

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JANUARY 9, 2014

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Brendan Sullivan, Member
Thomas Scott, Member
Janet Green, Member
Douglas Myers, Associate Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:00 p.m.)

(Sitting Members Case #10464: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call the Zoning Board of Appeals to order. And we'll start, as we always do, with our continued cases. The first case I'm going to call is 286 Concord Avenue.

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

ATTORNEY SUSAN ROBERTS: Good evening. Susan Roberts, Anderson and Kreiger here for AT&T. Just to give you an update. We understand that Mr. Hughes is not here. We've sent as of, I think it was this past Monday, a request to the Board to have the matter continued as a result, and so we're here tonight to get a new date.

Just to give you an update, we did have

a neighbor meeting, and we met last night with all of the people who are here tonight, and I am just going to wait to get a new date. I think there's some material that we are hoping to submit, so I would like ample time to be able to make sure that our drafts are finalized and in order.

CONSTANTINE ALEXANDER: Do you have a date in mind?

ATTORNEY SUSAN ROBERTS: So I think the 30th of January won't work for us. I'm a little bit too afraid of getting that too tight. So the meeting after that, would that be --

SEAN O'GRADY: I'll swap you with -- February 13th.

ATTORNEY SUSAN ROBERTS: I think that would be great.

CONSTANTINE ALEXANDER: Do we know

whether Tim can make it on the 13th?

BRENDAN SULLIVAN: I am not here on February 13th.

ATTORNEY SUSAN ROBERTS: Oh, that date's out now?

SEAN O'GRADY: And January 27th is out also.

CONSTANTINE ALEXANDER: You mean January 30th.

SEAN O'GRADY: I'm sorry, February 27th is also out. So it's either 1/30 or 3/13.

JANET GREEN: What about the second February, the 24th?

SEAN O'GRADY: The second February is already booked unless you want to overbook.

CONSTANTINE ALEXANDER: No, but will you be here on the second in February

hearing?

BRENDAN SULLIVAN: February I'm out from the 6th to the 15th.

CONSTANTINE ALEXANDER: What's the date in February?

SEAN O'GRADY: The 13th or the 27th.

CONSTANTINE ALEXANDER: 13th is out because Brendan won't be here.

SEAN O'GRADY: 27th is already fully booked.

CONSTANTINE ALEXANDER: We can squeeze it in.

ATTORNEY SUSAN ROBERTS: You'll squeeze us in?

CONSTANTINE ALEXANDER: Sure.

ATTORNEY SUSAN ROBERTS: Awesome.

CONSTANTINE ALEXANDER: Let me just tell the folks for a second, I'm going to explain this on the record what I was

explaining to you before. We need the five members to decide this case who were here when we first heard the case. And the fifth member is Tim Hughes who could not make it tonight. And so they have -- they've asked to continue the case for the reason I explained. They need four votes to get approval. If there's only four of us, they need an unanimous vote. If there's five of us, they can get one dissenting vote. So the odds are obviously better when you have five rather than four. So they're requesting the 27th. I don't know what -- is that a problem for any of you or a majority of you to come back here on the 27th? I'm going to also ask, by the way, before you answer. Ms. Roberts, whatever materials you prepare, I want you to have a neighborhood meeting before the 27th.

UNIDENTIFIED AUDIENCE MEMBER: I

think we have some things to say because she was allowed to say what they have done. We have some stuff we'd like to at least report to you.

CONSTANTINE ALEXANDER: The trouble is we should not get into the merits of anything that might go to why we should or should not grant relief because Mr. Hughes isn't here. He won't hear what you have to say.

UNIDENTIFIED AUDIENCE MEMBER: Can you just define a neighborhood meeting?

CONSTANTINE ALEXANDER: Could I define a neighborhood meeting? What would you like for a neighborhood meeting? What would you define it as? I'm trying to make sure -- putting pressure, if you would, on these folks to do what the neighbors need to have done for -- it's in their interest, too.

They should want to get your support.

UNIDENTIFIED AUDIENCE MEMBER: I would like to respond to that, but the problem is it's getting into some substance of somewhat Harvey had just said irregularities about what was requested of them to do by Monday that hadn't been done.

CONSTANTINE ALEXANDER: Well, if they haven't changed -- whatever they are, I don't want to get into what it is. But they'll have a chance to correct those irregularities.

UNIDENTIFIED AUDIENCE MEMBER: They were supposed to have a neighborhood meeting and they did not properly give notice. And so there's a whole thing where we can only go to so many meetings. So in other words, theoretically they've already had one, but it was not done in a way that was even --

CONSTANTINE ALEXANDER: Where was the meeting held?

UNIDENTIFIED AUDIENCE MEMBER: It was at --

UNIDENTIFIED AUDIENCE MEMBER: The Cafe on Concord Avenue.

CONSTANTINE ALEXANDER: Oh, okay.

UNIDENTIFIED AUDIENCE MEMBER: It would need to be held -- I would find a meeting, a neighborhood meeting of people surrounding the whole building. That's residents on Walden Street, residents on Saville Street, residents on Concord Ave. at least. And residents on Appleton Street. That's not occurring. The meeting should be held in a public place where they could accommodate people, and a meeting notice should be mailed out at least three weeks prior.

CONSTANTINE ALEXANDER: Well, wait a minute. Where would we have this public place?

UNIDENTIFIED AUDIENCE MEMBER:
Library, school.

CONSTANTINE ALEXANDER: Well, the library, you've to get them to consent to a room.

UNIDENTIFIED AUDIENCE MEMBER: I think the thing is they've already been asked to do this the last round and not only did they not do it, those of us -- there were four of us that had been at the meeting that were not even notified. The only way that I found out is that I came to get the meeting notes and your staff was really lovely and gracious, said by the way, there's going to be a meeting. And I said, four of us have never even heard about it. And so we found out like

the day before, or I guess it was like the Monday night, you know, before -- and it was being held Wednesday. So, and in that sense they didn't follow the earlier request. And to keep asking us to go to meeting after meeting over the same issues, we -- you know, there's already been one that a number of us have gone to.

CONSTANTINE ALEXANDER: Well, it's in their interest to try to, at least, get you folks's support of what they want to do. To the extent that they're not doing a good job, they're not going to get your support, that's not going to sit well with our Board. It's not determinative. I want to be very clear. We're not going to make a decision by taking a head count of the neighbors. We'll make a decision as to what's proper as a matter of law under the Ordinance.

Ms. Roberts, this is extra judicial. We have no right to require a meeting. I'm just trying to move this thing along and then try to get some peace or some definition before we make our final decision.

Do you have any thoughts?

ATTORNEY SUSAN ROBERTS: So here's what I would say, the -- as I mentioned before, there are materials that we are planning to submit.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SUSAN ROBERTS: And some of these materials were not ready when we had -- thought they would be which is why we waited to have the meeting until last night. And that we're hoping to correct what the passage of time, and we're -- we at this point know what our design looks like. We know what our drawings are going to look like.

And so we're just sort of getting our ducks in order at this point. And I'm happy to have another meeting when we are going to submit everything final to you, it's not yet in final form and --

CONSTANTINE ALEXANDER: We're talking about the 27th of February. That's almost two months from now.

ATTORNEY SUSAN ROBERTS: Yeah. And I think --

CONSTANTINE ALEXANDER: You should be ready.

ATTORNEY SUSAN ROBERTS: I think that would be fine. I think that would be fine.

CONSTANTINE ALEXANDER: I'm sorry.

ATTORNEY SUSAN ROBERTS: And what -- I mean, I guess what I can do after this meeting is talk to the people that are

here, all of whom with one exception, were here -- were with us last night at the meeting, to ask about timing of a meeting that we would hold for the purpose of providing them with all of the materials that we're going to submit. And to the extent that there would need to be any back and forth, that might not allow time for us to, you know, revise anything if we were gonna do that, that's --

CONSTANTINE ALEXANDER: I'm going to suggest --

ATTORNEY SUSAN ROBERTS: I want to be clear to have sometime --

CONSTANTINE ALEXANDER: Sorry.

ATTORNEY SUSAN ROBERTS: I don't want to submit anything to them, and then if we decide to make a change as a result of listening to them, I don't want us to be

backed up to that Monday before the hearing date.

CONSTANTINE ALEXANDER: That's a fair comment. And my suggestion, and this is only a suggestion, have a meeting with the neighbors two weeks before the Monday deadline for submission of the materials. Try to set it up for that or give or take a day or two. That will give you an opportunity should -- as a result of the meeting, you have to revise the materials, you'll have almost two weeks to do it. And I think given the fact that it's far down the road, I think you'll have enough time to be prepared. So that would be my suggestion to you and to the neighbors. Beyond that, where you meet and everything else, I'm going to step out of this. We've gotten farther than we should get. It's not our business in a

sense.

ATTORNEY SUSAN ROBERTS: Right. I would just ask one question which is the meeting after the 27th, what's the date of that?

CONSTANTINE ALEXANDER: We're not going to have this member.

ATTORNEY SUSAN ROBERTS: Okay. You're not there. We're definitely doing it on the 27th. Yeah, okay. So that's clear.

CONSTANTINE ALEXANDER: You follow?

UNIDENTIFIED AUDIENCE MEMBER: If any change, the city going to let us know?

CONSTANTINE ALEXANDER: If you have a meeting and they make changes -- she makes changes, I would hope that they would notify you about the changes. In any event, those changed materials, the final materials will be in our files across the street no later

than the five p.m. on the Monday before the February meeting date. You can always go to Sean, see Sean and see the plans there. But I would expect and hope that they would not force you to do that, but they would let you know what the changes are going to be, and in some fashion make them available to you.

UNIDENTIFIED AUDIENCE MEMBER: And I know you can't guarantee this, but hopefully the five original members will be here that night.

CONSTANTINE ALEXANDER: That's right.

UNIDENTIFIED AUDIENCE MEMBER: I know you can't guarantee it.

CONSTANTINE ALEXANDER: God willing and the creek don't rise five of us will be here. Although we don't know about Tim.

SEAN O'GRADY: Well, we do. I got a

little confused there.

CONSTANTINE ALEXANDER: We do?

Okay.

All right?

UNIDENTIFIED AUDIENCE MEMBER: So it's February 27th?

SEAN O'GRADY: February 27th.

CONSTANTINE ALEXANDER: Yes.

UNIDENTIFIED AUDIENCE MEMBER: One more question. So any irregularities that happened in terms of this meeting would be part of the record for the next meeting?

CONSTANTINE ALEXANDER: Well, if you want to bring up these irregularities, you'll have an opportunity at our February 27th meeting to the extent it's relevant. You know, and have not been corrected between now and then, but yes, you can bring it up then. I can't get into the merits or any of

these irregularities tonight because Tim's not here. Understand?

UNIDENTIFIED AUDIENCE MEMBER:

Thank you.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued as a case heard until seven p.m. on February 27th. This being a case heard, and the Petitioner having signed a waiver for a time for decision on the conditions that the signage be maintained for the two-week period required under our Ordinance with the correct new date, February 27th, and the new time or the same time, seven p.m.

And on the further condition that to the extent that you are -- any plans that you're going to put in the file for us to consider on February 27th, as you know, they have to be in our possession or have to be filed no

later than five p.m. on the Monday before the February 27th.

Everything else we talked about, that's between you and the -- that's not a requirement.

All those in favor of granting the continuance say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Alexander, Sullivan, Scott, Green.)

CONSTANTINE ALEXANDER: We'll see you and you and you on the 27th. Hopefully.

* * * * *

(7:15 p.m.)

(Sitting Members Case #BZA-002818-2013:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002818-2013, 541
Massachusetts Avenue.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair
notes there is no one wishing to be heard.

The Chair would report -- where's the
letter?

SEAN O'GRADY: I thought there was a
letter.

CONSTANTINE ALEXANDER: No. Did
they report to you that they wanted to
continue the case?

SEAN O'GRADY: Maria spoke to Bill

and that's what Bill said.

CONSTANTINE ALEXANDER: There's no one here. We'll continue it because no one's here.

SEAN O'GRADY: I read the letter. He actually asked for a continuance on the 30th.

CONSTANTINE ALEXANDER: What date did you want to continue it to?

JANET GREEN: The 30th.

CONSTANTINE ALEXANDER: January 30th?

SEAN O'GRADY: January 30th, yes.

CONSTANTINE ALEXANDER: Okay.

This case has already been continued once so we already have a waiver of time for a decision.

Okay.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued again until January 30th at seven p.m. on the conditions that the sign, the posting sign be modified once again to reflect the new date, January 30th, the new time or the same time seven p.m., and to reflect and to be -- that sign is to be maintained for the period required under our Ordinance.

And on the further condition that to the extent that the Petitioner wants to submit additional materials, plans and the like, they must be in our files by five p.m. on the Monday before January 30th.

All those in favor of continuing the case, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Alexander, Sullivan, Scott,
Green.)

* * * * *

(7:15 p.m.)

(Sitting Members Case #10527: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10527, 6 Cutler Avenue.

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

FRANK SHIRLEY: Good evening. Thanks for having me. My name is Frank Shirley, and I am the architect for this project representing the homeowners Stephanie Haims and Vic Severino (phonetic).

Before you, the original application included a garage which -- a one car garage, and we would like to ask the Board to remove that from consideration as part of this project for tonight which leaves for you to consider just the dormer on the roof, on the

one side of the roof.

CONSTANTINE ALEXANDER: 36-foot
dormer.

FRANK SHIRLEY: That's right, yes.
That's what we're asking for 36-foot of FAR
relief.

CONSTANTINE ALEXANDER: Right now
you're at 0.79 FAR --

FRANK SHIRLEY: That's correct.

CONSTANTINE ALEXANDER: -- in a 0.5
district. And you're going to go to 0.50, 36
feet.

It appears to be the case, but just
confirm, does your dormer, proposed dormer,
comply with the dormer guidelines?

FRANK SHIRLEY: Absolutely. It's
setback from the facade by a foot and a half.
It's well back from the back facade, and it's
well below the ridge.

CONSTANTINE ALEXANDER: And it's obviously not more than 15 feet in length.

FRANK SHIRLEY: Oh, yes.

CONSTANTINE ALEXANDER: I just wanted to get it on the record.

FRANK SHIRLEY: It's half that.

CONSTANTINE ALEXANDER: Okay, pretty clear and simple.

And these plans attached to your letter, these are the final plans for the dormer?

FRANK SHIRLEY: Yes.

CONSTANTINE ALEXANDER: I just ask that because when we do approve, assuming we approve, we tie them to the plans.

FRANK SHIRLEY: Absolutely.

CONSTANTINE ALEXANDER: And if you modify them, you're going to have to come back before us.

FRANK SHIRLEY: Understood. That dormer as shown in those drawings is correct. That's the dormers we are going to proceed to build.

CONSTANTINE ALEXANDER: Any questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Okay.

Anyone here public wishing to be heard on the matter? I'm opening this up to public discussion.

(No Response.)

CONSTANTINE ALEXANDER: We do have letters in the file which I do want to make part of the record. We have a letter from Michael A. Sullivan, Esq. (Reading) Dear Members of the Board of Zoning Appeal: It is our understanding that our neighbor Stephanie Haims has petitioned to add a

garage to fix their property. That's gone.

FRANK SHIRLEY: That's correct.

CONSTANTINE ALEXANDER: (Reading)

Fix the summer sleeping porch, which is at risk of falling down, and to add a dormer to their home. We have had a chance to speak with Stephanie and review copies of the plans she sent to abutters. Based upon this we wish to request that you act favorably on their Petition. And it's signed Michael and Denise Sullivan.

There's also a letter from an Alan A-l-a-n, V. Sulikowski, S-u-l-i-k-o-w-s-k-i who resides at 40 Huron Avenue. The letter is dated October 21st. (Reading) I would like to express my opposition to the petition of a Variance regarding construction on the premises located at 6 Cutler Avenue requested by Mrs. Stephanie Haims and architect Frank

Shirley. In the next paragraph deals with the garage. It's gone.

FRANK SHIRLEY: That's right.

CONSTANTINE ALEXANDER: It continues, and I'm not sure where this goes. (Reading) But I am a direct abutter to their property and I am very concerned with privacy issues. Any addition of buildings and building volumes are going to be visible from my property. The grade on 6 Cutler Avenue is significantly higher at the building site than the grade on my property line. I have young children that play in the yard next to the property at 6 Cutler, and we have always enjoyed the open space and landscape of the area. I would kindly ask the Board to take into consideration these issues that are very important to our family. I have attempted to talk with Mr. Shirley and Mrs. Haims without

response. A sensible resolution might be a mutually agreed solid fence and tall vegetation to screen the construction. We're happy to welcome new families to the neighborhood and hope for mutual understanding of what is important for every party.

I think this is my gloss, and a lot of this goes back to the garage.

FRANK SHIRLEY: I believe all of that is with regard to the garage. And that must have been written quite early. We've had actually a couple --

CONSTANTINE ALEXANDER: October 21st.

FRANK SHIRLEY: Yeah. So I've actually talked to Mr. Sulikowski at least twice on the phone, and Ms. Haims has actually visited their home and didn't meet

with Mr. Sulikowski but met with his wife, and that was at least a month and a half ago. And when he and I spoke, and this is all dating, you know, October range, his exclusive and only expressed opposition was to our garage.

CONSTANTINE ALEXANDER: Is the dormer you're proposing, I forget which side of the building it's on, does it face --

FRANK SHIRLEY: No, it does not, no.

CONSTANTINE ALEXANDER: But they can't see the dormer --

FRANK SHIRLEY: No. Anybody -- so if the dormer gets built and you're standing at the dormer, you cannot see Mr. Sulikowski's property because it faces 90 degrees from where their property is.

CONSTANTINE ALEXANDER: Okay.

I'm going to close public testimony.

Questions from members of the Board,
comments or ready for a vote?

Okay.

You're seeking a Variance as I recall,
right?

FRANK SHIRLEY: Right.

CONSTANTINE ALEXANDER: The Chair
moves that this Board make the following
findings:

That a literal enforcement of the
provisions of the Ordinance would involve a
substantial hardship to the Petitioner.
Such hardship being that the Petitioner needs
additional space, light in particular, and
space to be created by the dormer to improve
the inhabitability of the structure. That
the hardship is owing to circumstances
relating to the soil conditions, shape, or
topography of such land or its structure. In

this case we're talking about a non-conforming structure. So any modification to the structure would require Zoning relief.

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

In this regard the Chair would note that the Petitioner has withdrawn her initial request to build a garage which was the source of some concern by abutters. That concern has been allayed.

Further, that the dormer that is being proposed is consistent with our dormer guidelines, and there appears to be no expressed opposition to the dormer that is being proposed.

So on the basis of these findings the

Chair moves that we grant the Variance to allow the Petitioner to construct the requested dormer on the condition that the work proceed in accordance with plans submitted by the Petitioner, prepared by Frank Shirley Architects. They're 1, 2, 3, 4, 5, five pages, all of which have been initialled by the Chair.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Finally.

FRANK SHIRLEY: Thank you very much, I appreciate it.

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

* * * * *

(7:30 p.m.)

(Sitting Members Case #BZA-002695-2013:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002695, 159 Fayerweather
Street.

Is anyone here wishing to be heard on
this matter?

ATTORNEY MAHMOOD FIROUZBAKHT: Good
evening.

CONSTANTINE ALEXANDER: Good
evening.

ATTORNEY MAHMOOD FIROUZBAKHT:
Mr. Chair, members of the Board, happy new
year.

THOMAS SCOTT: Same to you.

ATTORNEY MAHMOOD FIROUZBAKHT:
Thank you very much. My name is I'm Mahmood

Firouzbakht. I live at 7 Crescent Street, Cambridge, Massachusetts 02138. I guess before I proceed I just want to make sure we're all happy with notice requirements being met, no procedural issues?

CONSTANTINE ALEXANDER: The door was closed because of the cold weather. You could actually see the sign. They actually moved the sign to the window which I appreciated. Which before it was in the door which you couldn't see it when the door was opened. We're fine.

ATTORNEY MAHMOOD FIROUZBAKHT:
We're good, all right.

CONSTANTINE ALEXANDER: And the Planning Board has commented which there's no comment, but we can now proceed which we couldn't last time because of the lack of response from the Planning Board.

ATTORNEY MAHMOOD FIROUZBAKHT:

Understood.

Just a little bit of project background. This is a two-family on Fayerweather Street. It's in pretty poor condition. We're doing a full gut rehab of the house. The plan is to convert them into two ownership condos and with reasonably high end finishes. We're seeking a Special Permit relief on four windows on the basement level to create more light, air, and provide safety egress for that level. That's the substance of the application tonight.

Originally as the application was first submitted, we had included a third floor deck which by letter submitted on Monday morning I communicated that that would be removed from consideration on this application.

And so that's the story with this

project. I've communicated with basically all of the abutters and the abutters to the abutters. Everyone's very happy with the progress on the house, and I think there are e-mails of support and letters of support petition in the file as well. There's been great communication with everyone. We've had ongoing construction. So the fact that neighbors are happy, notwithstanding there's ongoing construction, I think should be a good sign that things are going well with this project.

CONSTANTINE ALEXANDER: The plans you submitted besides the four basement windows also shows a new door on the third floor. Does that also rear relief?

ATTORNEY MAHMOOD FIROUZBAKHT: That does not require relief as it's within the setback.

CONSTANTINE ALEXANDER: It's within the setback.

ATTORNEY MAHMOOD FIROUZBAKHT:
Right.

CONSTANTINE ALEXANDER: It's just the four basement windows? As you said, I just want to be clear.

ATTORNEY MAHMOOD FIROUZBAKHT:
That's right.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY MAHMOOD FIROUZBAKHT: And they're highlighted in red in that plan.

CONSTANTINE ALEXANDER: Yes.

Okay. Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I guess not.

I'll open the matter up to public

testimony.

Is there anyone wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one wishing to be heard.

The Chair would report that we are, as Mr. Firouzbakht indicated that we are in possession of a --

THOMAS SCOTT: Did the new dormer add FAR?

ATTORNEY MAHMOOD FIROUZBAKHT: It did not.

THOMAS SCOTT: It did not?

ATTORNEY MAHMOOD FIROUZBAKHT: It beyond the five foot line.

CONSTANTINE ALEXANDER: There was a petition in the file. I'm not seeing it.

BRENDAN SULLIVAN: Tom, can I see the paper?

CONSTANTINE ALEXANDER: Do you have a copy by any chance?

Yes, this is what I saw before. Can I keep it?

ATTORNEY MAHMOOD FIROUZBAKHT:
Sure.

CONSTANTINE ALEXANDER: The Chair would note that the Petitioner has submitted a Petition stating: (Reading) I support Mahmood Firouzbakht's Special Permit application for 159-161 Fayerweather Street. And it's signed by four individuals whose names -- I cannot read all of them, but they are, they reside apparently at 165 Fayerweather, 169 -- I assume it's Fayerweather, it says street. 150 Wilton? Clinton?

ATTORNEY MAHMOOD FIROUZBAKHT:

Chilton.

CONSTANTINE ALEXANDER: Chilton?

ATTORNEY MAHMOOD FIROUZBAKHT: It's the street sort of on the back side.

CONSTANTINE ALEXANDER: Yes. And 158 Chilton.

There's also an e-mail from a Melissa Russo and Tucker Lewis, L-e-w-i-s who apparently reside at 155 and 157 Fayerweather Street, and it's addressed to Mr. Firouzbakht. (Reading) Thanks for the e-mail. We are okay with the work being proposed and we've support your application. I've appreciated your ongoing communication with us regarding this property. If there's something more specific you want me to include in the e-mail, just let me know.

Okay. And I think that's it.

I will close public testimony.

Anything further you want to add?

ATTORNEY MAHMOOD FIROUZBAKHT:

That's it.

CONSTANTINE ALEXANDER: No reason why you would.

Comments from members of the Board or questions?

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: Okay. When you have a chance give it back. I don't need it right away.

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Okay, this is a Special Permit case because of the windows are in a proscribed setback and that requires a Special Permit relief. And the Chair moves that this Board make the following findings:

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

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

And no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city.

And that what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

The Chair would not in regard to all these findings that the relief being sought is quite modest, it's the relocation of four

basement windows which apparently raises no neighborhood concerns.

So on the basis of these findings, the chair moves that this Board grant the Special Permit being sought on the condition that the work proceed in accordance with the plan submitted by the Petitioner. It's numbered A-300 prepared by the architect Khalsa, K-h-a-l-s-a Design, Inc. and initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. See you next month.

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

ATTORNEY MAHMOOD FIROUZBAKHT:

While I'm here can I try to get a point of

clarification on the deck.

CONSTANTINE ALEXANDER: Which deck?

ATTORNEY MAHMOOD FIROUZBAKHT: The deck that I removed from the application. I guess in my spare time I was looking at Chapter 40A, and maybe it's a, you know, difference of interpretation, but Chapter 40A says that the Zoning Ordinances don't apply -- they apply to all these things except for where an alteration, reconstruction, extension, or structural change to a single- or two-family, this being a two-family, residential structure does not increase the non-conforming nature of such structure -- of said structure.

CONSTANTINE ALEXANDER: You must have forgot the debates I used to have here on the Board. First of all, you need to find better things in your spare time than to read

Chapter 40A.

ATTORNEY MAHMOOD FIROUZBAKHT:

Yeah, I agree with that.

CONSTANTINE ALEXANDER: When Tad Heuer was here there was a difference of opinion on this. In my view, it's a personal view, and I don't think it's even shared by the Legal Department for the City of Cambridge. Chapter 40A obviously is the controlling precedent of the state law. I think if you have a conforming addition to a non-conforming structure, the standard is not within our Ordinance. The standard is what's in Chapter 40A which is I think is substantially more detrimental to the neighborhood than is what is being proposed than what is there before. That is not what our Ordinance says, and that is not the position that I think our Legal Department

says. They say you've got to go comply with the Ordinance. I don't know if that's much an answer to you.

ATTORNEY MAHMOOD FIROUZBAKHT:

Okay.

CONSTANTINE ALEXANDER: To me it's an open question.

ATTORNEY MAHMOOD FIROUZBAKHT:

Yeah.

CONSTANTINE ALEXANDER: And the courts haven't decided this as I recall. There's an Appeals Court decision that concurs with my interpretation, but as you know, that's not binding until the SJC acts.

ATTORNEY MAHMOOD FIROUZBAKHT: I mean there's language in our Ordinance that's fairly similar to that language there as well. I mean, maybe it doesn't specify the structure is not furthering impacted by the

non-conformity. But I mean I guess I think that's the language we were -- my architect relied on in first applying for that deck.

CONSTANTINE ALEXANDER: Well, the big difference is if you wanted to increase the volume of the structure at 25 percent or more, our Ordinance says you need to get a Variance, not a Special Permit.

ATTORNEY MAHMOOD FIROUZBAKHT:
Right.

CONSTANTINE ALEXANDER: I read that as not being enforceable. That even if it were more than 25 percent, all you need is a Special Permit per the standard of Chapter 40A which is substantially detrimental.

ATTORNEY MAHMOOD FIROUZBAKHT: So this deck, as proposed, violated no -- other than being within -- it didn't further violate the setback, didn't increase FAR nor

was there a height issue. So I guess I just -- I guess I'm not seeing where the increase in --

CONSTANTINE ALEXANDER: I'll let Sean answer that because that never came before the Board.

ATTORNEY MAHMOOD FIROUZBAKHT:
Yeah.

Well, and I think that was Sean's determination that that deck violated -- it required a Variance --

CONSTANTINE ALEXANDER: It was -- as I recall, I'm going from memory, correct me if I'm wrong, Sean. That deck because of its overhang, was not a conforming addition. It was further increasing the non-conformance --

ATTORNEY MAHMOOD FIROUZBAKHT:
Right.

CONSTANTINE ALEXANDER: -- by
retracting further into the setback --

ATTORNEY MAHMOOD FIROUZBAKHT:
Right.

CONSTANTINE ALEXANDER: -- and
because of that you needed a Variance.

ATTORNEY MAHMOOD FIROUZBAKHT: I
guess -- I understand that interpretation.
I guess given what's in 40A I don't
necessarily agree with it.

CONSTANTINE ALEXANDER: As I said,
there's a difference of opinion on this as a
result.

ATTORNEY MAHMOOD FIROUZBAKHT: All
right. Well, thank you for your time.
We'll see you next month.

CONSTANTINE ALEXANDER: Okay.

* * * * *

(7:35 p.m.)

(Sitting Members Case #BZA-002711-2013:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002711, 7 Gladstone
Street.

Is there anyone here wishing to be heard
on this matter? Hello. Give your name and
address to the stenographer.

CATHERINE HOLMAN: My name's
Catherine Emily Holman. I live at 7

Gladstone Street. I am applying for a Special Permit for permission to rebuild our front porch to the exact same dimensions that it currently is, including keeping the existing roof as is, but just enclose it with windows and a door so that it's more like a functional mudroom.

CONSTANTINE ALEXANDER: And the reason you're before us having to waste your time this evening, it's already a non-conforming structure. It protrudes to the front yard setback.

CATHERINE HOLMAN: Correct.

CONSTANTINE ALEXANDER: But you're not going to change it, except for the outside appearance?

CATHERINE HOLMAN: Yes. It will be made with a different material and then add windows around it and then a door at the top

of the stairs.

CONSTANTINE ALEXANDER: Any questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: No? No questions?

The Chair will 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 there's no one here wishing to be heard.

The Chair is in receipt of substantial correspondence on this matter. We have a Petition that reads as follows: (Reading) We, the undersigned, hereby support the application for Special Permit brought by

Alex and Emily Holman of 7 Gladstone Street to rebuild and enclose their front porch. The homeowners have explained to us their plans for construction including making available pictures of what the new porch would look like. We do not have any objections to the project as proposed and support their ability to make these changes. And there is 1, 2, 3, 4, 5, 6, 7 on this page. Oh, my goodness, it goes on. I'd say roughly 15 signatures from residents, people residing at Foch Street, Newman Street.

CATHERINE HOLMAN: There should be Gladstone Street.

CONSTANTINE ALEXANDER: Gladstone Street.

CATHERINE HOLMAN: We have two letters from people from Gladstone Street, yeah.

CONSTANTINE ALEXANDER: I'm going to get there.

There's a letter in our files from Sara, S-a-r-a Burr, B-u-r-r Levy, L-e-v-y. It's actually addressed to the Petitioners.

(Reading) Thank you for sharing the plans to build your front porch. I have reviewed the drawing you sent and think that the new porch would be an excellent feature for the neighborhood. I wholeheartedly support the change. The new porch would be much more appropriate for the late 19th century homes on the street than the brick and wrought iron porch you currently have. And Ms. Levy resides at 4 Gladstone Street.

And there's also a letter from the residents at 5 Gladstone Street. A Terry Allen, A-l-l-e-n and a Christine Molinero, M-o-l-i-n-e-r-o. (Reading) We are writing

in support of the building plans submitted by our neighbors, Alex and Emily Holman of 7 Gladstone Street. Their proposal is a modest change to their front porch using the same footprint and fully in keeping in the character and homes in our vicinity. Thank you for your consideration of their application. This project, although not large, would enhance the Holman's living situation.

So all the letters are in support of.

You need a Special Permit, not even a Variance. Anyway, end of public comments.

Any comments from members of the Board?

Questions?

(No Response.)

CONSTANTINE ALEXANDER: Appears to be none.

Anything else you want to add?

CATHERINE HOLMAN: No.

CONSTANTINE ALEXANDER: I'm going to start to make the findings and then we'll get to the plans. So you know, the way we work if we grant relief, which I think we're going to do, we condition it upon the work proceed in accordance with the plans that you've given to us. So if you want to modify these plans as you go forward, you're going to have come back before us. These are, hopefully these are the final plans as far as you can tell?

CATHERINE HOLMAN: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this Board make the following findings:

That what is being proposed will not cause congestion, hazard, or substantial change in established neighborhood

character.

That the continued operation and development of adjacent uses will not be adversely affected by the nature of the proposed use.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant -- safety and/or welfare of the occupant, that's you, of the proposed use, 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.

On the basis of these findings, the Board moves that a Special Permit be granted to the Petitioner to do the work requested on

the condition that the work proceed in accordance with a plan submitted by the Petitioner. I'll just take one page. It's -- well, the page that's been initialled by the Chair, and it shows the architectural rendering or drawings with dimensions of the proposed work you want to do.

All those in favor of granting the Special Permit subject to these conditions say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

CATHERINE HOLMAN: Can I ask one clarifying question? I heard you guys do lots of filing and paperwork at some point.

SEAN O'GRADY: You'll get a letter

from us.

* * * * *

(7:45 p.m.)

(Sitting Members Case #BZA-002868-2013:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002868, 83-85 Mount Auburn
Street.

Is there anyone here wishing to be heard
on this matter? We have a letter from
Mr. Maher on the Mayor's stationery. That's

pretty quick.

ATTORNEY JAMES RAFFERTY: First order of business. That's how compelled he feels about this case.

CONSTANTINE ALEXANDER: He's in favor of tacos, is that it?

ATTORNEY JAMES RAFFERTY: And this particular operator who is outstanding.

For the record, Mr. Chairman, good evening, members of the Board, James Rafferty appearing this evening on behalf of the applicant, Boston Taco Truck, LL -- the Taco Truck Boston, LLC.

This is an application for a fast food Special Permit in a location that has had a fast food use in it for I would estimate perhaps as many as 25 to 30 years.

CONSTANTINE ALEXANDER: Really?

ATTORNEY JAMES RAFFERTY: Since

2002 the use has operated under a Special Permit that was granted by this Board that allowed for the change in fast order food from selling bagels, it was a Bruegger's Bagel, to selling tacos. And actually one of your members sat on that case in 2002.

As you know, there's a special provision in the fast food portion, as I was explaining to Mr. Vasey, and this is Craig Vasey, the entrepreneur that operates the taco truck. And I'll tell you this story in a minute.

But certain uses receive a Special Permit, and that Special Permit runs with the land and the use can change with different operators. But the particular language of the Fast Order Food Permit limits both the food product being sold and the operator. So in this case in 2002 the current use that's

still there today, the Board voted in granting the Special Permit to change the fast food use from selling bagels to selling Mexican food on the condition that the Special Permit was granted exclusively to this particular business at this location. So in addition to the language of the Ordinance, the language of that Special Permit brings us before you today.

Mr. Vasey is a young entrepreneur who found himself recently engaged in the food truck business, and he has got a very popular food truck selling high quality Mexican cuisine. The truck spends on average two days a week in Cambridge over at the Science Center near Harvard, where Harvard has created an area that supports such uses. And he has been looking for an opportunity based on the feedback he's gotten from his customer

base to go to a location here. He learned that the Felipe's Taco, which is operated at this location since 2002 is moving to the Bertucci's location in April. If you recall where Bertucci's is around the bend there. Going from this location at about 1400 square feet to an excess of 3,000 square feet over there.

The space will not need much by way of infrastructure changes. There will be some cosmetic changes provided. But the seating, the layout, the cooking, everything is in place for this type of an operation. So Mr. Vasey has worked out an arrangement with the landlord to secure a lease pending approval here.

He has a well-established track record with his current business. It has received critical acclaim in the food truck

competitions that have been held in Boston. I think the only criticism one could level, it's not called the Cambridge Food Truck at the moment. It's called the Boston Food Truck. And I explained that we're a bit parochial here, but nonetheless he wants to take that offering and put it in this location.

The criteria I know the Board is familiar with, but as it is with most Special Permits I would suggest the overriding criteria is the compatibility with surrounding uses. And I think the history of the use of this location, would suggest it's a high level of compatibility. This is a ground floor use that is -- of this building that is active retail uses with entries all along Mount Auburn Street. Mr. Vasey will be continuing to serve the public with the

product that the public has responded to. The predecessor obviously has done so well that he's looking to go to a bigger location.

The space itself doesn't lend it -- it lends itself well to this concept, frankly. 1400 square feet right up against the sidewalk. It's a bit of a unique retail space, so I don't think it wouldn't work perhaps as many other retail spaces might. But the real test of this space, I think, is the history of the use from -- it was before it was a Bruegger's Bagel it was a TCBY yogurt store. So it has had the time of quick, convenient food service product. And as we know, it's in the heart of Harvard Square. It's in a building that's largely retail-oriented that does have a language school in it. There's a high level of student population. There are employees and

students of Harvard University that frequent this place, and it would be our contention that this is the type of use that the Ordinance supports, that we can meet the criteria particularly related to the notion of walk-in trade. I think it's fair to assume that most people would not be driving to a location like this as good as Mr. Vasey's food offerings are. I suspect that this would be nearly exclusively walk-in. No real rational person I think would drive to Harvard Square and attempt to find parking for that alone, perhaps for other reasons.

So, and the building itself really has those types of uses in it.

So I'm very mindful of the fact that the Ordinance also has a need listed in it. And one can take a variety of interpretations as how what need means. It says a need in the

area.

Mr. Vasey strongly believes that sincerely that the offerings he has are unique. Not all tacos are equal. And with no disrespect to the current operator, Mr. Vasey's locally-sourced products have proven to be especially appealing in terms of their healthiness. And the support in the response he's received in the community, particularly in the student community, is what's convinced him that he can succeed here.

So we're here this evening hoping that the Board will allow a use to continue that has existed here for decades.

CONSTANTINE ALEXANDER: The interior of the space will be essentially what it is now in terms of the number of seats?

CRAIG VASEY: Yes. In terms of

number of seats. The bigger pieces are going to be very, very similar. Yeah. It will look very different and it will feel different, but, yes, all the infrastructure will be --

CONSTANTINE ALEXANDER: And what about rubbish disposal because you're right on the street?

CRAIG VASEY: We are. We'll be following the same design that Felipe's was following. It's a condition of our lease actually. So the entire building operates together in that respect.

CONSTANTINE ALEXANDER: Just what, out of curiosity, what is the requirement your lease requires in terms of rubbish removal and the like?

ATTORNEY JAMES RAFFERTY: Well, we have a representative of the landlord here

this evening, but there are a number of food uses in the building if you'd like to be specific. It's Trinity Property Management operates the building. They're a significant landlord in Harvard Square, and they have very strict protocols around trash and cleanliness. Requirements exist not only to clean your own space but the area in front of the building. There's also a food court. Patrons here can go into a portion of the garage where if you're familiar with the interior of that space, there's an area food court. So if patrons may choose to --

CONSTANTINE ALEXANDER: What I was trying to get at is, we have time to kill. If someone walks in --

ATTORNEY JAMES RAFFERTY: I was afraid of that.

CONSTANTINE ALEXANDER: -- and gets

a taco and goes back to his or her dorm, he walks out and he throws a tissue paper on the ground, or you know, what the taco is wrapped in. How do you deal with that or do you or can you? I don't know.

CRAIG VASEY: There's at least one public garbage can immediately outside the facility.

CONSTANTINE ALEXANDER: That's what I'm looking for.

CRAIG VASEY: Yeah. We'll be walking the outside of the space. And frankly, there was an early conversation that we had, we'd like to maintain that space effectively frankly. It's a reflection of our business so we intend to.

CONSTANTINE ALEXANDER: Is this your first permanent location?

CRAIG VASEY: For the taco truck, it

is, yeah.

CONSTANTINE ALEXANDER: The taco truck.

CRAIG VASEY: Yeah.

CONSTANTINE ALEXANDER: We also have to check off some of the other requirements for --

BRENDAN SULLIVAN: Signage.

ATTORNEY JAMES RAFFERTY: The signage would remain the same. The landlord controls the signage. There's an awning presently. I don't believe Mr. Vasey has concluded whether he'll keep the awning. But the width within the sign band with the one blade sign that exists. No relief sought for signage.

I have a photo of the existing signage.

BRENDAN SULLIVAN: This is for the Felipe's?

ATTORNEY JAMES RAFFERTY: Right.

BRENDAN SULLIVAN: Yes. So it would be similar in size?

ATTORNEY JAMES RAFFERTY: Right. All the tenants on that strip get the sign banner over their storefronts and one blade sign and that's what would happen here.

CONSTANTINE ALEXANDER: Okay.

What about handicap accessibility? We have to deal with that.

ATTORNEY JAMES RAFFERTY: Yes, I mean the current facility's been permitted and operated in accordance with all access requirements. So the infrastructure changes are quite modest. As he said, as Mr. Vasey noted, it's mostly cosmetic. But for purposes of Building Code, access codes, this is a -- this is a cosmetic change essentially.

CONSTANTINE ALEXANDER: Okay.

And will you use, utilize biodegradable materials in packaging your food and the utensils and other items provided for consumption?

CRAIG VASEY: It's fundamental to our brand as it is now and it will continue to be. In fact, it was something that we wanted to do. It's -- we're going to be doing composting process that we do now as well. It's a contained unit that we maintain and it's something we're introducing to the building.

CONSTANTINE ALEXANDER: Okay, good.

DOUGLAS MYERS: Do you intend to maintain your present truck operation at the Science Center?

CRAIG VASEY: We do, but on a curtailed basis on a somewhat lower scale.

It's done well, and frankly we'd probably be breaking some Harvard student hearts. We started one day a week at the university, which was just a Saturday or a Sunday, but we were called and said they'd like us to come back for a second day, and then we got another call for a third day. So we've maintained a pretty healthy schedule there as Jim said, is part of the reason we sought out Cambridge. But we'll dial that back. We have business reasons obviously to do that, but also not to just blanket Cambridge in the taco truck.

DOUGLAS MYERS: Well, this bears on the question of need. But without at all trying to limit or put you in a box with regard to your business plans, could you give an approximate, you say curtail or dial back the operation, could you give an approximate percentage about how much --

CRAIG VASEY: Sure.

DOUGLAS MYERS: -- even if it's just 25 percent or 50 percent might be scaling it back?

CRAIG VASEY: Certainly.

DOUGLAS MYERS: This is just for our understanding.

CRAIG VASEY: I would say 50 percent going from what we're -- our regular schedule has us there two days a week now. We'd probably take that back to one day a week. We do special events though as well. Harvard asked us to do a groundbreaking for the building they're doing with the Samuels Group, across the river actually just over near the stadium.

ATTORNEY JAMES RAFFERTY: In Allston they were the caterer for the groundbreaking for the Barry's Corner

Project.

CRAIG VASEY: So we've got a relationship with Harvard and some (inaudible), so we'd like to continue to be able to do certain of those events. But those are not branded, and they're certainly not open to the public either. So we wouldn't be vending per se, we would just be there as a caterer.

CONSTANTINE ALEXANDER: Okay.

Further questions?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one who wishes to be heard.

The Chair would further note that we are in receipt of a letter from the Mayor of Cambridge, David B. Maher, Re: The Taco Truck. (Reading) I'm writing to you to voice my support for Greg Vasey and the Taco Truck's application to our Harvard Square for a Fast Order Food Permit. The location they are applying to operate out of, a section of the garage on Mount Auburn Street, has contained various fast food uses for nearly 20 years. Consistently busy with lunch patrons and evening diners, the use is clearly enjoyed by many residents. I am confident that The Taco Truck will add to the already diverse and vibrant array of dining options in Harvard Square. Greg and The Taco Truck have proved to be capable operators with their food truck, delivering quality food at a quick rate and at an affordable price. I believe

that their presence will help maintain the diversity and quality that currently exists in the square and I urge the Board to approve their application. Thank you for considering my thoughts on this matter.

ATTORNEY JAMES RAFFERTY: Good things he saved stationery from the last term. He probably wouldn't have that.

CONSTANTINE ALEXANDER: That's all we have. I will close public testimony.

Any concluding remarks?

ATTORNEY JAMES RAFFERTY: No, thank you.

CONSTANTINE ALEXANDER: Discussion by members of the Board or ready for a vote?

THOMAS SCOTT: Ready.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this Board make the following findings with regard to the Special

Permit being sought:

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

That the continued operation or development of adjacent uses as permitted in the Zoning Ordinance will not be adversely affected by the nature of what you're proposing.

No nuisance or hazard will 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 use will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

In regard to these -- and particularly with the last finding, the Chair would note that the Petitioner has satisfied the Board that all of the requirements for fast order food establishments set forth in 11.31, they presented evidence that they meet all of those requirements.

Further, that as it's been pointed out by the Petitioner's counsel, that there's been a fast order food use at this property for a good number of years. And I think that's all we need.

So on the basis of all of these findings, the Chair moves that we grant the Special Permit requested on the condition that the signage for the property be of the general size and appearance that's there right now. Not restricting you exactly, but no bigger, which I gather is in the lease

anyway, and no different than what's there now. Any problems there?

ATTORNEY JAMES RAFFERTY: No. And I think if we wanted to characterize that, there is a sign band on the building and they will have -- their signage will be on the sign band and on the blade sign.

CONSTANTINE ALEXANDER: I think my motion is good enough for that.

ATTORNEY JAMES RAFFERTY: Sure. No, I just wanted to factually let the record reflect.

CONSTANTINE ALEXANDER: Okay.

On the basis of these findings and subject to the condition I've decided, the Board moves that a Special Permit be granted.

All those in favor say "Aye."

(Aye.)

(Sullivan, Scott, Green, Myers.)

CONSTANTINE ALEXANDER: Four in favor. One abstention.

(Alexander.)

ATTORNEY JAMES RAFFERTY: Thank you very much. Have a good evening.

* * * * *

(8:05 p.m.)

(Sitting Members Case #BZA-002916-2013: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call case No. 002916, 67 Smith Place.

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

EDWARD HASSEY: My name is Edward Hassey. I'm an abutter. I own unit 7 and 17 on 67 Smith Place. I feel like this will be

a beneficial --

CONSTANTINE ALEXANDER: Wait a minute, you're not the Petitioner?

EDWARD HASSEY: No, he's the Petitioner.

TIMOTHY SHANNON: I'm the Petitioner.

CONSTANTINE ALEXANDER: We need to hear from the Petitioner first.

EDWARD HASSEY: Oh, I'm sorry.

CONSTANTINE ALEXANDER: No, no. No problem. He needs to present the case first.

TIMOTHY SHANNON: Yeah, my name is Timothy Shannon. I'm the owner of a storage warehouse located at 67 Smith Place.

CONSTANTINE ALEXANDER: You've got to answer a question before we go any further.

TIMOTHY SHANNON: Yeah.

CONSTANTINE ALEXANDER: As you know

from the conversation you had with Sean, I went to see if the signage had been posted.

TIMOTHY SHANNON: Yeah.

CONSTANTINE ALEXANDER: And I looked at 67 Smith Place, the building.

TIMOTHY SHANNON: Yeah.

CONSTANTINE ALEXANDER: There's nothing on the building. Nothing around it or the bays are on each side.

TIMOTHY SHANNON: Yeah.

CONSTANTINE ALEXANDER: And then I discovered -- I went back and after you told Mr. O'Grady that of course there was a sign there, you posted it.

TIMOTHY SHANNON: Yeah.

CONSTANTINE ALEXANDER: And low and behold I discovered it's not on the building that's marked, addressed 67 Smith Place, it's on a fence across the street.

TIMOTHY SHANNON: Yes. And that's where the building is in the fenced-in area.

CONSTANTINE ALEXANDER: It still has the number of 67?

TIMOTHY SHANNON: Yeah.

CONSTANTINE ALEXANDER: Both sides of the street?

TIMOTHY SHANNON: Yeah.

CONSTANTINE ALEXANDER: Maybe it's not a street, maybe it's a driveway.

TIMOTHY SHANNON: Yeah. And I ended up taking pictures of the sign.

CONSTANTINE ALEXANDER: I know, I saw the sign.

TIMOTHY SHANNON: Oh, okay.

CONSTANTINE ALEXANDER: I just was puzzled why it would be placed where I would think would have a different number, a different address than 67.

TIMOTHY SHANNON: It's a crazy area down there.

SEAN O'GRADY: I thought you were -- I didn't know you were in the other building, too.

TIMOTHY SHANNON: Oh, okay.

UNIDENTIFIED AUDIENCE MEMBER: We call it Harvard Square II.

TIMOTHY SHANNON: It is. If you don't know how to get there, you can't get there.

CONSTANTINE ALEXANDER: Okay. Anyway, you want to -- let me, before you get into this. You want to use the building across -- I'm going to say across the street from the main building?

TIMOTHY SHANNON: Yes. Actually the warehouse I constructed, which I went to get a Special Permit last year to build the

warehouse --

CONSTANTINE ALEXANDER: Right.

TIMOTHY SHANNON: -- on my lot.

CONSTANTINE ALEXANDER: Yes. And you came before this Board?

TIMOTHY SHANNON: Yeah.

CONSTANTINE ALEXANDER: And right now, it's surrounded by a chain link fence?

TIMOTHY SHANNON: Yes, totally gated.

CONSTANTINE ALEXANDER: Totally gated?

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: And there are kinds of structures on the premises not in the building.

TIMOTHY SHANNON: Right now I own a construction company so I have some of the equipment parked outside.

CONSTANTINE ALEXANDER: You're not supposed to.

TIMOTHY SHANNON: No, because we're working getting inside the building.

CONSTANTINE ALEXANDER: Oh, this is temporary?

TIMOTHY SHANNON: Yeah, oh, yeah, it's not permanent.

CONSTANTINE ALEXANDER: Oh, okay. We're going to get to that later on. You're not going to use it for storing motor vehicles?

TIMOTHY SHANNON: No, no, no.

CONSTANTINE ALEXANDER: And before we get further, you realize, I don't know, we've had 53 Smith Place, Euro-Tech down the street before us.

TIMOTHY SHANNON: Yes, that's my neighbor.

CONSTANTINE ALEXANDER: From time to time they sell used cars, but the cars have been abandoned. Are you planning to do that?

TIMOTHY SHANNON: No, no, sir.

CONSTANTINE ALEXANDER: If you do, you need different relief. You have to come back before this Board. I just want to let you know right now you can't do that unless you get permission from us.

TIMOTHY SHANNON: So what I'm seeking is a Special Permit for change in use for storage and vehicle repair. I have a tenant per approval of change of that use which is the City of Cambridge Police Department, the maintenance facility division, which they would like to enter into a lease to rent the property for their own use.

CONSTANTINE ALEXANDER: So you're

the owner of the property?

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: So
the -- oh, okay. So the City of Cambridge is
the party in interest if you will?

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: They're the
ones who want --

TIMOTHY SHANNON: Yes. I have a
representative from the City of Cambridge
here, from the police department.

CONSTANTINE ALEXANDER: Does the
City of Cambridge need Zoning relief?

SEAN O'GRADY: Well, this is what
Ranjit was talking with you the other day.

TIMOTHY SHANNON: I was under the
assumption that the municipality is exempt
from relief, but we weren't sure of that.

BRENDAN SULLIVAN: They're not the

owner. They are just a tenant.

CONSTANTINE ALEXANDER: They're not the owner. That's true.

BRENDAN SULLIVAN: They're just a tenant. What he's asking for, what -- that tenant may change. Right now it's -- he has an agreement with the police department. The police department may abandon that and then somebody else may go in. So it's the use that we're being asked to approve.

CONSTANTINE ALEXANDER: What made me puzzled now is I would rather, however, if the City of Cambridge moves out and some other, quote, unquote, dirty auto repair place goes in, we're not going to have any control over that except for the conditions we place on any relief we grant tonight.

BRENDAN SULLIVAN: As you would in any of these.

CONSTANTINE ALEXANDER: Well, no, the Special Permit cases usually they're personal to the person who is using the property.

TIMOTHY SHANNON: Can it be considered just a private entity that's using the garage --

CONSTANTINE ALEXANDER: Well, what I'm going to propose --

TIMOTHY SHANNON: -- and not somebody from the, you know, off the street?

CONSTANTINE ALEXANDER: I think if we impose the appropriate conditions, I think to protect against what I -- before what we just raised. I didn't even give you a chance it give your presentation although it's pretty clear what you want to do.

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: I do want to

let you know when we granted relief to 50 -- to Euro-Tech, 53 Smith Place, we imposed a number of conditions on them. And when the time comes, I'm going to try to -- I'm going to propose we impose essentially the same conditions on the use of your property.

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: But to be fair, I want to be fair to both parties.

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: And then so I think we do that, that will protect what I just was worried about.

All right. We jumped way ahead of us. You want to take this property, you want to lease it to the City of Cambridge --

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: -- so they can repair their motor vehicles.

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: And under our Zoning Ordinance because you're the owner of the property, you need to get a Special Permit from this Board tonight?

TIMOTHY SHANNON: Yes. So that's what I'm seeking relief, you know, Special Permit. Change in use.

CONSTANTINE ALEXANDER: And we're just talking about the area that's now circumscribed by the chain link fence.

TIMOTHY SHANNON: Yes. I have some pictures if you want the pictures to see them. Do you want to see a couple pictures?

JANET GREEN: Yes.

DOUGLAS MYERS: Yes.

CONSTANTINE ALEXANDER: Sure, why not? Like I said, I was puzzled about it, so we can fashion relief tied to those pictures

or not.

DOUGLAS MYERS: I think it's good to have them in the file.

CONSTANTINE ALEXANDER: Say it again?

DOUGLAS MYERS: I think it's good to have them in the file as representations are made.

TIMOTHY SHANNON: Actually, with my application I did, I did --

CONSTANTINE ALEXANDER: Are these the same pictures?

TIMOTHY SHANNON: No, different pictures. It shows the area. It shows that it's a commercial, industrial zoned area.

CONSTANTINE ALEXANDER: I can testify to that.

TIMOTHY SHANNON: So basically it's just the area that's fenced in. And it's

secured with the, you know, two gates on both sides. Which when the City of Cambridge, if we do enter into a lease, you know, we'll keep locked. It will be patrolled.

CONSTANTINE ALEXANDER: Will you maintain a dumpster, a dumpster on the property for whatever scraps?

TIMOTHY SHANNON: Are you going to retain?

UNIDENTIFIED AUDIENCE MEMBER: We actually do that. We have a dumpster there. We'll have a dumpster there.

CONSTANTINE ALEXANDER: One on the property?

UNIDENTIFIED AUDIENCE MEMBER: Yep, one.

DOUGLAS MYERS: I'm going to hand you a picture. I don't want to treat this like a trial where we mark the pictures. Is

that whole area --

TIMOTHY SHANNON: This is driving up the driveway looking into to the lot. This is just the approach to the lot. I wanted you to see what the roadway looks like. That's just showing the approach.

DOUGLAS MYERS: Okay.

TIMOTHY SHANNON: Yeah.

It's just been very difficult for the city to find a location in the City of Cambridge. Right now they're located in Arlington.

CONSTANTINE ALEXANDER: In Arlington, really?

TIMOTHY SHANNON: And the City's been looking for a location for years. Right Rob.

UNIDENTIFIED AUDIENCE MEMBER:
Yeah.

TIMOTHY SHANNON: And we started talking to the City a few years ago and they would just like to be in Cambridge.

DOUGLAS MYERS: Quite a few pictures. Several dozen so I'll move along.

CONSTANTINE ALEXANDER: I've been around the neighborhood twice now so I'm familiar with the area. I don't need to see them.

I'm going to read off in a second, conditions that I suggest we are going to impose.

TIMOTHY SHANNON: Okay.

CONSTANTINE ALEXANDER: Like we did on Euro-Tech --

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: -- after we get public testimony. And then I'd like your reaction or actually your reaction since

you're the one occupying the premises. If you have any problems with them, let's get them on the table now. And also members of the Board, my fellow members also have problems with them. But these are not created out of whole cloth. This is what we proposed essentially on Euro-Tech.

While we're looking at the pictures, anything else you want to add at this point, sir, Mr. Shannon? I can open it up --

TIMOTHY SHANNON: I have a plot plan, too, so if you wanted to see the position of the building and how it's gated.

I actually have a plot plan that can show you the --

CONSTANTINE ALEXANDER: Maybe I'm wrong, my perspective is that we can just make sure that the property is --

JANET GREEN: Well, because it

doesn't show where Smith Street is -- Smith Place is on this. I believe it runs right here and then there's a sign here that says 67, and it points that you turn onto this access way.

TIMOTHY SHANNON: Yes. If you come down Concord Avenue, you take a right or a left onto Smith Place. And then as you come up to Adley Road, you take a left on Adley, and that takes you into 67 Smith Place.

CONSTANTINE ALEXANDER: Right.

Okay, I'm going to open this matter to public -- well, are there any questions from the members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: None.

Is there anyone wishing to be heard on this matter? Yes, sir. Oh, you were here first. I'm sorry.

EDWARD HASSEY: I'm an abutter. I think it would be beneficial for the neighborhood. Because, A, the police would be more present. And I just, I think it's just a plus for the neighborhood. I don't think it will be an impact. I mean, it's -- it is what it is. And it's just an industrial area. I don't think it's going to impose on neighbors or anything like that. And I just think it will be good for the neighborhood.

CONSTANTINE ALEXANDER: Thank you.

EDWARD HASSEY: Do you want me to leave -- and here's a letter. I'm sorry. I'll give it to you.

CONSTANTINE ALEXANDER: This letter basically says what --

EDWARD HASSEY: What I just said. Do you want me to have this seat available?

CONSTANTINE ALEXANDER: You can stand there. It's up to you.

BILL DILLON: Take a seat.

My name is Bill Dillon. I'm with Landmark Real Estate. I sold all of the condominiums in the project at 67 Smith Place. Tim's been an outstanding member of the condominium association. He's done many construction improvements for the association. He's got a great reputation. Because he's so well liked that's probably why nobody's here to object to it. If people had more time, they probably would be here in support of him, and like --

CONSTANTINE ALEXANDER: Just so you know, we have a number of letters in the file from some of the people you're referring to and I'll read them. Some people didn't show but they did take the time to write.

BILL DILLON: Good. And like Ed mentioned, the idea of additional police presence in the neighborhood, the Board's probably aware that this is one of those zones where marijuana growing is being allowed and there's been some talk about it happening in the neighborhood. And it would probably be a plus to have a police presence, an additional of whatever sort in the neighborhood.

CONSTANTINE ALEXANDER: Well, the police presence would have a repair.

BILL DILLON: Well, you see the cars, they're coming in and out.

UNIDENTIFIED AUDIENCE MEMBER:
Well, they're talking about adding more trips through there to make sure no one is in that facility. And we're in the process of putting camera systems in there as well.

BILL DILLON: So, anyway, any decision you make you have to look at the applicant, and Tim Shannon is honestly an outstanding contractor. You know, he's a good person. He does what he says. I hope you give it some consideration.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishes to be heard? You were here before.

JOHN CHUN: Yes. My name is John Chun, C-h-u-n from 48 Luman Street (phonetic), Cambridge. I'm a residential abutter to that property that Mr. Tim Shannon just mentioned, and I have no objection to the use of the property there. My only concern is any noise coming out from that area. Although there's a bit of a distance from where Mr. Shannon's property is to the residential neighborhood, I just still like

to make sure that any dumpsters will not be picked up in the middle of the night. So any hours between seven a.m. to seven p.m. is fine for us. We've had some dumpsters in the neighborhood, that some other industrial tenants picking up dumpsters in the middle of the night that will wake us up. As long as that is avoided. And also I'm curious for the hours of operation for the facility in case there's going to be --

UNIDENTIFIED AUDIENCE MEMBER: It's 6:30 to 2:30.

JOHN CHUN: Okay.

UNIDENTIFIED AUDIENCE MEMBER: 6:30 is just the opening, there's nobody in there. The bay doors don't open. And we generally go from the facility which is now in Arlington down to 125 Sixth Street, pick up the vehicles and bring them back.

JOHN CHUN: I see.

UNIDENTIFIED AUDIENCE MEMBER: We do not fire up the compressors until 7:30 or later.

JOHN CHUN: I see. Okay.

UNIDENTIFIED AUDIENCE MEMBER: DPW handles the trash pick-up so that will not be happening in the middle of the night.

CONSTANTINE ALEXANDER: When do you close the operation? 6:30 in the morning, you said --

UNIDENTIFIED AUDIENCE MEMBER: 6:30 in the morning we open till 2:30. And we are there depending on needs of the department. But generally 2:30 in the afternoon we're done.

DOUGLAS MYERS: 2:30 p.m.

JOHN CHUN: That's good to hear. I think we can live with that, so I have no

objection to the use.

TIMOTHY SHANNON: Thank you.

CONSTANTINE ALEXANDER: I'm going to propose some conditions that are going to deal with what you've raised, and then we'll see how people react to them.

Thank you for taking the time to come down again.

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one else.

The Chair would note that we're in receipt of a number of letters. One letter -- you're not from Cambridge Landscape?

EDWARD HASSEY: No.

CONSTANTINE ALEXANDER: We have a letter from Cambridge Landscape. I don't

mean to support one of your competitors.

It's from James P. Kelley the managing partner of Jolly Green Giant, LLC, but it's on the stationery of Cambridge Landscape.

(Reading) I would like to voice my support for Tim Shannon's proposal for a change in use permit at the 67 Smith Place complex. I feel the proposed use is appropriate for the area.

There's a letter from Watertown Landscaping located in Watertown, Massachusetts. Signed by Emilio Coppola, C-o-p-p-o-l-a who is the owner of unit 2 at 67 Smith Place. (Reading) Timothy Shannon discussed his Special Permit with us regarding the change of use of his warehouse property. As a unit owner myself, I clearly hope you will consider giving Mr. Shannon the needed approvals. We feel it will not burden our property here at Smith Place.

A letter from Euro-Tech. (Reading)
Tim Shannon has discussed his change in use of his property with us and we support his application for the Special Permit.

A letter from ServPro, S-e-r-v-p-r-o signed by Michael Pridham, P-r-i-d-h-a-m who identifies himself as the owner of Cambridge/Belmont ServPro. (Reading) My name is Michael Pridham. I am the owner of ServPro of Cambridge/Belmont. We are located at 67 Smith Place, Cambridge. Tim Shannon, owner of TLS Paving met with me to discuss his change in use at 67 Smith Place. I am in favor of the City of Cambridge granting him the Special Permit in favor of this change in use, i.e. storage and vehicle repair. This change will not adversely impact current conditions of the site.

We have a letter from Mastrangelo and

Sons. (Reading) Tim Shannon has met with us to discuss his change of use for his property at 67 Smith Place. My sons and I feel this would be appropriate for the area and are in favor of the change.

We have a letter from Caccavaro, C-a-c-c-a-v-a-r-o Construction, unit 3 at 67 Smith Place. (Reading) This letter is in support of Tim Shannon's Special Permit to change usage of building to storage and vehicle repair.

A letter from the Winters Company, unit No. 11. It's signed by Timothy Flynn the owner the Winters Company. (Reading) I am a business owner located at 67 Smith Place, unit 11, Cambridge, Mass. In regard to Tim Shannon's request to change the use of his property, I am in favor of the Special Permit request. My belief is that this will add

immediate and future value to the location and the condominium trust. My relationship with Tim Shannon spans many years and I have always known him to do the right thing. Whether personal or business, Tim will be there. Please accept this note as me being in favor of the proposed change of use.

And I believe that's it. We have several letters all in support and testimony in support as well. I'm going to close public commentary.

Discussion from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Let me give you the conditions that I think we should impose, because as I said, we imposed it on your neighbor in the same line of business, and please welcome any feedback from you or members of the Board.

First condition, that under the Alewife Overlay District provisions of 20.9.42, that's our Zoning Ordinance, special section, all dust fumes, odors, smoke, or vapors shall be effectively confined to the premises or disposed of so as to avoid air pollution.

No issues? Okay.

That any noise, vibration, or flashing shall not be normally perceptible without instruments at a distance of 100 feet from the premises.

No problems so far.

That the premises shall not be used for the sale of new or used motor vehicles.

TIMOTHY SHANNON: No.

CONSTANTINE ALEXANDER: That the hours of operation will not be earlier than 6:30 a.m. and normally would cease at 2:30

p.m. However that for special circumstances it can go beyond 2:30 p.m.

And that any dumpster removals be during these hours; i.e. not in the middle of the night.

That no vehicles shall be repaired or in the process of being repaired shall be parked overnight outside the building.

Okay?

That one, ten-yard dumpster shall be allowed on the property next to the loading -- well, shall be allowed on the property.

UNIDENTIFIED AUDIENCE MEMBER: Yes.

CONSTANTINE ALEXANDER: Okay?

That there shall be no storage of vehicle parts outside of the building?

UNIDENTIFIED AUDIENCE MEMBER: Did you say vehicles parked outside the building?

CONSTANTINE ALEXANDER: Vehicle parts.

UNIDENTIFIED AUDIENCE MEMBER:
That's right.

CONSTANTINE ALEXANDER: And that the interior layout of the building shall follow the plans that were submitted as part of this application. You have some plans in here.

TIMOTHY SHANNON: Yeah. I gave you a floor plan of the existing building.

CONSTANTINE ALEXANDER: Yes.
It goes without saying, that if these conditions are violated, that the Special Permit gets revoked. So you've got to comply with these conditions as a condition of getting your Special Permit.

TIMOTHY SHANNON: Yes.

BRENDAN SULLIVAN: I would suggest

the hours are quite limited. They're fine for this particular occupant/tenant. I would say 6:30 to 6:00. 6:30 a.m. to 6:00 p.m. which is a normal probably business day for a similar operation, not for this particular tenant but for general.

CONSTANTINE ALEXANDER: In fact, in the case of Euro-Tech at 53 Smith Place we had 6:00 p.m. You suggested 6:30.

BRENDAN SULLIVAN: Correct.

CONSTANTINE ALEXANDER: 6:00 or 6:30 for the close normally?

BRENDAN SULLIVAN: We could go 6:30 a.m. to 6:30 p.m.

CONSTANTINE ALEXANDER: Okay, fine.

You have that? That will be to modify the hours, keep in the notion that in a case of unusual circumstances, they can go beyond 6:30 p.m. emergency situations.

I think that's it.

Anybody else have questions? Ready for a vote?

Okay. The Chair moves that this Board make the following findings:

That traffic generated or patterns of access or egress as a result of what is being contemplated will not cause congestion, hazard, or substantial change in established neighborhood character. By the way, all these findings are subject to the conditions that will be imposed when we grant the Special Permit. Those conditions are satisfied, you'll meet these conditions that we have to say you meet to give you the relief you want.

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

That no nuisance or hazard will be

created 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.

In this regard, the Chair would note that the letters of support, unanimous letters of support for what is being proposed, and that what is being proposed benefits the City of Cambridge generally because it allows the police department to have a facility in Cambridge that allows you to repair your motor vehicles.

So on the basis of these findings the Chair moves that a Special Permit be granted on the condition, subject to the conditions

that I earlier identified.

You have them all?

THE STENOGRAPHER: Yes.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

* * * * *

(8:45 p.m.)

(Sitting Members Case #BZA-002459-2013:

Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call case No. 002459, 7 South Normandy Avenue.

The Chair is in receipt of a letter from Edrick Van Beuzekom, B-e-u-z-e-k-o-m, the architect for the project.

(Reading) To the Board of Zoning Appeals: We have been notified that one of the Board members for our continued case Timothy Hughes will not be present at this evening's hearing. We would prefer to have all five members present for our case, therefore, we request that the case be continued to the soonest possible date when all of the members can attend.

I understand that the earliest date is, next date, January 30th?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued as a case heard, a waiver for time of decision already in our files, until seven

p.m. on January 30th on the condition that the sign be revised, the sign of the property, be revised to reflect the new date and the new time. One more time. And the new time of seven p.m.

And that the sign be maintained for the period required by our Ordinance.

And further, that to the extent that any new plans from that presented at the initial hearing or revised plans or dimensional forms, they must be in our files by no later than the five p.m. on the Monday before January 30th.

All those in favor of continuing the case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Sullivan, Scott, Green,

Myers.)

(Whereupon, at 8:45 p.m., the
Zoning Board of Appeals

Adjourned.)

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

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

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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 27th day of January 2014.

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Notary Public
Certified Shorthand Reporter
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My Commission Expires:
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