the bedrooms upstairs rather than at the garden level. And I think that the size of the building and particularly the slope of the roof and the width of the building means that a slightly larger dormer is probably appropriate here, particularly as it's essentially an in-filled dormer between the L and the existing. It's not necessarily a situation where they're adding a dormer where none has been there before. I think it's a slightly different situation. So I think I'd be, you know, I do have similar concerns. If other Board members want to see a slightly different dormer design, I think I would be able to vote in favor of this if it were called as to the way it's presented now.

CONSTANTINE ALEXANDER: Thank you. Have you gone -- you don't have to respond any more.

DOUGLAS MYERS: My response is that I listen and I was -- as I listened to my fellow Board members, the only -- my concerns were satisfied. And although I was prepared to hang my hat on the former guidelines, but having listened to what Tad just said, if there were more sentiment than there is in favor of modifying the dormer on the south side, I would chime in, but there doesn't seem to be so I would, I'm prepared to vote for it on the present state of the Board's discussions.

CONSTANTINE ALEXANDER: Thank you.

Do you want to go to a vote or do you want to roll your dice?

ATTORNEY SEAN HOPE: When he said prepared to vote for it --

CONSTANTINE ALEXANDER: I don't want to vote in advance of a vote. I think you have to read the tea leaves. You've heard, I think, from four members of the

Board.

ATTORNEY SEAN HOPE: Let me just talk to my client.

CONSTANTINE ALEXANDER: Go ahead. If you need more time, we can take another case.

ATTORNEY SEAN HOPE: No, I mean during the deliberation Peter Quinn did mention -- one, I think the Board was talking about the north side, the side not facing the street, and I think that the comments --

PETER QUINN: This is the south side here.

TAD HEUER: Right, the north side being the unit 3 stairway.

PETER QUINN: I didn't hear an objection to this raising here. I think your concern was more about this one.

CONSTANTINE ALEXANDER: Yes, yes, absolutely.

ATTORNEY SEAN HOPE: And this is

facing the street?

PETER QUINN: Yes.

ATTORNEY SEAN HOPE: If the Board would feel -- I mean, if there was a modification that would -- of that dormer and I asked Peter is there something that would work, not shrink into the dormer guidelines, but minimizing that -- and he said that there was a way to do this that we would bring it in greater conformance with the dormer guidelines. If that's --

CONSTANTINE ALEXANDER: Well, just speaking for myself. I don't think we should make changes for the sake of change. If you're not going to comply with the dormer guidelines, you're not going to comply with the dormer guidelines. And how much space are you going to save?

ATTORNEY SEAN HOPE: Right, yes.

CONSTANTINE ALEXANDER: It strikes me you go forward with the project as it is

now or not?

ATTORNEY SEAN HOPE: We're going to proceed.

CONSTANTINE ALEXANDER: Ready for a vote?

The Chair moves that the Board make the following findings with respect to the Variance request:

A literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship is that this is abandoned commercial or religious originally slash commercial structure, which its best use is that of residential.

That the hardship is owing to the shape of the structure. It is a structure that was built not for residential units. It was built many years ago, around 1910, and that it is predating our Zoning Ordinance and, therefore, in a number of respects is

non-conforming.

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

By granting relief we will allow three residential units to be added to the housing stock of the city.

That we will be allowing to go forward a project that has received the approval of the Planning Board.

We will create a structure that will be more beneficial to the neighborhood; certainly in terms of external appearance than what is there right now.

And for these reasons I would move that a Variance be granted on the condition that the work proceed in accordance with plans submitted by the Petitioner. They have been prepared by Peter Quinn Architects. There are a number of sheets. It seems the most

recent revision seems to be March 30, 2012. The covered sheet is T1 and it's been initialed by the Chair.

All those in favor of granting the Variance on the basis moved, say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Heuer, Myers, Firouzbakht, McAvey.)

CONSTANTINE ALEXANDER: Let's turn to the Special Permit, which is to allow new skylights in the setbacks. This being a Special Permit not a Variance case, the Chair moves that a Special Permit be granted to the Petitioner on the following grounds:

That the skylights will not cause congestion, hazard, or substantial change in established neighborhood character.

That they will not adversely affect the development of adjacent uses.

That they will not create nuisance or hazard to the detriment of the health, safety, and welfare of the occupants or the citizens of the city.

And that they would not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

With regard to the findings that we made regarding the Variance would also apply here as well to the skylights.

The Special Permit would be granted on the condition that the work proceed again in accordance with the plans referred to in our motion and vote regarding the adoption or the granting of a Variance.

That being the plans prepared by Peter Quinn Architects initialed by the Chair.

All those in favor of granting the Special Permit say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted. Good luck.

(Alexander, Heuer, Myers, Firouzbakht, McAvey.)

(8:35 p.m.)

(Sitting Members: Constantine Alexander, Tad Heuer, Mahmood R. Firouzbakht, Douglas Myers, Kevin Casey McAvey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10290, 12-14 Meacham Road.

Okay, name and address for the record, please.

JULIAN CHU: Julian Chu, 12-14 Meacham Road.

CONSTANTINE ALEXANDER: The owner of the property?

JULIAN CHU: Yes, I'm the owner along with my wife.

WILLIAM WINDER: And I'm William Winder, W-i-n-d-e-r. I'm the architect. I live at 11A Meacham Road.

CONSTANTINE ALEXANDER: Okay.

WILLIAM WINDER: And I'm not opposed to this.

CONSTANTINE ALEXANDER: You're here seeking a Variance for an addition. Rear addition, right?

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: Elaborate a little bit for us, please.

WILLIAM WINDER: Obviously this house is over the FAR as it exists, but it -- and at some point this neighborhood, I think, these were 100-foot lots and then they were turned into 50. So it's really odd, it could mean every other house seems to have a driveway, and as is obvious, this house does not have any kind of access to a garage or any other kind of space. And the existing as

shown in the, as labelled in the plot plan, there's a storage section and egress through that space right now. And there is no -- there's a like a really very steep ship's ladder that from that space down to the basement, and from the outside that really is the only access and it's very poorly built. And then a couple of owners before Mr. Chu built this rather odd deck. I mean, I can find no rhyme, reason, or logic. And that wasn't built very well at all as well.

JULIAN CHU: In fact, I'll just add when we purchased the property, the building inspector warned us about that deck and said it's not very stable, so don't put a large party on top of that deck.

TAD HEUER: It looks like it was built from the remainders from a lumber sale.

CONSTANTINE ALEXANDER: Exactly right.

WILLIAM WINDER: I've seen a number

of those. But, you know, in today's -- the way people live, and Mr. Chu and many of the people in our neighborhood, it's a great neighborhood. You know, but there's a lot of children. And they have a child and they're hoping for another child. And with lawn mowers and bicycles and tables and chairs and, you know, rakes and it's just really impossible to get it out of there. And we could obviously put up, you know, some sort of a storage shed on the property. But it made sense to -- and I tried to stick with the existing footprint, but it just was impossible when I tried to lay it out and get reasonable access and headroom down there without taking up the entire space. And so we looked at, you know, making it a little bit larger. And the existing deck comes out 10 feet.

CONSTANTINE ALEXANDER: You are going to create additional living space as

well as making better storage facilities?

WILLIAM WINDER: Yes, yes. There is sort of a living space in that wing, but it's not very, not very living.

JULIAN CHU: It's more like a mudroom.

WILLIAM WINDER: Yeah, it's kind of more like a mudroom.

CONSTANTINE ALEXANDER: And now what will it become if we grant relief? Because I know you have nice French doors.

WILLIAM WINDER: Yeah, just a little, you know, an enclosed porch.

TAD HEUER: Are you going to have access -- do you have a bulkhead or is there another way back down the basement in that space?

WILLIAM WINDER: No, actually there's a, you know, there's a -- this is -- in order to get the headroom and minimize the stairway, you know, the floor

level is up here, so we have to -- the side entrance where -- roughly where there is one right now, but you coming in a few steps down and then going into the basement in that direction rather than --

TAD HEUER: Okay.

WILLIAM WINDER: -- right now it enters right through the back and it's like seven feet and you have to go down, you know, eight, nine feet and there's no -- there's literally no landing space to the bottom of it.

TAD HEUER: Okay.

JULIAN CHU: Yeah, the bottom of the stairs is basically the foundation of the house.

WILLIAM WINDER: It's like a, it's got steps, but it's basically, you know, it's like a ship's ladder with steps that's going up about, you know, some --

CONSTANTINE ALEXANDER: And for the

record, what you're proposing is to add roughly 100 square feet to the structure. And just so for the record, too, that your FAR will go from 0.89 to 0.91. Not a substantial increase. But the district is 0.5.

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: So you'll be close to twice what -- you are almost twice now anyway.

WILLIAM WINDER: Right. I don't think there's many houses, including my own, that are --

CONSTANTINE ALEXANDER: That comply with the FAR.

TAD HEUER: And the pergola doesn't add any FAR to the space because it's wide enough?

WILLIAM WINDER: No, no, it doesn't, no.

CONSTANTINE ALEXANDER: Questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: I'll open this to public testimony.

Is there anyone wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard. The Chair doesn't believe there are any letters in the file from anyone.

WILLIAM WINDER: Yes, there is.

CONSTANTINE ALEXANDER: Maybe I'm wrong.

JULIAN CHU: There are letters from abutters in support of what we're planning.

CONSTANTINE ALEXANDER: There are a number of letters in support. I'm not going to read them. I'll just identify who wrote them. Katherine London who -- I don't know where she resides.

WILLIAM WINDER: Across the street.

CONSTANTINE ALEXANDER: 7A Meacham.

George Monteiro, M-o-n-t-e-i-r-o. 8

Meacham, Andrew Freud.

JULIAN CHU: Andreas Ernst.

CONSTANTINE ALEXANDER: Okay.

Andreas Ernst? Okay, Andreas Ernst.

9 -- No. 2 Meacham Road. Someone who's name, I can't -- Tidewell (phonetic) at 10 Meacham Road?

JULIAN CHU: Natasha Tidwell (phonetic).

CONSTANTINE ALEXANDER: Katiti (phonetic) Kironde, K-i-r-o-n-d-e? Is that a relation to you? I know your architectural firm is --

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: Okay. So you have a --

WILLIAM WINDER: She is related to me.

CONSTANTINE ALEXANDER: From someone who resides -- I'm having trouble

reading the handwriting, at 16 Meacham Road.
Looks like Joanne Smith.

JULIAN CHU: Yes. Joanne Smith.

CONSTANTINE ALEXANDER: And Michael
Fang, F-a-n-g, 25 Dover Street.

JULIAN CHU: Directly behind us.

CONSTANTINE ALEXANDER: Behind you?

JULIAN CHU: Yes.

CONSTANTINE ALEXANDER: Someone
with the last name Ravetto, R-a-v-e-t-t-o.
29 Dover Street. And all of these are in
favor of the relief being sought.

Anything further at this point before
I open it to public testimony?

WILLIAM WINDER: No, I think it
just, you know, I think it does add space. It
certainly improves the look of the back of the
house.

CONSTANTINE ALEXANDER: Okay.
Thank you.

I will close public testimony unless

anyone wishes to speak. No one has indicated that they wish to speak so public testimony is closed.

Comments from members of the Board or do we want to go to a vote?

MAHMOOD FIROUZBAKHT: It seems a modest amount of relief, so we should take a vote.

CONSTANTINE ALEXANDER: I agree. I think we can go right to a vote unless people feel otherwise.

The Chair moves that this Board make the following findings with regard to the Variance being requested:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner.

Such hardship being is that the rear of the structure is poorly constructed -- the current rear is poorly constructed with really unusable access to the basement area,

and therefore the availability of storage space.

That the relief is owing -- the hardship is owing to basically the shape of the lot as well as the structure. It is an undersized lot. So that any relief would require -- any extension of the structure would require Zoning relief.

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

In this regard the relief being sought is rather modest. It has no impact except for the rear abutter, and that there seems to be unanimous neighborhood support for the project.

And overall the results of this project will be to improve the housing stock of the City of Cambridge.

On this basis the Chair moves that a

Variance be granted on the condition that work proceed in accordance with plans submitted by the Petitioner, prepared by Winder and Kironde Architects. They are numbered A1, A2, A3, A4, A5, A6, and A7 and initialed by the Chair.

Before we take the vote, these are the plans. If you change them, you're going to have to come back before us. You're satisfied they're final?

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: Okay.

On this basis let's have a vote whether to grant the Variance on the motion I just made. All those in favor say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Heuer, Myers, Firouzbakht, McAvey.)

(8:45 p.m.)

(Sitting Members: Tad Heuer, Douglas Myers, Mahmood R. Firouzbakht, Janet Green, Kevin Casey McAvey.)

TAD HEUER: The acting Chair will call case 10291, 32 Quincy Street. Is there anyone here on that matter?

ALEXANDRA OFFIONG: Good evening.

TAD HEUER: Identify yourself for the record.

ALEXANDRA OFFIONG: Alexandra Offiong, Offiong from Harvard University.

CHARLES KLEE: Charles Klee, K-l-e-e, from Payette P-a-y-e-t-t-e

Architects.

TAD HEUER: So you are here asking for a Variance which amends the previous Variance that we issued in case 10014. Your application form mentions Special Permit, but you don't need a Special Permit for anything. These are all Variances requests; right?

ALEXANDRA OFFIONG: These are all Variance requests.

TAD HEUER: So tell us what you would like to do.

ALEXANDRA OFFIONG: So as you may recall, this is a project for the renovation and expansion of the 32 Quincy Street, which is the home of the Harvard Art Museums. This is, as you mentioned, the third time we're here before the Board. Tonight we are here because for two reasons:

One, there have been some minor design changes, so we are seeking amendments to two

of the Variances that we -- that have been previously approved.

One relates to the setback to another building on our lot, and one relates to the alteration and enlargement of the non-conforming building.

Secondly, we are here because we have undertaken a comprehensive signage plan for this site, for this public cultural, educational building and we need Zoning relief for that. So, we are happy to walk through the design changes if that's helpful.

TAD HEUER: Sure.

CHARLES KLEE: And we'll keep this brief, but to the extent that you want us to refresh your memory at all about the design and the underlying thought process, please feel free to stop us and we'll come back to that.

So what we have here is I'm going to just keep this out in front of us for reference

purposes and overall site plan, and then larger drawings here that are blowups of the package that you already have. Just to walk you through the changes, we'll start with the architectural modifications that we've made, that we're proposing to make from the study with ourselves and Renzo Piano, the design architect.

So if you look at the overall plan here, the area of concern right now is along Prescott Street, the Prescott Street addition. We've made two minor modifications at either end of the building. So starting on the Broadway side we have the design as it was originally presented and approved, which has this sort of acute angle along the intersection of where -- near the intersection of Prescott and Broadway which we call the student entrance, the Broadway Street entrance. And as in response to some comments that we got from the Planning Board

that we've sort of been mulling over for the past, probably been more than a year or so, we were looking for ways to soften this, this wall, this facade that's along Broadway.

And so the intent here is to shorten this and eliminate this areaway and low sight wall.

And so what we're doing is proposing to cut this little notch into the facade. So if you can imagine that we used to come along here.

We've now shortened that wall by this much.

And then we're also changing the materials so that this wall here will continue to be granted, but at this point here we change over to the wood that's used in the box up above so there's kind of a softening of materials and the breaking down of the scale of the facade.

On the other side of the building, over here, we had as of the last time that we came to see you, little areas up above. They're in the air here, so they don't show up on the

site plan, but you can see them right here in this elevation. If we're looking at the Prescott Street elevation of the building, we had these areas that we called ears. They correlated a bit -- well, I can't really say that. But these are two little fingers that stuck out of the building like this around what we call the winter gardens, these glass boxes that are on the ends of the building. And after further review of the relationship to the building of the historic Carpenter Center, we felt like they weren't actually contributing to the incorporation of the winter gardens into the building, and that the design would actually be better by eliminating these two pieces and allowing for a little bit more breathing room between the Fogg and the Carpenter center.

So the two changes that we're looking at architecturally are to delete these things and to remove a corner out of the facade in

that area.

ALEXANDRA OFFIONG: Should we just -- and then the Zoning impacts of those changes are virtually nothing regarding the setbacks. So here is the art museums and here's the Carpenter Center. This is an existing setback of two national registered buildings. That's 17 feet. There's no change to this, but with the additional height that's proposed with this project, the required setback increases to 21 feet. So with this change, we are actually removing structure here. So we're actually increasing the distance to the new addition by about three feet compared to what was previously approved. But the required setback doesn't change.

TAD HEUER: So you're dimensional form shows that you're adding a net of some square footage. Where are you adding your net in these calculations?

CHARLES KLEE: That's a very good question. We had to deliberate over that ourselves because we just redid the calculations.

ALEXANDRA OFFIONG: It's about 200 square feet.

CHARLES KLEE: 200 square feet?

ALEXANDRA OFFIONG: Yeah.

CHARLES KLEE: And the answer is entirely in this little slot here. So there's this thing we call a gasket in between the new building and existing. And then in the final construction detailing of that curtain wall system and how it attaches to the existing building, and in particular attaches to the building structurally, we had to push the glass walls out ever so slightly, but over multiple floors it added to 200 square feet. And so it has no impact on any of the setback calculations because it's tucked into the envelope of the building.

TAD HEUER: So it adds up to 200 net. What's the gross roughly?

ALEXANDRA OFFIONG: It's 200 square feet of GFA.

CHARLES KLEE: So it will be the same net and gross, because it's just taking the exact same thing we had before and moving it out a little bit. So whatever the increases to gross is the increase to net. The walls haven't thickened at all, they just moved out.

TAD HEUER: But aren't you losing something in the notch?

CHARLES KLEE: We're losing something in the notch to the exterior. We're gaining square footage here and here. Does that make sense?

TAD HEUER: Not really.

CHARLES KLEE: If you can imagine -- let's simplify what the building looks like. If it looks like this now, it

might have looked like this before. Whoops, sorry. I drew the proportions backwards. But the point is if you move this wall out, you gain net and gross to the exact same amount because we're not -- the only way to change that would be if you thickened the walls, for example, you would gain gross without gaining net.

TAD HEUER: Sure. My only question is that if you're saying you're losing 65 square feet --

CHARLES KLEE: Oh, this little bit of area in here?

TAD HEUER: -- right, your overall calculation has to calculate that you've lost something and you've added something here.

CHARLES KLEE: It does.

TAD HEUER: So your gross here almost by definition is larger than your net because you're losing that and that goes into your net.

ALEXANDRA OFFIONG: Does that go into our net, though? Is that reasonable?

CHARLES KLEE: Yeah, there is net space that was lost there as well as gross space that was lost there.

TAD HEUER: But you indicated as much on the form and that's why I asked. Or you indicate as much on your plan.

ALEXANDRA OFFIONG: So the difference is where the FAR was 2.07 at the last approval, it's 2.08.

TAD HEUER: Okay.

CHARLES KLEE: This is the only place that we were able to really identify something substantively different in the calculations from the last time we were here. And you're right, though, factoring that in.

SEAN O'GRADY: I follow you.

TAD HEUER: Okay.

To the extent the Board does grant relief, I would ask that you submit a revised

dimensional form. This is very de minimus because of the amount of space we're talking about. But if you are truly indicating that you are adding GFA there and there and losing GFA there, and that is not the net result of 220 square feet which is indicated on the dimensional form, we need a dimensional form that indicates what the actual net is unless that's what you're telling us.

ALEXANDRA OFFIONG: I am quite sure that the 200 square feet is the net gain.

TAD HEUER: Okay.

ALEXANDRA OFFIONG: I know that we went through a full process of documenting before and after.

TAD HEUER: Okay. To the extent that's reflected adequately on the form, then that's fine. Okay.

ALEXANDRA OFFIONG: And then the second Variance, the alteration and enlargement of a non-conforming structure

remains the same. The building is non-conforming for parking. Through this renovation process we are actually reducing that non-conformity with the addition -- the allocation of parking for all of the new, newly built structure but we are still beyond the 25 percent increase in GFA for non-conforming structure. So we must seek this Variance.

CHARLES KLEE: And we redid all of our multi-site calculations and the change of minor amounts.

TAD HEUER: And just one quick question. When I look at page 11 of the renderings.

CHARLES KLEE: Page 11 of the renderings. Let me get there. Do you have a copy there?

ALEXANDRA OFFIONG: Yes.

CHARLES KLEE: The demolition drawings?

TAD HEUER: There was one rendering it may have been in an earlier version where the notch wasn't knocked out.

CHARLES KLEE: Yes.

TAD HEUER: So I'm not sure if that was a --

CHARLES KLEE: You mean -- yes, I'm not sure that we actually have a rendering of this.

TAD HEUER: Okay, that's fine.

ALEXANDRA OFFIONG: Oh, okay.

CHARLES KLEE: Yeah.

TAD HEUER: Before we go on to the signage, are there questions from members of the Board as to the Variance request for the dimensional relief?

JANET GREEN: I had a couple of questions. The one is I wondered, I don't know when the completion date for this project is and whether these changes will extend that at all?

CHARLES KLEE: These will not affect the completion date of the project. Harvard is adamant about that.

ALEXANDRA OFFIONG: The completion is set for late 2013. Though the museum will probably not open until fall of 2014, just to install the museum.

JANET GREEN: And another question is when you say that the parking requirements are met, there's -- they're going to be parking for the new area. I wonder where that parking is.

ALEXANDRA OFFIONG: So Harvard University manages its parking as one inventory and we work with Inspectional Services to ensure that we meet all of the Zoning requirements. We meet it within spaces within 3,000 square feet within various lots and garages throughout the institution. So I am not -- I don't remember exactly where we've allocated it. It could

be at the Broadway garage, for example. I don't remember, we have a very detailed, intricate worksheet that takes care of all those things.

JANET GREEN: And then the people who are coming to the museum, do they get a map of where they might park or how does that work?

ALEXANDRA OFFIONG: The museum has a website that does, of course, it encourages public transportation or walking or other modes of transportation. But for other people that need to drive, I do believe they have an arrangement with the Broadway garage that visitors could park there. Is that true?

CHARLES KLEE: I'm not sure about that. I don't know.

ALEXANDRA OFFIONG: That may not be true. I know that for events -- I know for weddings and I know for other events there is

most certainly arrangements. For visitors, regular visitors to the galleries, I'm not sure, but I know that there is information on the museum website that would account for visitors that are coming by various modes.

JANET GREEN: And if I may continue?

TAD HEUER: Sure.

JANET GREEN: The -- in the sort of community relations part of your Variance application you talked about people who have a Cambridge Public Library card can go to the museum for free. Do they have to go to the library first or do they just walk in your museum? Is that a limited quantity?

ALEXANDRA OFFIONG: No. You just need to have a library card. You don't need to pick up a special pass. You need just to be a member of the library and you can get in.

CHARLES KLEE: Not to toot the horn of the project, one of the underlying premises of the project is to kind of make the

collection more accessible to the public and to the students. And part of that actually is to allow that the building unfettered access. So you're going to be able to walk right through the building without even needing to show your library card. So the hope is that people will wander in even if they're just trying to take a shortcut through the building to see some of the things on exhibition and stop by the museum. It's to make the building much more porous.

JANET GREEN: And then I have one comment, it's not a question. It's just about the renderings which is I'm more of a realist when I look at the actual picture of one of the photographs of what exists now. I see the William James Tower in the back. When I see the rendering of the museum, I do not see the tower. Instead I see a little co-ed walking down the sidewalk. I thought that really understanding the renderings are

done for a lot of different purposes, probably not just for the Zoning Board, however, it did seem a little sort of contrived I would say. You know, that's not really what it's going to look like.

CHARLES KLEE: No, I think it isn't. I think you're exactly right. There is this delicate balancing act of doing a rendering, and I'm hoping that people don't think it's a photograph of what the building will look like, because to be perfectly honest it's really, really hard to build them. You know, just to build the models for them. And the William James Hall would be visible I guess from the view where you could see the Carpenter Center from the left, and you're looking down Prescott. But to be perfectly honest, it wasn't a focus -- that rendering was done purely for the purposes of the BZA. The ones we used from a design purpose are the ones you see from Broadway and Cedar Hall.

Those are really the key views. But you're absolutely right, you need to take these things with a grain of salt, they're not photo....

TAD HEUER: Do you want to walk through the signage?

ALEXANDRA OFFIONG: The signage, yes.

So following up on what Charles just said, one of the main goals of this project is to make the building more accessible, to make it more welcoming for all visitors. It's a building that fronts on three public streets. It has three public entrances, and way finding and building identification is very important to this type of a use. So I'll let you walk through.

CHARLES KLEE: So there are a few things I wanted to add here --

TAD HEUER: I'm sorry, just a second.

Are there any that you've nominally designated of those that you have by right? It probably doesn't matter at the end of the day, but do you have a certain that you picked as your as-of-right signs and those that you're requesting relief for or is it simply the overall square footage and we mix and match as we go?

ALEXANDRA OFFIONG: I would say that this one, this is an existing carve stone lettering on the building that is part of the historic facade. That's not going away. So that's our number one sign.

We also have a Cambridge Historical Commission sign that we didn't document here. It's in our portfolio. It's an exempt sign. We know that we're allowed two signs. We haven't designated the second one.

TAD HEUER: Okay. That's fine.

CHARLES KLEE: Great.

So this is the Quincy Street facade.

The previous main entrance to the building, but we're very careful to say that all three entrances are actually main entrances. So we have, we want the building to have three fronts. So we have, as Alexandra just mentioned, the traditional Fogg Museum of Art sign, but to keep track of -- because this project is consolidating museums into the one building, the name of the complex is the Harvard Art Museum.

ALEXANDRA OFFIONG: With three museums associated.

CHARLES KLEE: Yeah.

So the idea is that there's a split here that is called the art museum's sign, and it will designate the three collections that are in there; the Sackler, the Busch-Reisinger, and the Fogg. And it is maybe important to remember that there were signs here before. So before there was a sign that identified that this was the Fogg, but also that the

Busch-Reisinger Collection was in here. And so this, this flint here is kind of a little bit reminiscent of that granite. And then the other thing we have here is a vertical pilon. This will be the location for the museum to talk about the exhibition that's on display right now. Effectively like a poster or something like that to show a visual image of some artwork.

TAD HEUER: And on the front door?

CHARLES KLEE: And on the front door there's a little piece of signage right here (indicating), that is actually just the hours of the museum's operation. Just letters laid on the glass.

MAHMOOD FIROUZBAKHT: And on the pilon signs, so how will the posters be posted? I mean, what will that look like?

CHARLES KLEE: Well, we haven't detailed all of the exact construction of it, but you could imagine it would be something

that would be a graphic of some sort that shows the collection, the type of thing that's on display. This is -- this is one of the images that -- sorry, this is not in your packet. But this is just the kind of thing if it's helpful to understand the flavor that we're looking at, as an image, and name of a show.

DOUGLAS MYERS: What about illumination of the signage?

CHARLES KLEE: Of the signage -- I think illumination of this sign would be nice if we could do that. We haven't detailed that yet.

DOUGLAS MYERS: It's not part of your proposal.

ALEXANDRA OFFIONG: Right now it's -- we have natural illumination.

CHARLES KLEE: That's right.

JANET GREEN: Some of them say natural and some of them -- there are a couple

that have another comment that indicated that there was going to be some other light.

CHARLES KLEE: I've got that table here. Here we go. Illumination, natural, natural, natural.

ALEXANDRA OFFIONG: One of the banners we've noted as external illumination. We've noted everything else as natural.

CHARLES KLEE: Natural or external.

JANET GREEN: Yes, there are a couple of them that say natural.

ALEXANDRA OFFIONG: If we, in the future -- I believe external illumination is allowed as of right. Would that be something we would need to come before the Board if we made that change for a select few signs?

SEAN O'GRADY: If the Board gives you that leeway, that's fine, yes. I mean that's up to them.

CHARLES KLEE: I think that -- yeah,

okay. I think that in reality it would be nice, I guess, to be able to able to light a sign like that just because particularly in the winter when it's dark, you know, long before five o'clock, you can imagine that there's a lot of life in the yard and it would be nice to have this, some degree of light. And it's important to understand that there's no sight lighting of the building. Part of our LEEDS admission, we're not lighting the building itself. So this is going to be a very quiet site, let's say, to that. The only lighting out there is the street lighting that's in place today.

JANET GREEN: Is that street lighting the new Cambridge lighting or the Harvard lighting or is it just the old little tiny ball lighting.

CHARLES KLEE: Yeah, yeah -- yes, there are existing light poles that are there on the corners.

JANET GREEN: Okay.

TAD HEUER: Okay.

CHARLES KLEE: Okay?

Just moving around the corner to the Broadway facade where we have two rather simple signs on either side of the loading dock that instruct truck drivers. The basic rules of operation of the loading docks so things like no idling and contact the museum if there are any spills, that sort of thing. So these are de minimus signs. Probably smaller than what we called for. But called for something we felt was comfortable as all the rules for the loading dock haven't been set yet, but will be set before we come in.

And then we have the entrance door, the Broadway street entrance door. We'll have the same letters for the operation of the museum.

And then along this facade here we'll have this text here for Harvard Art Museums

Broadway entrance and those are just letters that are set right into the facade.

JANET GREEN: And is that the one you called the student entrance?

CHARLES KLEE: Yeah, I guess it's technically the Broadway entrance. We call it the student entrance because one of the things that's very cool about this entrance is that it's one level below the Broadway and Prescott Street entrance to the building. So if the, if the museum needs to have classes early in the morning before the museum is open, they can open this door and allow the students to come in here and without bringing them through the gallery space.

ALEXANDRA OFFIONG: And this leads directly to the classrooms and lecture halls and public education spaces.

CHARLES KLEE: So that's the other thing that could happen, is that there is a community outreach component to these

spaces, classroom spaces, auditorium, lecture hall, and seminar room, where conceivably these spaces could be available for use after hours, again, for the same reason of having their own entrance.

And going around to Prescott Street. So Prescott Street we have right on the corner here which is on this face, sorry, right here. We've got another sign here that says Harvard Art Museums with the three collections identified. And then under the soffit -- this gets a little bit complicated to understand, but this, this is the -- what we call the wood box of the gallery, and then this is depressed under the soffit. So in that soffit area here we have one identification for the Sackler Collection, one for -- or the Sackler Museum and one for the Busch-Reisinger Museum. And then on this side wall here is a text that says Werner Otto Hall. And so this is recognizing the

original donor that built the building that was demolished as part of this construction project. So this whole complex will be Werner Otto Hall with the Sackler Museum and Busch-Reisinger Museum in it. And then again on the doors we have the museum hours.

ALEXANDRA OFFIONG: So overall we know that the residential zoning allows us two signs for 30 square feet; two non-banner signs I should say because the city did recently recognize that cultural institutions require more flexibility. So our banner signage which I think --

CHARLES KLEE: Yeah, I'm sorry, the banner signage.

ALEXANDRA OFFIONG: -- we believe that is as of right based on the amount of street frontage we have for this site. And do you want to just show them?

CHARLES KLEE: Yes, I should walk through this. Sorry I forgot about that.

So we have two locations that we're identifying for banner signage. And so one is a long Prescott Street which is along this facade up high. And so that one we really like because you'll be able to see it as you come down Broadway. And part of the impetus of this project is to eliminate the historic Fogg Museum turning its back on Cambridge that we had before. And so this banner and the creation of the Prescott Street entrance is really about engaging the community. So we really liked the idea of having this up here and letting this be something that really tells you a little bit about what's going on in the building, and advertises the fact that it is actually a museum. So we're proposing to put three banners on this lower wall here, which are down in here. And these are simultaneously doing the same thing. But also part of the thinking behind cutting off the point of that, not of the plinking

here, this little notch cut out, is that with the banners in here we're further kind of following the Planning Board's comments about that wall and --

ALEXANDRA OFFIONG: Animating it.

CHARLES KLEE: -- animating it.

MAHMOOD FIROUZBAKHT: Is Harvard the abutter across the street on Prescott?

ALEXANDRA OFFIONG: Yes.

MAHMOOD FIROUZBAKHT: And those are --

ALEXANDRA OFFIONG: Those are all residential buildings.

MAHMOOD FIROUZBAKHT: Will the banner signs be illuminated?

ALEXANDRA OFFIONG: This one has external illumination. It calls for external illumination. These are natural illumination.

MAHMOOD FIROUZBAKHT: And do you know what the proposed hours of illumination

are?

ALEXANDRA OFFIONG: I don't think we have that thought through yet.

DOUGLAS MYERS: You said the illumination will be as of right?

ALEXANDRA OFFIONG: The external illumination?

DOUGLAS MYERS: Yes.

ALEXANDRA OFFIONG: Yes, I believe it is as of right.

TAD HEUER: I believe that 7.16.21 allows residential districts natural or external illumination as of right.

MAHMOOD FIROUZBAKHT: If it bothers your tenants, I guess they'll tell you across the street.

TAD HEUER: Or they won't. It depends on who you think your power is.

CHARLES KLEE: But I think the other thing that we can be quite confident of is that, again, because the building doesn't

have any external lighting on it, that this is not going to be a building that's going to be a screaming beacon.

MAHMOOD FIROUZBAKHT: And I guess that's where the hours of illumination would have an impact.

ALEXANDRA OFFIONG: So, can you go back to the Quincy Street?

CHARLES KLEE: The Quincy Street elevation?

ALEXANDRA OFFIONG: Yeah, the Quincy Street elevation.

So we know that the number of the area of signs is something that we would need to seek Zoning relief. We also learned just yesterday from the Community Development Department that we are not in compliance with the height of the freestanding signs here because of the -- there's a four-foot height requirement. This one, the granite sign is off by about six inches. And this one is off

by a bit more. So we would like -- it all falls under the same section of the Zoning Ordinance. So we're hoping that -- it's been fully documented in the plan that it can also be included. And we would also note that this pilon, the Board did approve two banners in this very similar location back in the nineties for a very similar justification, and reason just to provide identification to the museum in this location that is connected to the university and connected to Harvard Square.

TAD HEUER: And if you were in a business office or industrial district as opposed to residential district, that would be allowed as of right because you have a 15-foot height limitation in those districts. So this is purely because you're in a residential district rather than it's a per se restriction across the board for the city.

ALEXANDRA OFFIONG: If we were in a business district, our building would be allowed nearly 600 square feet of overall signage. We are proposing 423 square feet of signage. So if we were doing only banners, we would be as of right, but that's not --

TAD HEUER: Right. So your banners are exempt under 7.16.23.

ALEXANDRA OFFIONG: Our banners are allowed actually under seven.

TAD HEUER: Correct. They're allowed under 7.16.23 as educational institution and they're all cloth as per required?

ALEXANDRA OFFIONG: Yes.

TAD HEUER: And do I read that correctly that these are intended to be essentially permanent temporary signs?

ALEXANDRA OFFIONG: Yes, so we would he need to change them on an annual basis.

And they will -- they're intended to reflect the exhibitions, so that is right in line with how we would be using them.

TAD HEUER: Okay.

MAHMOOD FIROUZBAKHT: Does that four-hundred plus square foot number you just cited include the banners?

ALEXANDRA OFFIONG: It includes the banners and the non-banners. So if you total up what's allowed under signage, that's what this proposal calls for. So altogether we have 134 square feet of non-banner signage. And -- sorry, now I'm getting my numbers mixed up -- and 289 square feet of banner signage.

MAHMOOD FIROUZBAKHT: For which you do not need Zoning relief?

ALEXANDRA OFFIONG: No.

DOUGLAS MYERS: Are the banners in every respect flat against the building or do they protrude or perpendicular to the building?

CHARLES KLEE: They're not perpendicular, but they will be held off the building a little bit just to be able to attach them.

DOUGLAS MYERS: But the face of the banner will be --

CHARLES KLEE: They'll be up against the building.

DOUGLAS MYERS: Parallel to the building or at an angle?

CHARLES KLEE: Absolutely parallel to the building and close to the building.

ALEXANDRA OFFIONG: On our property, within our property.

DOUGLAS MYERS: Within a few inches? Six inches?

CHARLES KLEE: Maybe six inches I would say.

JANET GREEN: This sign, this one right here what you said I think was a little bit higher than is allowed. Am I right that

that actually is on the street -- it's in a residential district, but it's actually right across from Harvard Yard. It's not across from housing or anything like that, and it would be something that people would see as they would walk down the street between two parts of Harvard?

CHARLES KLEE: That is correct.

And in fact one of the reasons that it is vertical in nature, the way that it is, is because it's intended to be viewed from Harvard's property on the other side of the street from the Cedar Quad which is elevated with respect -- from Quincy Street. And so this is an important, important element of trying to get people to cross the street and come to the museum. Thinking about drawing the students over here. And so it's living in kind of the, what we consider the perfect sweet spot where it's high enough that you'll be able to see it from Seaver, but it's not

so tall that it's getting up into the trees. Because one of the things about the banners is that they're up in the trees and they're perpendicular to any approach that you would have except in a car which we're not trying to stop traffic.

ALEXANDRA OFFIONG: And part of this proposal is to add a new line of street trees along this, along Quincy Street so that it's going to be blocking the view except within that range.

TAD HEUER: Okay. Questions from members of the Board?

DOUGLAS MYERS: Nothing further.

TAD HEUER: I'll open it to public comment. Is there anyone here who is interested on commenting on case 10291, 32 Quincy Street?

(No Response.)

TAD HEUER: The acting Chair sees no one responsive to the inquiry.

The Board is in receipt of correspondence from the Planning Board which reads as follows: (Reading) During the regular business meeting of June 19, 2012, the Planning Board reviewed the Variance request for the cases No. 9809 and 10014 and for signage at the Harvard Museum. The Planning Board finds that the architectural changes could go further, but are minor changes to the existing plans and recommend that the Board of Zoning Appeal grant the request for relief. The Planning Board reviewed the Variance request from the Harvard art museum, overall the Planning Board finds that the Variances are required because the museum is located in the Residence C3 District and is an institutional use. The Planning Board found the signs to be tasteful, modest, and appropriate to the building in site. The entrances are clearly located, and the exhibits are called out to

the use of banners as allowed in other districts. The Planning Board recommends that the Board of Zoning Appeal grant the requested sign relief.

And that is the sum substance of the correspondence in the file.

When they say that they find that the architectural changes could go further, do you know what they're referring to? Can you shed any light on that?

ALEXANDRA OFFIONG: I think I do. The Chair of the Planning Board specifically had asked on several occasions about the pedestrian experience and about that wall. We pulled the wall back and notched it and animated it, and I think that got to the essential issues that they were talking about. I think they put that in that maybe they still weren't 100 percent happy with the design -- that they would have been happy if we had done other things, but I think they

were satisfied that this had improved it.

TAD HEUER: Okay.

Do you want to go through the hardship part of it? We need to get there at some point.

ALEXANDRA OFFIONG: For the signage?

TAD HEUER: Both.

ALEXANDRA OFFIONG: For both.

TAD HEUER: You can pick whatever you one you want to do first.

ALEXANDRA OFFIONG: For the dimensional -- sorry, for 5.13 and 8.22.3 we have two buildings; the 32 Quincy Street and the neighboring Carpenter Center are both on the National Register of historic places. Compliance with those two sections of the Zoning would either require demolition of one of the facades of one of these two historic buildings or it would preclude the art museums from meeting its program which we've

already -- it's been reduced in some ways through this process, and because the increased height is needed to create the additional space. So we've made preservation a priority through this whole process. We've worked closely with the Cambridge Historic Commission, the Massachusetts Historical Commission to ensure a sensitive design, and maintaining the building in place inadvertently causes this hardship to meet the overall space needs for the art museum because of the constraint setback. So that's the hardship.

CHARLES KLEE: Which was also non-conforming before we started.

ALEXANDRA OFFIONG: Actually, that's not -- no, it was just conforming. The required and the -- it's an existing setback, but it was not conforming until this project.

TAD HEUER: Are these lots

that -- are these multiple lots that Harvard owned and merged or has this always been one piece of Harvard property that before the 1961 amendments of the Ordinance they were allowed to build by right multiple buildings on the same piece of property, do you know?

ALEXANDRA OFFIONG: I believe we purchased this over time. I know that this, this was originally built in 1927. This was built in 1961. I don't know -- I don't think we owned it all.

TAD HEUER: So I guess what I'm kind of suggesting is that were this traditional situation in a residential neighborhood where the two parcels were owned by not a common owner, the distance between buildings would be irrelevant? You could have the buildings essentially as close as they were if they were pre-existing, non-conforming. Here the reason that the distance between buildings comes into play is because you

actually have two buildings owned by a common owner on a common parcel. So essentially we could, you could ask for us to subdivide across there and you would eliminate the distance between buildings issued, but you don't want to have to go there and make that additional request; right?

ALEXANDRA OFFIONG: Not really, no. I know that when this was built, when this was built, there were no requirements for the between building setbacks. We're good with one large institutional lot.

Shall I move to the hardship of the signage?

TAD HEUER: Sure.

ALEXANDRA OFFIONG: So, the residential requirements for signage are really designed for residential uses, but don't make allowances for institutional uses that often times require additional signage requirements. While the city has recently

adopted sign regulations in 7.16.23 that do recognize cultural institutions require more flexibility in signage, those regulations only cover banners. So a literal enforcement of this provision would permit only two signs on this building, and really only one new sign given the carved stone, for this large building that has three public entrances, that faces three public streets, and it would leave many approaches without signage. And it would create a hardship for all of our visitors, our students, Cambridge residents, because it would provide inadequate way finding and building identification.

TAD HEUER: Great.

Any last comments before the Board discusses? No?

Mr. Myers.

DOUGLAS MYERS: I think it's a very complex project to put it mildly. I think

this is extremely persuasive presentation. The signage, I mean, I think the architectural revisions to me are completely plausible and I'm not about to second guess them. It sounds as if there would be improvements. The signage on the whole strikes me as a very modest, well thought out. I do think the Board might want to -- if it has the ability, to reserve any powers to consider illumination in the future, I think we may want to, you know, discuss that issue and address it if the Chair thinks that's appropriate. But other than that, I'm pleased to support it.

TAD HEUER: Mr. McAvey.

KEVIN CASEY McAVEY: I think it's a fine persuasive presentation, and I'm fully in support of both the illumination of whatever signs natural or otherwise. The signage and the changes. Thank you.

DOUGLAS MYERS: Mr. Firouzbakht.

MAHMOOD FIROUZBAKHT: I'm happy to hear that this won't impact the project schedule because traffic in that area has been sort of tight, so...but otherwise I think it's perfectly appropriate, minimal relief that you're requesting. The signage seems appropriate, pretty understated so I would support this application.

JANET GREEN: I support the application. I think the efforts to be really open and accessible to a larger part of the community is really admirable and I think it's a good project.

TAD HEUER: Okay. Vote?

All right, the acting Chair makes the following motion:

That the Board grant a Variance as requested by the Petitioners to amend the plans approved in case No. 10014 to reflect minor design changes to the building and to request signage. The changes on the former

or under Section 5.13, the minimum distance of the buildings on the lot, and Section 8.22.3, the enlargement or alteration of a non-conforming structure, and the signage as to Article 7.16.12.b, which is the area in number of signs.

The Chair moves that the Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship, financial or otherwise, to the Petitioner or Applicant.

The Board finds and credits the statement of the Petitioners that these buildings are pre-existing, non-conforming. They are on the same lot which triggers the requirement that there be a minimum distance between the buildings. These buildings were not in common ownership. They would not have such a problem even if they were in the same places as they are now.

The Board finds that the requested

relief is de minimus. That in the previous case similar relief, identical relief was granted, and that the relief requested here is simply because of the multi-plain calculation. The buildings themselves do not move.

The Board finds that the requirement for an alteration for a pre-existing, non-conforming use is also a hardship because otherwise the building would not be able to progress as it was proposed and approved by the Board in the previous Variance.

The Board finds that there would be a literal -- a literal enforcement of the provisions of the Ordinance would create a hardship as to the signage because the building is currently resides in a Residence C3 District, even though it is a pre-existing, non-conforming institutional use; has always been an art museum. That there is no plausible residential use for

this building or the other structures immediately adjacent to it on the lot.

That a literal enforcement would allow only two signs on a building with three prominent entrances, and that having only two signs would be a significant derogation from the intent and purpose of the Ordinance as well as create a safety and way finding problem for those patrons of the museum and would reduce conflicts with visitors where there would be a reduction in conflicts with visitors and others using the facility were additional signage permitted.

The Board finds that the hardship is owing to the circumstances related to the shape and topography of the land and the structures, and especially affecting such land use structures would not affect the district generally.

As the Board previously stated the Board finds and credits that this is in a

Residential C3 district as an institutional use. And that the setbacks between the structures would not in any way minimize the ability of the building to operate as is requested.

That this is not common to the residential district in which the structures are located.

These are indeed unique structures and that they are forced to comply with a residential overlay that does not conform with the remaining structures in the Zoning District.

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

The Board finds that there will be no change to the buildings. That this will allow better and more appropriate access to the art collections that the renovations attempting to create. And that there would

be no substantial detriment to the public good in terms of the signage, and in fact there would be an increase in the public good as the adequate signs will direct visitors to the entrances to the building that otherwise they could not find without the provision of modest additional signage which the Board finds is being requested.

And the Board finds that the relief may be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance because there is no change to the setbacks from the ground. This is a numerical setback created by the multi-plain analysis. And that as to the newly requested Variance for the signage, the signage again is for the building that is unique to the district; it faces three public ways, and that such minimal signage is required for the proper use and way finding for the building.

The Board notes that the signage requested does exceed in two places the height requirements of the section, but finds that the relief does not derogate from the intent and purpose of the Ordinance as it is fairly minimal given the size of the structures on the lot given the intent and purpose of the Ordinance to have people be able to locate the building. The additional signage particularly as the large pilon sign is intended to be viewed from across the street and there is a grade issue, the topography does dictate that a higher height is warranted in this circumstance.

As to illumination, the Board notes that the Petitioners are requesting for all signage, except for the map signage, natural illumination, and will presume that natural illumination is all that is required. Any request for external illumination for the non-banner signage would require additional

relief from this Board. And that as to the map signage indicated as allowed on signage summary sheet 44, that that be allowed to be either natural or external to the extent otherwise permitted by the Ordinance.

The acting Chair moves that the Variance be granted on the condition that the work proceed in accordance with the plans as submitted to the Board. These are plans that are designated Harvard Art Museum's Renzo Piano Building Workshop and Payette, 32 Quincy Street Expansion Renovation dated May 2012 and initialed by the acting Chair.

Anything else?

MAHMOOD FIROUZBAKHT: Just on the illumination I just want to be clear that unless additional Zoning relief would be required for any illumination plan, that we're not putting any conditions on illumination given the proposal in front of us.

TAD HEUER: So the proposal is to allow natural or external as allowed by the Ordinance.

MAHMOOD FIROUZBAKHT: Right. And so to the extent that it's allowed by the Ordinance, they would be permitted to do it even if it's not included in their scheme this evening?

DOUGLAS MYERS: That's what I heard the acting Chair say. That's the way I understood his remarks.

MAHMOOD FIROUZBAKHT: I just want to clarify that. Yes.

TAD HEUER: Right. So illumination's allowed as per Section 7.16.21 to the extent that additional illumination is required and in a way that conflicts with that section, additional relief is required by the Board.

MAHMOOD FIROUZBAKHT: Sounds good.

ALEXANDRA OFFIONG: Just to

clarify, so that means that we have the flexibility to have external or natural because it's within the base regulations?

TAD HEUER: Correct.

ALEXANDRA OFFIONG: Okay, thank you.

TAD HEUER: All those in favor of granting the Variance say "Aye."

(Show of hands.)

TAD HEUER: Five in favor.

Variance is granted.

(Heuer, Myers, Firouzbakht, McAvey, Green.)

(9:30 p.m.)

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

CONSTANTINE ALEXANDER: The acting Chair will call case No. 10298, 140 Lexington Avenue. Is there anyone here wishing to be heard on this matter?

Your name and address, please, for the record.

RACHEL COBB: Rachel Cobb, C-o-b-b, 140 Lexington Avenue.

MATTHEW MAZZOTTA: And her husband Matthew Mazzotta, M-a-z-z-o-t-t-a, 140 Lexington Ave.

JOHN LODGE: John Lodge, 56 Aberdeen Avenue.

CONSTANTINE ALEXANDER: Go ahead, floor is yours.

RACHEL COBB: Why are we here? I have lived at 140 Lexington Avenue my entire life, and it's a two-family with my mother and my brother living in the upstairs and myself and my husband and my two children living in the downstairs. My brother is severely disabled. He's now 37-years-old, still living with my mother. And she is elderly now, has arthritis. And the house has now become -- and as we move forward, is becoming unworkable in its current structure. Our goal is to keep everybody in the house as long

as everybody can stay in the house. And especially for my brother, this whole plan is really designed around him so that we can keep him at home and not have him institutionalized. Our plan is to have him have a living space in the basement that will then be staffed as we move forward when my mother becomes less able to care for him 24 hours a day. And we will move into the upstairs floors, the second and third floors, making room for what is now crammed living quarters for us and the two children.

CONSTANTINE ALEXANDER: And in doing so you're going to add about 250 square feet to the building roughly?

JOHN LODGE: Yeah.

CONSTANTINE ALEXANDER: And therefore, you've got a -- just for the record, we have currently a non-conforming structure in terms of FAR?

JOHN LODGE: Yes.

CONSTANTINE ALEXANDER: You're 0.891 from your form and you're going to go to 0.39 and the district is 0.5. So at the end of the day you'll be almost twice what the district permits.

JOHN LODGE: Yes.

CONSTANTINE ALEXANDER: I understand the need for the addition. I'm speaking for myself obviously. Additional space. But I must say I'm troubled by the design at what you want to do, particularly of the dormer. It doesn't comply with our dormer guidelines. And right now you have -- as I recall, you have a gable on each side. A gable dormer on each side.

JOHN LODGE: Yes, yes.

CONSTANTINE ALEXANDER: And now you're going to have one gable dormer on one side and a shed dormer too large by the terms of our dormer guidelines on the other side. Not to me, I'll refer to my architect

colleague on my left, it doesn't seem the most pleasing design. Is there another way? Maybe I'm wrong, maybe other members don't agree with me. Is there a way to accomplish what you want to accomplish?

JOHN LODGE: Well, we did look at using a gable dormer on that side. And I mean in order to get as much space as we could to try and accommodate the family of four, I ended up sort of pushing the dormer further. And I understand, you know, I knew coming in you were going to say I don't like the dormer. So you know, we did it for expedient reasons. And, you know if, if we come to, you know, an impasse, then fine, we'll go back and look at it further.

But so we have -- and we've explored a lot of different options for the dormer.

MATTHEW MAZZOTTA: We also, we had a conversation with the neighbor on that side who has lived next to Rachel since she was

born, and they actually encouraged us to go with a bigger dormer than we had. You know, they -- we get along with them reasonably well, and they said look, you should get as much space up on there as you can, you know. We felt, you know, in kind of looking at what was there now, that that would be, that would work for us. It allows us to get the slightly different staircase coming in to take some of the space, and to kind of get a little bit of a closet off of the back, you know, bedroom there but didn't bump out along the entire way.

CONSTANTINE ALEXANDER: There's no gable design that would give you the space without having a shed?

JOHN LODGE: The basic problem is that we're losing all of our basement storage because -- not all of the basement storage. We're losing most of the basement storage because that's going to become living space

for Rachel's brother. So, you know, basically we're trying to get, you know, two tons of apples into a one ton truck. Whatever we can. So that's --

MAHMOOD FIROUZBAKHT: What's the length of the proposed dormer?

JOHN LODGE: I think the length is -- I'm going to say 25 feet? Yeah, it's about 23 feet.

CONSTANTINE ALEXANDER: 23 you said?

JOHN LODGE: Is that right? Yeah, I think that's about right.

CONSTANTINE ALEXANDER: And the dormer guidelines say you should not be more longer than 15 feet so you're 50 percent higher than what is permitted under our dormer guidelines.

MAHMOOD FIROUZBAKHT: What's the length of the two dormers in there now?

JOHN LODGE: The ones that are in

there now?

MAHMOOD FIROUZBAKHT: Yes.

JOHN LODGE: I'm going to say -- okay, so that one is -- it's about 33.

MAHMOOD FIROUZBAKHT: Of two existing dormers?

JOHN LODGE: Oh, I'm sorry. The -- so it's about 28.

CONSTANTINE ALEXANDER: That's the two dormers total?

JOHN LODGE: Yes, two dormers. So the existing dormer on that side is a lot smaller than it is now. It's about 10 feet.

CONSTANTINE ALEXANDER: And you're going to go to 23 feet.

JOHN LODGE: Yeah.

CONSTANTINE ALEXANDER: The other dormer across is not changing?

JOHN LODGE: Right. And I understand this doesn't necessarily have any bearing on the case, but if you look at the

buildings along that street, generally speaking, they're all extremely large houses. This is actually the smallest of the sort of 10 in that row. And a number of them have large, I mean, you know, I understand past sins do not forgive the present since, but a number of them do have, you know, long shed dormers. Now they're in gambrel roofs which is a bit different, but still this house is actually the smallest of say the group of 10 and probably if you kept going down Lexington towards Brattle it's, you know, I mean they were obviously all built at the same time according to, you know, some kind of pattern book.

CONSTANTINE ALEXANDER: But, again, I'm -- conceptually I'm not opposed to relief. I understand where you want to go. I just question is this the best you can do to meet your needs and to meet the Zoning requirements of our city. But anyway I have

a said what I'm going to say.

Are there other questions from members of the Board?

THOMAS SCOTT: So I have a question. So the closet that you're creating for the bedroom is a walk-in closet?

JOHN LODGE: Right.

THOMAS SCOTT: Could you create the closet within the space of the bedroom? Is this knee wall tall enough?

JOHN LODGE: That knee wall --

THOMAS SCOTT: To put a closet under it?

JOHN LODGE: The closet -- the knee wall is about five and a half feet there. So, yes, I mean, you know, arguably yes, but the closet starts to become -- you know, the problem is --

THOMAS SCOTT: Maybe you get -- this would get closer to the 15 feet. It's nine and six, it's about --

JOHN LODGE: It's close.

THOMAS SCOTT: -- about 16 feet.

It would be closer to the guideline.

JOHN LODGE: Yeah.

THOMAS SCOTT: Yes, but I think this closet kind of bumps it out of that realm, you know. Something to consider anyway. And you'd lose about -- was this additional square footage that the --

JOHN LODGE: It's about 50 square feet.

CONSTANTINE ALEXANDER: Let me open this matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard. There are no letters in the file one way or another from anyone.

You represented to us at least, that one

of your neighbors, the one who is most affected by the new dormer, told you that he or she is in support of the project.

MATTHEW MAZZOTTA: Both the husband and wife. And we've also spoken to --

RACHEL COBB: All of the surrounding neighbors. And everybody is supportive.

CONSTANTINE ALEXANDER: I'm going to close public testimony and open the matter to discussion by members of the Board. I will go a little bit first in the sense that if there's another solution that will essentially accomplish what you want to accomplish, but it has less departure from the dormer guidelines, and I think Tom is suggesting there might be one, that's where I would like to go. But that's where I'm -- that's where my head is at right now. Anybody else?

DOUGLAS MYERS: Obviously your application is very sympathetic, but I really

second the sentiments of the acting Chair. I think the Board would look favorably on a substantial fair effort to modify the dormer, to bring it more into compliance with the guidelines. That's my opinion.

MAHMOOD FIROUZBAKHT: You know, one thing that I -- symmetrically I think that's what maybe is looking at the house as a whole, there isn't great symmetry between one side and the other with the shed dormer and the gable on the other side. And I mean it's -- the shed dormer is, I don't -- I feel like it's long, longer than the dormer guidelines, but, you know, as Tim would say, they're guidelines, they're not the statute, they're not the Ordinance. There is symmetry on that side. So scale-wise I'm not bothered by that length. It sort of fits, you know, given the roof line. So if we were to take a vote right now, I think that, you know, there's enough hardship here where I

could, you know, justify potentially giving up on maybe some of the style to allow for the additional living square footage that's necessary. But what I prefer a design where maybe there would be more symmetry with this side and the other side where you would still capture the additional square footage and storage it seems like you're going for, gees maybe that would look a little nicer and you have better symmetry within the roof line and just, the general character of the house and you'd sort of preserve, you know, the integrity of the structure of the house and the fact that, you know, you did have gable dormers before and the gable roof line. So that's sort of where I'm at.

CONSTANTINE ALEXANDER: Any comments? I think --

KEVIN CASEY McAVEY: I actually want to second that. I completely agree. While I would prefer to have a certain amount of

symmetry with the house, I do believe with your own property that you should be able to do as you wish with the third floor in terms of expansion.

CONSTANTINE ALEXANDER: I'm going to suggest, I know you haven't had a chance to talk yet, Tom, and will, but given the comments you've heard so far, one of the things we often do -- if we take a vote tonight, you have to get four out of five in support. If you don't, the motion fails and you can't come back before us for two years unless you come back with a completely different project. What happens in situations, what we do in situations like this when there is some reluctance from the Board for whatever reason, is we continue the case, give you a chance to come back, to rethink the whole project. You've heard the comments tonight. You'll hear some more before we take a vote. And then come back

with maybe another design or come back and say well, this is the best we can do, we'll take our chances. But I think that would be a desirable under the circumstances. I do think -- Doug expressed it, I've expressed it. I'd like to hear -- you've heard us, I'd like to hear more from you as to why you can't get to where you want to get, not entirely substantially with a better -- I don't want to use better, a different design than what you're proposing tonight.

But are there other members of the Board feel sympathetic to that or do you want to go ahead with vote? Tom, I'm didn't give you a chance to talk.

THOMAS SCOTT: Yes, I was going to say that some aspects of the dormer do take into consideration the guideline, you know, the relief at the ridge line is there. One aspect that isn't is the plain of the dormer. Typically they want this plain of the dormer

pushed back and not in plain with the wall below. And this is directly over. One thing you have going for you is you have this the eave of the house kind of breaking up that element which helps visually. So I think that, that still works. But I'm -- you know, on the size of the dormer, especially -- what was the FAR?

CONSTANTINE ALEXANDER: I have it right here. Hold on. They're going to go from 0.891 to 0.939. They're adding about 250 square feet. Some of that is basement I assume. It's not all in the dormer or the third floor?

JOHN LODGE: No, no, it's not all in the dormer. Some of it is on the first floor and some on the basement.

THOMAS SCOTT: But certainly reducing this would help reduce that FAR --

JOHN LODGE: Yeah.

THOMAS SCOTT: -- a little bit. I

mean you are over. And I mean, I just think -- I think there's some relief or some movement that could get this closer to meet the dormer guideline requirement. I know the closet and that bedroom may suffer a little bit, but there are a lot of houses in Cambridge with poor closets, and that one wouldn't be that bad actually. So I'm kind of on the fence.

RACHEL COBB: We're aware of poor closets.

THOMAS SCOTT: I have several myself.

MAHMOOD FIROUZBAKHT: This might be -- there might be economical limitations in doing this, but could you do symmetrical dormers on either side? I mean, like 15-foot dormers, one on one side and one on the other where then you really preserve the nice symmetry of the building and you maybe even capture even more space but then it would look

better? But that would cost more.

CONSTANTINE ALEXANDER: I had the same reaction and same conclusion. It would probably cost more.

JOHN LODGE: If you're going to do that I would say maybe two dormers on that side. Two separate dormers.

CONSTANTINE ALEXANDER: One on one side and not on the other?

JOHN LODGE: No, no, leave the one that's there over the bay and then instead of having the big dormer maybe having two dormers.

CONSTANTINE ALEXANDER: That would seem to me to get -- two gable dormers?

JOHN LODGE: No, we could have two gable dormers.

CONSTANTINE ALEXANDER: Two gable dormers.

I think it seems clear to me anyway that we should continue this case. I'm going to

make a motion to that effect, it may not pass. But we would continue to give you a chance to --

JOHN LODGE: If you're going down in flames, I would think you would want to continue.

CONSTANTINE ALEXANDER: Sorry?

JOHN LODGE: If you're going down in flames, I think it's better to continue.

CONSTANTINE ALEXANDER: That's right.

What would be the next time we could hear this case?

SEAN O'GRADY: Not until October 11th actually.

CONSTANTINE ALEXANDER: Okay. All five of us would have to be here for that case, so make sure everybody's available.

I think that's the best you can do, October 11th.

RACHEL COBB: We'll put it on our

calendar.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued until seven p.m. on October 11th on the condition that the Petitioner sign a waiver of the time for a decision.

And on the further condition that the sign -- you just need to sign right at the very bottom -- that the sign that's now there, take that sign and modify with a magic marker and change -- put a new date October 11th, new time, seven p.m. Not the time that's in there right now otherwise we won't hear the case until 9:15 on October 11th. You want to get out of here quicker than that I would hope. And you want to maintain that sign for the same period of time that you had to maintain it for this. Whatever the Zoning requirements are.

On the further condition that to the extent that you do decide to come back with

modified plans, those plans must be in our file, must be with filed with ISD no later than five p.m. on the Monday before that Thursday hearing.

DOUGLAS MYERS: Which is a holiday.

CONSTANTINE ALEXANDER: It's a holiday?

MAHMOOD FIROUZBAKHT: Columbus Day?

SEAN O'GRADY: I'll defer your knowledge.

JOHN LODGE: We'll make sure.

CONSTANTINE ALEXANDER: Get it in by Friday close of business.

MAHMOOD FIROUZBAKHT: You do have about three months.

CONSTANTINE ALEXANDER: The point is if you don't do that, we won't hear the case. We'll just continue it, that's all.

On the motion to continue this case on that basis all in favor say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. The case will be continued until October. See you then.

(Alexander, Scott, Myers, Firouzbakht, McAvey.)

(9:50 p.m.)

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

CONSTANTINE ALEXANDER: The Chair will now call case No. 10292, 2180 Massachusetts Avenue.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair would note for the record that this case involved a request for a use variance to allow a portion of an existing store for take-out food; tea, coffee, etcetera, with eight chairs and two tables.

The Chair has been advised by the Inspectional Services Department that upon reconsideration of this matter, that there is no requirement. The idea would have been a use variance to operate what define in our Zoning By-laws a fast order food establishment. ISD has now determined that the addition of these tables on the outside, the eight chairs and two tables, will not make these premises a fast order food establishment. As a consequence, there is no need to have a case brought before us. The case is now moot, and so we will not consider that tonight.

(9:50 p.m.)

(Sitting Members: Constantine Alexander,
Tad Heuer, Douglas Myers, Mahmood R.
Firouzbakht, Kevin Casey McAvey.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 10293, 300 Mount Auburn
Street.

Is there anyone here wishing to be heard
in this matter?

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

CONSTANTINE ALEXANDER: The floor is yours.

ATTORNEY RICARDO SOUSA:

Mr. Chairman, members of the Board, once again for the record, Ricardo Sousa on behalf of the Applicant Sprint Spectrum, and we're here before you tonight in connection with Sprint's national program called Network Vision to upgrade its wireless network to offer competitive wireless services, not only for phone service but also for data services. And so we're upgrading our network so that we can provide 4G, fourth generation wireless services speeds to our customers. And in particular, the residents and businesses in the City of Cambridge.

The nature of this existing installation is that -- or application is that this is an existing wireless antenna

installation on Mount Auburn Hospital. The antennas themselves are facade-mounted on the building itself, and I will point out where they are. And we are operating six panel antennas on this facility right now, and at the end all we're requesting is that we can swap out those six antennas and replace them with six new antennas. And the only slight difference is that only -- really only three of the new panel antennas are new in the sense that they are one foot longer than the existing antennas themselves.

So Sprint currently operates what are called CDMA panel antennas on this building. They will replace three of those CDMA panel antennas with three multi-mode antennas that operate two frequencies: One for voice and one for data. And what I'd like to do is just point out where they are. I have some additional sets of plans if you'd like, but I've provided some photo sims as well.

CONSTANTINE ALEXANDER: Can I just ask you a quick question on the photo sims?

ATTORNEY RICARDO SOUSA: Of course, Mr. Chairman.

CONSTANTINE ALEXANDER: When I was looking at the file, when I was kidding you about yelling at you, the phot sims we had before us are woefully inadequate. You've handed us new ones today, but they seem to be identical to what's in the file. Did you also --

ATTORNEY RICARDO SOUSA: They are identical but they're of a better quality.

CONSTANTINE ALEXANDER: One of the other photo sims was done at night which didn't do much. And I notice there's no nighttime view any longer.

ATTORNEY RICARDO SOUSA: That's right.

CONSTANTINE ALEXANDER: So we didn't need our infrared glasses to read it.

MAHMOOD FIROUZBAKHT: Mr. Chair, are you thinking of the case that's coming up?

CONSTANTINE ALEXANDER: No, no. This case also, they had photo sims as well, but they're now improved.

ATTORNEY RICARDO SOUSA: They are improved. That's something that we worked hard at to try to get higher quality sims. The nature of this project is that we're trying to modify over 900 sites in Massachusetts, Rhode Island all at the same time. So when the photographer goes out there, he sometimes is working on 10, 15 sites on one day. It's no excuse. We should have high quality photo sims, and hopefully these are much better quality. And so --

TAD HEUER: You are Sprint as in like Sprint the people who take a lot of my money to keep my phone service, right? Surely you can pay a couple more guys --

ATTORNEY RICARDO SOUSA: We should

be able to, although we are the third largest provider. There are two much more successful providers.

DOUGLAS MYERS: That means you have to try harder.

ATTORNEY RICARDO SOUSA: We do have to try harder. And I think that's what we are trying to do here.

And so the installation itself, as you can see, the panel antennas are facade-mounted on the brick section. They don't extend higher than the brick section, and so we're going to essentially replace three of those panel antennas with three new panel antennas. The best way to look at this is if you have a set of plans, is page A-2. This shows the three sectors in which the panel antennas are located. Of course I have some additional copies here.

CONSTANTINE ALEXANDER: There's actually a copy here. No, there isn't.

There was. Oh, here it is.

ATTORNEY RICARDO SOUSA: If anybody else would like a copy, I have additional copies of the plans.

CONSTANTINE ALEXANDER: Thank you.

ATTORNEY RICARDO SOUSA: If you turn to page A-2, this shows -- if you look at one of the views here on the top, left-hand corner, you see Clearwire's antenna on the left-hand. And then on the right-hand side you see a CDMA antenna in this location here. And so there will be an interim plan for about 30 days where we're able to install the multi-mode antenna in the same location that the CDMA antenna is, put a new CDMA antenna up so that there's never a down time, and the end result is still two panel antennas on this particular facade. And so we're not increasing the number of antennas at all. And then we also are adding what's called RH's which are remote radio heads. And so all the

carriers have gone to a new design whereby the radio heads rather than being 100 and sometimes 200 feet away in the cabinets themselves, they're now much closer to the antennas. It allows for much more propagation of a signal, and it allows for a much more sufficient signal as well.

CONSTANTINE ALEXANDER: And I think you told us before that the radio heads themselves are really rather small.

ATTORNEY RICARDO SOUSA: They are. They're about 13 inches wide and 17 inches long. So they are fairly small. And in this case you won't be able to see them. They're actually being installed behind the parapet wall here, and we've been able to come up with a design that they're not going to be visible to the public at all.

And so once again these are the three sectors. And in the end we're not increasing the number of antennas at all. And we think

this is a good design. It conforms to the designs in Section 4.32.g.1 of the Table of Uses for the Cambridge Zoning Ordinance. And in the sense that this is not a residential zone, instead it is a commercial zone, it is a clearly mixed use area.

CONSTANTINE ALEXANDER: It's zoned residential.

ATTORNEY RICARDO SOUSA: It's zoned residential, I apologize.

CONSTANTINE ALEXANDER: Yes, Residence C-3.

TAD HEUER: Your contention is that residential uses do not predominate in this --

ATTORNEY RICARDO SOUSA: That's correct. Pursuant to footnote 49 of 4.32.g.

TAD HEUER: Right.

ATTORNEY RICARDO SOUSA: The determination would be that residential uses do not predominate. And in fact the use in

which that we are utilizing is in fact an institutional use in a hospital.

CONSTANTINE ALEXANDER: Well, in fact, this Board in a previous case just had granted a Special Permit for what is there now, made a determination of finding that non-residential uses predominate. And I see no reason for this Board to disturb that finding.

ATTORNEY RICARDO SOUSA: That's correct, Mr. Chairman, I would agree with that entirely.

So we think this is a responsible and appropriate application and we would respectfully request relief from this Board in the form of a Special Permit.

CONSTANTINE ALEXANDER: Okay. Questions from members of the Board at this point? Or we can go right to public testimony.

TAD HEUER: Can --

DOUGLAS MYERS: A very naive question. I'm looking carefully at the existing site and the proposed site, and I'm having a very, very hard time in each picture seeing a difference.

TAD HEUER: That's what the want to hear.

DOUGLAS MYERS: I understand. And this is one of these things should I believe my own eyes? I mean, is that what you're -- is that your representation --

ATTORNEY RICARDO SOUSA: It is.

DOUGLAS MYERS: -- to the Board in fact that the difference will be visually will be negligible? Because that is the way I would characterize the impression created by these pictures.

ATTORNEY RICARDO SOUSA: Yes, that's really our goal here. Is some of the carriers when they're adding what's called --

DOUGLAS MYERS: Would that be the result?

ATTORNEY RICARDO SOUSA: It is -- the results will be consistent with what the plans are and the photo simulations. Once again, we're not increasing the number of antennas in any way. We're simply swapping out the old ones with new ones, and then the RHs are behind the parapet wall so you can't see them in the photo sims anyway. And so unlike other carriers that in order to provide 4G LTE service, they're adding yet another antenna. We're able to provide the updated voice and data services with just one antenna. So we can take our old one out and replace it with a new one. So it's a good design.

CONSTANTINE ALEXANDER: And in fact, Doug, when we get to public testimony, I will read into the record a memo from the Planning Board. They support the petition

on the very grounds that this is not going to make any difference from what's there right now. And so they agree with what Mr. Sousa is saying in terms of the visual impacts.

TAD HEUER: So they're slightly wider and a foot longer, right, roughly?

ATTORNEY RICARDO SOUSA: That's correct. They're one foot longer.

72 inches versus --

TAD HEUER: And so can I ask my two standard questions?

ATTORNEY RICARDO SOUSA: Of course.

TAD HEUER: Do you know what's there already?

ATTORNEY RICARDO SOUSA: I do. We can utilize -- instead of utilizing a pipe mount, we can utilize a low profile bracket for the antennas.

TAD HEUER: Okay.

ATTORNEY RICARDO SOUSA: Trying to anticipate your second question, Tad.

TAD HEUER: If you were to say no, I would have said shorten the pipe. But since you can use a low profile bracket, that answers both questions.

ATTORNEY RICARDO SOUSA: We can, Tad. Absolutely.

TAD HEUER: And that can be made a condition?

CONSTANTINE ALEXANDER: That's why I wrote it down.

TAD HEUER: Excellent.

ATTORNEY RICARDO SOUSA: I would also anticipate another -- the Chairman's question which would be that in the event that the installation becomes obsolete or not used for more than six month period, we would of course remove that installation.

MAHMOOD FIROUZBAKHT: And then in terms of matching the colors, it would be consistent with what you're showing on the photo simulation?

CONSTANTINE ALEXANDER: That would be a further condition.

MAHMOOD FIROUZBAKHT: Yes, not materially different?

ATTORNEY RICARDO SOUSA: That's correct.

CONSTANTINE ALEXANDER: And they would agree to maintain the appearance. So if they deteriorate --

MAHMOOD FIROUZBAKHT: Right.

ATTORNEY RICARDO SOUSA: That's right. Yes, we would agree to those conditions of course.

KEVIN CASEY McAVEY: Is there currently a GPS antenna on the roof?

ATTORNEY RICARDO SOUSA: There are at least a couple of GPS antennas. The antennas themselves -- the GPS antennas are approximately six inches tall.

KEVIN CASEY McAVEY: Oh, okay.

ATTORNEY RICARDO SOUSA: Yes.

They're incredibly small.

KEVIN CASEY McAVEY: Thank you.

ATTORNEY RICARDO SOUSA: You're welcome.

CONSTANTINE ALEXANDER: Let me open this now to public testimony. Is there anyone wishing to be heard on this matter?

(No Response.)

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

The Chair would also note for the record and read into the record, we have a memo from the Planning Board regarding this petition.

(Reading) The Planning Board reviewed the Special Permit application to replace the existing antennas with updated antennas. Overall the Planning Board sees these antennas as small features on big walls that won't make very much difference.

End of comment. I'm going to close public testimony unless you have anything

further?

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

CONSTANTINE ALEXANDER: Discussion
or we ready for a vote?

KEVIN CASEY McAVEY: Ready.

CONSTANTINE ALEXANDER: Okay.
This is the long stuff.

The Chair moves that the Special Permit
be granted to the Petitioner as proposed in
their application.

First of all, the Board would find that
this is a residential district, and so our
Zoning Ordinance requires that we make a
finding that non-residential uses
predominate in the vicinity of the proposed
facility's location, and that the
telecommunication facility is not
inconsistent with the character that does
prevail in the surrounding neighborhood.

The Chair would note that this Board

earlier granted a Special Permit for antennas that are almost identical in visual impact, as we heard from the Planning Board, as being proposed, and so the Board proposes that we incorporate those prior findings into this decision and not -- well, we'll just incorporate those findings. So the findings have been made.

The Chair would make the following findings:

That the Petitioner has through its written materials has demonstrated that they are licensed, they're a licensed telecommunication carrier.

That they have the plans as proposed and subject to the conditions that we'll impose, minimize the visual impact at what is being proposed, and that the other requirements of a Special Permit have been met. Namely, that we make the following findings:

That allowing these new antennas would

not cause congestion, hazard, or substantial changes in established neighborhood character.

They will not adversely affect the development of adjacent uses as permitted in the Ordinance.

That they will not create nuisance or hazard to the detriment of the health, safety, and welfare of the occupant or the citizens of the city.

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

With respect to these findings, the Chair proposes that we incorporate the findings that were made in the earlier decision beyond what I've indicated regarding non-residential use since what is being proposed visually has virtually -- is

no different than what is now, which was previously permitted and now exists.

The Special Permit would be granted subject to the following conditions:

That the work proceed in accordance with the plans submitted by the Petitioner. The cover page which has been initialed by the Chair, and consistent with the photo simulations submitted by this Board except that with respect to the antennas that they will use not pipe mounts but low profile brackets.

That the Petitioner will maintain these new antennas so as to continue to minimize the visual impact of them.

That if the antennas become obsolete or cease to be used for a period of six months or more, that they will be promptly removed by the Petitioner, and that the facade of the building will be restored to its prior condition to the extent reasonably

practical.

Any other conditions?

I think we're ready for a vote.
Therefore, we move to grant the Special
Permit as proposed and subject to the
conditions that I suggested.

All those in favor say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in
favor. Special Permit granted.

(Alexander, Heuer, Myers,
Firouzbakht, McAvey.)

(10:05 p.m.)

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

CONSTANTINE ALEXANDER: The next
case is 10 Canal Park, No. 10294. And at the
outset, we have a problem it seems to me,
Mr. Sousa.

ATTORNEY RICARDO SOUSA: I've been made aware of that, Mr. Chairman, but I'll let you speak.

CONSTANTINE ALEXANDER: Let me read it into the record.

ATTORNEY RICARDO SOUSA: Of course.

CONSTANTINE ALEXANDER: The problem being apparently there's been a failure to post the required signage as required by our Zoning By-Law, which is a, if you will, a condition preceding for us to consider the case. And so it seems to me that we're not able to hear testimony or argument to the contrary -- it seems to me we have to continue this case to allow you to comply with the signage requirements.

ATTORNEY RICARDO SOUSA:

Mr. Chairman, I was made aware of this issue yesterday afternoon. Mr. O'Grady gave me a call and I spoke to my colleague Daniel Glissman who is here tonight. He posted the

sign on July 10th. And we talked about where it was posted. And in fact, I rushed there yesterday, found that the sign was in fact placed on the main entrance, which is what we consider the front entrance, but there are actually two entrances to the building. There's one that's located on the --

CONSTANTINE ALEXANDER: Is this the one that faces the canal?

ATTORNEY RICARDO SOUSA: Yes, it is, that's correct. So there's another entrance that faces Edwin -- Land Boulevard. So there's another entrance there. However, I took a photo of that, and this is why we did not post it there.

CONSTANTINE ALEXANDER: Oh, yes, this would not comply with our Zoning -- if you posted it there, it --

ATTORNEY RICARDO SOUSA: And we did not. We did not post it there. But what happens is if you come into this entrance,

it's at a higher level than the lower vestibule where that one is posted. And so that has been there since July 10th according to --

CONSTANTINE ALEXANDER: I went by the premises today, this morning.

ATTORNEY RICARDO SOUSA: Okay.

CONSTANTINE ALEXANDER: And I didn't see this sign.

ATTORNEY RICARDO SOUSA: I took that yesterday.

CONSTANTINE ALEXANDER: Well, today -- it has to be today. Maybe I missed it. I looked I think very carefully and there was no sign on Canal Park facing the canal. I went around to the side, the other entrance there which would not have been adequate if it was posted, and I did not see a sign there as well.

ATTORNEY RICARDO SOUSA: All I can tell you, Mr. Alexander, is that I rushed

there yesterday because I was concerned about this. I've had this issue in the past, a number years back. I know how important it is to post signs. And I don't understand, I guess I can't justify the fact that I saw it there yesterday and that it was not there today. And I took a close-up of it. I took a couple of extra photos in addition to that of just why we posted it there versus the other entrance.

DOUGLAS MYERS: Do you have any other information that you can tell the Board about the sign's continuity between July 10th and yesterday?

ATTORNEY RICARDO SOUSA:
Unfortunately I don't. You know, I think it would be futile for me to suggest that I'm there everyday.

DOUGLAS MYERS: Oh, no, no.

CONSTANTINE ALEXANDER: Why not?

DOUGLAS MYERS: I wondered whether

you had anything to say or add any indication about that.

ATTORNEY RICARDO SOUSA: The only additional thing I could say is that I could bring up Mr. Glissman who posted the sign on July 10th, and I can only tell you he can testify as to him posting it on July 10th and I can testify as to the fact that I saw it there personally yesterday.

CONSTANTINE ALEXANDER: And I can testify that I didn't see it there today.

ATTORNEY RICARDO SOUSA: Which I don't understand. I honestly don't.

TAD HEUER: We can send out a scouting party.

ATTORNEY RICARDO SOUSA: We could.

CONSTANTINE ALEXANDER: Can I make a suggestion and probably maybe the Board members will turn it down as well. You don't need a case for approval with a questionable signage postage because it allows you to be

collaterally attacked if someone wished to attack the granting of the relief. It strikes me given the fact that we do don't have absolute certainty here, I think this might be a case we should continue without -- it won't be a case heard. And so it would give you a chance to really put it up or your client to put up the sign and take steps to maintain it on Canal Park by the way, facing the canal, not on the corner.

ATTORNEY RICARDO SOUSA: Right.

CONSTANTINE ALEXANDER: Right.

ATTORNEY RICARDO SOUSA:

Mr. Alexander, can I make just a counterpoint?

CONSTANTINE ALEXANDER: Go ahead.

ATTORNEY RICARDO SOUSA: You know, the nature of the upgrades is time is of the essence. And so the wireless carriers want to make sure that they get these upgrades done as soon as possible. What we've heard

tonight is that any continuance would take us to October. And then also there's a time period for an appeal. In addition to that there's a time period to obtain a Building Permit. I would say that from a general level, the Federal Government recently passed what's under the Tax Relief Act, an odd place to place this, but under the Tax Relief Act there's Section 6409 which deals directly with modifications of existing installations essentially inserting a provision in a federal statute that states that municipalities cannot deny a carrier's ability to upgrade its installation by simply replacing an existing installation with an upgrade installation provided that it's not substantially greater than the existing antenna installation. And so there's -- I don't play the trump card here. I have a lot of respect for this Board and a lot respect for this city, I would just however state that

there is an importance to getting these upgrades done and getting them done in time.

CONSTANTINE ALEXANDER: We understand that.

ATTORNEY RICARDO SOUSA: And from an applicant's perspective, I would rather take the risk that this is appealed for a lack of proper notice when in fact all the evidence that I at least have in front of me personally is that it was there yesterday when I was asked by Mr. O'Grady as to whether or not it was there. And as soon as I got there, I noticed that it was there. And so I thought in fact that maybe you had gone through the back part of the building and didn't see it.

CONSTANTINE ALEXANDER: No.

ATTORNEY RICARDO SOUSA: So I can't account for the fact that it wasn't there today or when Mr. O'Grady went there, but I can account for the fact that Mr. Glissman installed it on July 10th and that it was

there yesterday. And so I would respectfully request that you allow the applicant to proceed. And if in fact there's a defect of notice, that's a risk that the applicant should take rather than the other way around.

CONSTANTINE ALEXANDER: Okay.

First of all, let me ask Sean a question. If we hear this case, if we continued it, and we heard it another night, I don't think it would be a long debate about it. Can we do it quicker than October 10th?

SEAN O'GRADY: Yes, the October 10th date was simply because we couldn't get all the Board members there until then.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY RICARDO SOUSA: I apologize.

SEAN O'GRADY: That's okay.

CONSTANTINE ALEXANDER: No, no, you

didn't know that. If we wanted to --

SEAN O'GRADY: Not that the solution is very helpful, but the next opening is September 27th. I would say that if you felt you had to squeeze it in before then, perhaps August 23rd. It would be a little tight, but it wouldn't be as destructive as it would be on other nights.

CONSTANTINE ALEXANDER: Does that change your views in terms of wanting to go forward tonight if we can hear it on August 23rd?

ATTORNEY RICARDO SOUSA: It slightly changes my views. I know how important this issue is to the Chairman, and so I respect that request. And so with that, I would accommodate a request to continue the matter to August 23rd. Because I know how important this issue is to the Chairman. And I will work with the building management perhaps and try to understand why it was not

there today.

CONSTANTINE ALEXANDER: Thank you.

Other members of the Board feel otherwise?

DOUGLAS MYERS: I want to ask is anyone else, Sean, is any information that it was seen there today at any time?

SEAN O'GRADY: I went out --

DOUGLAS MYERS: Just trying to get more information, that's all.

SEAN O'GRADY: Is it actually posted on the canal front?

ATTORNEY RICARDO SOUSA: Yes. So on this -- this is what's the front of the building. And so if you walked into that entrance --

SEAN O'GRADY: Okay.

ATTORNEY RICARDO SOUSA: -- this is where it is.

SEAN O'GRADY: Yes, I never looked there because I would interpret the Ordinance

to say you've got to be on the street, and there really is only one street side. It is a very bad street side, too.

ATTORNEY RICARDO SOUSA: Yes.

SEAN O'GRADY: You drive passed it and you never know it's there.

ATTORNEY RICARDO SOUSA: That's the street side.

SEAN O'GRADY: It's out on the street facing the other direction, yes. But I've been in that very, turn around there and getting lost.

ATTORNEY RICARDO SOUSA: The Hotel Marlowe is right next-door.

CONSTANTINE ALEXANDER: The point of fact where the sign should be posted and you say, and just where it was posted, it gets more attention than putting it in the long driveway next to the Hotel Marlowe. Because that's a foot path for the people who use the mall.

ATTORNEY RICARDO SOUSA: I entirely agree. That's why we posted it there. In fact that's where we posted it when Clearwire went on this site originally.

SEAN O'GRADY: If we continue, though, I'd recommend we give you another sign and just put it on the street so we don't have the defect of filing violating the language of the Ordinance.

ATTORNEY RICARDO SOUSA: The only problem with that, Sean, there really is no street. You know, we would have to put it on somebody else's property, the Hotel Marlowe. Our building does not extend to Edwin Land Boulevard. It doesn't extend that --

SEAN O'GRADY: Well, but you have the driveway that goes down passed the restaurant. And usually for that building, the previous cases, had been posted at the end of that driveway.

ATTORNEY RICARDO SOUSA: On a post?

SEAN O'GRADY: Were they on a post?

CONSTANTINE ALEXANDER: Other petitioners in other kind of cases put posts in their front yard if you will.

SEAN O'GRADY: I thought it was either posted to the fence or the wall or something. I'm not exactly sure.

TAD HEUER: But are you land locked with a cross easement to get out?

ATTORNEY RICARDO SOUSA: I don't know the nature of the easements to tell you the truth to get out. We do have a site plan for the entire property.

So I posted it in this entrance on the street right here. There's a driveway that takes us here. So as you can see, there's a distance, there's a huge distance from what is our building to Edwin Land Boulevard. And I'm not so sure we have a right to post anything there.

TAD HEUER: This is a public way?

ATTORNEY RICARDO SOUSA: This is a waterway.

TAD HEUER: Right, but is there any --

ATTORNEY RICARDO SOUSA: No, there's a walkway around and that's it. Just a brick walkway and this is a photo of it.

KEVIN CASEY McAVEY: Can I see your pictures, please?

ATTORNEY RICARDO SOUSA: Sure.

KEVIN CASEY McAVEY: Thank you very much.

SEAN O'GRADY: I thought the property came down there. But that makes it -- yeah.

ATTORNEY RICARDO SOUSA: So that's why Mr. Glissman and I had this discussion where should we post the sign? And the building management of course wanted us to post it, you know, on the back.

CONSTANTINE ALEXANDER: I know

where the building manager wanted you to post it in the sewer somewhere.

ATTORNEY RICARDO SOUSA: And we said no, it absolutely has to be in the front and that's where we posted it.

CONSTANTINE ALEXANDER: Again, I defer to my colleagues. But if you're willing to continue this case to August 23rd, I think that's the better way of going. And it's still your view --

ATTORNEY RICARDO SOUSA: Sure. It's not my preference, Mr. Chairman, but it's the accommodation I'm willing to make out of due respect to the Board and to the process.

CONSTANTINE ALEXANDER: I'm going to make a motion. We can either vote it up or down.

The Chair moves that this case be continued as a case not heard until seven p.m. on August 23rd on the condition

that the Petitioner sign a waiver of time for a decision. And on the further condition that the sign, a sign be posted -- maybe signs might even be a good idea, and changing the date and time to seven p.m. on August 23rd.

All those in favor of continuing the case on this basis say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Three in favor.

(Alexander, Myers, Firouzbakht.)

Opposed?

(Heuer, McAvey.)

CONSTANTINE ALEXANDER: For this matter it's a simple majority, so the case is continued.

(10:15 p.m.)

(Sitting Members: Constantine Alexander,
Tad Heuer, Douglas Myers, Mahmood R.
Firouzbakht, Kevin Casey McAvey.)

CONSTANTINE ALEXANDER: The acting
Chair will call case No. 10296, 54 Montgomery

Street. Is there anyone here wishing to be heard on this matter?

Good evening. As you see, you have to give your name and address for the stenographer. We keep a stenographic record of the meetings.

MEIKLE PASCHAL: Michael and Marilyn Paschal, P-a-s-c-h-a-l, 54 Montgomery Street, Cambridge.

CONSTANTINE ALEXANDER: The floor is yours as to why you're here and why we should grant you the relief.

MEIKLE PASCHAL: Well, we're at a literal enforcement of the Ordinance that would prevent us from rebuilding our fire damaged roof in an economical manner conducive to modern living. We want to extend a dormer which was already in existence and we want to add another 15-foot dormer to the other side of the house to add conformity, symmetry to the building, living

space, headroom in order to --

CONSTANTINE ALEXANDER: From a Zoning point of view, just again this is for the record, you want to add roughly 425 square feet of living space to this house, according to your dimensional form. And you're going to increase the FAR, which is now a non-conforming at 0.788 to 0.852, a roughly 10 percent increase. And you say in your form that the district is supposed to be 4.75. And you're again at the end of the day you'll be roughly twice the density that our Zoning Law requires. Now that's not fatal, but I want to get it on the record. Many of the cases that come before us have this same kind of problem. It's also a question of how bad a problem or how bad a departure that you're seeking. Again, so you understand why I dwell on this issue. Okay.

The question is you had a fire damage to your roof.

MEIKLE PASCHAL: Yes.

CONSTANTINE ALEXANDER: You want to replace it with a different form of roof. Understood.

MEIKLE PASCHAL: Yes.

CONSTANTINE ALEXANDER: The real issue here is you want to add additional space. It's sort of like forget it, maybe if there never had been a fire, but like the petitioners from Lexington Avenue, you want to come here to add dormers to create more living space.

MEIKLE PASCHAL: Yes.

CONSTANTINE ALEXANDER: We have to find, if we're going to grant relief, the law requires that you need this relief because you'll suffer a substantial hardship. And that the hardship is owing to the fact of the soil, shape or structure, of the structure, soil conditions. I forget exactly what it is. That doesn't apply to a structure in any

event. So I guess I have to understand, the Board has to understand, the neighbors probably have to understand as to why you need this additional living space? Everybody needs more space. Understood. Is it -- I mean give us some more reasons as to why beside it would be nice to have more space.

MEIKLE PASCHAL: Well, we're going to occupy this house. I'm retired, my wife is soon to be a retired teacher. And in moving to this space and just accommodating having a house that's not chopped up into small rooms as it was when this property was built.

CONSTANTINE ALEXANDER: So you don't own it right now or you just recently acquired it?

MEIKLE PASCHAL: No, we've had it for a while but it was tenant occupied.

CONSTANTINE ALEXANDER: Oh, I see.

MEIKLE PASCHAL: And it was -- I

don't want to get into the results of the fire.

MARILYN PASCHAL: And we have a son who is disabled and he's has seizures and we need more space.

TAD HEUER: So you're going to be occupying the whole thing?

MARILYN PASCHAL: We're having one rental unit.

TAD HEUER: Roughly what will the sizes, your owner unit and how much of it -- so of the 5109 that you're asking for, how much of that is the rental unit and how much of that is yours? Is it pretty equal?

MARILYN PASCHAL: It's pretty equal.

TAD HEUER: So about 2500 square feet per?

MARILYN PASCHAL: 250 square feet per unit? No. It's 1300 and 1500-square foot.

TAD HEUER: How many units?

MARILYN PASCHAL: Two. And then we're adding the third. We're adding the dormers so we can get two bedrooms up there so my son would have a room.

CONSTANTINE ALEXANDER: But do I understand your response to the question is that you're adding some space to the rental unit as well as --

MARILYN PASCHAL: No, no, no. Just the unit that we're going to occupy.

TAD HEUER: Okay. So you say that you have 47 -- 4,727 square feet now.

MARILYN PASCHAL: That's including the basement.

TAD HEUER: That's including the basement?

MARILYN PASCHAL: Yes.

TAD HEUER: And the basement is not finished presumably?

MEIKLE PASCHAL: No, it's not.

CONSTANTINE ALEXANDER: What's the height of the ceiling in the basement?

MARILYN PASCHAL: It's over seven feet.

CONSTANTINE ALEXANDER: It's over seven feet but does count for FAR? But you're not using it for -- what is it now, storage?

MARILYN PASCHAL: Probably for storage or so.

CONSTANTINE ALEXANDER: If you wish to is it inhabitable? Or is it damp?

MARILYN PASCHAL: We have to -- I think it's, it's okay.

MEIKLE PASCHAL: I would say it's not inhabitable. There's a septic --

MAHMOOD FIROUZBAKHT: French drain?

MEIKLE PASCHAL: Drain. It's open. And it's not really just anything that I would --

CONSTANTINE ALEXANDER: It's not

usable. It's technically living space but not usable living space.

TAD HEUER: And how big is the footprint of the basement?

MARILYN PASCHAL: It's the same size.

MEIKLE PASCHAL: 1500 square feet.

I would like to add that there was already a dormer as you face the house on the left-hand that we just wanted to extend.

MARILYN PASCHAL: Extend it about an eight-foot dormer we want to extend.

MEIKLE PASCHAL: And make it into a gable.

CONSTANTINE ALEXANDER: And the question Mr. Heuer asked, brought out is something to me is important, is that although you have a lot of FAR now and you're going to go more, a good bit of it is not usable. So --

MEIKLE PASCHAL: Exactly.

CONSTANTINE ALEXANDER: -- it's what I'm going to call phantom FAR.

MARILYN PASCHAL: Right.

CONSTANTINE ALEXANDER: So the numbers are not as bad as they may appear in terms of habitability.

MARILYN PASCHAL: Exactly.

MEIKLE PASCHAL: Exactly. Thank you.

CONSTANTINE ALEXANDER: Okay. And the hardship being is that you have a, you have a disabled son?

MEIKLE PASCHAL: Yes.

CONSTANTINE ALEXANDER: You need more living space?

MARILYN PASCHAL: Yes.

CONSTANTINE ALEXANDER: And the structure is an old structure. It's non-conforming. So any addition to the structure even for 10 feet would be require Zoning relief.

MEIKLE PASCHAL: Exactly.

CONSTANTINE ALEXANDER: It's just the part of the living space. And you feel you need all 425 square feet?

MARILYN PASCHAL: Well, that 425 includes the basement.

CONSTANTINE ALEXANDER: Includes the -- now I'm lost.

MARILYN PASCHAL: Doesn't it?

SEAN O'GRADY: 425 is the additional space.

CONSTANTINE ALEXANDER: It's just additional, on top, yes.

MARILYN PASCHAL: And the additional space. Other the 425, I'm sorry.

CONSTANTINE ALEXANDER: Yes, the new space.

MARILYN PASCHAL: Yeah, the new space. Sorry about that.

SEAN O'GRADY: Some of that's also from the new roof.

MARILYN PASCHAL: Yeah, I made a mistake there.

CONSTANTINE ALEXANDER: There's additional space created by changing the nature of the roof.

SEAN O'GRADY: Yes.

MARILYN PASCHAL: Sorry about that.

CONSTANTINE ALEXANDER: Questions from members of the Board at this point?

We're going to take public testimony because I think there's a neighbor here who wants to be heard. The Chair will open this matter up to public testimony. If you want to speak, please come forward and give your name and address to the stenographer.

DONNA CARL: My name is Donna Carl and I live at 72 Montgomery. And I actually came here tonight to speak in opposition to this proposal or to find out about what it was because my feeling and my fear was that because there was a large expansion to come

along would be to create another unit.

MEIKLE PASCHAL: Oh, no.

DONNA CARL: And to increase the density of the street which is already too dense in terms of parking, and many residents like me don't have -- and we've been there for 31 years. We don't have a driveway. So whenever you want to increase the density of the, you know, of the street, then that creates a problem. So I, you know, I guess in terms of that, if that's not going to create a third unit, which is my fear that it would make a third floor unit, then I don't have as many concerns about it. Though I would say that in the past, and I don't know if you were the landlord when this was going on, but in the past, and I don't know what bearing this has on this, first of all, that the house has not been repaired in over a year since the fire. So that's been an eyesore in the neighborhood and a problem. And I don't

know why now you're -- you can repair it because it hasn't been repaired in the past.

And secondly there was irresponsibility on whatever landlord existed before this fire in that there were large parties where there was like scores of kids, you know, out on the streets. Running up and down the streets. The police were called multiple times. There was, there was domestic violence calls out of that house. So that that house, I mean I feel like there was an irresponsibility of the landlord to create a, you know, a house that -- a residence that was compatible with the culture of the neighborhood.

MEIKLE PASCHAL: Can I?

CONSTANTINE ALEXANDER: Sure, sure. Let her just finish.

MEIKLE PASCHAL: Oh, I'm sorry. Please finish.

DONNA CARL: Anyway, my main

concern, however, was about, is about the parking. And so if you're saying that this does not increase that, then I, you know, respect that.

MEIKLE PASCHAL: I was the landlord during that time, and for those reasons that's why the tenants were asked to leave. The children grew up and grew reckless. But I do want to say I came around and I asked the tenant, I asked my neighbors, you know, what was going on and nobody would say anything.

DONNA CARL: Well, you didn't ask me.

MEIKLE PASCHAL: You know, I did the best that I could.

DONNA CARL: Well, I never saw you around the neighborhood ever before all this happened.

CONSTANTINE ALEXANDER: In the past you have not lived on the premises. Now you will.

MARILYN PASCHAL: Yes, we will be living there.

CONSTANTINE ALEXANDER: And that's the best protection against the concerns you want is having an owner-occupied structure with the absentee landlord.

DONNA CARL: That's great.

CONSTANTINE ALEXANDER: Will be causing problems. I don't know if you were a problem. But you were an absentee landlord before and now you no longer will be.

MEIKLE PASCHAL: Absolutely.

DONNA CARL: Thank you very much.

MEIKLE PASCHAL: Thank you very much. Nice to meet you.

MARILYN PASCHAL: You, too.

CONSTANTINE ALEXANDER: Please come forward.

DIANE JOHNSON: Thank you, Mr. Chair. Diane Johnson, 52 Montgomery Street.

PAUL JOHNSON: Paul Johnson, 52
Montgomery Street.

DIANE JOHNSON: We live on the third
floor of the house immediately next to
theirs. I'd like to see drawings. We
haven't had the opportunity to see drawings.

CONSTANTINE ALEXANDER: They've
been in the file.

DIANE JOHNSON: We were away on
vacation.

CONSTANTINE ALEXANDER: Okay. If
you want, if you need a little bit of time --

DIANE JOHNSON: I would just like to
see what the new roof looks like. Okay, I
have it here.

Our bedroom directly looks out over
here, and presently our bedroom window looks
onto roof. With this proposal we're going to
lose all our airflow and all our airflow into
the living room window which are the only two
windows on that side of the house. Presently

we don't have central air conditioning, and we get great ventilation. We live on the third floor. We get great ventilation through there, and we're very concerned that this extension of the roof is gonna block our airflow and make our unit less comfortable.

PAUL JOHNSON: And our view, too.

DIANE JOHNSON: And our view.

PAUL JOHNSON: You know, as it is now, the roof comes up on this pitch and we have view up on both sides. We can see skies and trees which is rare in Cambridge, and I really feel that that's going to really diminish our quality of life. That's my concern. And we have spoken about this, she and I.

CONSTANTINE ALEXANDER: Is the reason you're changing the nature of roof is because you want the additional space or you think it's more attractive? Because you don't have to get relief from us to

change -- and to go to your point, to change the nature of the roof. It's adding the dormers that creates more space, that requires you to come before us.

I'm trying to point out is that your concerns are entirely valid. May not meet what they're planning to do. Their problem from a Zoning point of view is that they want more space. And not that they -- and if they're going to go to a better roof, a better aesthetic roof, they're going to have additional space created that they want to use. So what I'm trying to say in a very awkward way is that they could go forward as a matter of right I believe to put the kind of roof that they want in here, no dormers. You would lose your airflow and they could do it as a matter of right.

PAUL JOHNSON: I disagree that I would use my airflow simply because the new roof without the dormer on being a square box

would still have this, you know, down shape coming in towards our windows.

CONSTANTINE ALEXANDER: Okay.

PAUL JOHNSON: I would disagree with that point. And, you know, that's my point.

CONSTANTINE ALEXANDER: Okay.

Obviously you have not had a chance to have any conversation?

MEIKLE PASCHAL: We have.

CONSTANTINE ALEXANDER: Oh, you have?

MEIKLE PASCHAL: Yes, we have.

MARILYN PASCHAL: Well, the roof that -- the dormer that we have there is not a very large dormer and we're extending maybe another six or seven feet of it.

DIANE JOHNSON: Which will make it completely parallel to our bedroom window.

MEIKLE PASCHAL: If we're within the footprint of the house as it exists and it comes out a little bit and it goes down, so

if there's -- I mean when we talk about square footage and we talk about on both sides of the house, what we're talking about adding is another six or seven feet to a dormer that's already there. And it's probably going to extend not even as much as that table and up a little bit.

MARILYN PASCHAL: And their house is above ours. Ours is not as high.

MEIKLE PASCHAL: Our roof would be coming down.

MARILYN PASCHAL: Our roof is a lot lower than theirs. They have additional floor up there, and it's much higher than ours. I mean, we could say the same thing, that our airflow is being blocked. We could say the same thing.

MEIKLE PASCHAL: I could be wrong, but I think that they have a dormer, there's a shed dormer.

MARILYN PASCHAL: Yes, there is.

MEIKLE PASCHAL: And we're talking about a gable dormer.

MARILYN PASCHAL: We're talking about a gable dormer.

CONSTANTINE ALEXANDER: Anything further you want to add?

PAUL JOHNSON: Anything further you want to add?

DIANE JOHNSON: This is all very confusing, you know? The rules and regulations that govern all of these things. What's allowable, what's not allowable? Who's in charge of what? You know, the whole thing is very perplexing, and I would echo our other neighbor's sentiments that having the house bordered up and getting funky for almost a year was not a great addition in the neighborhood. And so we're glad to see motion, we're glad to see it being repaired. And owner occupied will certainly hopefully cut down on some of the problems. The fire

was a directly caused by the tenant not having electricity.

CONSTANTINE ALEXANDER: Not having electricity.

DIANE JOHNSON: Yeah, it was a candle unattended that set the house ablaze. Which is a terrifying, as you can imagine for us.

MEIKLE PASCHAL: May I --

CONSTANTINE ALEXANDER: We don't need to go into that. I don't want to cut you off.

PAUL JOHNSON: My only other point I want to make is that the tenants previously were using that third floor as a bedroom. It's not undoable, and I think perhaps a dormer on the other side, the neighbor on the other side has driveway and yard before his house and then I think a single or two-story house, but it's much lower might be a feasible option.

MARILYN PASCHAL: And I spoke with most of my surrounding neighbors. I spoke to these neighbors, also, and everyone is delighted that we're moving in and they support us 100 percent on putting up the dormers. When I spoke to my neighbor right next-door to me who are here right now I think they had some concerns with light or airflow, but everybody else is really excited about us adding and moving into the neighborhood.

CONSTANTINE ALEXANDER: Okay.
Anything else you wish to add?

DIANE JOHNSON: Thank you for hearing us.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down.

Sir.

STUART GEDAL: My name is Stuart Gedal, G-e-d-a-l. I live at 72 Montgomery. I think we may have met briefly on the night of the fire. We had most of the tenants or

their kids in our apartment, in our house over at 72. So we, you know, feel very -- I fell very encouraged about it being becoming owner occupied, but I think the issue of density -- there's also a little history having been a little longer than the previous speakers. Lived in that house in 72 for 30 years. There was a development that was put up across the way. The development at 60, 61, 62 there are about four houses. And even though parking spaces were made inside -- in other words, the houses were turned in so they've -- there was 5,000 square feet of property. By right they could have built a very large house. And instead we did some negotiating with -- as a group of neighbors with the landlord, and the houses that are turned in on each other have parking, however, they have guests. And the original people, their children grow up and they have cars. So even with two parking spaces

provided for each of the four houses off the street because there was a curb cut, we -- you can see -- you can see there are people from that small development which is across the street and one house over from your -- you guys, that where the density runs all the way up the street from No. 70 -- from 70, 72 down to 54. So that just having a driveway isn't enough. The small single next to us, an elderly couple dear to everybody, you know, they're no longer with us. They didn't have a car. Successive owners are a young couple with two cars and no driveway for that house as well. So I think that what we need to know is not -- the fact that there would only be two units is reassuring. To understand you're not building a third floor. What I need to know as well is that you're not renting -- how that would be rented out. Because we do have people on the street who basically rent out a second or third floor but

rent it out to groups of individuals. And there may be as many -- while they may have a driveway for the owner, the homeowner has a driveway and parks two cars of theirs, a husband and a wife usually, the tenants may have as many as five cars and park them on the street.

CONSTANTINE ALEXANDER: Sir, I certainly appreciate your concerns about this, but this is not a Zoning issue for us. The issue -- they have two units now. They're going to have two units going forward.

STUART GEDAL: Okay.

CONSTANTINE ALEXANDER: I don't know -- we can't regulate who they can rent their property to and how many cars people will have. Whatever our Zoning Law requires for two-unit building to have parking spaces on-site. But it's very likely if they don't have two, it's very likely we'll call legal

non-conforming. In other words, the house was being used for parking long before the requirement for two parking spaces being created. So there's no suggestion --

STUART GEDAL: There's no legal requirement.

CONSTANTINE ALEXANDER: So there's no legal requirement. Whatever legal requirement being satisfied and will not change should we grant relief tonight.

STUART GEDAL: And just to speak in support of the other neighbors that spoke before, perhaps moving the dormer on to the other side because of the -- I hadn't heard -- did not know their concern before hearing it tonight. But if they're being blocked, that the other side of the house, the side facing Rindge Ave. might be better. I don't know how that works in terms of the floor plan inside, but just to say that that sounds like a solution. You know, you should

have your space, it's your house, but to put the dormer on the other side, it sounds like would make a big difference. And we have a dormer and it is on that left side so it would look fine. All right. So thank you.

CONSTANTINE ALEXANDER: Thank you very much.

MEIKLE PASCHAL: Look forward to an opportunity to talk with you.

STUART GEDAL: That would be great. You definitely should knock on the door.

MEIKLE PASCHAL: Nice to meet you.

CONSTANTINE ALEXANDER: I should by the way state for the record, we didn't get a chance to cover it, the dormer that you're proposing as you point out in your application, does not fully comply with our dormer guidelines which we spoke a great deal about in the prior case. And the reason is you're just too close -- you're not set back from the roof line. It's supposed to be a

foot or so, and you're going to come right to the edge. I think that's --

MARILYN PASCHAL: I think we're coming in a little bit.

TAD HEUER: You're thinking of the side wall.

CONSTANTINE ALEXANDER: The side wall, is that it? Okay. But it's not too long, your dormer. The problem we had in the prior case, and that's usually the major problem with dormers is the size of the dormer. There's no issue just for the record.

MEIKLE PASCHAL: We've made every effort to stay within the conformity even though we do feel that we are largely in compliance with the regulations, that we made every effort to some internal stairway issues where we would need to come up and not bump your head against the ceiling coming in just to be able to have access to a third floor

where basically, you know, our bedrooms would be.

CONSTANTINE ALEXANDER: Questions from members of the Board?

KEVIN CASEY McAVEY: It's always been two units?

MEIKLE PASCHAL: Yes, sir.

CONSTANTINE ALEXANDER: Oh, I should say are there any further comments, public comment?

(No Response.)

CONSTANTINE ALEXANDER: It appears to be none. There are no letters in the file that I saw.

MEIKLE PASCHAL: And there was always a dormer on that side.

CONSTANTINE ALEXANDER: And you've heard the neighbors express a desire that you relocate the dormer from one side to the other and it's your decision you don't want to do that?

MEIKLE PASCHAL: No, we don't want to do that.

CONSTANTINE ALEXANDER: You want to stay with the plans that you presented to us.

MEIKLE PASCHAL: Yes, sir.

MARILYN PASCHAL: And it accommodates the stairs.

CONSTANTINE ALEXANDER: I understand as to why you want to do what you want to do. I'm going to close public comment.

Discussion by members of the Board?
Anybody wish to be heard? Want to go to a vote or people still studying the plans so I'll wait a few minutes.

MAHMOOD FIROUZBAKHT: I'm just trying to understand, is there a dormer on the other side?

MEIKLE PASCHAL: Yes.

MAHMOOD FIROUZBAKHT: Is there a dormer on the right side?

MARILYN PASCHAL: There's one dormer.

CONSTANTINE ALEXANDER: It's going to be two dormers.

MARILYN PASCHAL: There's going to be one on each side.

MAHMOOD FIROUZBAKHT: There's a dormer on the other side?

MARILYN PASCHAL: But originally there is one.

CONSTANTINE ALEXANDER: There was one originally and now you're going to two dormers?

MARILYN PASCHAL: Yes.

MAHMOOD FIROUZBAKHT: Right. So I guess the suggestion of putting a dormer on the other side, there's already a dormer on the other side; right?

CONSTANTINE ALEXANDER: It will reduce the amount of additional space which is what they're looking for. I'm hearing

that internally it's very awkward because you need the other dormer for the headroom for the stairs.

MEIKLE PASCHAL: Exactly.

TAD HEUER: So really the FAR is coming from the hip to the edge not the dormers?

CONSTANTINE ALEXANDER: I think it's both.

SEAN O'GRADY: A little bit of both.

CONSTANTINE ALEXANDER: A little bit of both.

TAD HEUER: But you're not getting 400 square feet by adding two dormers?

SEAN O'GRADY: No, you're getting --

TAD HEUER: Right.

SEAN O'GRADY: -- 100 per each end. I'm guessing now, the numbers, yes.

TAD HEUER: Right. Okay.

MAHMOOD FIROUZBAKHT: Is it that we don't have existing plans of the roof?

TAD HEUER: Your dormer on the left side is -- where exactly are those octagonal windows? Is it on -- it looks like there's one is on the side and one in the front? Or they on -- it looks -- are those being moved?

SEAN O'GRADY: No. Those are the finished windows. The dotted line doesn't show where the window is in this dormer currently.

TAD HEUER: So they face front. Face to the side.

SEAN O'GRADY: Yes.

MAHMOOD FIROUZBAKHT: And then you've got a fixed skylight here towards the back of the house; right? And then a couple of skylights on the other side. And these are not within the setback?

SEAN O'GRADY: I don't know.

MAHMOOD FIROUZBAKHT: So we have enough setback there to allow those --

SEAN O'GRADY: That doesn't matter,

though, that's new roof. So that would need a Variance as opposed to a Special Permit.

(Discussion).

TAD HEUER: Actually, it's not the easiest plan to understand and we look at a lot of plans.

CONSTANTINE ALEXANDER: Yes, I had the same reaction.

MAHMOOD FIROUZBAKHT: So the dormers are going to accommodate what space on the --

MARILYN PASCHAL: Would this be helpful?

TAD HEUER: Maybe. I'll take anything at this point.

MAHMOOD FIROUZBAKHT: This is just the dotted line for the.

SEAN O'GRADY: It's two dormers, so that's why I'm thinking --

MAHMOOD FIROUZBAKHT: Is that the existing roof?

SEAN O'GRADY: Yes, yes, that's some sort of morphing between the two. I think that might be an interim plan.

MARILYN PASCHAL: It probably is.

MEIKLE PASCHAL: Sorry, didn't mean to confuse you.

CONSTANTINE ALEXANDER: Thanks anyway. Nice try, guys.

MARILYN PASCHAL: I just thought this was clear.

MAHMOOD FIROUZBAKHT: So the dormer, you have two closets and a laundry area; is that right?

MEIKLE PASCHAL: Yes.

MARILYN PASCHAL: Yes.

(Discussion).

MAHMOOD FIROUZBAKHT: What do you have, in these mechanical spaces, what do you have going on in there?

MEIKLE PASCHAL: AC, AC handlers.

MAHMOOD FIROUZBAKHT: So you have AC

handlers and then in all these other spaces you have the duct work going in there?

MEIKLE PASCHAL: Right.

MARILYN PASCHAL: Right.

MAHMOOD FIROUZBAKHT: So this is going to be a three-bedroom -- how many bathroom, two bathroom unit?

MARILYN PASCHAL: Yes.

MAHMOOD FIROUZBAKHT: Well, I feel like I understand the plans a little bit better now.

TAD HEUER: What's on the first floor?

MAHMOOD FIROUZBAKHT: That's not shown here, right? It's a unit -- a two-bedroom unit?

MARILYN PASCHAL: No, the regular unit stays.

MAHMOOD FIROUZBAKHT: It's a two-bedroom, one bath on the first floor?

MARILYN PASCHAL: Three bedroom.

MAHMOOD FIROUZBAKHT: It's a three bedroom?

MEIKLE PASCHAL: Three bedrooms.

MAHMOOD FIROUZBAKHT: Who has done these plans for you?

MARILYN PASCHAL: Dick, Lavoie, L-a-v-o-i-e.

MAHMOOD FIROUZBAKHT: And he's an architect?

MARILYN PASCHAL: Uh-huh. Old school.

MAHMOOD FIROUZBAKHT: Old school architect? Old school anonymous architect?

CONSTANTINE ALEXANDER: He didn't put his name on the plans.

TAD HEUER: No name or stamp on the plans.

MEIKLE PASCHAL: You know, one of the --

CONSTANTINE ALEXANDER: I'm sorry.

MEIKLE PASCHAL: It's just been a

long process.

CONSTANTINE ALEXANDER: I can tell from the look on your face.

Let me say by the way while they're studding those plans, we're going to make a motion at some point whether or not to grant you the Variance. If we do grant it, it will be on the condition that the work has got to proceed in accordance with those plans.

MEIKLE PASCHAL: Oh, absolutely.

CONSTANTINE ALEXANDER: Those are the final plans. If you change them, you're going to have to come back before us which is a fate worse than death.

MEIKLE PASCHAL: Right.

CONSTANTINE ALEXANDER: Okay, just so you understand that.

MEIKLE PASCHAL: We've been, you know, we're up against the clock.

MARILYN PASCHAL: And the house is still open waiting for this Variance.

MAHMOOD FIROUZBAKHT: Did you look at any alternative plans? Did you do other --

MEIKLE PASCHAL: Oh, that's been the fourth rendition. Which is why you're seeing these --

MARILYN PASCHAL: We're mixed up because we've tried.

MEIKLE PASCHAL: We've kept and we've talked to, you know -- get as much advice as we can on the internet to make sure that we had the gable roof and not a shed roof. And, you know, we did speak to the neighbors. And I mean to the best of our ability with regards to this. So we're trying to get something that we can live in and we slide into a fixed retirement for the rest of our life.

(Discussion).

MAHMOOD FIROUZBAKHT: I guess the challenge I'm having is trying to work

through your abutting neighbor's issues about light and air given the plans that you're proposing and trying to figure out if there's an easy way to accommodate. I mean, ideally you would have conversations, and some of those iterations of your plans would maybe address some of the concerns that, you know, you would have heard from your abutting neighbors. And so that's my challenge right now trying to figure out how to address those, you know, two competing interests.

MEIKLE PASCHAL: We did speak to our neighbors and explained it to them what we were intending and, you know, at that time it seemed to have been massaged. But what we are doing is not going above the roof line, and it's within the footprint of that side of the house. It's just comes out, I don't know, maybe three feet and then goes down. So I don't understand how it impacts a sight line. The roof has actually been lowered by

some inches. It's not higher. It's actually less.

MAHMOOD FIROUZBAKHT: You're saying the hip roof has been lowered?

MEIKLE PASCHAL: It's been lowered by some inches. I'm not an architect.

MARILYN PASCHAL: What is it, 30? I think it's 29 inches. 29 --

MAHMOOD FIROUZBAKHT: Gus, when you say that they can do this gabled roof as of right, I guess I don't understand that to the extent that this is going to capture FAR.

CONSTANTINE ALEXANDER: It depends how much FAR they capture.

TAD HEUER: Any.

CONSTANTINE ALEXANDER: Any that are required, you're right. I may have misspoken on that. I was focusing on the dormer. But you're absolutely right. If they're going to do this form of roof, they're going to increase their FAR and they're going

to need relief. I was mistaken.

MAHMOOD FIROUZBAKHT: So, I mean, what do we do from here? Because if you proceed and you don't have enough votes, you get turned down and, you know, you can't come back for two years. We sometimes will continue a case like this and give you an opportunity to go and talk with your neighbors and figure out a different approach or design that may work for them.

CONSTANTINE ALEXANDER: Before you react, I know you've indicated before, one further addition to what Mahmood has said. I know you've said time is of the essence if you will. You've got to move ahead. There's been delays for a long time. You have to understand that if we were to vote tonight and we granted relief, if we turned you down you have to wait two years. But let's say -- we'll find out, we vote and grant you relief, they can take an appeal to the Court.

Abutters can take an appeal to the courts and that will tie you up for years. So sometimes people decide to try to work something out with the neighbors to avoid the possibility of a lawsuit. I'm not saying a lawsuit's going to be filed, but that's the risk you would take if you say I want to go forward with these plans. I hear the neighbors, but these are the plans I want or I think we need, and we agree with you, that's not the end of the story. Just so you understand that.

MEIKLE PASCHAL: Okay. Thank you for making that clear.

MAHMOOD FIROUZBAKHT: And then, you know, maybe a fourth one that may be a page out of Brendan's book, we do have, what, two more cases that we're supposed to hear tonight? Another possibility is that you've got your abutting neighbors who are here. You know, you can go to the back room and discuss your plans with them and have further

discussion with them here tonight, and then maybe at that point you can, you know, decide which route you want to take.

CONSTANTINE ALEXANDER: Not having an architect here may be difficult for them to do, but that's certainly an alternative. I don't know if neighbors want to have discussions with you at this point while we go on to other cases.

MEIKLE PASCHAL: We're nice people.

TAD HEUER: Have you seen the plans?

DIANE JOHNSON: No. That was part of the problem.

TAD HEUER: That might help as well. If you can take a look to see everything that's in here, that might help everyone at least being on the same page going forward.

MARILYN PASCHAL: Okay, well, thank you very much.

DIANE JOHNSON: That's what I wanted to see.

CONSTANTINE ALEXANDER: There's the room back there. Take the plans with you.

The Chair will note for the record that we've recessed this case to allow the Petitioners to speak with the neighbors further about the proposed relief.

(Case Recessed.)

(11:00 p.m.)

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

CONSTANTINE ALEXANDER: Now the Chair will call case No. 10295, 100

Cambridgeside Place. Is there anyone here wishing to be heard on this matter?

Good evening.

DANIEL BRENNAN: Good evening. My name is Daniel Brennan. I'm representing PF Chang's on the application. I brought with me a graphics designer to convey --

CONSTANTINE ALEXANDER: Because the hour is late, I want to frame this case very quickly.

DANIEL BRENNAN: Sean gave me a briefing when I first submitted it that it didn't go well two years ago.

CONSTANTINE ALEXANDER: That's an understatement. A little more than two years ago you -- not you, someone else came before us wanting a protruding sign on Commercial Avenue?

DANIEL BRENNAN: Yep.

CONSTANTINE ALEXANDER: Okay. Unanimously we turned it down. We said there

was no hardship, and that it would be a bad precedent for the other tenants in the mall to want the same signs. Two years have passed. Chang's is still in business. Somehow it didn't go out of business because it didn't have that sign, a protruding sign. You've got two big signs there already. One over the front door, and one over --

DANIEL BRENNAN: On the angle.

CONSTANTINE ALEXANDER: -- on the corner, the angle, exactly.

Now you're before us saying it's a hardship if we don't allow you to put a sign because people driving in one direction on Commercial Avenue South will not know that there's a Chinese restaurant, PF Chang's in the building. Why do you think we should change our mind that we reached unanimously two years ago?

DANIEL BRENNAN: I don't know what was said at the prior hearing, but my

understanding was that if you're driving down Commercial Ave. from that direction, if you could see the sign, you could get to the parking area.

CONSTANTINE ALEXANDER: To be sure. But fact of the matter is that you -- everybody would like as much signage as possible, but the business has -- has not been -- you haven't been put out of business. You're still operating. People know where PF Chang's is. Take into account, this is a shopping mall. Most people are not going to be looking for Chinese food. They're going to be driving around and say oh, my goodness, I see a sign for Chinese Bistro, let's pull in here. People are going to the mall, they say, gees, I see there's a PF Chang's in the building, let's have dinner or let's have lunch. Or people who come up the other direction on the street see all the signage. I mean, we do have a problem. You've got to

establish a substantial hardship. And the fact that you've been running this business for two years with the signage that you have, to me demonstrates there is no hardship, confirms the conclusion we've reached two years earlier. And also that we had a deal with the issue about if you, then why not everybody else in the mall, and we're going to have a string of protruding signs off that wall which we didn't like two years ago and at least I don't like today. And the sign you're proposing is too big under our Zoning By-Law, it's too high, and it's improperly illuminated. Why do you think we should grant relief?

ED WONSEK: Mr. Chairman, can I jump in for a moment to help along your --

CONSTANTINE ALEXANDER: I'm sorry?

ED WONSEK: Can I jump in for a moment?

CONSTANTINE ALEXANDER: By all

means, and I'll stop. Go ahead.

ED WONSEK: My name is Ed Wonsek, W-o-n-s-e-k. I work with Arrowstreet Graphic Design. I've been in front of this Board several times and I wouldn't for a second waste your time. We've done a lot of work with the owners NED, and this is the first time working with PF Chang's on behalf the owners, New England Development.

As I said, I would not waste the Board's time with something that's already gone through a Zoning disapproval so I contacted Roger Boothe, Stuart Dash, and Liz Paden (sic) in January to get a new, fresh perspective on it because we were brought in, asked to be brought in by PF Chang's to take another look at it. And prior to setting up a Zoning meeting like this, I wanted to get their take on it in an informal sort of way. I met here in Cambridge at their office and we had a very nice discussion. I brought the

new exhibits, because the original sign fabricator produced very poor exhibits, and I brought new exhibits. He basically turned in a shop drawing to you guys which was just the wrong thing to do. My profession is to really help communicate someone's wishes and ideas, and I wanted to start by meeting with these people so that we didn't get to wasting of your time here. If they had said the same thing at that meeting, we would not be here tonight. All three who I met with at the same time, were highly encouraged by the presentation I was able to give to them, and explaining the reasons why PF Chang's came to us to say could you help us figure out how we could have the City of Cambridge look a little differently with this?

So, if you don't mind, I will go through that presentation with you unless you think you'd really feel strongly about you don't want us to continue.

CONSTANTINE ALEXANDER: Oh, no, no. I don't want to say we have a closed mind. But you have to remember our decision is a Zoning decision, and you've got to meet the Zoning requirements.

ED WONSEK: Absolutely. And all I'm asking is that if you would like to hear the presentation, I have prepared those documents and I would love to talk to you about it. And then we can go from there and see how things go.

I tend to agree, more signage in the environment is not a great thing. Although, there are times when it is appropriate.

DOUGLAS MYERS: Can I make one suggestion? The Board is very willing to hear your presentation.

ED WONSEK: Yes.

DOUGLAS MYERS: In the course of your presentation if you would address the issues that the Chairman raised, it would be

very fruitful.

ED WONSEK: Absolutely.

DOUGLAS MYERS: So we don't have to go back and rehash those points after your presentation.

ED WONSEK: Absolutely. And every document in here -- and do you have copies of it by the way? They were submitted. I have extras with me. I can give you individual ones. I don't know if the boards too much.

KEVIN CASEY McAVEY: That's great.

ED WONSEK: Does anybody need one?

TAD HEUER: You might as well hand them out.

CONSTANTINE ALEXANDER: If you've got them, hand them out. These are what's in the file. This is not new stuff? This is stuff you've submitted before.

ED WONSEK: This is all stuff that's been submitted before. This is what the permit was filed with.

KEVIN CASEY McAVEY: Thank you very much.

CONSTANTINE ALEXANDER: I need one for me, too.

MAHMOOD FIROUZBAKHT: Are you going to have a tattoo parlor in this place too?

ED WONSEK: There's some fluff in here no doubt about it, but it's designed for a reason. PF Chang's is a brand that is very respectful of everything that they do. They're a high quality brand in everything that they do from their print materials to their architecture to their signage. And the first board is just, you know, an example of that. I think we probably all know very well what they are used to producing.

CONSTANTINE ALEXANDER: Right.

ED WONSEK: They also have a corporate look much like Starbucks or any of the other brands out there. And the next page is an example of this particular blade

sign which was not very well represented in a shop drawing that was submitted. I am an environmental graphic designer, which is as you know, a profession that does deal with this type of work; signage and graphic design. And in my professional opinion I think PF Chang's is doing a very respectable job with the signage that they're proposing. Granted we don't -- we have no idea what the Zoning Ordinance are for any of these examples. I'm merely showing them to you, it's much easier to see what the real thing looks like, than a fat sign fabricator shop drawing which was represented two years ago. So let's go through that real quick.

Next is the actual location where they're proposing it. Currently Cambridgeside Galleria has these very small blade signs, non-illuminated, conforming at the time they were put up. One of them is missing. We don't know how it was missing,

but it is gone. And the simple thing would be to put a sign back that conforms and meets that exact size and illumination.

Now there's two things we would like to do: One is that the door into the restaurant is on the actual corner, we are requesting that the existing blade sign that is there be moved to where the old one used to be and the new sign be mounted on the existing brackets that are there for the new PF Chang sign. So that's step No. 1. Which is this page right here. We're saying take this guy and move it over to here.

CONSTANTINE ALEXANDER: That's the next page.

ED WONSEK: That's the next page, right. And only because the new blade sign would be in a better location for visibility and to mark the entrance to the restaurant closer to the restaurant's entrance. And it happens to be a little bit further away from

the street trees which are planted along and very close to the restaurant along that edge.

So, page 5 I believe it is, shows what the sign could look like if it were conforming. And it basically would be the bottom base of the sign that is -- and I only use that as a representation because it happened to be within the Zoning allowance, and I chopped off the entire top of it which would actually show up on the next page as a very small and rather insignificant addition to PF Chang's blade signage.

Now, ultimately if the Board decides this is all that they can have, they may decide that that may help. They may decide that won't. One thing to look at this facade is -- and I have not been involved in every piece of signage on here. In fact, I don't think I was involved on any of this. There's quite a lot going on and there's a lot of attention being asked of all the tenants on

this board. And not aesthetically in an entirely great way. What we're asking --

TAD HEUER: Isn't that why we want to keep everything under 20 feet?

ED WONSEK: Yes, you're right. It definitely is. However, PF Chang's is concerned that -- and from a -- I mean, there is vehicular traffic along this street, and there are concerns that they have lots of requests of people missing the restaurant, trying to find directions, people stopping in the intersection. When I was there taking pictures, people were asking me from the other direction if I knew how to get to PF Chang's. So there are traffic issues out there, and I'm not saying that this sign is going to solve all of those, but it's a step in the direction to trying to resolve those.

CONSTANTINE ALEXANDER:

Understood. I'm a little skeptical, though, if someone wants to go to PF Chang's, they

know the address is Cambridgeside Galleria Mall.

ED WONSEK: Correct.

CONSTANTINE ALEXANDER: How confused is that? They're going to drive in the underground parking lot in the mall and walk up to the restaurant.

ED WONSEK: Well, that's the other hardship that PF Chang's has. They don't have the access to the restaurant from within the mall. Their only entrance is from that corner. That's the only entrance to the restaurant.

CONSTANTINE ALEXANDER: Yes, that's right. Like the other restaurants on the street level, you come up and take the elevator up to the street level and you walk around the corner.

ED WONSEK: Well, and I'm also working with NED right now to help get them signage on the interior to get people who do

come in that way out to the street and out onto -- into that entrance on that side. So this is another step for PF Chang's to try to get people into the mall, park safely so that they're not out on the street trying to find parking on the street or interrupting traffic, because the only entrance is on that corner which is, as you would expect, as you approach any entrance, you expect there to be parking somewhere near there. So the belief is that this blade sign will actually assist people to get into the mall safely and conveniently.

This is the drawing that was submitted originally, and it has all the pertinent information in terms of what the proposed sign size will be, heights above grade, drawn to scale. And I have taken that, those dimensions and superimposed them onto the building to show exactly what the sign would like look. This is drawn accurately,

completely matching the scale of the drawings and elevation so that -- to show that the impact on the facade, what that would involve. And it does also show the existing picture of what's --

CONSTANTINE ALEXANDER: If you will, to the left as you're looking at PF Chang's entrance, there used to be or maybe -- is there still another restaurant over there?

ED WONSEK: To this side? There's a Cheesecake Factory.

CONSTANTINE ALEXANDER: Is it still Cheesecake Factory?

ED WONSEK: They have an entrance inside the mall.

CONSTANTINE ALEXANDER: Okay. But if we give you a sign like you want, why doesn't Cheesecake Factory say we want a sign on the side to allow people coming south to know where the Cheesecake Factory is?

ED WONSEK: Well, as I said, I'm working with NED now to sign the interior of the mall, and the only requests that they've had from any of their tenants for new signage within the mall is from PF Chang's, because PF Chang's is the only restaurant, in fact, the only tenant that does not have access to its restaurant from within the mall arcade. California Pizza Kitchen and Cheesecake Factory are at the end of that main entrance arcade. They both have entrances within the mall directly off of the arcade. They also have entrances from Cambridgeside Place. So they have two entrances.

TAD HEUER: So you're telling us really that PF Chang's needs a hole in the wall inside the mall.

ED WONSEK: They can't because they're blocked by the tenant spaces around them. It's an odd tenant space in that it's the only tenant space that is not actually on

the arcade.

TAD HEUER: Have they impounded this into the rent and said this is a terrible place to rent, we should be paying less money?

ED WONSEK: I don't have any knowledge of what the lease negotiations are.

TAD HEUER: They should.

CONSTANTINE ALEXANDER: Presumably when PF Chang's negotiated the lease, it took into account in the negotiations that we have space that is substandard to Cheesecake Factory and California Pizza Kitchen because they have access direct -- their guests have access to the garage and we don't. That should have been reflected in the economics decision. And I have to come back to the notion that Chang's has been able to survive presumably pretty well without these blade signs. So why now two years later after you've been operating for two years all of a sudden you feel you need to have a blade sign?

ED WONSEK: Well, my, all I can say is that as a professional environmental graphic designer, I can't obviously tell you that this sign -- that that is ultimately your decision to decide if this meets or will not meet your requirements for granting a Variance.

CONSTANTINE ALEXANDER: Fair enough.

ED WONSEK: My professional opinion from a designer standpoint, because I'm a designer and a planner, I'm not a legal person, and I certainly don't have any insights into their lease negotiations. I think they have produced a very handsome sign. I think it will help the traffic flow of getting people in and out of the restaurant not only from the vehicular but also from the pedestrian standpoint. I don't think it has a negative impact on the environment especially given the fact that this is an

amenity in the area for Cambridge. The hotels that are across the street utilize this restaurant quite a bit. And the fact that I've met with several people from the Planning Department who were very much supportive, very much in support of it at the time I met with them. As I said, I would not be here before you now if they said, uh-uh, this is isn't gonna fly, don't even bother trying, or you can try, I wouldn't have bothered. So based on the fact that that meeting occurred and that they were all in support of it, I wanted to come to you on behalf of my client to just let you know in my professional opinion, I think the sign works. But of course that means nothing from a Cambridge Zoning standpoint. Only you can make that decision.

MAHMOOD FIROUZBAKHT: I have a question for you.

ED WONSEK: Sure.

MAHMOOD FIROUZBAKHT: That door, the entrance underneath where you're proposing a banner sign, is that operable, is that used?

ED WONSEK: Yes. The door that's operable is the, this one right here over next to the --

CONSTANTINE ALEXANDER: I don't think it is.

ED WONSEK: This door over here is an egress door. It's not used as an entrance. It's used as egress, it's emergency egress. So the door is right under it -- well, to my left. That is an operable door, but it is an egress door. The actual entrance where they greet you is over here around the corner.

TAD HEUER: Aren't you worried about confusing less people who try to walk into PF Chang's who get frustrated and they walk away and they go to, you know, Borders instead?

ED WONSEK: The main priority of I

think of this particular sign is for vehicular traffic. It's meant to mark the location on the conner of mall, not so much from the pedestrian standpoint. From a pedestrian standpoint, the by the time you get to the windows you're greeted by PF Chang signage on the windows which is only really visible from a pedestrian, not from a vehicle standpoint.

DOUGLAS MYERS: Question: Can you say what are the size of the letters in the PF Chang in two places: One, on the -- I'm now referring to page 8, showing the proposed, your proposed signage. And I was wondering if you can give the dimensions of the PF Chang sign of -- with the little marquis, the little overhang on the left next to Borders. And I'm wondering if you could say the size of the PF Chang letters on the corner above the awning?

ED WONSEK: Are we talking about the

existing signs? The size of the existing signs?

CONSTANTINE ALEXANDER: Yes. The two existing signs.

DOUGLAS MYERS: The two on page 8.

ED WONSEK: Yeah, I don't have those dimensions offhand.

DANIEL BRENNAN: I do. I have those dimensions.

ED WONSEK: But I could estimate as best as anyone.

DOUGLAS MYERS: That would be helpful, thank you.

ED WONSEK: They look to be probably in the order of 12 inches maybe.

CONSTANTINE ALEXANDER: I think they're bigger than that.

DANIEL BRENNAN: Next page will show you the -- one more page.

TAD HEUER: What about a shorter externally illuminated sign that's dropped

below 20 feet?

DANIEL BRENNAN: So the letters are 16 and a quarter inches.

DOUGLAS MYERS: That's the one on the left, 16 and a quarter inch?

ED WONSEK: Also meeting the square footage requirements, which is what I showed in the page --

TAD HEUER: Well, I mean so part of the problem is that you've come in asking for a violation of every single thing that you can ask for for a sign. You haven't given us anything to work with. You've kind of said it's over height, it's oversized, and it's internally illuminated. We only have three things that we look at in the Zoning Code and those are all three of them. So essentially you've said I've come in with a -- I can come in with a more non-conforming sign to ask you to approve. The problem is that -- and I don't know if you're aware or not, I'm not

holding it against you, a year and a half ago we had a pretty big to-do in the city about a sign ordinance. And we passed a new sign ordinance -- well, City Council passed a new sign ordinance, and then there were enough citizen signatures to get a repeal of the sign ordinance before the City Council for a ballot and the City Council decided to withdraw the sign ordinance. What I think I have to take from that is that the City Council or the citizenry really believed that when they say the sign ordinance says this and don't go above this height with internal illumination, they actually really mean that in a way that it may not be as evident if this has just been on the books for years and no one's really paid attention to it. And then they come back and say, oh, you know, it's been on the books since the sixties but nobody really cared. Here we have pretty good evidence as recent as 18 months ago, the city

really does mean what it says it does or believes -- or at least the citizenry believes that the city should mean what it says it does. And that Ordinance says avoid those things or at least minimize one. Be conforming in other ways then and, you know, maybe you can get, you know, internal illumination.

I think part of the problem at least that I am having is that, you've struck out on all three things, and it's hard for me to say that I'm just going to essentially ignore the sign ordinance, that there's nothing I can work with here. That's why I suggest, you know, if you can go shorter, if you could be externally illuminated, could I go a bit on square footage? Maybe in that situation, I don't know. But it's hard to see the same sign we got a couple years ago when I sat on the case, you know, it was a non-start event. I don't really see where it's starting now.

CONSTANTINE ALEXANDER: And on top of all that is the precedent we're setting. We've got to worry I think about that. I mean, if we allow you to do this, then why shouldn't we allow every other tenant or most other tenants in the building to do that? And then we're going have a long string of blade signs which the Board felt before, and I still feel now, is not what we want in the City of Cambridge.

MAHMOOD FIROUZBAKHT: Gus, you know, on that point I, I have to say I disagree with you a little bit because I feel like this particular location is uniquely situated in that, you know, it is a corner location. There aren't any other tenants in this building that have this similar location along Edward Land Boulevard which, you know, frankly I think can benefit from a little bit more activity. And so I think -- and with respect to that concern of precedent, this is

a really unique location. It's a unique streetscape and therefore for me the idea of CVS coming to us and saying we need a similar blade sign, you know, on the same wall, that, I just -- I wouldn't be, I certainly couldn't justify that argument, you know, that that precedent would sway me.

CONSTANTINE ALEXANDER: Why do you feel that way? Someone driving down looking for a CVS, using your example, they have the same problem, they don't know there's a CVS in that building.

MAHMOOD FIROUZBAKHT: Well, because the CVS in that building is designed and located to serve the people in the mall, whereas what I'm hearing, which I think is true, this restaurant should also attract customers other than mall traffic which is the street, you know, the street traffic. It's on a corner location. And so with that location it should attract drivers, you know,

who are going up and down Edward Land Boulevard. That's -- it should serve that population as well, not just mall traffic which is -- the CVS is designed, you know, to serve.

TAD HEUER: So you're claiming it's in the mall but not of it?

MAHMOOD FIROUZBAKHT: Kind of, yes. I mean that's what these guys are saying, too.

ED WONSEK: It's taken out of context of downtown -- of sort of Harvard Square where each building is unique and has its own identity.

TAD HEUER: Oh, I'm going to stop you there for a second. That's not a good example because Harvard Square has an overlay district that expressly allows illuminated signs.

ED WONSEK: No, I wasn't going into that as a --

TAD HEUER: But it suggests that

when the city wants something different from the standard sign ordinance, they create an overlay district to say hey, you can do internally illuminated signs in Harvard Square as a matter of right because we want something new and different and more vibrant there. If they want to do that, there's no reason they can't do that -- where are we, PB something, I presume? A Business A Zone, but you know, they can overlay onto the mall a special signage district because there are lots of stores there and everyone needs to have a sign. I mean, there is precedent in the Ordinance for the city to do that in precisely this situation, and because they've done it. And here they haven't. So, again, it's not a situation where we're saying well, we're looking at kind of a blank slate, we know this -- and this is more legalistic than anything else, we know the city has the capacity to think that way

because they've done it elsewhere in the Ordinance which some have suggested to me that they have to have not wanted to have to do it here. Maybe it's an oversight, but I think as a Board our obligation is to interpret that the City Council knows what it's doing. But we have to have some boundaries and I think that's the one that traditionally is legally that deference that one sets.

MAHMOOD FIROUZBAKHT: But we also get variances from the code every night.

CONSTANTINE ALEXANDER: That's the response. I mean, that's the response.

MAHMOOD FIROUZBAKHT: And in this instance I think it's -- I don't think it's appropriate. I mean, I can hear what you're saying in terms of trying to limit the square footage or, you know, the height, but I look at this elevation and this facade, and I think what they're proposing is quite appropriate

for that facade because it fits right in with what's architecturally there. So frankly I think if they did something shorter or, I don't know, fatter or whatever, to make it more compliant, it wouldn't look as good as what they're proposing here because I think it fits in better.

ED WONSEK: I'm sorry, if I could just address --

CONSTANTINE ALEXANDER: No, no, no, you're fine.

ED WONSEK: There are several comments that have -- and I just want to try to respond to. I was not trying to compare Harvard Square to this location. In fact, the only reason I mentioned it is that, and to your comment, the reason there is probably no overlay district here is that every single tenant in this whole area faces inward and they have their own mini overlay district within the building which is governed by the

landlord obviously. This is the one tenant that's like a building or a tenant in another part of the city; either Harvard Square, Back Bay, whatever you want to call it, where it actually faces outward in the street. And the blade sign which is a very common way to get attention to a business or to direct people to a business in a perpendicular manner to the building is certainly something that is very common in all these restaurants. And the fact that the sign is the size that it is, is because it is in an environment of very large scale buildings, very fast moving traffic, and more in general types of visual and stimulus type noise in that particular corner, and it is a corner location. So, and the fact that it is internally illuminated, also, it is a nighttime location, there are cars driving by at night. So the internal illumination makes a difference when it comes to having a sign of this size.

Again, I -- the only reason we've gone this far is because of Roger and Stuart and Liz's (sic) recommendation that they felt that this was an appropriate addition to the corner of the mall. I understand your feelings on it, and I will take back to the client -- I am not the client. I am only representing the client.

CONSTANTINE ALEXANDER: We haven't taken a vote yet.

ED WONSEK: So I will take all those recommendations obviously back to the client, and that is the last thing I need to really --

CONSTANTINE ALEXANDER: Let me open it to public testimony so I can get it out of the way. Is there anybody here who wishes to speak on this matter? Any comments about PF Chang's, the sign?

(No Response.)

MAHMOOD FIROUZBAKHT: What about

their food?

CONSTANTINE ALEXANDER: The Chair will note that no one wishes to be heard on the matter.

There appear to be no letters in the file so I'm going close public testimony.

By the way, I'm going to compliment you on your presentation tonight. And it's too bad perhaps that you weren't here two years ago. But be that as it may, the facts are what they are.

ED WONSEK: Thank you.

CONSTANTINE ALEXANDER: Anything else you want to add to what you've said so far?

ED WONSEK: No. I think we're ready for a discussion and then we'll have a vote.

KEVIN CASEY McAVEY: Yes. There's one thing I wanted to say, and it's with the most respect with something that you said earlier, that I'll beg to differ, I think with

businesses sometimes hardship is -- a lot of times hardship is more economic. And one thing that I didn't hear you say in your presentation, which I think is one of the first things that I always hear any business say when they're going put a sign out on the sidewalk or on the building, is that there's a lost opportunity to pick up additional revenue that would otherwise go somewhere else or pass by or get lost in the mall. And if someone gives up when they're looking for PF Chang's, then that's the story. I mean, do you feel like you have lost additional revenue because you have not had proper signage outside the building?

ED WONSEK: This is what happens when you send a designer to do a lawyer's job I suppose. I have not had those kinds of conversations with the client. My role in this project is to communicate PF Chang's No. 1. I think very high quality brand. They

are not a CVS. They are not a Best Buy. Everything that they do is meant to improve our experience of dining. I think the environment, I think their architecture is very, very good, and I think their signage is very good. I know from speaking with NED who is my client, our client, Arrowstreet's client for a very long time, that they have been told that their revenue stream is interrupted by the fact that they cannot get people to come from inside the mall to outside because that is why we have been hired to also help them get -- because no one knows how to get there from inside the mall. Everybody who's in the mall expects to be able to get to it because they can get to every other store from within the mall.

Now one of the things we're also working on is when we get the people outside to the street, we want to make sure that when they get around the corner, they're not walking

down passed the restaurant and then heading off down towards --

KEVIN CASEY McAVEY: The Cheesecake Factory.

CONSTANTINE ALEXANDER: Or towards the Hotel Marlowe.

ED WONSEK: So a blade sign, anything that's perpendicular to the sidewalk is going to help pedestrians as well. So I won't tell you that I've heard directly from PF Chang's that there was an economic hardship, a direct impact, that would be erroneous information. However, I don't believe they would be going through the economic cost it's taken to hire us as well as present all this information over the course of many months. We've been working on this for a while now. If they weren't having an economic problem with it. I can't imagine -- the investment in just this is, I'm sure, is more than the just the cost of the

sign to uninstall it and built it. I can only deduce from that investment that they are having an economic hardship because restaurants of this caliber don't just spend money for the heck of it. They just don't want to put a sign for the heck of it. They feel there's an economic return on it.

KEVIN CASEY McAVEY: And the other thing I'll just say to my colleagues is that seems to be an anchor restaurant in a mall, and the best looking thing about that wall is that sign. Everything -- I mean, it's just a vanilla slate. And in terms of if one was going to give a Variance for this, I think it's, I think it does have merit.

CONSTANTINE ALEXANDER: Anybody else wish to comment or do we want to go to a vote?

MAHMOOD FIROUZBAKHT: Is there any other alternative other than go to a vote?

CONSTANTINE ALEXANDER: Recess?

MAHMOOD FIROUZBAKHT: If there isn't, there isn't.

ED WONSEK: My partner and I can go in the back room, maybe we can talk to the neighbors.

CONSTANTINE ALEXANDER: Seriously, there is an alternative to continue the case and go back to your office or with your client and decide if there's a different type of sign less violating of our Zoning Ordinance that would satisfy their objective. If we turn you down tonight, it's two years. If you continue the case to just think about it some more and come back, you might be able to come back with something that can convince us. And if you can't, you get turned down, it's two years you get turned down then. It is what it is. That's your call.

MAHMOOD FIROUZBAKHT: You need four Board members to approve --

CONSTANTINE ALEXANDER: Yes, you're

not a lawyer. To get the relief tonight or whenever, you need four out of five.

ED WONSEK: I'll need your consultation on this because you were actually the person of record on the --

DANIEL BRENNAN: We can go to a vote I guess.

CONSTANTINE ALEXANDER: You have -- what was that?

ED WONSEK: You have the authorization to make that decision?

DANIEL BRENNAN: Yes.

ED WONSEK: Okay. All right.

I have to defer to -- he is actually the applicant.

CONSTANTINE ALEXANDER: I'm sorry, I just didn't catch it. You're going to go forward?

DANIEL BRENNAN: Yes, we can go for a vote.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we grant a Variance to the Petitioner for the sign being proposed, the blade sign being proposed, on the grounds that a literal enforcement of the provisions of this Ordinance would involve a substantial hardship to the Petitioner. Such hardship being is that persons driving or supposedly walking south on Commercial are not necessarily aware of the location of this restaurant.

That the hardship is owing to basically the shape of -- the nature of the structure itself. It's a structure that provides no internal access to the restaurant, therefore, people have to come from the exterior, and that there is a -- the nature of the wall there precludes any other signage. And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of this

Ordinance.

The motion there being that although the sign as proposed is larger than our Zoning Law permits, it is higher -- it would be located higher than our Zoning Law permits, and will be internally illuminated which our Zoning Law does not permit. That nevertheless, it is an anchor restaurant to a substantial mall as part of the city, and the public welfare of the city or the citizens of the city on balance would benefit from the better signage or the different signage that's being proposed by the Petitioner.

The Variance would be granted on the condition that the work proceed in accordance with plans submitted by Arrowstreet Graphic Design. They are nine pages. The first page of which has been initialed by the Chair.

All those in favor of granting the Variance on the basis of the motion I just made, please say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: One, two.

(Firouzbakht, McAvey.)

CONSTANTINE ALEXANDER: All those
opposed?

(Alexander, Heuer, Myers.)

CONSTANTINE ALEXANDER: One, two,
three.

The motion obviously doesn't pass.
And for the record, the reason -- I want to
confirm that it didn't pass for the same
reasons it didn't pass two years ago; namely,
that the Petitioner has not demonstrated a
sufficient hardship within the meaning of our
Ordinance, and the fact that we are concerned
that granting relief here because of the
precedent set would derogate from the intent
and purpose of our Ordinance.

ED WONSEK: Thank you.

KEVIN CASEY McAVEY: Thank you,
guys. Good luck.

MAHMOOD FIROUZBAKHT: See you in
two years.

(11:30 p.m.)

(Sitting Members: Constantine Alexander,
Tad Heuer, Douglas Myers, Mahmood R.
Firouzbakht, Kevin Casey McAvey.)

CONSTANTINE ALEXANDER: The Chair will now call a case we just recessed recently, case No. 10296, 54 Montgomery Street.

Okay, well tell us -- with baited breath we want to hear what happened when you met with your neighbors.

MEIKLE PASCHAL: Well, if we had this to do again, we would have sat down with our neighbors and shown them the architectural drawings so they would have had a better concept as opposed to reading what was on the posted sign which misled them. And we have come to an understanding that is favorable for all of us. And they better understand. It's not a shed that goes all the way out to, you know, would obstruct their airflow and view of the trees and other foliage.

CONSTANTINE ALEXANDER: We're going to need revised plans then.

MEIKLE PASCHAL: No, no.

TAD HEUER: They're saying they understand what's on the plan.

CONSTANTINE ALEXANDER: Oh, I'm sorry, I misunderstood. It's a long night.

MEIKLE PASCHAL: Everybody's happy; right? Okay? We're all happy. We're all happy thus far.

CONSTANTINE ALEXANDER: Okay, I think we're ready for a motion then.

MEIKLE PASCHAL: Okay.

CONSTANTINE ALEXANDER: We agree? Everybody agree?

Okay, the Chair moves that a Variance be granted to the Petitioner to rebuild a fire damaged hip roof containing one dormer and to replace it with gable roof with two dormers.

The Variance will be granted based on the findings that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship.

That hardship being that the Petitioner, particularly given the particular family situation, needs additional living space. And that also that some of the addition, need for relief had been created by the fact of a different roof style which is more aesthetically pleasing.

That the hardship is owing to the shape of the structure. And it's already a non-conforming structure, so any modification to increase living space requires Zoning relief. And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of this Ordinance.

The relief being sought would improve the quality of this house and, therefore, the housing stock of the city.

That it is a plan now with some discussion seems to meet the approval of all

neighbors and any objections from neighbors anyway seems to have been withdrawn. And as I said, there seems to be no opposition within the neighborhood.

The Variance will be granted on the condition that the work proceed in accordance with plans submitted by the Petitioner.

There are three pages. All three pages of which have been initialed by the Chair.

All those in favor of granting the Variance, please say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Variance granted.

(Alexander, Heuer, Myers, Firouzbakht, McAvey.)

(11:30 p.m.)

(Sitting Members: Constantine Alexander, Tad Heuer, Douglas Myers, Mahmood R. Firouzbakht, Kevin Casey McAvey.)

CONSTANTINE ALEXANDER: For the

record, the Chair will call case No. 10297, 48 Amory Street. Please for the record, as you've heard before, identify yourself, name and address for the stenographer.

SUSAN HEILMAN: I'm Sue Heilman, H-e-i-l-m-a-n, 48 Amory Street.

WALTER SILVER: Walter Silver, S-i-l-v-e-r.

BOBBY WILLIAMS: I'm Bobby Williams. I'm the designer.

CONSTANTINE ALEXANDER: Okay, you want to replace an existing decayed deck and egress stair with a new deck and egress stairs with an enclosure under for storage.

SUSAN HEILMAN: Yes, exactly.

CONSTANTINE ALEXANDER: Okay.

SUSAN HEILMAN: So we've been living in this house for a little bit more than 23 years. And when we've moved in this exterior stair was attached to the side of the house, and it is exactly, you know, the way

that it was when we moved in. And other than paint that we have applied a few times. And finally -- it was probably installed, you know, many years ago before we bought the house. It's finally, you know, really starting to deteriorate. And we've in a way jury rigged a storage unit underneath it for our bikes which we use to commute to and from work, both of us, all the time. And we can't really stand up in this jury rigged space, and the bikes don't really stay dry. And so when we decided that we wanted to -- well, we want to kind of replace the stairs with something that was a little bit more attractive, and then we thought we obviously should get rid of the tarps and the plywood that we've used for this bike storage. And we discovered that by even changing it all, we needed to come here. And that led to meeting Bobby and having him help us design something that would meet all the requirements of either

the -- what we wanted to do with this space, which is mostly storage, and then keep the egress and the stairs as well. And so he has, he has done so. And we are hoping because of our situation and our land lock nature of our lot, and the FAR, etcetera, we have to come before you.

CONSTANTINE ALEXANDER: You don't have an FAR problem?

BOBBY WILLIAMS: No, just a setback.

CONSTANTINE ALEXANDER: Setback.

SUSAN HEILMAN: Sorry, setback. Don't ask me to explain it.

CONSTANTINE ALEXANDER: Is it a rear setback? I couldn't tell from the application.

BOBBY WILLIAMS: It's actually in violation of the rear and front because the whole -- the whole stair sits within the rear setback. And then the -- and it's the stair itself that I think we calculated the setback

to be 16 feet, six feet. The existing stair is at 16 feet. So we will be expanding to the front is what we're looking to do, and by doing that we're essentially violating both because even though we're not getting close to the rear, we're still in violation of the rear and then the front because we're getting close to the front.

CONSTANTINE ALEXANDER: This is a land locked lot?

BOBBY WILLIAMS: Yes. You can see this is the plot plan. They have an eight-foot easement that goes 43 feet to the street.

CONSTANTINE ALEXANDER: That's the only way you get into to the backyard?

SUSAN HEILMAN: That's the only way we can get to the house.

CONSTANTINE ALEXANDER: Actually to the house, right.

SUSAN HEILMAN: Right. There's no

other entrance to the house.

WALTER SILVER: It says 10 feet there. It's really 30 inches.

BOBBY WILLIAMS: Susan and Walter have had several conversations with their neighbors. They've had five letters of support that's been submitted with the application. And since we've submitted the application, we received a sixth letter of support which I do have here.

CONSTANTINE ALEXANDER: Do you have a copy?

BOBBY WILLIAMS: Yes, I have it here.

WALTER SILVER: And can I say that one of the reasons why we want to do this is that we've always considered this an ugly sort of just slap-dash addition to the house, and we'd like to make it look like part of the house integrated with the design of the house and just be a more attractive.

SUSAN HEILMAN: Attractive and usable.

WALTER SILVER: Yeah, piece of the house.

CONSTANTINE ALEXANDER: Okay. Questions at this point from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Is anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Okay, no one wishes to be heard.

Okay, before I close public testimony I will read into the record the fact that there are now six letters of support for this project. I'm not going to read the letters themselves. They are incorporated by reference in their entirety into the record, but the letters come from a Julie Woods-Neilson (phonetic) who is an abutter of

48 Amory Street.

BOBBY WILLIAMS: That's this one right here.

SUSAN HEILMAN: She is the building manager for a very large apartment building that's on Prospect Street.

CONSTANTINE ALEXANDER: Yes, Cambridge Housing Authority.

We also have a letter of support from the occupant of 42 Amory Street, Debra Wekstein, W-e-k-s-t-e-i-n and David Kravitz, K-r-a-v-i-t-z.

A letter of support from the owners or the occupant of 44 Amory Street, Christine Wittmann, W-i-t-t-m-a-n-n and Roscoe Brady.

A letter of support from Johnson and Rebecca Shing, S-h-i-n-g who reside at 56-58 Amory Street.

And also one from Patricia Goodheart. I'm not sure from her -- it's an e-mail. I don't know where she resides.

SUSAN HEILMAN: 44 Amory Street.

CONSTANTINE ALEXANDER: Well,
anyway she's in the neighborhood.

SUSAN HEILMAN: She's an abutter.

CONSTANTINE ALEXANDER: An abutter.

WALTER SILVER: She's No. 50.

CONSTANTINE ALEXANDER: Okay.

Comments from members of the Board?

Ready for a vote?

Okay. The Chair moves that we grant a Variance to the Petitioner to proceed with the work proposed based on the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner.

The Petitioner needs improved rear deck and additional storage area. That the hardship is owing to basically the shape of the lot. The lot is a land locked lot, and one that creates all kinds of setback

requirements or problems should you want to do any kind of addition to the structure.

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

In this regard the Chair would note that the relief being sought in terms of its impact on the community is relatively modest.

That the project has support from all abutters and otherwise improves the quality of the structure, the property itself, and which is all to the benefit of the citizens of the Cambridge.

All those -- and I'm sorry, the Variance be granted on the condition that the work proceed in accordance with plans submitted by the Petitioner numbered A0.0, A0.1, A0.2, A0.3, A1.1, A2.1, A4.1. First page of which has been initialed by the Chair.

All those in favor of granting the

Variance say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Heuer, Myers, Firouzbakht, McAvey.)

(Whereupon, at 11:40 p.m., the Zoning Board of Appeals Adjourned.)

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

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set

my hand this 9th day of August 2012.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
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