

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, DECEMBER 14, 2017

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green, Member

Andrea A. Hickey, Member

Patrick Tedesco, Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S  
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(7:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan,  
Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our practice, we start with continued cases. These are cases that have started at an earlier date and for one reason or another have been continued until tonight and then we'll go to our regular agenda. But before we start, I want to make an announcement to those few of you in the audience. That after notifying the Chair, any person may make a video or audio recording of our open sessions or may transmit the meeting through any medium subject to reasonable requirements that the Chair may impose as to the number, placement, and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning

of the meeting the Chair will inform other attendees at that meeting that a recording is being made.

And I wish to advise those of you in the audience that a recording is being made. In fact, two: A citizen of the city has left a tape recorder right here. And our stenographer tapes the session as well to assist her when she prepares the transcript of the meeting. So be advised that there is a recording being made.

With that I'm going to call the first case.

\* \* \* \* \*

(7:00 p.m.)

(Sitting Members Case No. BZA-014237-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: Case No. 014237, 156 Line Street.

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

(No Response.)

CONSTANTINE ALEXANDER: There is no one. And the reason there is no one is that we have a letter from the attorney for the project, Sean Hope. (Reading) Please accept this request on behalf of the petitioner to withdraw the zoning application. The petitioner has now abandoned plans to utilize the requested Special Permit.

And so I'll take a vote. We have to vote to accept that request for a withdrawal. And the consequences are is that for two years the petitioner cannot basically file the same petition. If he or it wants to seek relief, it has to be something that's substantially different than what was proposed tonight.

All of those in favor of accepting the request for withdrawal please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case  
withdrawn.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(7:05 p.m.)

(Sitting Members Case No. 013985-2017: Constantine  
Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey,  
Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will next call  
case No. 013985, 2615 Massachusetts Avenue.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

The Chair is in possession of a letter from James J. Rafferty, counsel for the petitioner in this matter. The letter says: Please be advised that the applicant in the above-captioned matter currently scheduled for Thursday, December 14th, wishes to withdraw their application.

So I think we should abide by their wishes. I make a motion that we accept the request for withdrawal.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(7:05 p.m.)

(Sitting Members Case No. 013923-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The next case is 013923, 43 Essex Street.

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

STEVE HISERODT: My client has not arrived yet.

CONSTANTINE ALEXANDER: Oh, okay. I'm sorry, we couldn't hear you. She couldn't hear you.

STEVE HISERODT: Chris Shachoy, the client, has not arrived yet. I'm happy to start the discussion.

CONSTANTINE ALEXANDER: We can wait. We can't

take any other case until 7:30 so we'll just hang out while you wait for your client.

(A short recess was taken.)

CONSTANTINE ALEXANDER: The Chair will once again call this case, 43 Essex Street. Again, for the record, on the record, name and address to the stenographer.

STEVE HISERODT: Steve Hiserodt, Boyes-Watson Architects.

CHRISTOPHER SHACHOY: Chris Shachoy, 120 Brattle Street, Cambridge, Mass.

CONSTANTINE ALEXANDER: Okay. Floor is yours.

STEVE HISERODT: So we're back again to try and resolve the request for relief from setbacks on the parking. Last time we were here we had a scheme that showed all of the parking pushed all the way to the rear of the property line. And the neighbor, abutter Mr. Cole objected strongly to it being that close to his house. So we have discussed back and forth with Mr. Cole and tried a number of different

schemes and organizations to try and alleviate some of the proximity issues. We've managed to find a scheme that pushes it eleven feet from his property line. And given it a partial cover to mitigate some of the noise issues that he thinks --

CONSTANTINE ALEXANDER: Partial cover in the form of?

STEVE HISERODT: A carport essentially, but it's only going to be three sided and partially roofed.

CONSTANTINE ALEXANDER: And that carport will have a wall so the lights won't --

STEVE HISERODT: Right.

CONSTANTINE ALEXANDER: -- it won't go through.

STEVE HISERODT: It will block headlights. It will block noise.

CONSTANTINE ALEXANDER: And as you say, the abutter, who I see in the audience, how do you characterize his feelings on this?

STEVE HISERODT: I think he is -- would prefer that we were further from the property line than the eleven feet. I guess I would like to remind us all that the normal required setback is five feet.

CONSTANTINE ALEXANDER: Yeah, but this is a little bit of an unusual kind of situation.

STEVE HISERODT: Yes, I agree.

CONSTANTINE ALEXANDER: So I mean the usual, you're right.

STEVE HISERODT: Yeah.

CONSTANTINE ALEXANDER: But to here, someone's got a window that's looking right over where the parking area is.

STEVE HISERODT: Yes.

CONSTANTINE ALEXANDER: And headlights are going to come shining through the window. And to asking about noise, personally I'm very sympathetic to the neighbor's problems.

STEVE HISERODT: Yes, as are we.

CHRISTOPHER SHACHOY: As are we.

CONSTANTINE ALEXANDER: I'm not suggesting otherwise.

STEVE HISERODT: We've tried to do everything that we could possibly do to try and ease the situation. But this given site constraints, it's a nonconforming width lot, existing non-conforming building. There's very little room to move.

CHRISTOPHER SHACHOY: And the prior existing grandfathered parking went out the window due to the fact that there was a use change from a daycare facility back to residential which was residential previously, daycare facility now.

CONSTANTINE ALEXANDER: So the park -- I'm looking at your -- I think your current plans, they must be. This is essentially the one that shows, of all the plans, how it's going to work.

STEVE HISERODT: Yes, yes.

CONSTANTINE ALEXANDER: Has everyone seen this or  
want to see this?

BRENDAN SULLIVAN: Yes, let me see it.

CONSTANTINE ALEXANDER: Sure.

BRENDAN SULLIVAN: If you could just refresh. How  
many units are in the building?

CHRISTOPHER SHACHOY: The building's what, a  
little bit shy of 8,000 feet. 8,000 square feet.

BRENDAN SULLIVAN: No, units?

CONSTANTINE ALEXANDER: How many units?

CHRISTOPHER SHACHOY: There are four units in the  
building.

BRENDAN SULLIVAN: And parking spaces?

CHRISTOPHER SHACHOY: So we're trying to get to  
four parking spaces --

BRENDAN SULLIVAN: You're going to get  
to --

CHRISTOPHER SHACHOY: -- so we can meet the zoning.

PATRICK TEDESCO: I'm presuming the nature of this carport is not counted as FAR?

STEVE HISERODT: No.

PATRICK TEDESCO: Because it's open -- because -- what's your --

STEVE HISERODT: Because you're allowed to have cover for up to 15 on a multi-family project.

CONSTANTINE ALEXANDER: And it's not a structure, the carport, for purposes of being complying with setback requirements?

STEVE HISERODT: It complies with all the setback requirements?

CONSTANTINE ALEXANDER: It does?

STEVE HISERODT: And height as well.

CONSTANTINE ALEXANDER: You have to refresh my --

CHRISTOPHER SHACHOY: We envision planting so it's

going to look like a trellis over time.

CONSTANTINE ALEXANDER: I can see that from the drawings.

CHRISTOPHER SHACHOY: Yeah.

CONSTANTINE ALEXANDER: Go back to the nature of the relief you're seeking, then. Forget about the carport. We're not going to forget about it, but just tell me from the beginning.

STEVE HISERODT: It is essentially parking and driveway within five feet of the setback line which is all appearing at the right-hand setback line. The existing driveway already travels up to the rear of the house right on the property line. So we are extending that to 10, 11 feet.

CONSTANTINE ALEXANDER: And that extension being the fact causes the problem with your neighbor?

STEVE HISERODT: Yes. There is the adjacent property here --

CHRISTOPHER SHACHOY: Our abutter to the north is a parking lot, and then the elderly housing with the CHA.

CONSTANTINE ALEXANDER: Now, I see the three where the carport is. Where's the fourth parking space?

STEVE HISERODT: In the front.

PATRICK TEDESCO: There's a little pull off.

CONSTANTINE ALEXANDER: Is there a jog so it doesn't block the driveway?

CHRISTOPHER SHACHOY: Yeah, that's where the -- if you were there the other day, the -- it's where the port-a-potty was.

CONSTANTINE ALEXANDER: Okay. The site was a mess when I was there.

CHRISTOPHER SHACHOY: Timing was everything.

CONSTANTINE ALEXANDER: I know.

CHRISTOPHER SHACHOY: We're putting in the new sewer line and they took out the construction fence without --

CONSTANTINE ALEXANDER: For the benefit of my board members, I went and inspected the property and I didn't see any sign. And so I called Sean and said, hey, there's no sign. And it turned out that there was construction on the site and there was a sign on a fence, and that was essentially Sunday morning, the fence had been moved and the sign was obscured. But the sign has been there.

CHRISTOPHER SHACHOY: We took the fence 90 degrees to the roadway.

JANET GREEN: And it was back when I went by.

CONSTANTINE ALEXANDER: Yeah. I think Sean went by, too.

JANET GREEN: Yeah.

CONSTANTINE ALEXANDER: My timing as you say was perfect.

CHRISTOPHER SHACHOY: It was impeccable.

ANDREA HICKEY: Can I see those?

CONSTANTINE ALEXANDER: Sure.

ANDREA HICKEY: Thank you.

CONSTANTINE ALEXANDER: I'm going to ask if the neighbor -- do you want to speak to this?

RICHARD COLE: Yes, I do.

CONSTANTINE ALEXANDER: Okay, now's the time. You don't have anything else to add at this point?

CHRISTOPHER SHACHOY: Not at this point, no.

Richard, do you want to take a seat up here?

RICHARD COLE: Yes.

When I talked with these two gentlemen about five weeks ago was at the site and at that time what we were discussing was that here is Essex Street.

CONSTANTINE ALEXANDER: Right.

RICHARD COLE: Here's the property.

CONSTANTINE ALEXANDER: Right.

RICHARD COLE: Right here there's a well for a window --

CONSTANTINE ALEXANDER: Right.

RICHARD COLE: -- below grade. Here's my house out back here.

CONSTANTINE ALEXANDER: You're out back here, right.

RICHARD COLE: Back here. And we were talking about moving this well over to this side here and parking two cars in the backyard. Now he has three. This was originally a three decker. Three-family. He's converting it to four families which is why we have four cars shown on here. But the problem that I'm having is that I've been in that house and my family has owned the house since 1950. There has not been any car parking in the backyard. There was an old garage over here which was unused, and when we moved in in 1950, you could see through a missing pane in one of the swinging garage doors, it was empty. It wasn't used for cars. It wasn't used for storage. It was just there. And by the time that Associated Daycare Center moved

in, they tore the garage down and it was gone. So from 1950 up till now there has not been any parking behind the house. The problem is that this house that I live in is on Prospect Street. Prospect Street is not a normal street, believe me when I tell you that. And the way the house was built originally, and I believe it was built -- the house that I live in, in 1879 -- no, 1889. And it was designed so that the daytime roofing area is in front of the house towards Prospect Street which was a busy street. And then eventually they even had a trolley line on Prospect Street, streetcars. But They put the sleeping quarters all in the back of the house. So if you look at the back of the house, you'll see on the second floor two windows, one on each end, down below first floor, two windows, one on each end, and then in the center two smaller windows and those are the bathrooms. So it was designed -- since the street was meant to be a main artery, it was designed, the house was designed so that the people could live in the back, sleep there, and

during the daytime there's noise, but you're up, who cares, right? As long as it doesn't get oppressive.

The problem is if they park in this backyard, I have no control over what they do. In other words, people have different schedules. Some people work nights, some people work afternoons, some people start at eight o'clock in the morning. And everybody has their own schedule and their own time at which they would be using their automobile, and the problem is that -- see, I don't have any control over any of that. The people who live in this building, if one of the owners is bothering the other owners, they can talk among themselves but me, I'm an outsider, you know? So what do I do, call the police? It's a problem.

CONSTANTINE ALEXANDER: I understand the problem, but you started off by saying you're talking -- at one point about moving one of those window wells around to the back and you would still have to park two cars in the backyard.

RICHARD COLE: Yes, but it wouldn't have been as far back. I was kind of thinking that if it was --

CONSTANTINE ALEXANDER: Wait a minute, why wouldn't it have been as far back?

RICHARD COLE: Because they're trying to have the convergence of three automobiles from three different angles.

CONSTANTINE ALEXANDER: Well, that makes it a problem for the people who park their cars there and who presumably who live in the structure.

RICHARD COLE: Yes.

CONSTANTINE ALEXANDER: But I don't know why that adversely affects you. I mean if there's proper screening, and it's not going to be perfect ever, in terms of a carport and landscaping, isn't the impact minimized? I mean, I know you have that house since 1950, but the world changes. People now -- maybe then didn't have cars and didn't park in the backyard, but now people do park in the backyard, and

our concerns, or at least not my concern, is not to have that backyard parking adversely affect the abutter near where the parking is.

RICHARD COLE: Right. Well, even when you're talking about carports, essentially to make that soundproof you need a concrete block wall.

CONSTANTINE ALEXANDER: Why do you need to be soundproof? The car is going to pull up and stop.

RICHARD COLE: Well, it doesn't work out that way.

BRENDAN SULLIVAN: It's the city. It's the city. We all live next to each other comings and goings. I mean you can't --

RICHARD COLE: Yeah, I know.

BRENDAN SULLIVAN: You can't regulate that everybody is going to be quiet and, you know --

RICHARD COLE: No, I'm not saying --

BRENDAN SULLIVAN: Leave at eight o'clock in the morning and come home at six and shut the door and never to

bother anybody again. It's the city.

RICHARD COLE: It's like I said, people work different shifts; morning, afternoon, nighttime. So they leave for work different times, come home at different times.

CONSTANTINE ALEXANDER: That's the city. That's Mr. Sullivan's point.

RICHARD COLE: Right. So that's what I'm trying to eliminate as a problem is the noise. But you need, you need a masonry wall and probably should have --

CONSTANTINE ALEXANDER: I guess I'm still troubled why you think there's going to be a big noise problem, unless people are going to argue with each other. I mean, the cars are going to come and turn their motor off. Or they're going to turn the motor on and back out, but that's not going to create all kinds of noise.

RICHARD COLE: Well, some people sit in their cars for quite a while warming them up.

BRENDAN SULLIVAN: And if they have an electric vehicle, you won't hear it at all.

RICHARD COLE: That would be nice. Again, I have no control over what types of vehicles they may have, what they want to -- they may want to park a Winnebago in there, who knows.

ANDREA HICKEY: So is your primary objection any parking in that location or three parking places in that location?

RICHARD COLE: Well, three parking places I think is too much. If this was just staying as a three-unit building, the way it was, that would eliminate one of the cars and it would be down to two and they could move this closer this way towards -- the building at 43 Essex Street. But since they're going for maximum number of units, they're changing it from a three -- what people who lived in Cambridge used to call a three decker, to --

CONSTANTINE ALEXANDER: Still do.

RICHARD COLE: -- four condos. Yeah. To four condos. And that brings in, according to --

CONSTANTINE ALEXANDER: But the structure is large enough to support four dwelling units that's why they're doing it this way. And Cambridge zoning requires, at least on subject to the relief that we can grant, requires that for each dwelling unit you need to have an on-site parking space, which leads to four parking spaces. That's what they're proposing. We could -- and they need some technical relief because of the narrowness of the driveway. It's not because of the closeness of their -- the end of their parking to your property line. They've got eleven feet separation, and then the carport, etcetera.

PATRICK TEDESCO: Which I believe is within the zoning setback. In other words --

CONSTANTINE ALEXANDER: Yeah.

PATRICK TEDESCO: -- the relief they're seeking is not up against your property.

CONSTANTINE ALEXANDER: Exactly.

PATRICK TEDESCO: It's up against the adjacent property.

RICHARD COLE: I understand that, but the adjacent property here you have cars parked this way all along the side here.

CONSTANTINE ALEXANDER: Yeah.

RICHARD COLE: That's the Kennedy apartments over here. So their driveway is next to a parking area. So if you have a driveway on one side, a parking area on the other side, what's the difference? But when you have a property line and on the other side of it is a house and not only is it a house, but you have the living quarters or the sleeping quarters in the back of the house, that's the worst possible combination. You'd have a problem with the zoning law when they say you can park within five feet of the property line. What's important is what is on the other side of the property line. Because if there's nothing there and it's a

parking area, who cares? If it's an industrial building, who cares? If it's a playground with little kids, you might want to think about it twice. If it's somebody's house and that's where the living quarters are, then there's a problem. So I think the five-foot minimum allowance needs to be changed so that whoever wants to park within five feet of a property line is made to evaluate the impact on what is on the other side of the property line.

CONSTANTINE ALEXANDER: That's what we do. That's our job as a Board.

RICHARD COLE: Right. And ten inches is what --

CONSTANTINE ALEXANDER: But here you've got eleven feet from the end of their parking, the parking area to your property line. And how many feet beyond that is your house? Are you on the --

RICHARD COLE: Ten inches.

CONSTANTINE ALEXANDER: Ten inches. Okay.

RICHARD COLE: And see, unfortunately in those

days they built houses on property lines.

CONSTANTINE ALEXANDER: Yeah, I understand.

That's the city.

RICHARD COLE: Yeah.

CONSTANTINE ALEXANDER: But eleven feet of separation between the end of the parking and your structure, that's not an unusual situation in the City of Cambridge given the density of the city. And we're going one step further, I think we will require the petitioner to take steps to ameliorate the impact by the carport, by the plantings around there. It's not going to be perfect.

RICHARD COLE: Plantings basically do not do anything. For example, you could have a row of Christmas trees between me and you --

CONSTANTINE ALEXANDER: Understood.

RICHARD COLE: -- we could still have a conversation back and forth.

CONSTANTINE ALEXANDER: It's more aesthetic than

it is --

RICHARD COLE: That's what it is, right. The thing is even if there is a carport, it depends on the angles that are generated by the particular design and that it contains on the ends the sound, if possible. And it needs to be constructed of sound -- relatively soundproof material. I was thinking that it should be concrete block with maybe concrete planks over the roof. The concrete planks over the roof.

CONSTANTINE ALEXANDER: Let me, have you thought or dealt with or considered the idea of some sort of soundproofing the carport?

STEVE HISERODT: Yes, and we hadn't talked about specific materials.

CONSTANTINE ALEXANDER: I'm sorry?

STEVE HISERODT: We hadn't talked about specific materials, but we're happy to work with Mr. Cole to find the best solution.

CONSTANTINE ALEXANDER: So you're amenable to soundproofing the carport?

STEVE HISERODT: Yeah, that was the intention all along, and that's why we're putting the carport in.

BRENDAN SULLIVAN: What you've got a pitched roof there?

STEVE HISERODT: Right now it's not pitched, it's flat --

BRENDAN SULLIVAN: It's a flat roof? Well, even so what is the material, is it just a rubber roof basically?

STEVE HISERODT: Yeah.

BRENDAN SULLIVAN: So framed. So you could put some attenuation blankets or something in that roof area to --

STEVE HISERODT: Yeah. Do the same thing to hold in the frame wall. There's lots of things we can do.

BRENDAN SULLIVAN: Yeah.

CONSTANTINE ALEXANDER: So they're planning to

address your issue.

RICHARD COLE: Yeah.

CONSTANTINE ALEXANDER: I think your issue, frankly, is you don't like having cars parked within ten inches of your house. Understood. Nobody -- but that's, as I said, that's your house, this is the lot next to you, that's the City of Cambridge. They're not violating any law with regard to the proximity of the end of the parking to your lot line. And they're taking -- they said they're -- and we'll require them to take steps to minimize the sound through a soundproofing of the carport. More than that, I don't know what else we can do. I don't think we should turn this down and throw three more cars on the streets of Cambridge.

RICHARD COLE: What I would like you to do, I would like to make what is an unusual request of this Board. We all meet at the site and you see the situation firsthand and the position of the house at 43 Essex versus the one

that Harvard.

CONSTANTINE ALEXANDER: What would that do for us? Why will that change anything? We got the message, I think, and we see the plans. We know the area. I've certainly looked at the lot.

JANET GREEN: I did, too.

BRENDAN SULLIVAN: I've been there.

CONSTANTINE ALEXANDER: Yeah, we've all been there.

JANET GREEN: And we've looked at many lots in Cambridge so we're familiar with what eleven inches or twelve inches means and why it's important to you.

RICHARD COLE: No, what I was thinking of you stand in the middle of the backyard here and you just look at one side and you look at the other side and you can see what the problem is. And sound reverberates off of flat surfaces like building walls. I'm sure that any sound that's generated in this area would bounce off my house and

head back towards their house. And it would bounce off their house, heads towards mine. It goes in all directions. So the idea was to use soundproof materials, and I believe it should be some sort of concrete block wall and some sort of precast concrete roof. They have all different types of precast concrete planks.

CONSTANTINE ALEXANDER: I'll defer to the people who are more expert in construction matters than I am.

PATRICK TEDESCO: I mean, I think the architect will speak to this, but I think instead of materials like that, materials that absorb sound, you know, maybe perforated sound panels will do a better job than having hard surfaces. You're trying to create a sound separation for your property. I think you want to do is have material that will absorb -- that's designed to absorb sound in the space. I think that's a better solution.

RICHARD COLE: I'm not sure. What type of material are you talking about?

PATRICK TEDESCO: Well, they make panels with insulation --

BRENDAN SULLIVAN: Sound attenuation panels.

PATRICK TEDESCO: Attenuated blankets. And they're sandwiched in panels that have little holes that are perforated so the sound gets absorbed. I think there's materials that are intended -- people use them when they screen air conditioning units for example on roofs and things like that. I think they're pretty effective. They're not gone going to block all the sound, but they're definitely going to mitigate the sound of the cars starting.

I mean personally I think the measures they've taken to not only mitigate sound but the effect of the headlights and so forth against your property are very reasonable. And the fact that they've set back not the minimum five feet, but eleven feet, I mean there are many -- my own property I park right up against the property line. It's an existing condition. And I'm sure -- and

there's a fence. I'm sure my neighbors, you know, are bothered by it at times, but we live with it. Same with my neighbor on my other side parks right up against my property. So, you know, I think they've done a very -- I think they've done a very thoughtful and reasonable thing to mitigate the impact on your property.

RICHARD COLE: Well, can I ask you this question? Would you be willing to keep watch over what it is that they do construct? Because I have an idea that it really won't be soundproof.

CONSTANTINE ALEXANDER: Well, we can't --

PATRICK TEDESCO: It won't be soundproof.

RICHARD COLE: Yeah, well, I know what you mean.

CONSTANTINE ALEXANDER: We don't have oversight. We don't monitor the things. We have give a decision, we place conditions, and the condition that we're going to place when we vote in favor, is to put have a carport with soundproofing on it so as to such that to minimize the

sound, the noise. But if they don't do that, your recourse is to go to the Inspectional Services Department. We're not going to be monitoring on it. We will set the framework, the rules, and then there's an argument about whether those rules are being satisfied, that's for another day and another forum, but not us. That's just so you understand how the zoning works. That's Inspectional Services, that's day in and day out. That's the kind of thing they do.

RICHARD COLE: I did not have much luck with Inspectional Services because --

CONSTANTINE ALEXANDER: Well, you know, I'm not going to get into that.

RICHARD COLE: For five and a half months.

CONSTANTINE ALEXANDER: Maybe your desires are not supported by law.

RICHARD COLE: For five and a half months they operated almost everyday a Bobcat in back of my house.

CONSTANTINE ALEXANDER: You made that point the

last time. Let's not get into that.

RICHARD COLE: Two feet within my house. And you don't do that with a brick foundation.

BRENDAN SULLIVAN: Okay, we're ready to move on.

CONSTANTINE ALEXANDER: Yeah.

Anything else you want to say?

RICHARD COLE: Well, I really think you should take a look at this and see exactly how this -- it looks because I'm sure when you were there, you weren't thinking about carports or parking or anything else. You were just looking at the site. So I'd leave that open, that request that you take a look at it before you make a final decision, because you really have to see it. You really have to see it to understand why I am here complaining about this, because it is a major change in the use of the property, that's the problem. And the zoning regulation which allows you to park within five feet of a property line, that really needs to be changed so that it takes into account what is on

the other side of the property line.

CONSTANTINE ALEXANDER: As to that you better speak to the City Council. They write the zoning law. We don't write it. There's something in the Ordinance that deals with -- I'm not saying you're wrong. It's not in the Ordinance. It's not for us to do. Thank you anyway for taking the time to come down. We appreciate it.

RICHARD COLE: Okay.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. Anything final you would like to say? Maybe you want to talk a little bit more about the soundproofing and give some assurances and I want it on the record.

CHRISTOPHER SHACHOY: Yes. So we will use reasonable efforts to use any --

JANET GREEN: Just pull it up to you.

CHRISTOPHER SHACHOY: -- any and all reasonable efforts to use soundproofs, sound attenuating materials to alleviate the stress of the potential of headlights or car engines starting from being any more of a disruption to Mr. Cole seeing as the fact that his house is adjacent -- is essentially up against the rear lot line.

CONSTANTINE ALEXANDER: Yeah.

CHRISTOPHER SHACHOY: And we've taken the time to meet with Mr. Cole several times and he's been very generous of his time as well. And at a certain point with these kinds of things, you know, we did start off on the wrong foot. We created some noise not knowing that we were disrupting him --

CONSTANTINE ALEXANDER: That's completely right.

CHRISTOPHER SHACHOY: -- until it got to the boiling point and here we are. But we also have to work within the confines of the Zoning By-Law or the Zoning Ordinance and we're limited in what we can do. And we think

we -- Steve's spent a lot of hours going over different options and we want Mr. Cole to be happy with the end result. We don't want to have an angry neighbor. And we'll do everything in our power to try to do the right thing here.

CONSTANTINE ALEXANDER: Okay, thank you.

I'm going to close public testimony.

Any discussion from members of the Board or we've had the discussion already?

BRENDAN SULLIVAN: Yeah, no, I think the latest proposal is a very fair and reasonable request, and I think they've gone the extra step to do as much as they can within the confines of the size of the lot and the shape of the lot.

CONSTANTINE ALEXANDER: Yeah. And if we impose a condition, which they've acknowledged they would -- namely, soundproofing, quote/unquote, the garage, I think that's a reasonable resolution.

JANET GREEN: I do, too.

CONSTANTINE ALEXANDER: All right, let me make a motion and pay close attention when I get to the soundproofing language and see if you can do better than I, which you probably can.

Okay, the Chair -- this is a Special Permit case, by the way, so we have to make various findings.

The Chair moves that we make the following findings with regard to the relief being sought:

That the requirements of the Ordinance cannot be met without zoning relief tonight or whatever.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character. With regard to this when we come to conditions, we're going to try to -- we're going to impose conditions -- sorry, condition, that is designed to deal with the impact of substantial change in established neighborhood character.

That the continued operation or the development of adjacent uses as permitted in the Ordinance will not be adversely affected by the nature of what is being proposed. And, again, when we get to the conditions, it will be -- condition, it will be designed to deal with that as well.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of your property or the citizens of the city.

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

So on the basis of these findings, the Chair moves that we grant the relief being sought. Noting that the relief being sought is relatively technical and modest in nature. It relates to the driveway setbacks, but that there are impacts of the relief. And that impact results from the

parking near the rear of the lot on the abutting lot.

So we would impose a condition that the work first of all proceed in accordance with the plans submitted by the petitioner and initialled by the Chair, which shows the design where the parking is going to be. And that there will be a carport.

And that a further condition that this carport be constructed in a fashion that will minimize, it's not eliminate, but at least to minimize to the maximum extent possible any noise or headlight effects of the parking in the rear of the lot on the abutting lot, abutting structure which is ten inches from the lot line to the other side.

Any better words?

JANET GREEN: Good.

BRENDAN SULLIVAN: I don't know. Are you comfortable with that language in a sense that --

STEVE HISERODT: Yeah, I think that, I mean it would be hard to quantify exactly what can or cannot be

achieved --

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: Right, you cannot do it tonight.

BRENDAN SULLIVAN: Yeah, make some attempt to use some sound attenuation materials to minimize the ambient noise of automobile traffic, the comings and goings basically. You know, I mean, we deal with Kamco obviously and they have all kinds of sound materials that you could throw up --

STEVE HISERODT: Right.

BRENDAN SULLIVAN: -- in the bays. And as Patrick says, then there's a, you know, sort of a perforated even aluminum, you know, to go over that or something like that.

STEVE HISERODT: Right.

BRENDAN SULLIVAN: So there are some options out there. But anyhow.

CONSTANTINE ALEXANDER: I would just modify based

on what you just said, that with regard to the carport minimizing -- taking steps to minimize sound emanating from the parked cars that's included in that is use of materials which absorb sound and minimizes the -- what are the words you used?

BRENDAN SULLIVAN: Attenuation.

PATRICK TEDESCO: Sound attenuation.

CONSTANTINE ALEXANDER: Sound attenuation material.

BRENDAN SULLIVAN: It's not a legal term. It's a construction term.

CONSTANTINE ALEXANDER: I know, that's why I'm fumbling about.

All those in favor, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Permit granted.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(7:50 p.m.)

(Sitting Members Case No. 014892- 2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 014892, 1791 Massachusetts Avenue and 1 and 2 Frost Terrace.

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

ATTORNEY SEAN HOPE: Good evening Mr. Chairman, members of the Board. For the record, attorney Sean Hope, Hope Legal Offices in Cambridge. I'm here on behalf of the

petitioner, HRE -- CC HRE 1791 Tenant, LLC. For the record, I am also the developer on this project as well as the attorney. We are here tonight requesting a continuance, specifically for January 11th. And I'm being mindful not to get into the merits of the case, but I did want to let the Board know this case, we have been meeting with the direct abutters for over a year. I would say at this point we have exhausted the communication in terms of some of the material issues that there just really is just some disagreement on. Just quickly there's been a working group. We've had numerous neighborhood meetings, site visits with our direct abutters and most of the proponents the people in the audience are direct abutters. Most recently on December 5th we were at the Planning Board and there was design feedback, and that is the reason that we're asking for the continuance. As the Board knows, the Planning Board is made up of nine members, and there's sometimes various comments from various different members, but their purview is only

for design only. Subsequent to that meeting, we had a meeting with the city staff of the housing to try to distill what comments from the Planning Board were -- the design comments were germane to our project. We spent two hours meeting with them and we made the decision that we would be able to come before the Board on January 9th. Again, the Planning Board's purview is design. So for those design issues we believe that we'd be able to make those changes and also communicate those. We have a website called 1791 Mass. Ave. All of our plans, all of our meetings, our meeting notes are on that website. So we have been posting everything as it comes along.

I just also want to note I'm familiar with the Board, that rushing to get to the Zoning Board that rushing to get to the Zoning Board when there are issues you can work out with direct abutters, doesn't get you to a faster resolution. So I'm mindful. And if I did feel that the additional time would be fruitful for either neighborhood

conversation or make the project better, I would be open to an additional date. But we have delayed maybe to our detriment to get to this point.

CONSTANTINE ALEXANDER: I'm going to suggest, though, maybe we're going to hear from neighbors apparently who are not going to agree with this. I agree that the date of January -- my belief January 11th is too soon, particularly given what's going to happen between now and January 11th. It's the holidays. And people have other things in their lives, including yourself. And so to have a January 11th I think is too soon. I would either the second one in January or the first one in February would be my suggestion to fellow board members.

ATTORNEY SEAN HOPE: The only thing I'd like to add --

CONSTANTINE ALEXANDER: Go ahead.

ATTORNEY SEAN HOPE: -- is there are also -- if we were granted a comp permit, we would then be directly

applying for the state for funding. There are state funding rounds that have deadlines. That if we had a later January date and we had to have multiple hearings, that that could preclude us from being able to apply for state financing. I understand that's not totally the Board's purview. But I again, if I felt there were material changes that were going to be made that somehow would be best digested by neighbors, I would say, hey, it's important to get this right because this is an important project and we are mindful of that. But I would say the design changes that we are gonna make, and it's very fair to send those to abutters, I do not believe that they need longer than we would have over the holidays. With our website we can communicate those to our neighbors. And if they would want to discuss with us, we will make ourselves available like we have.

But again, the tension, the friction that we've heard from our direct abutters has very little to do with the design change that the Planning Board has suggested. So

I would say that I do believe that January 11th is sufficient time for us, but it's also important that we believe that outside of the design issues that we get before the Board because the material I feel like disagreements with some of our direct abutters are not things that were mentioned by the Planning Board.

CONSTANTINE ALEXANDER: When you met with the Planning Board, were the abutters or citizens of the city made aware of the meeting and were able to attend?

ATTORNEY SEAN HOPE: They were. So this is was an advisory hearing. So it was publicly noticed, but there wasn't the same requirements as there was for the Board. We weren't on the agenda. We were at the end of the agenda. So there was a full Planning Board agenda. We actually weren't even allowed to respond. It was, we made a short presentation. There was neighborhood comment. Frankly, we were counseled to not have our proponent show up because this wasn't a back and forth hearing. The abutters

rightfully showed up, they made some comments, and the Planning Board gave us their design feedback.

BRENDAN SULLIVAN: You're back to the Planning Board on the 9th?

ATTORNEY SEAN HOPE: We're not back to the Planning Board. There's actually no --

BRENDAN SULLIVAN: At all?

ATTORNEY SEAN HOPE: Not at all.

BRENDAN SULLIVAN: Okay. They would only review it because it's on our agenda?

ATTORNEY SEAN HOPE: That's right.

BRENDAN SULLIVAN: Okay.

ATTORNEY SEAN HOPE: And oftentimes their purview is to try to help the project. Right? There's no requirement that we go to the Planning Board. There's no permit granting authority. So we did get the sum design feedback. Some of it was helpful. We sat down with city staff to make sure we were on the right path. Frankly, we

have sat down, and they can attest to this, we have sat down numerous times, more than any other project that I have been on in terms of coming to this idea of what, to get to this point. We have delayed maybe to our own detriment. And I really do feel that if there was more time that would lead to anything more fruitful for the Board or fruitful for any party, I would say it's worth it to get this right. But I do believe the time we have is sufficient.

CONSTANTINE ALEXANDER: Two more weeks going to make a difference?

ATTORNEY SEAN HOPE: Frankly, if it took multiple hearings, then --

CONSTANTINE ALEXANDER: Well, I mean it will take multiple hearings starting January 11th if we have a hearing on January 11th. So at the end of the day it's still two more weeks.

ATTORNEY SEAN HOPE: If we started January 11th and we have multiple hearings --

CONSTANTINE ALEXANDER: You end at a date. If we started January 25th and we have multiple hearings, end on a date two weeks later. So two weeks make a difference?

ATTORNEY SEAN HOPE: It could make a difference based on --

CONSTANTINE ALEXANDER: How?

ATTORNEY SEAN HOPE: When the financing rounds are for the state. The financing rounds are starting in February. And that if we don't have -- that's what they are.

CONSTANTINE ALEXANDER: But if we continue it to January 25th, for example.

SEAN O'GRADY: It will be three weeks. The next one will be February 1st.

CONSTANTINE ALEXANDER: We have none in January?

SEAN O'GRADY: No, just the one.

CONSTANTINE ALEXANDER: Oh, I'm sorry, all right, three weeks, February 1st.

When they start a new funding financing round, it goes for a period of time.

ATTORNEY SEAN HOPE: So one of the requirements to apply is to have your zoning in place.

CONSTANTINE ALEXANDER: Well, okay. Let's assume, just assume that we grant the Comprehensive Permit on February 11th, you'll be able to represent to the Planning Board that the -- or I'm sorry, not the Planning Board.

ATTORNEY SEAN HOPE: State financing.

CONSTANTINE ALEXANDER: To the financing authorities that you have received zoning approval.

ATTORNEY SEAN HOPE: If we were on the 11th, that's right.

CONSTANTINE ALEXANDER: No, if you're on the 1st. You're dancing around on me a little bit. You worry about if we don't do it on the 11th, and have multiple hearings, it will push it out. Well, if it pushes you out because of multiple hearings, you're going to have a problem in

February anyway.

BRENDAN SULLIVAN: It could into March or April.

CONSTANTINE ALEXANDER: Yeah.

BRENDAN SULLIVAN: I mean, as far as going back because by the time it gets -- I'm not presenting -- I'm not representing you here, but I'm just thinking that if it were February and it were approved that night, by the time it gets printed up, written up, signed, the 20-day appeal period, so on and so forth, there's, there could be two to three months probably.

CONSTANTINE ALEXANDER: Okay, but it's two to three months from January 11th, too.

BRENDAN SULLIVAN: Correct.

ATTORNEY SEAN HOPE: But I would also say when you apply, if you say that we are having a hearing on February 1st and we haven't got approval yet, it's very different then if we say we met with the Board on January 11th, had our approval, but we're waiting for the time of decision.

It's very different in terms of how ripe the application is. So if the finding, it's not a firm date, but if the financing deadline was in February 1st and we had to -- went to the Zoning Board, we would apply before February 1st. We would be applying prior to that. There's a filing deadline. And so if we said if we got approved on January 11th, even if the time for the decision hadn't passed yet, our application would say we were approved by the Zoning Board but we were waiting for the time for decision. If we waited till February and if we were approved, it would be very different. Because if they had February 1st the application was due and we had a hearing on February 1st, we wouldn't be able to represent whether or not we were approved.

CONSTANTINE ALEXANDER: The date -- you only have one day to file the application February 1st.

ATTORNEY SEAN HOPE: No, there's a filing deadline. So you actually have up to a certain date to file the application. Not that the application process starts.

ANDREA HICKEY: For a certain round of funding?

ATTORNEY SEAN HOPE: That's right. There's a winter round.

PATRICK TEDESCO: So these are competitive rounds?

ATTORNEY SEAN HOPE: Highly competitive.

PATRICK TEDESCO: You're competing against other --

ATTORNEY SEAN HOPE: Very competitive, and it's become more competitive under the current administration.

PATRICK TEDESCO: Very much so. And I sit on the state housing authority Designer Selection Board, and I see how very few affordable housing units are being built in the state compared to years ago. So I only, I only say this, Gus, because --

CONSTANTINE ALEXANDER: No, I'm all ears.

PATRICK TEDESCO: If the case is not -- if the merits of the Special Permit are not acceptable to the Board, it doesn't matter when you're hearing --

ATTORNEY SEAN HOPE: That's right.

PATRICK TEDESCO: -- or if you have to go back multiple times. I am sensitive to the fact that this is a developer who wants to build affordable housing in Cambridge and has to compete against developers around the state, around the Commonwealth for funding, and if there's some -- if we take him at his word that the added time is not going to mitigate the abutter issues, then I'm not sure what the added time does for anybody.

CONSTANTINE ALEXANDER: Okay.

PATRICK TEDESCO: That's just my opinion. I mean, the competitive nature of these grants are very, you know --

CONSTANTINE ALEXANDER: Why don't we, I know there are abutters here. Why don't we hear from the abutters as to a time to continue this case to.

ANDREA HICKEY: Could I ask counsel a question first?

CONSTANTINE ALEXANDER: Sure.

ANDREA HICKEY: When do you think your final updates with new information of the website for the public to view to your website will be completed?

ATTORNEY SEAN HOPE: So I would say roughly around January 4th or 5th.

ANDREA HICKEY: Okay.

ATTORNEY SEAN HOPE: And, you know, if --

CONSTANTINE ALEXANDER: Well, they have to be in our files -- you got to have the new plans --

ATTORNEY SEAN HOPE: Exactly. The 8th is the -- the Monday before the hearing.

CONSTANTINE ALEXANDER: The Monday before.

ATTORNEY SEAN HOPE: Exactly.

CONSTANTINE ALEXANDER: Which is what, the 8th?

ATTORNEY SEAN HOPE: Yeah, that's the 8th, exactly.

And so we've looked at these deadlines. When we sat down with city staff trying to get -- we actually looked

at least the architects and said, hey, do we have enough time to make these design updates, to post them on the website to be able to get some feedback? And we do believe we have.

ANDREA HICKEY: Right. I understand when they're due to us. Just what is your ability to give the public the maximum sort of amount of time to look at your final tweaks let's say?

ATTORNEY SEAN HOPE: I would say that the very latest would be the 6th, which would be the Friday before. And, again, these are designed -- and I think part of the unknown is well, you know, wholesale changes. We're not making wholesale changes. We have really taken this far and these are really design tweaks that may not be to the liking of our abutters but this is also the breadth of the communication we've had thus far that we're really going to be making design tweaks, which are important.

ANDREA HICKEY: All right. And I don't want to

know the nature of those tweaks so that we don't get to the merits still, but just in terms of timeline, that's helpful.

Thank you.

BRENDAN SULLIVAN: To me I think it would be helpful to give it to the general public on that Friday so they have the weekend to review, to discuss it among themselves rather than five minutes of five on a Monday.

CONSTANTINE ALEXANDER: I had really thought about that. And I think if we continue the case to January 11th or whatever date, the time when you must have your plans in is going to be more than the usual five p.m. on the Monday before.

ATTORNEY SEAN HOPE: So, again, could we -- we've used our website to update the full public. So if we, instead of putting it in the file, would it be acceptable, because this is the way we've communicated --

CONSTANTINE ALEXANDER: Why can't you do both?

JANET GREEN: Well, you update on Friday and then

you'd put it in the file on Monday.

ATTORNEY SEAN HOPE: That's right.

JANET GREEN: But it would go to the public as what you're going to put in the file on Monday. You would have completed it by Monday -- by the Friday.

ATTORNEY SEAN HOPE: By the Friday.

JANET GREEN: And you would post it on the website.

ATTORNEY SEAN HOPE: That's right.

JANET GREEN: And then you would put it into the file on Monday.

CONSTANTINE ALEXANDER: If you complete it on Friday, why can't you just --

BRENDAN SULLIVAN: Well, because the department's closed at noontime.

CONSTANTINE ALEXANDER: That's true. That's a good point. Yeah, they do close at noontime.

JANET GREEN: So then they could come and have it

on five o'clock on Monday which would be the regular time --

ATTORNEY SEAN HOPE: But we can post it late into the evening on Friday.

JANET GREEN: -- for somebody who didn't look at the website.

CONSTANTINE ALEXANDER: I've forgotten about the twelve o'clock closing.

PATRICK TEDESCO: And we could make that a provision of the continuance?

CONSTANTINE ALEXANDER: Oh, definitely.

Well, let me open the matter up to public testimony.

So you folks have taken the time to come down. Again, we're talking about, right now, not the merits. We're talking about what's an appropriate date to continue this case to. And you've heard from Mr. Hope the reasons why they would like it to be January 11th. The reasons why they're compelled. So whoever wants to speak or all of you,

feel free. Just identify -- please come forward so we can hear and give your name and address to the stenographer.

JANET RECKMAN: Okay, sure. My name is Janet Reckman, R-E-C-K-M-A-N and I live at Four Newport road.

We've been working with Sean and Jason for over a year, that's true. And I think we have a mutual respect. It is the design and we're not gonna talk about that right now, I understand, that is our sticking point. And so at the Planning Board meeting we raised our concerns, and the Planning Board echoed many of those concerns. In terms of the time frame, that is our concern when we talk about January 11th or whenever the next meeting is. At our own expense as abutters, we've hired a civil engineer land use planner over this past year because we're abutters, but we're not professionals. So we want to make sure that he has time to review these plans, specifically because in the last set of plans in his opinion there were many deficiencies. Things that were not included; dimensions,

etcetera, it doesn't matter what right now. But it's important to us as people who --

CONSTANTINE ALEXANDER: Understood.

JANET RECKMAN: And so to offer those on a Friday night --

CONSTANTINE ALEXANDER: But, maybe I'm missing this. But we're talking about between what's here tonight and what's going to be in the file on January 11th on the website, is design changes. If a civil engineer has got other kinds of problems, those problems are not going to change. They're going to be whatever he's identified or she's identified will be -- you can raise those on January 11th. It's not a matter of having only four or five days to look at the changes. You have four or five days, whatever the number of days is, with regard to the design changes. I think Mr. Hope has represented that all they're going to be doing between now and then is, your words, is tweak the design. Am I correct?

ATTORNEY SEAN HOPE: Yes, and excuse me.

JANET RECKMAN: Sure.

ATTORNEY SEAN HOPE: And this is, you know, we have three buildings. This will be 40 units. Right? So there's multiple buildings that we're going to tweak. But I think to your point in terms of the things that are of a civil nature, drains designs, those things don't change. We're talking about -- and that's what -- the Planning Board's purview was design.

Now design might be massing for some people and maybe this is -- we can quibble about what your -- the issues were. Because to me height is not necessarily design. But I think to the Chair's point, the civil pieces aren't going to change, those are a product of conversations with DPW. And, again --

CONSTANTINE ALEXANDER: I don't know if that alleviates your concerns in terms of timing.

JANET RECKMAN: Yes, there were some design

changes that were engineering concerns that cantilever whether that was going to be possible. They said, Jason hadn't finished the design on that. I guess it's maybe to my understanding how complete a design needs to be for you all to approve it.

CONSTANTINE ALEXANDER: The way it works -- this is a -- first of all, maybe we should have talked a little bit about what a Comprehensive Permit's all about. But they're not going to submit final plans --

JANET RECKMAN: Okay.

CONSTANTINE ALEXANDER: -- on January 11th. They have drawings. I'm not sure how you would characterize them, but maybe -- drawings, not the final plans. And should we grant them the relief, it will be on the condition that their final plans will be consistent with the drawings that we saw in all material respects. But it's not going to be the final plans.

JANET RECKMAN: Okay.

CONSTANTINE ALEXANDER: That's just the way all these Comprehensive Permit cases work, not all of them, but generally that's how they work.

JANET RECKMAN: Thank you. Will the Planning Board have an opportunity to review --

CONSTANTINE ALEXANDER: No.

JANET RECKMAN: -- the tweaks?

CONSTANTINE ALEXANDER: No. The way -- and, again, let me explain the way the Comprehensive Permit works. Let me take a step back and bear with me for a second.

State legislature determined several decades ago is that we need more affordable housing in the Commonwealth.

JANET RECKMAN: We agree.

CONSTANTINE ALEXANDER: The reason we're not is because of the all the zoning laws and all the various permits that are required to build something in a community. And those were strangling the ability to have affordable

housing. My favorite is the Town of Weston, they have one acre zoning. Well, you're not going to have too much in the way of affordable housing if you have to comply with a one acre zoning requirement.

So the way the statute was drafted, 40B says that only one permit, if you're affordable housing, you're non-profit, and meet the other conditions, you only need to get one permit. That permit comes from the Board of Zoning Appeals, that's us. We have the obligation to canvas the other boards and get their comments. They don't tell us what to do. The Planning Board can give us their comments. The environmental people. A whole host of agencies are contacted, Traffic, and they, if they wish, give us some views. And then we come to the hearing. We have the benefit of all of that, and it's just us to decide. And the way it's set up, you should understand this if you don't already, is that if you will, I don't say it's skewed toward granting the relief, but the relief, the intention is that

to minimize the obstructionism that can be caused by multiple permitting and multiple issues because it's more important to have affordable housing in the community. That's the framework of which we decide.

So on January, if it's January 11th, we can still look at things, like environmental issues are still a legitimate thing for us to look at. But we don't get into the usual issues about setbacks and height and stuff like that. Just don't, because that's not what we're supposed to be looking at. That's the way a Comprehensive Permit works. You might want to -- what you might want to do --

JANET RECKMAN: No, I've read actually quite a bit about Comprehensive Permits.

CONSTANTINE ALEXANDER: Oh, all right good. I'm sorry to --

JANET RECKMAN: Oh, no, that's okay, that's okay. I'm honestly just a bit surprised the way you described it and maybe I misunderstood that it's -- the way you described

it where you don't consider setback or height, or I guess that's why the Planning Board's involved for opinion because they did have very big concerns about that.

CONSTANTINE ALEXANDER: I'm sorry, I wasn't as precise as I should be. You're correct to pick me up. Typically if you had a setback issue, they have to get a Variance from us.

JANET RECKMAN: Yes.

CONSTANTINE ALEXANDER: And that Variance is a very tough standard.

JANET RECKMAN: Okay.

CONSTANTINE ALEXANDER: Now, we don't look at that Variance standard. It's not a Variance any longer. We can look at the setbacks and the like, but doing it from memory, the issue that we can really focus on, and we have a right to turn down the application for the Special Permit -- for the Comprehensive Permit, more is in the environmental, utilities area and less on things like setback and height.

And we'll take a look at it. We'll take a look at it, take it into account.

JANET RECKMAN: Yes. And for the record, Sean and Jason know we support affordable housing. Just as the Planning Board said, just because affordable housing is to be built doesn't mean it needs to be ugly. Like they called it the Arlington salt box, not to get into it.

ATTORNEY SEAN HOPE: But you can't say the Planning Board. There are nine members. That was that was Planning Board member. So to categorize the whole Planning Board as saying it was ugly, is not fair.

JANET RECKMAN: We can agree to watch the tape together again.

PATRICK TEDESCO: Can I just back to the issue of the timing of the continuance.

JANET RECKMAN: Yes, thank you.

PATRICK TEDESCO: Just so that you understand, if we're saying that the updated plans were posted to the

website Friday night, the hearing is not until the following Thursday. So there's essentially a week or six days for you and your consultant to review the drawings which doesn't seem unreasonable. I mean, if again if they're posted on Friday.

JANET RECKMAN: Right, just our consultant won't be working on the weekend, I'm sure.

JANET GREEN: No, no. It's the 5th though until the 11th. So it's that length of time. The 5th would be when it would go on the website. And the 8th would be when it actually gets put into the file, but you would have it on the Friday before --

PATRICK TEDESCO: And you can look it over, yeah.

JANET GREEN: -- so that you could look at it even if your consultant doesn't work. And then you would have from that time, Monday, Tuesday, Wednesday, and during the day Thursday to prepare your --

ATTORNEY SEAN HOPE: The only thing I would just

like to add, so their consultant has worked on drainage issues, soil issues. Really things that are construction management. Very little what the consultant brought up to the Planning Board and would likely present has anything to do with what the Board is going to grant. I would say, you know, things typically in terms of being able to handle storm water, that's handled by DPW. That's actually done by the building permit stage. And so there was a litany of questions back and forth, and he's been at several of the meetings that we've worked together on. But frankly, even at the Planning Board, these are issues that usually handled after approval at the building permit stage not at this stage. So I would say one, we're not making material changes that I think would impact his review.

But two, I also think to be -- they're a little far afield. But they're helpful I understand in helping you understand our project, but I would not say they're going to impact. And frankly if I did feel that way, I wouldn't want

to come to the Board and not have the Board able to decide because we didn't have a chance to discuss this. And as you know, Jason and I have given you our cellphones, if something comes up, we will meet because we've been doing that consistently for the last year.

CONSTANTINE ALEXANDER: Thank you. Anything further you want to say?

JANET RECKMAN: Just my final question just to make sure I understand.

CONSTANTINE ALEXANDER: Sure.

JANET RECKMAN: Does anybody in or who in the city, because I'm sure people are concerned besides abutters, but who in the city would review the design and whether it fits in the community? That's my only last question. Because I would assume that's still important regardless of setbacks.

CONSTANTINE ALEXANDER: I think when it comes to affordable housing and the request for Comprehensive Permit,

design plays a secondary role. I don't think that that's, that's contemplated by the statute in terms of whether we grant a Comprehensive Permit or not. In fact, that's true in zoning generally. We don't get into the design of a single-family house that someone wants to build. We get into more specific things like setbacks, height, etcetera, density.

JANET RECKMAN: Huh. So anything can be --

CONSTANTINE ALEXANDER: I'm not going to say anything.

JANET RECKMAN: That's scary to me.

PATRICK TEDESCO: No, there's neighborhood commissions, there's the Historical Commission.

CONSTANTINE ALEXANDER: Yeah.

PATRICK TEDESCO: The Planning Board for sure.

JANET RECKMAN: But they're not --

PATRICK TEDESCO: Well, not but they did comment on design as I understand. But not with the same

jurisdiction that they might for, you know.

ATTORNEY SEAN HOPE: And the Planning Board comments will actually be typed up and presented to the Board.

JANET RECKMAN: Right.

ATTORNEY SEAN HOPE: So whatever comments --

CONSTANTINE ALEXANDER: Which Board?

ATTORNEY SEAN HOPE: The Zoning Board.

CONSTANTINE ALEXANDER: Are they here in the file?

ATTORNEY SEAN HOPE: I think the city knew that we were continuing. We said we were going to continue or they would have made sure that the comments are in the Board before the hearing which is their purview.

CONSTANTINE ALEXANDER: To answer to you, if you get those comments, written comments and they're given to the Board, I would ask that you distribute them to the abutters who appeared tonight so they don't have to wait or come down to the office.

JANET RECKMAN: We have seen the video again we all attended.

CONSTANTINE ALEXANDER: It's also good to read the written report, too. Sometimes things get lost.

JANET RECKMAN: No, we would be very interested in the report. It was just their direct comments.

CONSTANTINE ALEXANDER: Sean, you'll make sure that happens?

ATTORNEY SEAN HOPE: Yeah. As soon as we get it, we'll forward a copy.

CONSTANTINE ALEXANDER: Can't do it before you get it.

ATTORNEY SEAN HOPE: Exactly.

JANET RECKMAN: And do they know when they give their comments?

ATTORNEY SEAN HOPE: Typically they make sure that they're brought before the hearing. I think sometimes when they have ample time, and this way --

CONSTANTINE ALEXANDER: Yeah, I have to warn you that sometimes the Planning Board comments come at the last minute. They might not have come out. The typed version might not be till January 8th or 6th or something like that. We don't speak for the Planning Board. We just don't know. I would hope that they would, that you could get them sooner rather than later. And, Sean, maybe you can use your good offices to ask the Planning Board if they could get those, typed version out sooner rather than later.

ATTORNEY SEAN HOPE: I think because of the timing and the extension to the 11th, if that's what you grant, there's sufficient time. Sometimes they actually only have the Tuesday meeting and then there's a Thursday hearing. This time they have a couple different weeks. So I would -- we'll -- I think we can work together, because as a citizen you can also reach out, too.

JANET RECKMAN: Yeah. Well, I guess we just go back and it's your decision. We had six weeks originally,

the original application was submitted October 30th I believe. And now to get four days, you know, is --

ATTORNEY SEAN HOPE: Well, I would we also had an initial hearing on November 28th and we moved that. And we've met several times since we moved that. And so I think the idea is we've -- we feel we have moved it several times in the spirit of good faith working together, and I think we're at the point where we'd like to present before the Board.

CONSTANTINE ALEXANDER: Okay. I mean --

JANET RECKMAN: Yeah.

CONSTANTINE ALEXANDER: I don't want to cut you off.

JANET RECKMAN: Yeah, you see both sides. And oh, one more question. Does the DHCD been approved? Do we know? Is that a requirement?

CONSTANTINE ALEXANDER: What's that?

JANET RECKMAN: Department of Housing Community

Development application.

CONSTANTINE ALEXANDER: No, that's at the end of the road, not here.

ATTORNEY SEAN HOPE: Well, so there's a site approval letter that has to be received prior to coming to the Board, and we have received that.

JANET RECKMAN: Okay.

CONSTANTINE ALEXANDER: Thank you.

Anyone else --

JANET RECKMAN: Can I just ask -- yeah, if anyone else?

KELSEY HARRIS: Hello. My name is Kelsey Harris. I live at 8 Newport Road, apartment 5. I've lived there since 2011. I have no idea what the process is. To be honest, I've attended several of the meetings, but I don't really know what you do or what the Planning Board does so thank you for your explanation earlier for me at least. I think from what I've been observing this project from

attending the community meetings, I think January 11th sounds reasonable. Honestly I expected the project to be breaking ground in January. So I'm surprised that it's still going through the permitting process at all. And, yeah, that's all I really have to say.

CONSTANTINE ALEXANDER: Okay, thank you.

JANET GREEN: Thank you.

CONSTANTINE ALEXANDER: Sir.

BROOKE FLETCHER: Hi. I'm Brooke, B-R-O-O-K-E Fletcher, F-L-E-T-C-H-E-R, 8 Newport Road. I would just like to take the point that the Chair made when you first made your remarks when Mr. Hope asked about the January 11th date and your inclination was that seems kind of quick. And I understand you've gone back and forth a little bit, and Mr. Hope has tried to explain why it's in fact not quick. How he doesn't really -- I don't want to speak for him, but he doesn't think that it's quick. I think your first inclination is correct. Unfortunately, you know, we all

have jobs, we all have lives. We don't live this 24/7 although sometimes it feels like we do. I would just like you to respect the fact that even if Mr. Hope thinks that these are minor tweaks, to us, we're not skilled at this, we do this part time as you know because we care about our community, you might think oh, well, you've got this on Friday at five o'clock and then you have all the way until Thursday of the next week to actually look over this stuff, and it's not that easy for us. And so to say that we would like an extra couple of weeks to look over something that is really important to us, that we've been trying to work with the developers over the period of years for -- of a year, it doesn't seem unreasonable in my view to ask for that -- I think you said there was a February 1st date. I know it's three weeks, and I'm sorry if it's a delay for you.

CONSTANTINE ALEXANDER: Well, he's given us reasons why February 1st is very detrimental.

BROOKE FLETCHER: But they were mostly financial

reasons and I get that. I know finances is a product of all our lives. This project if built is going to affect us in perpetuity. And there are other rounds of funding if for some reason this, you know, everything -- all the I's can't be dotted and the T's crossed, I understand that. And I'm not unsympathetic to that, but I just think that you, giving your first inclination, I think your first inclination was correct, and I wish you would understand that as we are not experts in this field giving us, you know, three extra weeks to look over a new design or a new design tweak is really important to us and I just wish you would consider that.

Thank you.

CONSTANTINE ALEXANDER: Okay.

Anyone else wishes to be heard? I thought I saw another hand up. Yes.

MARTHA HASS: Hi, Sean. I'm Martha Hass, H-A-S-S. I live at Four Newport Road, and I think it's very hard to differentiate at least for many of us, design and tweaks and

all of those kinds of things. And so one of the things that's been brought up is design and height, etcetera. And what I want you to know is that there are 100 households that will be abutting each other because of this development, and it's really important that we have time and the other abutters. Sean and Jason had meetings at the Porter Square Neighborhood Association, with the Aggasiz Association. And there were, and especially at the Planning Board meeting what I would call in honesty more than design tweaks. And so those design tweaks do affect things like height and things like massing. And so to be able to bring this back to at least have one community meeting where people from Porter Square neighborhood that come, people from Aggasiz, etcetera, and so therefore a February 1st date, and for the hundred abutters that will eventually be abutting each other if there were to be 40 units built and 43 of us at Newport Road and others in the Farrington real estate houses that have rented apartments there, some of

them for ten years. Sarah Cohen whose house is so close to this. That's 100 people. And the 40 people who are going to have to be looking at us, too, and working with us. So we'd ask that we have some more time and we'd ask that February 1st.

CONSTANTINE ALEXANDER: You think three more weeks -- which is what I think we're talking about, would make a difference to --

MARTHA HASS: Well, I think it would make because we would have a better chance to look at this and to be more astute when we come to you. I mean we, you know, and Sean and Jason have been wonderful. We have differences. And so we have to -- we brought those to the Planning Board, and we had hoped that you'd have the chance to look at those Planning Board notes and even maybe the video, because they're so crucial in understanding. And we want our neighbors, we want a hundred percent affordable housing there. But it also has to be something that feels right for

the neighborhood and be right sized. And I would ask and, you know, Jason is a wonderful person, I would ask that we have another community meeting where others besides the four of us and the others who came last week had an opportunity to come.

Thank you very much for listening to me.

CONSTANTINE ALEXANDER: Thank you for coming down.

So you should know and all the neighbors should know is that under our rules if someone comes before us and wants to change the plans, the new plans don't have to be in our files until five p.m. on the Monday before the Thursday hearing.

MARTHA HASS: We have read your --

CONSTANTINE ALEXANDER: Let me finish. What we're talking about right now is actually going beyond our rules and giving interested citizens even more time. Maybe not as much time as you would like, but more time to review, meet, almost as someone's pointed out, six days, seven days,

because you got to understand that there are countervailing considerations on the other side.

MARTHA HASS: Right.

CONSTANTINE ALEXANDER: They have to get funding from state or federal authorities. The federal?

ATTORNEY SEAN HOPE: State and federal.

CONSTANTINE ALEXANDER: And federal. There are deadlines, and there are time frames that they've got to file. And so we've got to fit it all in and try to make accommodations.

MARTHA HASS: I do understand that, but it's also 100 households.

CONSTANTINE ALEXANDER: I understand that.

MARTHA HASS: And that is large.

CONSTANTINE ALEXANDER: But you've been looking at this -- you've been talking with these folks for a year I hear. You have a video of what happened at the Planning Board so you know what was said. It's not like it's going

to be something completely new given to you on that Friday before. So I mean how much time do you need?

MARTHA HASS: But we would ask --

JANET GREEN: You know, one thing I might suggest that you might think of, I don't know, if it's coming to you on the website on Friday, even now you could schedule your neighborhood meeting for Monday. You don't have to.

CONSTANTINE ALEXANDER: Or Sunday over the weekend.

JANET GREEN: You don't have to wait until Friday to try to then get people together.

JANET RECKMAN: Those are meetings that John and Jason held.

MARTHA HASS: Those were meetings that they presented.

JANET GREEN: Yeah, yeah.

MARTHA HASS: That we've done.

JANET GREEN: But I'm saying that it's not that

you only have that time to organize everybody to be able to be informed and discuss the new plan. You could set that meeting now with those people who want to come to that meeting. Set it now so they have an advanced notice and tell them they're going to have the information on the website on Friday and you're going to be discussing it on Monday. And then that's a long time for a period to be able to set a meeting it seems to me.

ATTORNEY SEAN HOPE: I would just like to add, part of the reason why you don't see a lot more people here both for and against, is we updated both the Porter Square Neighborhood group and the Aggasiz Council. They knew about the requested continuance date. They're not here opposing. We've met with these groups. What you're hearing, and rightfully so, is these direct abutters. So the idea that there's a larger community conversation that people are wanting to have, is not what we've heard from the different various groups.

Also, too, and this is maybe some inexperience. Some of the Planning Board members, because they don't speak on one voice, make lots of different changes. We are not embracing all of those. Some of those would be wholesale and some of those would require three, four weeks, even possibly months to configure out. You don't necessarily just wholesale change a building. We are not making wholesale changes. We did take some feedback. Some of the feedback we embraced and some of the feedback we said it's just not feasible based on our program and what we're looking to do. So I do think if we were taking all the comments there, I think the neighbors would be right. I'm representing to the Board we are not wholesale changing the design.

PATRICK TEDESCO: I'm sorry. When you met with city staff to review the changes that you are accepting, they felt that that was consistent with the general themes of the Planning Board that there was an understanding of --

ATTORNEY SEAN HOPE: They helped us think through based on our project and some of the parameters what design changes they thought were most germane to what we're doing. So it's ultimately our decision obviously to be able to get to the Board and try to satisfy our neighbors. We know that just even an approval at the Board is not the last step. And so we're mindful of doing the best we can do with our neighbors and abutters, and really once we reach that point, then we're ready to come to the Board and I think we're going to be there by the 11th.

CONSTANTINE ALEXANDER: I think we're ready for a vote.

Okay, the Chair moves that we continue this case as a case not heard. That's relevant for the benefit of you in the audience, is that if -- at least one member of this Board is not going to be here on the 11th. So I know that. So it would be at least one new member here. If it were a case heard, then we would not be able to do it on January

11th because Mr. Sullivan would not be here. So a case not heard subject to the following conditions:

First, that the petitioner sign a waiver of time for decision. If you've not done that, you'll do it tonight. Okay.

Second, that the posting sign that's there now be modified or a new one put up to reflect the new date, January 11th; the new time, seven p.m. And that sign be maintained for the 14 days required under our Zoning Ordinance.

And lastly, that these revised plans, which we know are coming, must be in our files no later than five p.m. on the Monday before January 8th. But further that these plans must be posted on your website no later than noontime on the Friday before, which is what, the 6th or 7th?

JOHN HAWKINSON: The 5th.

CONSTANTINE ALEXANDER: The 5th? Thank you. No

later than noon on the 5th. This is intended to allow interested parties, particularly in the neighborhood, to review those plans and get a little head start.

ATTORNEY SEAN HOPE: Noon on the 5th that Friday?

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY SEAN HOPE: Part of the challenge was that the City closes at noon.

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY SEAN HOPE: I mean our architects are going to be working through the holiday. Could we have until the end of the business day on that Friday at five p.m.?

CONSTANTINE ALEXANDER: I guess I don't understand why you need to. You -- I think you've told us that you basically know what you're going to agree with and what you're not going to accept. I want to give these people a little -- as much time as possible. And five p.m. you basically lost a Friday. If it's on the site by noontime,

then the folks could look at it and start talking that afternoon and make their plans. I would -- unless other members of the Board say otherwise.

ANDREA HICKEY: No, I agree with you.

CONSTANTINE ALEXANDER: I think noontime is --

ATTORNEY SEAN HOPE: We'll comply. I'm just more thinking because a part of it is, you know, our architects are taking time and there's back -- but if this is what the Board, we'll make it, we'll do it.

CONSTANTINE ALEXANDER: Everybody is okay with the noon on Friday?

JANET GREEN: Yes.

ANDREA HICKEY: Yes.

CONSTANTINE ALEXANDER: Okay. All those in favor of --

JANET RECKMAN: Planning Board comments to us, is that a condition or no?

CONSTANTINE ALEXANDER: We don't know. We don't

control the Planning Board.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: No, but that Mr. Hope would provide those comments to us. I think you had asked that he would do that.

ATTORNEY SEAN HOPE: I would be more comfortable if you could get them from the city. If I receive them, I will forward them. But we don't control those comments. They're public. And I just don't want to be responsible for --

CONSTANTINE ALEXANDER: We don't control them either. I could maybe ask the Inspectional Services Department to put a request in to Liz to get those minutes --

BRENDAN SULLIVAN: Or you could call Liza Paden directly at Community Development and she could get them to you.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I'm sorry, are we talking about the minutes or are we talking about the

report from the Planning Board to the Board?

CONSTANTINE ALEXANDER: Well, the report is going to come from Liza Paden anyway. She's going to type it up. That's where it's going to come from. I mean, she's not creating it, but she's going to reflect what was decided in her report. So I think, I would just suggest you call, you check periodically particularly as you get close to January 6th or 5th to see if the report's ready. And Mr. Hope has represented that if he gets it, he will make sure you get it.

Will you put it on the website?

ATTORNEY SEAN HOPE: We could.

CONSTANTINE ALEXANDER: Probably the best way of doing it, and maybe sending -- I don't know how you communicate with these groups, but sending out a note or an e-mail saying check our website, the report has now been posted on it.

ANDREA HICKEY: Well, I don't think, respectfully,

that that burden should be on the petitioner to --

ATTORNEY SEAN HOPE: I mean, those comments don't come to us faster than they would come to the Zoning Board or anyone else. And I would say if they asked Liza Paden, they could be put on a list to get those. And frankly, you know, if we didn't love everything in the report, we may not want to post them.

CONSTANTINE ALEXANDER: Fair enough. Fair enough. Okay. So Liza will be asked to distribute them to you and the others at the same time.

ANDREA HICKEY: And the public always has the option of contacting, you know, the city directly. And I think really to put that burden on the petitioner is not, is unfair.

CONSTANTINE ALEXANDER: Okay, that's fair enough. That's a good point. In any event, they will be in the files, in the public files by five p.m. on the Monday before.

SEAN O'GRADY: They won't. They're usually in Wednesday and maybe Thursday.

CONSTANTINE ALEXANDER: Oh, that's right.

SEAN O'GRADY: Yeah. You shouldn't expect the Planning Board comments to be long or early.

CONSTANTINE ALEXANDER: Well, that's for sure.

JANET RECKMAN: Can we expect them before the January 11th hearing?

SEAN O'GRADY: Yes, they'll be -- they usually come in the Wednesday or the Thursday morning of the meeting.

CONSTANTINE ALEXANDER: The point is we can't control the Planning Board. And, you know, later -- their practice seems to be later is better than sooner. You may not get them as early as the 6th.

JANET RECKMAN: We want you to get them because we heard them --

CONSTANTINE ALEXANDER: We'll have them. And if

not, I'll move to continue the case further, because I want to -- obviously these Planning Board comments are important, and I want to see them. I think all members of the Board want to see them as well.

Okay? Are we all set? On the basis of this motion, all those in favor say "Aye."

(Aye.)

(Alexander, Sullivan, Green, Hickey, Tedesco.)

CONSTANTINE ALEXANDER: We'll see you on January 11th.

ATTORNEY SEAN HOPE: Thank you.

\* \* \* \* \*

(8:30 p.m.)

(Sitting Members Case No. 014959-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 014959, 1350 Massachusetts Avenue.

Is there anyone here wishing to be heard on this matter? Anyway, name and address for the stenographer.

REBECCA ROTH GULLO: My personal address? Like my home address?

CONSTANTINE ALEXANDER: No, you can give your business address.

REBECCA ROTH GULLO: Hello. Rebecca Roth Gullo, G-U-L-L-O, 1395 Washington Street in Boston and petitioning for 1350 Mass. Ave. in Cambridge.

Hi, everyone. Hello. I am here for Blackbird

Doughnuts.

CONSTANTINE ALEXANDER: We figured that out already.

REBECCA ROTH GULLO: Thank you. I am hopefully to get your approval to open at the beautifully renovated Smith Campus Center at 1350 Massachusetts Avenue, and I've brought a presentation for you guys.

CONSTANTINE ALEXANDER: That's in our files already.

REBECCA ROTH GULLO: It is. I just wanted to bring it in large format so you can see the doughnuts.

JANET GREEN: Don't touch.

REBECCA ROTH GULLO: I know, don't touch. Not yet.

So, anyway we are a local business. We are based in the South End. Have two locations currently, one in the South End in the Castle Square housing authority, and we also have a small retail location in Fenway. And this will

be our third location which is hoping to open in August of '18.

CONSTANTINE ALEXANDER: Okay. We have to make certain findings -- what your operation is what we call in our Zoning Ordinance calls a fast order food establishment. And for us to grant the Special Permit you're seeking we have to make certain findings. So let me tick off some of them and we can deal with them and move on.

REBECCA ROTH GULLO: Sure.

CONSTANTINE ALEXANDER: Your operation will not cause traffic problems, reduce available parking, threaten the public safety in the streets or sidewalks, or encourage or produce double parking in the adjacent public streets.

REBECCA ROTH GULLO: Correct.

CONSTANTINE ALEXANDER: Okay. And the reason for this is mainly your business is in the interior of the building.

REBECCA ROTH GULLO: It is absolutely in the

interior.

CONSTANTINE ALEXANDER: No exterior appearance?

No signs outside?

REBECCA ROTH GULLO: We have an approval for a decal on the building, but nothing that is --

CONSTANTINE ALEXANDER: Okay. A decal on the building. You should be aware of the zoning -- you know, our Zoning Ordinance requirements as signage. Make sure you comply with that.

REBECCA ROTH GULLO: So I received that documentation --

CONSTANTINE ALEXANDER: Okay.

REBECCA ROTH GULLO: -- from Liza.

CONSTANTINE ALEXANDER: Liza Paden in Community Development.

REBECCA ROTH GULLO: With a signed certification form. I have that form from her already. So it is an as-of-right signage.

CONSTANTINE ALEXANDER: Okay, thank you.

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

REBECCA ROTH GULLO: Absolutely.

CONSTANTINE ALEXANDER: I know that's your opinion. But tell us why.

REBECCA ROTH GULLO: I'm sorry, I thought you were asking me to confirm. Yes, so the aesthetic of the building is consistent with what we --

CONSTANTINE ALEXANDER: You're going to be inside?

REBECCA ROTH GULLO: We're going to be inside. So the only thing, there's going to be a glass fascia in front of us. You walk in through either from the arcade or from the street, and it's a very small kiosk. I think it's 20 feet by 13 feet.

CONSTANTINE ALEXANDER: Okay. Are you

making -- the doughnuts and the like and the soft, the ice cream, everything is going to be brought in?

REBECCA ROTH GULLO: So we will actually have a soft serve machine --

CONSTANTINE ALEXANDER: A machine, yes.

REBECCA ROTH GULLO: -- at the counter.

CONSTANTINE ALEXANDER: And what about the doughnuts? Are you going to bake them?

REBECCA ROTH GULLO: The doughnuts are going to be created off site.

CONSTANTINE ALEXANDER: Okay.

REBECCA ROTH GULLO: It doesn't work to make them on site.

CONSTANTINE ALEXANDER: That's true of the other operations that are going to be --

REBECCA ROTH GULLO: Tremont Street currently makes their own doughnuts, but we are about to move to a larger location which is in Allston where we'll be able to

produce more doughnuts consistently.

CONSTANTINE ALEXANDER: Okay.

The establishment fulfills a need for such a service in the neighborhood.

REBECCA ROTH GULLO: Absolutely. We've talked to many people. There is not another artisanal donut shop within the neighborhood. Actually within two miles or three miles of the location. So we think it really fulfills a desire.

CONSTANTINE ALEXANDER: You're wear there's going to be a Swiss bakery in the same general area?

REBECCA ROTH GULLO: It is. And we are a compatible business. It's the same thing in the Fenway location where we have Tattay (phonetic) across the street from us and we enjoy having each other as opposed to a competitive nature it's not at all.

CONSTANTINE ALEXANDER: Okay.

The establishment shall -- will attract patrons

primarily from walk-in trade as opposed to driving by automobiles. And I think that goes without saying if you're inside the building, there's not going to be a drive-in window.

REBECCA ROTH GULLO: Absolutely. Absolutely. And we see that in all of our shops currently. Is that this is a -- we sell mostly single doughnuts as opposed to dozens and people are walking in and buying a donut and a coffee.

CONSTANTINE ALEXANDER: The establishment shall, to the greatest extent feasible, use biodegradable materials in packaging the food and in the utensils and other items provided for consumption.

REBECCA ROTH GULLO: It's very important for us to follow environmentally conscious protocols. We do that. We recycle our oil. We do every single thing we possibly can. Our bakery currently is in a platinum LEEDs building, so is it's part of our beliefs.

CONSTANTINE ALEXANDER: Okay.

And the establishment shall provide convenient, suitable, and well-marked waste receptacles to encourage patrons to dispose of their packaging materials.

REBECCA ROTH GULLO: Yes. And that is part of the Smith Campus Center protocol as well to have clearly identified receptacles throughout the space.

CONSTANTINE ALEXANDER: Okay.

And your establishment, and this again I think stands for -- anyway, the establishment complies with all state and local requirements applicable to ingress and egress and use of all facilities on the premises for handicapped and disabled persons.

REBECCA ROTH GULLO: Absolutely. ADA compliance is principal in our use.

CONSTANTINE ALEXANDER: Okay.

And there are more general conditions for a Special Permit, which is what you're seeking, but we can just address them when we get to a motion.

I have a question from the representative from Harvard. There is going to be seven or eight or six or seven -- come forward. And just give your name to the stenographer.

ALEXANDRA OFFIONG: Sure. Alexandra Offiong.

CONSTANTINE ALEXANDER: Nobody's making cooking on the premises to speak of. Everything is being brought in.

ALEXANDRA OFFIONG: So I think you may remember, Whole Heart Provisions was actually going to be cooking on the premises because of the nature of their vegan fare has to kind of be made on-site. And --

CONSTANTINE ALEXANDER: I'm just wondering traffic. What about car -- all six or seven trucks pulling up with their food for their facility?

ALEXANDRA OFFIONG: So this is the fifth venue that's -- that you've seen.

CONSTANTINE ALEXANDER: Right.

ALEXANDRA OFFIONG: And there will be two other

venues that will be considered restaurants and they will be cooking on-site. So it will be a mix between fast food venues.

CONSTANTINE ALEXANDER: But all of those are going to require raw materials, finished product, garbage or waste to be removed. This is a narrow street. How are you going to handle that?

ALEXANDRA OFFIONG: Well, the building's always had about the same number of food venues, so it's actually going to function --

CONSTANTINE ALEXANDER: Really?

ALEXANDRA OFFIONG: Yeah. Prior to the renovation there were about seven food venues that wrapped the building. They were different in that they were many facing the streets surrounding.

CONSTANTINE ALEXANDER: Now that I think about it, yes.

ALEXANDRA OFFIONG: It's actually a very similar

scale of activities. So they will be -- the building was built in a way that we do need to use the surrounding streets for loading operations, but there will be the same, the same on-street capacities.

CONSTANTINE ALEXANDER: Okay.

ALEXANDRA OFFIONG: It's tough, but it does worked. And we also do have protocols with all of our venues to emphasize very early morning deliveries and using small vehicles and, you know, we're trying to make the best of it. So that's all.

CONSTANTINE ALEXANDER: Okay. Thank you.

ALEXANDRA OFFIONG: Sure.

CONSTANTINE ALEXANDER: Any questions from members of the Board?

ANDREA HICKEY: No.

CONSTANTINE ALEXANDER: I'll open the matter up to public -- unless you have anything further to say.

I'll open the matter up to public testimony. Is

there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I think I'll close public testimony.

I don't think we have -- we have no letters or the like in the file. I think we're ready for a vote.

The Chair moves that we make the following findings with regard to the Special Permit being sought:

That the petitioner satisfies all the requirements set forth in Section 11.31 of our Ordinance.

And further, that -- make the further additional findings that the requirements of our Ordinance cannot be met unless we grant you the Special Permit you're requesting.

That traffic generated or patterns of access or egress resulting through your operation will not cause congestion, hazard, or substantial change in established neighborhood character. And we're talking about a kiosk

located entirely within the building which addresses this issue.

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

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of occupant or the proposed use or the citizens of the city. And for other reasons the what is being proposed will not impair the integrity of the zoning district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

So on the basis of all of these findings, the Chair moves that we grant the petitioner the Special Permit she is seeking.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(8:45 p.m.)

(Sitting Members Case No. 014967-2017: Constantine

Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey,

Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 014967, 18 Bates Street.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one here. And the reason for that is that it came to the attention of the Chair that the petitioner has to appear before the Cambridge Historical Commission. And they're appearing I guess next week. And it is our practice not to hear zoning cases until after the Historical Commission has heard the case and made their comments. The reason for that essentially is that often the Historical Commission requires changes to the plans, and if we approve plans and the Historical Commission requires changes, then the petitioner would have to come back before us. It's not a very efficient use of our time or the petitioner's time. So we're going to continue this case until after Historical

Commission meets which I think is on Monday the 18th.

Do we have a date, Sean?

SEAN O'GRADY: Yes, January 11th.

CONSTANTINE ALEXANDER: January 11th. The Chair moves that this case be continued as a case not heard until seven p.m. on January 11th subject to the following conditions:

That the petitioner sign a waiver of time for decision. I don't know if that's been done yet. Sean?

SEAN O'GRADY: I'm not sure. Does it say right there in the corner next to the 18th?

CONSTANTINE ALEXANDER: It says eight o'clock p.m. That's all it says.

SEAN O'GRADY: No, she usually writes it there.

CONSTANTINE ALEXANDER: You'll follow up on getting the waiver?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Second, that the posting

sign be modified to reflect the new date, January 11th; the new time, seven p.m. And that the sign as modified be maintained for the 14 days required under our Ordinance similar to or same as the requirement for the hearing tonight. Failure to do that will result in our not hearing the case on the 18th -- on the 11th.

And lastly, that to the extent that the petitioner modifies the plans that are in our files now, be it because of the meeting with the Historical Commission or otherwise, these modified plans must be in our files no later than five p.m. on the Monday before January 11th. Failure to do that, we won't hear the case either.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(8:45 p.m.)

(Sitting Members Case No. 014919-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 014919, 55 Regent 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 offices at 675 Massachusetts Avenue appearing this evening on behalf of Robert Purdy, P-U-R-D-Y. Mr. Purdy is seated to my right.

And the name on the application is 55 Regent Street, LLC  
care of Robert Purdy.

CONSTANTINE ALEXANDER: Excuse me, there's only  
one problem. In the file I see the old plans. I don't see  
the new plans. Where's Sean? Do you have an extra set of  
plans?

ATTORNEY JAMES RAFFERTY: Yeah, we have, we have a  
full set.

CONSTANTINE ALEXANDER: I don't know what  
happened. It was in the file two days ago. It seems to  
have disappeared.

ATTORNEY JAMES RAFFERTY: Yeah, but there were two  
sets there today when I looked. So we have multiple copies  
of the revised plans.

CONSTANTINE ALEXANDER: I want to make sure we're  
working with -- okay.

ATTORNEY JAMES RAFFERTY: It's hard to find the  
revision date. It's up on the side. It's here. It's here.

It's not down at the bottom right. It's up on the top right.

At any rate, this application is -- got some unique elements to it as does the site itself, and I thought we would walk the Board through where we have been and where we are proposing to go.

The property itself is located in a Residence B Zoning District Regent Street, I'm sure the Board is familiar with, a residential street containing largely two-family dwellings and some multi-family and some converted dwellings. Particularly in this zone near the commuter rail line there were a series of industrial uses on the commuter rail. On both sides of that rail line, I'm sure the Board knows, we've seen conversions of light industrial or manufacturing buildings to residential use. And this is consistent with that land use development scheme that has emerged in that area. And the Planning Board, the City Council I should say, ultimately created a provision

under Article 5.28.2 to facilitate the conversion of buildings, particularly non-conforming structures containing non-conforming uses and to make it easier for these buildings and structures to be converted to residential use. So this building would clearly fit in the genre of buildings that was intended to be benefitted by that zoning change. It's a, it's not a particularly well distinguished building, but what's the most dominant feature, and you can see it from the Google Earth photos is the extent to which it occupies nearly the entire lot. There's very little -- there's no open space by our definition.

CONSTANTINE ALEXANDER: What was the building used for before?

ATTORNEY JAMES RAFFERTY: The building is a or was up until the time it was acquired, was a distribution warehouse for fans. Now I don't know if the fans were ever manufactured there in the life of the building.

ROBERT PURDY: It was originally built as a

greenery.

CONSTANTINE ALEXANDER: As a greenery?

ROBERT PURDY: It was a greenery, yeah. The porterhouse steak cows used to come through there and then they would -- before they were butchered they'd fatten them up with the greenery next-door.

CONSTANTINE ALEXANDER: You might want to go closer.

ROBERT PURDY: Literally send them down the street to the porterhouse restaurant. A little bit of history. It was built in 1905.

ATTORNEY JAMES RAFFERTY: Okay, he's older than me. I didn't have the benefit of that knowledge.

But at any rate, the building in its most recent incarnation, and you can see by this, if you see the signs on the fans, there's a reference to the fans. And the along the front facade of the building the most dominant feature currently is a loading dock. And it's a high raised loading

dock where the loading can occur right there. And it's our understanding that the fans were distributed to retail locations in that area.

So at any rate, Mr. Purdy who has expertise and experience in developing properties throughout Cambridge worked with Mr. Hiserodt who has been before the Board many times and has a similar area of experience. He is a member of the Boyes-Watson architectural team. And they, they originally approached this design seeking to construct four dwelling units in the building. And the formula in 5.28 that determines the number of dwelling units as the Board perhaps knows, it's not based on lot area per dwelling unit, it's based on the interior square footage of the building. So while you would typically begin an analysis of a Res B District and say, okay, 5,000 square foot lot, you can only have two units here, the Special Permit process suggested that they could have as many as eight units here when you did the math based on the existing volume. Well they never

intended to develop eight, but they did have a plan for four that they had a couple of community engagement meetings, they went before the Planning Board, and there was a strong response to four units. The Planning Board suggested that they rework the plan and reduce the number of units.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: They also proposed to have one parking space for each dwelling unit. There was concerns expressed by the neighbors that that would not be adequate and that the conditions in the neighborhood were extremely tight for off-street parking, so they were asked to revise their plan and to increase the amount of parking spaces. So not particularly consistent with the city's overall transportation policies, this building actually is being built with eight parking spaces -- excuse me, six parking spaces, two per dwelling unit. So there's, there's two per dwelling unit spaces. The plan then -- the most interesting part of the plan, the biggest challenge of the

plan is the ability to create light and air into this building and to create for habitation and for -- to accommodate domestic living. One of the opportunities for air and light occurs on the back wall of the building where there are openings. In discussions with the rear abutters they requested that those openings be enclosed. That they no longer be operable windows. So that concern was addressed and the plan that was finally submitted and approved by the Planning Board shows in that rear elevation that there's glass block in place, there are no openings, and no transparency on that wall. The two side walls aren't candidates for openings. They're practically on the zero lot line. So the only place where you can really receive natural light in the building is the front facade. So you'll see on the front elevation there are a few windows. So the approach, the design approach that was taken at the building was the need to create courtyards that would essentially serve as light wells, serve as opportunities for

people to have operable windows, and to get some air and light. And if you take an opportunity to look at the floor plan, you'll see I'd say in the floor plans, you'll see where these courtyards are. And the sheet that I would draw the Board's attention to, and which really has everything to do with why we're here today and what the hardship is here, in order to make, in order to make this plan work and create these courtyards, a number of openings were created. So a series of interior courtyards were created within the building. And by mathematics if you simply relied upon the arithmetic, those -- on the first floor there was -- on the first floor there was a 1,045 square feet to remove these courtyards. And on the second floor 1152. So you can see where the openings were. And the place that you can really see volume wise what happened to the building is the very last page of the plan. 902.

CONSTANTINE ALEXANDER: I remember seeing it in the plans that are no longer in our files.

ATTORNEY JAMES RAFFERTY: Yeah. So this, this is I think a very illustrative image that speaks to the very issue that we're here. So the building is approximately, if you've looked at the dimensional, the existing conditions of the building is close to 9,000 square feet, 9100 square feet. By any definition much larger building for a Residence B District. But Residence B District doesn't really have much relevance to this building essentially in terms of its development pattern and what its -- how 5.28 addresses the ability to convert it. So the removal of this area, which was critical to creating air and light has a, while it removes square footage, there's also the issue of the fact that it's occurring within the interior and it's a courtyard under the gross floor area of definitions involving courtyard. There's language that talks about the need for it to have a minimum dimension of 40 feet, and then every direction, in which case it doesn't get counted as, it does get counted as floor area. So there are areas

throughout this building which that where there is no square footage, there is no floor, but within the meaning of the definition of GFA, it's included. So the design approach and which is the last piece of the development of the building, involves creating some space on the roof of the building. It's a two-story building. These would be third floor, I don't know if you would call them pavilions, penthouses, but they are for the three units, they would be an increase in square footage. And on each of the floors, it's roughly, it's -- on each of the units it's in the -- it's 287 square feet in one unit. It's 290 in another. It's 402 feet in the third unit for a total of 979 based. So based on the pure arithmetic and the requirements of the Ordinance, this represents nearly an increase of 1,000 square feet of GFA into a building that is considerably over the existing GFA. And we're not unmindful of the consequence of that. And at first blush one would suggest that that's aggressive. But if you -- the thinking

that led to the filing of the request had to do with the plan that was approved by the Planning Board, and the fact that the Planning Board plan, which would be an as-of-right plan, which by the way the applicant has a building permit is under construction now, would allow for the -- and does exist now, for the construction of a stairway to the third floor for roof decks. Because the roof decks are on the roof of the second floor, they're not included in GFA, thus the stairway, which doesn't go to a floor that contains GFA is not included within GFA. And they also noted where a mechanical equipment could go on a mechanical closet on the third floor.

So the reality is that the profile and the amount of volume in the as-of-right scheme, for which they currently have a building permit which represents zero GFA, and the scheme that represents nearly a thousand square feet of GFA is extremely modest. And I asked Mr. Hiserodt to mark in red here what the differential is between what they

have a building permit for and what they could build. And the idea is that there is such --

CONSTANTINE ALEXANDER: Which is which? The one in red is --

ATTORNEY JAMES RAFFERTY: Yeah, the one on the -- if you go to page 902, you can -- at first he said it looked like one of those -- remember the puzzles in the children's magazine what's different between the two pictures? If you look at 902, you'd have to study it for a while to understand what's the difference in volume and mass between the two images. So rather than spend a lot of time having the Board do that, I asked Mr. Hiserodt to fill in in red what those differences are, because they are exceptionally modest. They represent a very small increase all within the setback of what would be, what would be permitted. And it's not a theoretical what would be permitted, it's for -- they currently have a building permit to do that. But it does add an incredible amenity, an

opportunity to have a room with natural light. The only such rooms that would exist in these three units where they could, they don't have bathrooms up there. They're not lavish master bedrooms, master bedroom suites. They're not movie rooms, and they really are a small area within a reasonably sized unit to allow access for natural light and air. And the hardship has everything to do with the constraints of the site, the age of the building, and the building itself. And the thinking was there was concern expressed about the size of the decks, and they have been scaled back already to the size that were approved by the Planning Board. But the thinking here -- and this scheme was shown -- I should shy away from scheme because I've been told it might have a pejorative connotation. This plan, this plan was shown to the Planning Board. And because it was outside of their purview to approve it, they could not, but they as you may be aware, they did opine at the time of the issuance of the Special Permit as recently as last week

that they favored the Variance. But three units in a 9,000 square foot building which has gone through considerable effort to already accommodate abutters' concerns. And one of the big issues in 5.28 if you read the criteria is the impacts on privacy, because you're dealing with little or no setbacks. So for particularly the response in the rear of the building where existing openings are closed, it accommodates the privacy interest of the rear abutters, but it unfortunately or negates or works against the desire for air and light into the building. So given the very limited amount of natural air and light and direct air and light, the courtyards will provide indirect space, indirect light. The decision was made to seek a Variance having -- and informing the Board of the full history, the challenges of converting these buildings. As a land use policy, the City favors buildings of this nature being converted then taken down. In some ways they tell an interesting story. And if you travelled the streets in this little area Creighton

Street, Porter Street, Regent Street, you'll see lots of examples of this type of conversion. The other side on Richdale as well. And I think one can argue they add to the richness of the urban setting there. That these buildings don't simply get taken down and suburban two-family houses get built. If one were to simply say well, it's a Res B, it's a 5,000 square foot lot, go put a cookie cutter two-family on that and do it as of right. This is a different approach. It will likely attract a different type of buyer, a different type of lifestyle, but it also has the ability to integrate the mixed use nature. In many ways this building predates many of the housing on the street. The housing grew up around it just by the ages of the structures, the age of this structure versus those around it. And nearly every one of these buildings I think has these converted buildings have been done so successfully. And it really is if you walk the streets or drive the streets, it really is a sweet little neighborhood right off

Porter Square with really good adjacency to the Red Line. And they've made a virtue out of living next to a commuter rail. I mean, there was a time not that long ago one would -- I mean there was a reason these type of uses were along the rail line. It wasn't seen as conducive to domestic living. And up and down the rail line we see changes of that all the ways.

So this is a special unique building that presents a hardship involving natural air and light. Our hope is that the Board would recognize that the three-unit concept here with two parking spaces per unit doesn't overwhelm the neighborhood, and that the decision-making here should ultimately focus some attention on what the building permit would currently allow in terms of the type, the form and mass of volume that would be on the roof of this building as of right, versus what's being proposed here. And when you contrast those two, it's very, very modest. Acknowledging that when you interpret the Ordinance and the courtyard

issues and some of the other definitions of GFA, all of a sudden the numbers jump out at you. So we know that zoning is more than arithmetic and I would strongly urge in this case there's no better example of why that is true, because you can look at one -- you can look at the approved plan and what's being sought here. I would suggest that it is a de minimus change which will not have any adverse impact on the abutters, and in some ways benefit their privacy concerns by reducing the size of the exterior decks and putting that living space into the building. I don't think this falls into the category of someone coming in here before the Board looking to merely maximize square footage for the purpose of trying to optimize the resale value of the units. This is really a case where physical constraints on the building, particularly the setbacks, warrant the modest relief that's being sought here.

So for those reasons we believe --

CONSTANTINE ALEXANDER: You obviously have been

listening to us and our comments on some of the other projects. Which is fine. No --

ATTORNEY JAMES RAFFERTY: I've been here before. Are you referring to tonight or in other cases?

CONSTANTINE ALEXANDER: Other times.

One thing, by the way, there's a mistake in your dimensional form. You showed the total gross floor area being increased from 9180 to 10154. When you get to the ratio of GFA, you say no change. There's a change. Obviously if you're adding more space, you've got to have --

STEVE HISERODT: Yes.

CONSTANTINE ALEXANDER: If you're going from 1.84 to 2.03 in a 0.5 district. Just for the record.

ATTORNEY JAMES RAFFERTY: Yes. I think --

CONSTANTINE ALEXANDER: I made the change on your dimensional form.

ATTORNEY JAMES RAFFERTY: Thank you.

CONSTANTINE ALEXANDER: Let me talk -- it's on the plan, but you haven't mentioned much, and that is the roof decks. And particularly the six-foot fence you're going to surround -- to be the nature of the deck, the roof deck or the fence to be agreeable to the neighbors.

STEVE HISERODT: Right.

CONSTANTINE ALEXANDER: And that's going to continue.

ROBERT PURDY: We've -- actually on Saturday the neighbors in the building on the left-hand side are going to be up. We've already set up for sight lines and made sure. We've had the people directly across the street over on a couple of occasions. They actually talked to me about how much they liked reducing the deck size and adding a little bit more space. I told them that the Planning Board had already permitted that. They were wondering why the deck was so big, and we said we still have the Variance to get it approval.

CONSTANTINE ALEXANDER: For me, that change or that feature of what you're proposing sold me. I mean I think that's -- that had me worried about the impact. It's a dense neighborhood obviously.

ROBERT PURDY: Right. The neighbors care a lot about, you know, what's going on. So we've been very careful that we've been in touch with people also.

CONSTANTINE ALEXANDER: We will congratulate you on that. In my opinion, anyway.

Questions from members of the Board?

(No Response.)

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

Is there anyone here wishing to be heard on this matter? Sir. Please come forward, please, if you don't mind and give your name and address to the stenographer.

STEPHEN BODWELL: I'm Stephen Bodwell, B-O-D-W-E-L-L, 53 Regent Street. So we're kind of the

biggest abutter I guess you would say, the closest. Bob has been pretty open about what's going on and has talked to all the neighbors, so I actually think this is probably an improvement in the sense that the roof decks are smaller and the enclosed area larger so that there's probably less likelihood of there being noise. And for me because I'm on the, I'm on this side --

CONSTANTINE ALEXANDER: Right.

STEPHEN BODWELL: It doesn't impact me as much as it does the people across the street. I think they would have the largest impact because they can see it. They have roof decks of their own. And from what I understand they haven't objected to it.

CONSTANTINE ALEXANDER: Okay.

STEPHEN BODWELL: That's all I have to say.

CONSTANTINE ALEXANDER: Thank you.

JANET GREEN: Thank you.

CONSTANTINE ALEXANDER: Thank you for coming down.

Is there anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of a memo from the Planning Board. (Reading) The Planning Board granted a Special Permit to convert the nonresidential building to three units of housing earlier this year. During that review the plans included the roof addition outside of the existing building envelope which the Planning Board understood would require a Variance. The Planning Board continues to support the project including this Variance request.

And that's it.

Final comments?

ATTORNEY JAMES RAFFERTY: No, thank you.

CONSTANTINE ALEXANDER: Questions or comments from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Ready for a vote?

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that the project, which is converting really a no longer usable commercial building to three residential units is -- would be a hardship if we didn't grant the relief being sought. It would diminish both the attractiveness of the project and the impact on the neighborhood, neighboring structures.

The hardship is owing to the nature that this is an old non-conforming -- well, non-conforming, but also industrial building that's now being converted to residential use. Something that is desirable in this neighborhood in terms of -- and what is consistent with the way that the development pattern in this neighborhood.

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

And, again, I think this is addressed by the nature of the design of the structure and the interior and the nature of the project that's going forward. Which, again, will be to recycle an old industrial building for the benefit of the residents of the City of Cambridge.

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans prepared by Boyes-Watson Architects, initialled by the Chair, and which plans include -- contemplate a six-foot high screen or fence with details to be coordinated with abutters. This is on the rooftop.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(9:15 p.m.)

(Sitting Members Case No. 014980-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The case we're going to here is 014980, 427 Huron Avenue.

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

ADAM GLASSMAN: Good evening. My name is Adam Glassman, architect, Two Worthington Street, Cambridge. I'm here on behalf of the owner of 427-429 Huron Ave. It's a

duplex, and we're here seeking relief for two very modest shed dormers and a front porch renovation. The existing house has three functional bedrooms on the third floor. They nicely accommodate a family. However, there are no bathrooms up there. So we're trying to add two dormers just big enough for two bathrooms. We have setback non-conformities. We have lot width nonconformity. We have a pre-existing FAR nonconformity. Our FAR addition is miniscule. We go from 0.87 to 0.88. We're only adding 47 square feet of FAR. And the other piece of this is a front porch remodelling, adding a small deck on top of it, almost restoring what was probably there.

CONSTANTINE ALEXANDER: Right.

ADAM GLASSMAN: This would allow that unit to have a little bit of connected outdoor space on the front on that main living level.

I should note that we have letters of support from abutters. There was one abutter who had a concern about the

railing that you see on the front porch so we've modified it. She was looking for --

CONSTANTINE ALEXANDER: On the plans we have the modified version?

ADAM GLASSMAN: You don't have the modified version. This information just came to me.

CONSTANTINE ALEXANDER: Well, you know we approve subject to compliance with plans.

ADAM GLASSMAN: Right. But I brought -- I mean, this was the kind of negotiation that we sometimes go through even at a hearing with a neighbor who'd like to see a change in order to support the proposal. So we just turned what you see on A2.1 from a solid rail --

CONSTANTINE ALEXANDER: You're aware, of course, of our rules of the five p.m. on the Monday before.

ADAM GLASSMAN: I know. I'm just saying this came in so late.

CONSTANTINE ALEXANDER: Why don't you just walk

through with us how -- what you now want us to approve differs from what's in our files.

ADAM GLASSMAN: So what you're holding in front of you shows an open balustrade on top of the front porch.

CONSTANTINE ALEXANDER: And they want it to be closed?

ADAM GLASSMAN: No, no, they want it to be open.

CONSTANTINE ALEXANDER: Oh.

ADAM GLASSMAN: Yeah.

We had proposed a closed, something a little bit more contemporary. I didn't have this discussion directly with the abutter, it came from the owner.

ANDREA HICKEY: Can I see?

PATRICK TEDESCO: You want to see the original previous design?

CONSTANTINE ALEXANDER: Before and after?

ADAM GLASSMAN: And this is more than a reasonable request we're more than happy to accommodate.

ANDREA HICKEY: Oh, yeah, got it.

Thank you.

CONSTANTINE ALEXANDER: How is it your dimensional form shows no, show an increase in FAR, slight obviously, but no increase in total area? Is this just an error?

ADAM GLASSMAN: I, I, I guess so. I mean the floor area doesn't change. Only the FAR changes because we're increasing a certain amount of height at the extent of the dormer. So where we might have five feet or four feet now we raise it to say seven feet.

CONSTANTINE ALEXANDER: Okay.

ADAM GLASSMAN: Both dormers more than meet the preferred dormer guidelines. They're relatively --

CONSTANTINE ALEXANDER: One dormer is going to be adjacent to an existing dormer, right?

ADAM GLASSMAN: I wouldn't call it existing dormer. I would say it's an extension of the bay. It really functions more like a bay. And the dormer that we're

proposing adjacent to it would be tucked back, recessed behind it, not visible from the street.

CONSTANTINE ALEXANDER: Sort of an odd, I mean, aesthetically to me it's an odd placement. I guess you have no choice, but it sort of looks odd.

ADAM GLASSMAN: I mean I think, I wouldn't feel great about it if this was visible from the street, if this was a prominent dormer.

CONSTANTINE ALEXANDER: Right.

ADAM GLASSMAN: As it happens it's invisible from the street, the neighbors approve it, and the dormer on the right side is more of a standard set alone almost 15-foot dormer centered on the house.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: Mr. Cohen is the owner?

ADAM GLASSMAN: He is.

BRENDAN SULLIVAN: Does he live there?

ADAM GLASSMAN: No.

BRENDAN SULLIVAN: So this is rental?

ADAM GLASSMAN: Well, it is -- it's right now it's non -- uninhabited and it will probably be sold.

BRENDAN SULLIVAN: Oh, okay.

ADAM GLASSMAN: He's working with the owners who -- the co-owners of the building who live in the downstairs unit. They support this project. He's really going to really enhance the aesthetics of the house as part of his renovations. He'll be removing all the vinyl siding.

BRENDAN SULLIVAN: So right now it's a condo set up? In other words --

ADAM GLASSMAN: Yeah, it's an existing condo that he bought and will resell.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Wait. He's going to resell his unit?

ADAM GLASSMAN: His unit, yeah.

CONSTANTINE ALEXANDER: His unit not the condo.

ADAM GLASSMAN: Yeah.

ANDREA HICKEY: How long has he owned it?

ADAM GLASSMAN: I couldn't tell you when he closed on it, but less than a year.

CONSTANTINE ALEXANDER: So he bought it, wants to add a few bathrooms on the third floor via the dormers and increase the value of the structure for purposes of resale?

ADAM GLASSMAN: Well, I suppose you could say he's adding some value. He's not adding the kind of value another bedroom would add or another kind of addition. I mean, really it's just to make this upstairs -- I mean, it's an old house. The only bathroom in this unit is on the lower level. So if you have kids up there, you have to go downstairs in the middle of the night to use the bathroom. There's no way for a family to be up there. And now it's pretty standard for the family to have their bathrooms on the bedroom level.

CONSTANTINE ALEXANDER: Perhaps.

ADAM GLASSMAN: No, I've had similar cases where developers were proposing to add dormers for the creation of new master suites and new re-livable spaces. This is really just trying to make this floor more functional and comfortable.

CONSTANTINE ALEXANDER: What's on that floor where the dormers are going to be now? There's no bathroom that we know. How many bedrooms?

ADAM GLASSMAN: There's three bedrooms and extensive eave space.

CONSTANTINE ALEXANDER: And any bedrooms on the floor before?

ADAM GLASSMAN: There's a room that could function as a spare bedroom or an office, but it's on the lower level, no family will use it as part of their family sleeping space.

BRENDAN SULLIVAN: So you're putting in two bathrooms on the third floor?

ADAM GLASSMAN: Correct.

BRENDAN SULLIVAN: So that dormer serves as a bathroom to the master bedroom?

ADAM GLASSMAN: Correct.

And we made these dormers as small as possible. These are not real big hotel-style bathrooms. They're just wide enough.

CONSTANTINE ALEXANDER: If you did, you wouldn't meet the dormer guidelines and we wouldn't give you relief anyway. Assuming we are going to give you relief.

PATRICK TEDESCO: This plan suggests that the dormer for the master bathroom is directly contiguous and adjacent to what you called this bay, the elevation suggests a gap.

ADAM GLASSMAN: There is a gap -- the elevation suggests a gap, but there wouldn't be. You're right.

PATRICK TEDESCO: There wouldn't be?

ADAM GLASSMAN: That -- no, it would about the bay.

PATRICK TEDESCO: See, I'm troubled by this condition --

CONSTANTINE ALEXANDER: So am I.

PATRICK TEDESCO: I really am. I understand this meets the dormer guidelines, but the dormer guidelines suggest roof area on either side of the dormer.

CONSTANTINE ALEXANDER: Right.

PATRICK TEDESCO: And I would argue this is a dormer. Yes, it's an extension of the bay. It's just a --

ADAM GLASSMAN: And there's no way to create this master suite condition that is generally --

CONSTANTINE ALEXANDER: Well, I mean I know, but that's not a hardship that justifies us granting relief. I can understand the need for another bathroom on the floor, all right. A bathroom. But two? One that effectively that violates our dormer guidelines despite what you say because of its placement. It's sort of odd. And the fact that it's in the rear yard or faces not the street is not convincing.

Our dormer guidelines don't talk about they only apply to the dormers that face the street. They are what they are. And I'm a little troubled by it and I just don't see it.

BRENDAN SULLIVAN: You know, I think one of your statements was that you would consider it as an extension of the sexing. Well, if the existing one is 14 feet and you're extending, you're adding nine feet, now you're at a 23-foot dormer.

CONSTANTINE ALEXANDER: Yeah.

BRENDAN SULLIVAN: And the purpose of it obviously is to serve the master bedroom which, you know, they could conveniently just come across the hall this way and that way and that way there, out there.

CONSTANTINE ALEXANDER: Yeah. This is not a luxury building. I mean you need a master bedroom suite and create another dormer that really in spirit at least is in inconsistent with our dormer guidelines.

PATRICK TEDESCO: Yeah.

CONSTANTINE ALEXANDER: Other members have comments? We've been monopolizing this side of the room.

ANDREA HICKEY: I mean, when I looked at it, I considered it even with the gap an extension of what was already there. So now knowing that there is no gap, to me that's all one big dormer.

CONSTANTINE ALEXANDER: Yeah.

ANDREA HICKEY: And I'm bothered by it.

CONSTANTINE ALEXANDER: That's how I see it.

ADAM GLASSMAN: Would you be willing to grant relief for the dormer on the right-hand side?

CONSTANTINE ALEXANDER: Oh, I think you've got to come back with new plans. I think what you've heard, you haven't heard any complaints about the dormer on the other side. It meets the dormer guidelines. I can't see any reason, and it does add -- allows you to add a bathroom to a floor that has no bath facilities. So I can see all the good arguments for approving the dormer on the other side.

ADAM GLASSMAN: I mean, we can just cross out the dormer on the left and take it out of the proposal. It doesn't change the dormer on the right-hand side.

CONSTANTINE ALEXANDER: Will you be -- from a planning --

SEAN O'GRADY: I'm okay with that.

CONSTANTINE ALEXANDER: You're okay with that?

ANDREA HICKEY: I would be okay with that.

CONSTANTINE ALEXANDER: Okay.

ANDREA HICKEY: If you have authority to....

PATRICK TEDESCO: I defer to the Chair.

CONSTANTINE ALEXANDER: Thanks.

ADAM GLASSMAN: Well, I mean I already know that we're not getting that dormer and there's really no alternative --

CONSTANTINE ALEXANDER: No, the other alternative is to bring you back here with new plans. And you're saying it's not necessary.

ADAM GLASSMAN: Yeah.

CONSTANTINE ALEXANDER: Further comments from members of the Board?

ANDREA HICKEY: No.

CONSTANTINE ALEXANDER: And anybody going to make comments about the railing?

JANET GREEN: That's fine.

CONSTANTINE ALEXANDER: I have no problems with that. I think it's actually a better approach myself.

BRENDAN SULLIVAN: It's more traditional.

CONSTANTINE ALEXANDER: Yeah, more traditional that way. Exactly.

I'll open the matter up to public testimony. Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

You said we have letters which you've given us, Mr. Glassman.

ADAM GLASSMAN: Sure.

CONSTANTINE ALEXANDER: Which I'll read into the record. Looks like they're all....

ADAM GLASSMAN: Yeah, they're pretty similar.

CONSTANTINE ALEXANDER: Yeah. So I'll just -- well, the first one is a little different. It's from Shippen L. Page and Anne with an E F. St. Goar S-T.-G-O-A-R, who reside 174 Lakeview Avenue. (Reading) We have met with Jeffrey Cohen, the owner of 427-429 Huron Avenue, who has applied to build two new dormers and a new deck and railing on the front porch at the premises. Our property abuts Mr. Cohen's. We have reviewed the plans with him and support his application. We believe the work he proposes will enhance the property and as remodeled, will be an asset to the neighborhood.

And then we have three other letters which I believe are all the same so I'll just read the first one.

(Reading) My name is -- and this letter is from Gaylen,

G-A-Y-L-E-N Morgan, and I live at 197 Lexington Avenue, Cambridge. I am writing in support of the application for zoning relief to construct two new dormers and a new deck and railing on the front porch at 427-429 Huron Avenue. We believe the proposed work will greatly enhance the existing structure and in no way be a detriment to the neighborhood. We can see how the dormers are required to accommodate two new bathrooms on the third level where all the bedrooms are located and where there are currently no bathrooms. The existing conditions would make it very difficult for a family to live here comfortably.

And that similar letter was signed by Andrew Hartness, H-A-R-T-N-E-S-S who resides at 427-429 Avenue, unit 1. That's the folks downstairs.

And also from -- similar letter from Henry Grodzins, G-R-O-D-Z-I-N-S who resides at 421 Huron Avenue. That's all we have. Nothing else in the file.

Any final comments? I take it you're willing to

amend your plans to delete the dormer that's adjacent to what you described is a gable?

JANET GREEN: Bay.

CONSTANTINE ALEXANDER: Bay. Sorry. You're right, bay.

ADAM GLASSMAN: I guess I would ask the Board if we did come back and propose to make that dormer, the proposed dormer separate from the existing and made it a smaller bathroom and gave it to the bedroom in the back, is that something you would be open to?

CONSTANTINE ALEXANDER: But it would be in the same location? It would be adjacent to the --

ADAM GLASSMAN: Well, what I'm saying is we would pull it away from the bay and maybe try to get a smaller half bath up there.

CONSTANTINE ALEXANDER: I don't know if we can answer that in the abstract. You want to come back and show us the plans, we can continue the case.

BRENDAN SULLIVAN: It just doesn't fit.

ADAM GLASSMAN: It doesn't fit.

CONSTANTINE ALEXANDER: I know. I'll give Mr. Glassman an opportunity to try to persuade us. I don't want to preclude that. I understand why you're doing what you're doing but you run up against the former guidelines. And the hardship is not compelling.

ADAM GLASSMAN: I hear you, okay. All right, so we will remove the former from that scope.

SEAN O'GRADY: Would you just make a note on something? Cloud it out, NICH or something for the record?

CONSTANTINE ALEXANDER: Sure, I have it here.

SEAN O'GRADY: I want him to make that note and cloud it out. Or did you already do that?

CONSTANTINE ALEXANDER: No.

SEAN O'GRADY: I want someone to note it.

PATRICK TEDESCO: Is that the old one or the new one?

CONSTANTINE ALEXANDER: Oh, this is the new one because there's the railing.

SEAN O'GRADY: All right, so --

CONSTANTINE ALEXANDER: Here's in the front with the new railing.

SEAN O'GRADY: I just want to go like this.

CONSTANTINE ALEXANDER: I was going to do that but go ahead.

ADAM GLASSMAN: Could I ask for one more change?

CONSTANTINE ALEXANDER: Sure.

ADAM GLASSMAN: This is really small. The dormer on the right side its dimensions at 14, 9 and three-quarters. Can we make that an even 15?

CONSTANTINE ALEXANDER: Why?

ADAM GLASSMAN: Just to make it a nice, even number.

CONSTANTINE ALEXANDER: Why? I mean you were happy with it coming in and now why?

ADAM GLASSMAN: I thought maybe you prefer it that it was an even 15.

CONSTANTINE ALEXANDER: No, we don't prefer -- no more than 15. That's what we prefer. Or anything or less --

PATRICK TEDESCO: It's within construction tolerances.

CONSTANTINE ALEXANDER: Okay. I think we're ready to are a vote.

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: The Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that this floor or living space will be deprived of any bathroom facilities which is not -- I mean, it's not usual in this day and age for structures,

residential structures.

That the hardship is owing to the fact that this is already a non-conforming structure and any modification requires zoning relief.

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 with the changes that we discussed which will be reflected in the decision, what is being proposed will comply with the dormer guidelines. And with regard to the railing modification, that this is consistent with the nature of the house and is modest in substantial impact on the neighborhood.

So on the basis of all of these findings, the Chair moves that we grant the relief being sought on the condition that the relief -- the work proceed in accordance with the plans submitted by GCD Architects, the first page of which has been initialed by the Chair. Except that to

the extent that they're modified by two separate pages reflecting the elimination of the dormer on the right -- on the left side and the -- mainly that. And also to reflect the railing being modify as shown on one of the plans, page A2.2. So it's these plans you submitted, as modified by two pages: A2.1 and A2.2 both of which have been initialled by the Chair.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

ADAM GLASSMAN: Thank you.

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(9:35 p.m.)

(Sitting Members Case No. 015006-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 015006, 1556 Cambridge Street.

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

CAMPBELL ELLSWORTH: Good evening.

CONSTANTINE ALEXANDER: And you want extensive and outrageous relief from us tonight.

CAMPBELL ELLSWORTH: No, but I'm going to tell you my error in my dimensional form before you tell me.

CONSTANTINE ALEXANDER: Oh, you, too. Everybody is making errors these days.

JANET GREEN: That's interesting. Tonight's the night.

CONSTANTINE ALEXANDER: What's going on here?

CAMPBELL ELLSWORTH: My name is Campbell

Ellsworth. I'm the architect for the owner who is with me to the right, Mike Lagasse. We're here to request a very modest Variance on raising of a roof over an existing sunroom. In your package you can see this is, this is the lot that the house sits on, 1556. It's a narrow lot. It's a lovely home. Beautiful sort of mansard Victorian. Here it has not been well kept on, and Mike is doing some real work on that. But because of the narrowness of the lot and there is also a site plan in the drawing package, it's 29 feet at the back and 32 and three-quarter feet at the front, but only because it is slightly angled. So there's a lot of nonconformity in terms of FAR, GFA, certainly left and right setbacks. The front setback is conforming. The rear setback is conforming. And this house, you can I've dotted on here, the very rear of the house is a sunroom. Well, it's a set of porches, covered porches that at some point in what looks like quite a distant past was enclosed. Those

porches have been essentially annexed as interior space by the living space, but they are compromised head height. And certainly the one that is on the second floor because of the roof that tilts down, and this is -- that's the shot of it in the back. Mike wants to raise that roof to match the second floor roof that is just beyond it.

CONSTANTINE ALEXANDER: So eliminate the slant basically?

CAMPBELL ELLSWORTH: Eliminates the slant, that's right. And it would keep then the ceiling heights on the second. I mean the ceiling heights on the second floor could be continuous out to that and the first floor could be continuous.

CONSTANTINE ALEXANDER: And you're going to raise it one foot nine inches I think I saw in the file?

CAMPBELL ELLSWORTH: That's correct.

CONSTANTINE ALEXANDER: And so the reason you need relief tonight is because that room is in the setback and

the modification of the room requires coming to get our approval?

CAMPBELL ELLSWORTH: That's correct. We're creating an interesting -- we're not creating new GFA.

CONSTANTINE ALEXANDER: No.

CAMPBELL ELLSWORTH: We're creating volume within a setback.

We have or Mike reached out and sent very -- a good letter which he can put in the file, we sent that to everybody on Maria's abutters' list. We've gotten no --

CONSTANTINE ALEXANDER: Why would an abutter care?

CAMPBELL ELLSWORTH: Well....

CONSTANTINE ALEXANDER: Anyway.

CAMPBELL ELLSWORTH: If I come here and not having done that, it happened to me once. No, but we reached out to all the abutters. There was no opposition.

CONSTANTINE ALEXANDER: We have no letters in our files.

CAMPBELL ELLSWORTH: Okay. Nor do we. Okay.

That's it.

CONSTANTINE ALEXANDER: Questions?

(No Response.)

CONSTANTINE ALEXANDER: Open the matter up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

I think we're ready for a vote.

The Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. The hardship being that this sunroom has an unfortunate roof slope which deprives full use of that space and runs with the property. It's not, it's not peculiar to you, or

anybody really who owned the property would want to do something with that roof or the sunroom.

That the hardship is owing to the fact that this is a nonconforming structure where the sunroom is located and therefore any modification requires zoning relief.

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.

The fact that relief being sought is very, very modest in nature and strikes me as personally as noncontroversial.

On the basis of these findings the Chair moves that we grant the Variance on the condition that the work proceed in accordance with plans prepared by Ellsworth Associates, Inc., the first page of which has been initialed by the Chair.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

CAMPBELL ELLSWORTH: Thank you very much.

\* \* \* \* \*

(9:40 p.m.)

(Sitting Members Case No. 015022-2017: Constantine

Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey,

Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 015022, 5-7 Eustis Street.

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

BRIAN KIRALY: Good evening.

CONSTANTINE ALEXANDER: Good evening.

BRIAN KIRALY: Brian Kiraly, 5 Eustis Street. Should I spell my name? K-I-R-A-L-Y.

LAUREN KIRALY: Lauren Kiraly, 5 Eustis Street.

PETER JAMES: Peter James, 62 Prentiss.

BRIAN KIRALY: I'm going to try to take the lead here. We are coming before the Board to ask for a Variance for some dormers for some modest improvement to make our upstairs more functional. We've been in our house for -- we bought it ten years ago when we -- at the birth of -- our daughter was just born, and since then we had twins and so --

CONSTANTINE ALEXANDER: We can't do anything about that.

BRIAN KIRALY: Yeah, so that's a hardship, right?

On the third floor there's three rooms. That's the living area for all of us. There's one small bathroom.

PETER JAMES: Brian, can I break?

BRIAN KIRALY: Oh, yeah, yeah. I'm sorry.

PETER JAMES: We wanted to make sure that everyone was looking at what was submitted just last week. The original plans show a 29-foot dormer.

CONSTANTINE ALEXANDER: I know. No, no, these are the plans.

BRIAN KIRALY: Okay.

CONSTANTINE ALEXANDER: These are the plans. I hope. I mean, you got to tell me. But according to the file that I see, this would be the plans.

BRIAN KIRALY: Yeah, right.

PETER JAMES: Right. On-line it shows it

differently. So I was talking to -- apparently some people I was told on the Board well, look on-line. So if any of you are thinking we're trying to get a 29-foot dormer, that's not the case.

BRIAN KIRALY: That's not the case.

JANET GREEN: That's not the case?

BRIAN KIRALY: That's not the case.

CONSTANTINE ALEXANDER: Okay.

BRIAN KIRALY: So --

CONSTANTINE ALEXANDER: You were describing the floor where the dormer is going to be on?

BRIAN KIRALY: Yes.

CONSTANTINE ALEXANDER: You have three children now?

BRIAN KIRALY: Three children.

CONSTANTINE ALEXANDER: And you have --

BRIAN KIRALY: Three bedrooms.

CONSTANTINE ALEXANDER: Three bedrooms.

BRIAN KIRALY: And one small bath that's on the --

LAUREN KIRALY: Slant.

BRIAN KIRALY: On the slant. So it's got a tub and it's narrow and you can't --

CONSTANTINE ALEXANDER: It's in the file.

BRIAN KIRALY: It was great when the kids were babies. But they're getting to a point where we need a functional bathroom.

CONSTANTINE ALEXANDER: You live on the one floor or two floors?

BRIAN KIRALY: We have two floors. The bedrooms are all on the --

CONSTANTINE ALEXANDER: And the bathroom?

BRIAN KIRALY: We have a bathroom downstairs. We do. So that we have two bathrooms, but the one upstairs is really just not functional.

CONSTANTINE ALEXANDER: Got it.

BRIAN KIRALY: And the, this will, the dormers

will allow us to make that bathroom functional. It will give us a little closet space, and it will open up one of the bedrooms so that we can get the boys into a bedroom that's gonna be suitable for them. Our daughter will take the room in the front which we're not putting a dormer on. The street facing. So that's always going to be a small room, but -- and then we'll be in the larger bedroom in the back.

CONSTANTINE ALEXANDER: And you comply with the dormer guidelines?

BRIAN KIRALY: Yeah.

PETER JAMES: I'm sorry?

CONSTANTINE ALEXANDER: You comply --

BRIAN KIRALY: Yes.

CONSTANTINE ALEXANDER: -- this proposal complies with the dormer guidelines?

PETER JAMES: They do. Although there's a dormer on either side. And the east elevation there's a dormer

drawn that crashes into, you know, the gabled dormer throughout this neighborhood. And actually it's modeled after a dormer at Traymore that the Board approved last year. At 1820 Traymore. Originally we showed tearing that whole thing down.

And when you say functional bathroom, I think Brian means one that he can stand up in. He can't do that.

BRIAN KIRALY: That's right.

PETER JAMES: And originally we were going to, you know, ask, the architects wanted to ask for two bathrooms on the top floor and we couldn't do that within a dormer guidelines. So I'm trying to find a picture.

LAUREN KIRALY: What are you looking for?

PETER JAMES: Well, you know, originally we took a bunch of pictures, because -- I'm a neighbor and I'm also a builder. And this is my neighborhood as well. And there's all kinds of non-conforming dormers as you probably know.

JANET GREEN: Right.

PETER JAMES: And these guys were like why can't we have that? And so that's a good question, right?

So what we're giving them on the east elevation is this was on 1820 Traymore last year. So that this is -- you know, as you can see, we had the three -- we're doing a three-foot, six and one-foot, six.

BRIAN KIRALY: We've, you know, actively talked to all the neighbors, too. We've got letters of support from folks.

CONSTANTINE ALEXANDER: Yeah, we do, I'm not going to -- the hour is getting late and I'm not sure it's crucial. But I can put in the record that we have a number of letters from abutters who are all in support. From Peter James.

BRIAN KIRALY: You gave us a letter?

PETER JAMES: Well, they sent me a thing.

CONSTANTINE ALEXANDER: 62 Prentiss, No. 3.

A letter from Jim, I'm going to pronounce it.

PETER JAMES: Loutzenhiser.

CONSTANTINE ALEXANDER: Loutzenhiser. I have to spell it for the stenographer. L-O-U-T-Z-E-N-H-I-S-E-R and Cristi, C-R-I-S-T-I Catt, C-A-T-T who resides at 62 Prentiss Street.

One from Peter Smith at One Eustis Street.

From Victoria Kennedy at Seven Eustis Street.

From Dane, D-A-N-E, S. Walther, W-A-L-T-H-E-R and Noelle, N-O-E-L-L-E Livreri, L-I-V-R-E-R-I who resides at 116 Oxford Street.

And also from a Lawrence Heeley, H-E-E-L-E-Y who resides at 10 Eustis Street.

Oh, and one more from Ron Gilboa (phonetic), and another person whose signature I cannot read who resides at 14 Eustis Street.

And Peter says we already have his. Okay. And that's all she wrote.

Comments from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Ready for a vote?

These are the right plans. The Chair moves that we make the following findings with the regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being this is an older structure with bathrooms on the third floor and floor layout that is not conducive to family living and would apply to any family who occupies the premises.

That the hardship is owing to the fact that this is already a non-conforming structure and, therefore, any relief requires -- any modification requires zoning relief.

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

In this regard the Chair would note that the

proposal complies with the former guidelines and that the increase in FAR resulting is about 230 feet, is still -- will go from 1.03, which it is now, to 1.07 in a 0.75. So it's not substantially out of -- inconsistent with the requirements of our Ordinance with regard to FAR.

So on the basis of all of these findings, the Chair moves that we grant the relief requested on the condition that the work proceed in accordance with the plans submitted by the petitioner and initialled by the Chair. They've been prepared by Zaidi, ZAIDI/Christo Designs. And they're dated 11/30/2017.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

\* \* \* \* \*

(9:50 p.m.)

(Sitting Members Case No. 015013-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: You, too, want to add some dormers. Well, name and address to the stenographer.

RICHARD BROWN: My name is Richard Brown, 50 Oak Crest Avenue, Lexington, Massachusetts. I've handed out somewhat abbreviated plans to you there. Just the proposed drawings there.

CONSTANTINE ALEXANDER: I'm sorry, abbreviated plans?

RICHARD BROWN: Those are just the proposed drawings. They don't have the existing drawings and the calculations. They're just for you to review.

PATRICK TEDESCO: But the plans are in the file?

RICHARD BROWN: Yeah, they're in the file.

CONSTANTINE ALEXANDER: That's what I'm trying to get at. That's what I thought.

RICHARD BROWN: I'm in a slightly unique situation in that I've never been in before in that a couple hours ago I got a call from my clients and the wife went into labor. Now, this might sound like, you know, the dog ate the homework or something, but it actually is true. She went into labor. So this is for, we are requesting a Variance for 124 Pleasant Street in Cambridge. This is the two-family house that they -- and they will be occupying the second and third floor. We're requesting a Variance. This -- there are pictures on the last page, and the -- of which you have. And the first page is a site plan and then the proposed plans and then the elevations and sections.

CONSTANTINE ALEXANDER: Yep.

RICHARD BROWN: We are proposing two, seven-foot

dormers on the front of the house which is on Pleasant Street, and one, 15-foot dormer on the back side opposite that.

The house is non-conforming because it is 46 square feet over the FAR and it is within the setbacks primarily because it was built right on the street.

The requested Variance is to add an additional 101 square feet to the third floor which will increase the FAR from 0.64 or 148 feet above the FAR to 0.64.

The current owners and occupiers are a professor at BU and an artist and they need office space, studio space, and an additional bedroom for their expanding -- presently expanding family.

The proposal is to add a bathroom to the third floor and convert attic space into a master bedroom and a small studio.

The hardship is caused by the small size of the lot, the proximity of the house to the street, the

narrowness of the house which really limits the upstairs usable space on the third floor.

It will not significantly increase the neighborhood density, traffic. Parking, will not be increased.

There will be no negative effects on the neighbors in terms of light.

And we have a petition of support from the neighbors which got e-mailed over to me.

CONSTANTINE ALEXANDER: Thank you.

RICHARD BROWN: We talked to Charlie Sullivan about this, although he has no authority in this, he said it was fine.

We also talked to Ranjit because I was wondering whether three dormers would be acceptable. And he said that's perfectly legal.

The dormers are within the dormer guidelines.

CONSTANTINE ALEXANDER: Not quite. You go to the

ridge line at one side.

RICHARD BROWN: But when you are within the setbacks with a dormer, you can go to the ridge line.

CONSTANTINE ALEXANDER: You can go to the ridge line, you're right.

RICHARD BROWN: So I believe that is all the information you need. It's just they're requesting a little more headroom in that third floor which is sort of, it would be -- those two rooms up there would be good if you were going to put a graduate student in there or something like that, but for real people, it's really tight. And as a master bedroom, they would like to get a bathroom up there also.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: No one in the audience so I don't have to ask if anyone wishes to be heard.

We are in receipt of a petition that was submitted by you, Mr. Brown. (Reading) We the neighbors of Aleksandrs and Sigrid, S-I-G-R-I-D Zosuls, Z-O-S-U-L-S have reviewed the drawings for their proposed dormers on the east and west sides of their house at 124 Pleasant Street and strongly support their application for a Variance. The addition will not detract from the appearance of the house, will not detract from the character of the neighborhood, will not increase traffic, will not add any significant shadows, and will in general not have any negative effects on the neighborhood. In addition, they will allow for their needed increase in bedrooms to accommodate their growing family.

And the petition was signed by one, two, three, four, five, six, seven, eight, nine -- and the next page, ten, ten individuals or ten persons. And that's it.

Discussion or ready for a vote?

PATRICK TEDESCO: Ready.

CONSTANTINE ALEXANDER: I've seen a lot of these

cases pushing the envelope, frankly, from a zoning point of view, but we're kind and generous people.

The Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions the Ordinance would involve a substantial hardship. The hardship being that the house as currently designed does not allow full use of the house in a reasonable way for dwelling purposes.

That the hardship is owing to the fact that it's a nonconforming structure.

That any modification requires zoning relief.

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

In this regard the Chair notes that this project seems to have unanimous neighborhood support.

On the basis of these findings, the Chair moves we

grant the Variance requested on the condition that the work proceed in accordance with the plans prepared by Richard Brown Architects.

RICHARD BROWN: This would be the date. These are the submitted plans.

CONSTANTINE ALEXANDER: What's wrong with these you just gave us?

RICHARD BROWN: Those are just a compilation of those drawings.

CONSTANTINE ALEXANDER: All right.

RICHARD BROWN: They're the same things, but that is the actual submitted plan.

CONSTANTINE ALEXANDER: Plans prepared by Richard Brown Architects dated 4/12/17. Is that the right date? That's a long time ago. First page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

RICHARD BROWN: Thank you very much.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

(Whereupon, at 10:00 p.m., the

Board of Zoning Appeal Adjourned.)

\* \* \* \* \*

**ERRATA SHEET AND SIGNATURE INSTRUCTIONS**

The original transcript and Errata Sheet has been delivered to Inspectional Services Department.

**INSTRUCTIONS**

After reading this volume of the Zoning Board of Appeals transcript, note any change or correction and the reason therefor on this sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

---

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, SS.

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of January, 2018.

---

Catherine L. Zelinski  
Notary Public  
Certified Shorthand Reporter  
License No. 147703

My Commission Expires:  
April 29, 2022

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