

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING
THURSDAY, FEBRUARY 27, 2014
7:00 p.m.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Timothy Hughes, Vice Chair
Brendan Sullivan, Member
Thomas Scott, Member
Janet Green, Member
Douglas Myers, Associate Member
Andrea A. Hickey, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:00 p.m.)

(Sitting Members Case #10503: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our custom, we will start with the continued cases. First case I'm going to call is 23 Sidney Street, No. 10503.

Is there anyone here on this matter?

(No Response.)

CONSTANTINE ALEXANDER: There appears to be none.

I would advise the Board that the Petitioner -- this case has been continued a number of times. They have not posted any signs, and so far has not been able -- we haven't been able to get in contact with them. You tried to reach them but unsuccessfully.

I would suggest that -- well, we are

going to continue the case since we don't have a valid posting. I would continue it for one more time and I would -- if you would, Sean, write a letter to them, put it in writing, saying we're going to continue it to whatever date we're going to continue it to, and unless they post and come down to see us, we're going to decide the case on the merits and dismiss it particularly if there's no posting.

What date could we continue this case to?

SEAN O'GRADY: Is it your inclination to put it off or to get it over with?

CONSTANTINE ALEXANDER: Well, they wanted to have a farmer's market. That's the whole purpose of this thing. I assume they want the relief sooner rather than later. Maybe some day we will have a summer in New

England and we'll have a market.

SEAN O'GRADY: Right. We have openings on the 13th of March and on the 27th of March.

JANET GREEN: This is a not heard, right?

CONSTANTINE ALEXANDER: This is a not heard. No, no, this is heard.

JANET GREEN: No, this is heard? I'm not here.

CONSTANTINE ALEXANDER: And you're one of the -- so Janet won't be here.

SEAN O'GRADY: Then we're out to April 10th.

CONSTANTINE ALEXANDER: Okay, 4/10. Can everybody make it? No, I don't think you're -- no, you're not on this one.

It's Tim, Janet, Doug.

Doug, April 10th work for you?

DOUGLAS MYERS: April 10th is fine.

CONSTANTINE ALEXANDER: Doug,
Janet, Tim.

Andrea, can you make April 10th?

ANDREA HICKEY: Yes, that's fine.

CONSTANTINE ALEXANDER: And
Brendan.

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: You're all
set. Well, maybe we should wait for Tim to
come back to see if that date's good for him.

I'm going to go out on a limb to continue
this case to April 10th.

The Chair moves that this case be
continued as a case heard until April 10th on
the conditions that the Petitioner finally
post a signage in compliance with our
Ordinance reflecting the new date, April
10th, and the new time, seven p.m.

And that the signage be maintained as required by our Ordinance for the two-week period.

And on the further condition that if the Petitioner has any plans or the like, that they want us to consider for their petition, that these plans be in our files no later than five p.m. on the Monday before April 10th.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

* * * * *

(7:05 p.m.)

(Sitting Members Case #10477: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The next

case is 288 Norfolk Street, 10477.

This too is a case heard, but it's my understanding that the Petitioner would like to continue this?

DAVID FORD: Correct, yes.

ATTORNEY SUSAN ROBERTS: We wanted to have it after --

CONSTANTINE ALEXANDER: Why don't you come forward so the stenographer can get it.

ATTORNEY SUSAN ROBERTS: We wanted to have that one heard after we do the 286 Concord Avenue. Is that okay?

CONSTANTINE ALEXANDER: We're going to do Concord Ave. tonight so any other time after tonight.

ATTORNEY SUSAN ROBERTS: No, no, no. I'm just saying can we talk to you about a continuance for 288 Norfolk after we --

CONSTANTINE ALEXANDER: Got it.
Okay. We will not act on this case yet.

DAVID FORD: Thank you.

CONSTANTINE ALEXANDER:
Understand. We're going to defer action on
Norfolk Street.

Case recessed.

(Case Recessed.)

* * * * *

(7:05 p.m.)

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

CONSTANTINE ALEXANDER: I'm going to call 541 Massachusetts Avenue.

The Board members who sit on this case are Brendan, Tom, myself, Janet, and Tim.

So the Chair will call case No. 002818, 541 Massachusetts Avenue.

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

ATTORNEY WILLIAM GOLDBERG: Good evening.

CONSTANTINE ALEXANDER: Good evening.

ATTORNEY WILLIAM GOLDBERG: William Goldberg representing the Naggar Realty with regard to the application and for PetCo to be a tenant of his. And I thank you for your indulgence last week in allowing us to continue the matter so that we had an opportunity to speak with Ms. Thorne again on

the matter.

CONSTANTINE ALEXANDER: I'm sorry, I'm missing the file. Just one second.

SEAN O'GRADY: I'm sorry.

CONSTANTINE ALEXANDER: Sorry to interrupt you. Can't decide cases without files. I'm sorry, resume. Go ahead.

ATTORNEY WILLIAM GOLDBERG: Okay.

We -- I thank you the Board for continuing, allowing us to have an opportunity to speak with Ms. Thorne again on the Central Square Advisory Committee. And that was done, and I think Ms. Thorne had submitted an amended report.

CONSTANTINE ALEXANDER: Right here.

ATTORNEY WILLIAM GOLDBERG: And also there was conversation that Ms. Thorne had a representative of PetCo so that we could get a firm picture of what is to be done at

this location. And usually PetCo stores, their focus is mainly on some aspects of the retail sale of pet food which is naturally incidental. There will be what we refer to as a self pet wash as an accommodation to customers who visit the store with their pets. There will be some what's considered pet training in regard to military sort of proviso; stop, sit, and that thing. This will be individually dealing with the customers and the pet at the same time.

CONSTANTINE ALEXANDER: That will be done on the premises, though, within the store?

ATTORNEY WILLIAM GOLDBERG: On the premises. When the dog comes in, if the owner has a question with regard to what he doesn't do this and do that, then one of the employees will use his expertise and give

some advice without compensation, just to make it a full complement of the store.

CONSTANTINE ALEXANDER: Are the employees trained to do this?

ATTORNEY WILLIAM GOLDBERG: Yes.

CONSTANTINE ALEXANDER: Are they licensed veterinarians?

ATTORNEY WILLIAM GOLDBERG: No.

CONSTANTINE ALEXANDER: No.

But it's in-house training that PetCo provides?

ATTORNEY WILLIAM GOLDBERG: Yes, that's correct, in-house.

And we refer to the fact that there will be vaccination clinics which Ms. Thorne mentioned in her report. And there's also the matter of adoption. The PetCo and its company will work with the community with regard to adoptions, whether they be from

some family who can't take care of the dog or whether they're strays. They will use their expertise in regards to that.

CONSTANTINE ALEXANDER: Is it going to be like a dating service where they match people up or you take a stray off the street and you maybe have them in a cage in the store for two, three weeks, three days whatever?

ATTORNEY WILLIAM GOLDBERG: Can you answer that.

KEITH BERTRAM: Yeah.

The way that works for cats and dogs predominantly, obviously as we've stated before, we do not sell cats or dogs in the facility. We would work basically as a liaison between adoption groups and individuals interested in adopting pets. So we are a pet store, you know, by name so obviously individuals in the community often

come to us for information and advice which we do provide. Also information on how to get dogs and cats.

CONSTANTINE ALEXANDER: But you don't -- my question, though, take the cat and dog, let's say, and have a gate there, a sign looking for a parent and --

KEITH BERTRAM: There's no transfer of custody of pets on the premises. We do provide -- you know, we do schedule events to allow non-profit adoption groups to come into the store, engage with visitors, educate them all about their pets. If they have pets that have been deemed to be healthy by a veterinarian, they may bring them to interact with the visitors. No transfer of custody on-site, but we do feel that that's a, you know, a valuable addition to the community and certainly we do our best to do that.

CONSTANTINE ALEXANDER: The animals on-site will be like gerbils and small --

KEITH BERTRAM: Small mammals, some reptiles, some fish. And --

TIMOTHY HUGHES: Can I interrupt a second? I mean we heard all of this before. I thought the issue was whether or not you had represented all this to the Central Square Business Association and that they had given their okay on this and that's what you were supposed to find out for us and then come back in front of us with. I mean all of this stuff that you're telling us we heard at the last hearing and --

ATTORNEY WILLIAM GOLDBERG: I don't disagree with what you're saying.

TIMOTHY HUGHES: Cut to the chase here and let's get it done.

ATTORNEY WILLIAM GOLDBERG: We did

go back as requested to Ms. Thorne, and as a result of that conversation with her, she did amend the report which takes into account some of the things that you mentioned.

TIMOTHY HUGHES: Do you have a copy of that?

CONSTANTINE ALEXANDER: Yes, I'm going to read it into the record. The reason I was -- your point is well taken. I was asking some questions and letting them go on because some of the new information that we're hearing tonight is, again, not inconsistent but it is in addition to the what the Central Square --

TIMOTHY HUGHES: Just send them off for another piece of paper?

CONSTANTINE ALEXANDER: No, I don't want to do that.

TIMOTHY HUGHES: Okay.

CONSTANTINE ALEXANDER: I just want to make sure that what the additional information that we're getting is not materially inconsistent with the Central Square Business Association has told us and what you told them in turn. And so but otherwise your point is well taken.

TIMOTHY HUGHES: Sorry.

THOMAS SCOTT: Wasn't one of the issues veterinary services?

CONSTANTINE ALEXANDER: There's no veterinarian services.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: And you're not going to provide veterinarian services, people can't come in with their animals.

KEITH BERTRAM: What we articulated is people -- we schedule events so people can come in to get vaccinations for their pets

which is a licensed veterinarian. There is not a veterinarian's office there. We do not house pets. They're there for veterinary care. People come in and get their rabies vaccinations, their, you know, town-required vaccinations, and then other appropriate vaccinations.

CONSTANTINE ALEXANDER: Who performs these vaccinations? You have a veterinarian come in a couple hours a day, a couple times a week to do it?

KEITH BERTRAM: In practice usually once a month in a store. And some higher volume locations, like my Peabody location, once every couple weeks, they come in and they're there for a couple hours. Veterinarian, one or two veterinary technicians, they process paperwork and give them their vaccinations and leave. If

there's a pet that's unwell, they send them to a -- they refer them to a regular standard veterinary practice.

CONSTANTINE ALEXANDER: Okay? I'm going to read the letter into the file. You want to ask a question first?

BRENDAN SULLIVAN: No, I want to hear what the letter says.

CONSTANTINE ALEXANDER: We have an amended Central Square Advisory Committee letter addressed to us dated February 5th. (Reading) The Central Square Advisory Committee met on January 27, 2014, to review and comment on the pending Board of Zoning Appeal Special Permit application to use existing space at 541 Massachusetts Avenue as a pet shop. Mr. William Goldberg representative of Naggar Realty, LLC presented the proposal and floor plan.

PetCo will occupy the first floor of 541 Massachusetts Avenue. The proposed retail space will be used as a pet store for small caged animals.

Those are your gerbils, right?

(Reading) And will offer a self-grooming station. There will be no professional grooming or boarding services on-site. The delivery will be handled from the abutting municipal parking lot on Norfolk and Bishop Allen Drive where there is currently a back entrance to the store. Trash pick up will be handled by a private service provider. The signage on-site now, which is a large, vertical sign, has not been approved for reuse. They will follow the city sign ordinance when applying for signage. Part of the business practices of PetCo is the commitment to providing

vaccination clinics and adoption services for strays. They will continue this practice with information to the community. The hours of operation proposed are to be nine a.m. to nine p.m. The following issues were discussed by the Central Square Advisory Committee members and the general public. Parking for customers combined with the addition of the H-Mart would create more parking in the neighborhoods. It was noted that the store abuts a city surface parking lot that is on a major MBTA line as well as a Red Line subway system, and that the store tends to carry the smaller and lower-sized quantities of package items, i.e. less than 50 pound bags, easier for customers to handle. There was a desire to have as much visual attraction to the windows as possible. Some interaction with animals would be a plus

if it is consistent with best practice for such a store the well-being of the animals. Glass facade openings on to the store provide welcoming curb appeal and bring life to the sidewalk. The committee does not want a big box store with a blank facade. The Central Square Committee members fully support this project as a welcome addition to Central Square.

Further questions from members of the Board at this point?

(No Response.)

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

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

PETER VALENTINE: Thank you to the Board for your work. You want my name?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: Yes.

PETER VALENTINE: Peter Valentine,
79 Brookline Street.

CONSTANTINE ALEXANDER: I'm sorry,
could you come a little closer, please. And
start with your name and address.

PETER VALENTINE: Peter Valentine,
79 Brookline street. As you mentioned, you
don't want to have a boring front. And I
think it's part of the good for the Board to
make sure that there are interesting stores
in Central Square because interesting things
make people in society healthy. So I have
two suggestions, which is that there should
be at least three large tropical birds, 13 to
8 inches high for a sense of fascination.
You know, rather than just all animals that
you always see. And that there should be a
video screen, four feet by five feet which is

continually showing all kinds of animals in their natural settings. So that would add a sense of spice and vitality to it.

CONSTANTINE ALEXANDER: Thank you.

The woman over there, yes.

ELAINE THORNE: I'm Elaine Thorne with the City of Cambridge Community Department and I staff the Central Square Advisory Committee. I wanted to clarify any issues. The presentation was correct. They are aware that the veterinary services are once a month at a clinic. There isn't any professional grooming or professional veterinarian on the site. And the Committee did recommend and amended the letter based on new information received from Keith Bertram from PetCo.

If there were any questions that you had left open, I would be willing to answer them.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down.

I don't know if anybody has any questions.

TIMOTHY HUGHES: No, no, that's clear.

ELAINE THORNE: Just wanted to clarify it.

Thank you.

CONSTANTINE ALEXANDER: Thanks. Anyone else wishing to be heard?

(No Response.)

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

Any final comments, Mr. Goldberg, or are you all set?

ATTORNEY WILLIAM GOLDBERG: No, I appreciated the Board Chairman and members of the Board listening to the arguments and the

contest of PetCo and we await your decision.

CONSTANTINE ALEXANDER: Thank you.

I will now close public testimony.

There are no other correspondence in the file that I'm aware of.

Comments from members of the Board or are we ready for a vote?

TIMOTHY HUGHES: I'm ready for a vote. But I will say something about Peter Valentine's suggestions and why I think they're good. The video screen's problematic. It could run in counter to sign ordinances. And I'm not sure that, you know, as an Ordinance Committee we can't dictate what kind of product they sell. Whether they have tropical birds that fit that. But I would suggest to them that the idea that you make it an interesting and exciting sidewalk retail establishment should be something

that you should think seriously about.

CONSTANTINE ALEXANDER: I would second that. Very good comments.

Okay. The Chair moves that this Board make the following findings with regard to the Special Permit being sought by the Petitioner:

That traffic generated or patterns of access or egress resulting from this use will not cause congestion, hazard, or substantial change in established neighborhood character. This is a commercial area. There is plenty of traffic as it is right now. There is parking. And we have testimony or we have the opinion, I should, say of the Central Square Advisory Committee that they're not concerned about traffic patterns adversely affecting neighboring businesses with the activities you want to do.

That the continued operation or development of adjacent uses will not be adversely affected by the nature of what you're proposing. And in this regard that's why we've been asking a lot of questions about the nature of what's actually going to happen on the premises. Concern about maybe it could -- getting the answers we wanted to hear, you could adverse affect a neighboring business, but it does appear that that will not be the case based on what you represented to us.

That no nuisance or hazard will be created to the detriment of the health, safety, and or welfare of the occupants or the citizens of the city. And that the proposed use will not impair the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of this

ordinance.

In this regard the Chair would note that we have a letter of support from the Central -- well, the Petitioner does, from the Central Square Advisory Committee which we take great reliance on and deference, too.

So based on these findings, the Chair moves that the Special Permit be awarded to the Petitioner to operate a pet supply store on the premises, on the premises at 541 Massachusetts Avenue, subject to the following conditions:

That there will be no professional grooming services or other grooming services on-site except for the self-grooming services that you now provide.

That there will be no veterinary service performed on the premises other than an occasional clinic once or twice a month for

rabies injections or other kinds of inoculations.

That no boarding of animals will be done on the premises other than the animals that are going to be for sale, and those animals will be small animals such as gerbils. And that any animals that are for sale are going to be incidental to your basic use of the premises as a store to sell pet supplies, that's what this is all about.

Any other conditions from members of the Board?

Okay. On the basis of this, on these -- subject to these conditions, the Chair moves that a Special Permit be granted to the Petitioner.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor.

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

* * * * *

(7:20 p.m.)

(Sitting Members Case #10464: Constantine
Alexander, Brendan Sullivan, Janet Green,
Douglas Myers, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair
is going to call case No. 10464, 28 Andrew

Street.

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

CONSTANTINE ALEXANDER: Hi.

CHARLES HENEBRY: So we're coming back before you --

CONSTANTINE ALEXANDER: Name to the stenographer.

CHARLES HENEBRY: I'm sorry. That's my job. I'm Charles Henebry and this is Lily Porten. We live at 136 Columbia Street and we purchased this property at 28 Andrew -- 28-30 Andrew Street back in November of 2012.

We are coming back before the Board with a new proposal with significant changes since we last saw you in July. We've greatly reduced the size of the dormer in the back to bring it within the city guidelines of 15

feet, and we've also made the -- made a change to the proposed deck. It was -- it's smaller than it was. It's about 60 percent of the square feet. And instead of having a deck on the first floor level, we've decided to use that -- we realize we actually need to use that for bicycle parking because there's no -- I'm a big bike rider and my son is and my wife is, and there's really no way to access the basement through a bulkhead, the way we do at our current house. So you -- it's very awkward to get bicycles out on a daily basis.

LILLIAN PORTEN: It's very narrow and steep stairs down the basement.

CONSTANTINE ALEXANDER: And keep going.

CHARLES HENEBRY: And so --

CONSTANTINE ALEXANDER: If you have

anything more to say.

CHARLES HENEERY: Yeah.

So those are essentially the changes that we've done. And we think we've got a proposal that's a much more workable proposal this time.

CONSTANTINE ALEXANDER: Well, clearly you have listened to us and you have reduced, as you pointed out, the scope of your project. But I have to say nevertheless you still are substantially out of compliance with our Ordinance.

CHARLES HENEERY: We do realize that.

CONSTANTINE ALEXANDER: And, again, just for the record. The FAR, permitted FAR in this district is no more than 0.75. You want -- you're now at 1.12. You want to go to 1.17.

CHARLES HENEBRY: You're right.

CONSTANTINE ALEXANDER: Which is roughly 50 percent more than our Ordinance allows. And that's why you're here for the Variance -- one of the reasons.

You still have -- it's a small -- a large structure for the lot. Your lot area per dwelling unit is still too small. That hasn't changed. But you're supposed to have 1500 feet, but you have less.

CHARLES HENEBRY: Right.

CONSTANTINE ALEXANDER: It's a two-family house. And you have setback issues both on the left and right side because, again, you have a small lot.

CHARLES HENEBRY: Yeah, the setbacks aren't changing from what they are right now. The neighborhood is a very tight and crowded neighborhood. And the place,

the area where we're adding the dormers and also this deck is on the back side where there's a substantial open space. The house is set nearly at the very front of the lot, and leaving a fair amount of space in the back, which you can see on the drawings. So the thought here -- this is the existing structure. You see it's there, the big space back here. So and our thinking was to the change -- the other thing is we noticed is that the substantial -- or a fraction of the current FAR includes unusable space in the basement. Our basement is just tall enough that it counts toward FAR, but it's -- it's really very marginal space with very tiny windows.

CONSTANTINE ALEXANDER: Do you have any idea of approximately how many square feet you're talking about in the basement?

LILLIAN PORTEN: About 700.

CONSTANTINE ALEXANDER: About 700 feet?

LILLIAN PORTEN: Yeah. It's the footprint of the house.

CONSTANTINE ALEXANDER: I'm not going to deny it. You may have mechanical --

CHARLES HENEBRY: Yeah, there are extractions from mechanical stuff. I could look really quick. I do have that.

CONSTANTINE ALEXANDER: No. I just didn't know if you knew off the top of your head. I'm not looking for specific --

CHARLES HENEBRY: I've got it here.

LILLIAN PORTEN: So, yeah, you know, we have the, you know the furnace and the water heaters and the, and the washer/dryer, exposed pipe. It's not at all finished. There's no bulkhead. There's very little

window space. There are four windows. I think they are -- two of them are 30-by-17 and two of them are 30-by-20. So there's very little window space. It's the only way to enter it is off of a shared hallway. It's a very steep, unfriendly stairs. It's not something that is --

CONSTANTINE ALEXANDER: It's basement stairs of an old house is what it is.

CHARLES HENEBRY: That's right.

LILLIAN PORTEN: Exactly.

CONSTANTINE ALEXANDER: Can you explain to me at least, what I consider to be a very unusual dormer configuration in the rear?

CHARLES HENEBRY: Yeah. What's going on there is that the -- yeah, our original dormer configuration was much larger and symmetrical. The middle dormer

is to enable us to have a bathroom on the third floor which is pretty important to us right now to get from the third floor -- to use the bathroom on the third floor you have to get up in the middle of the night and go down the stairs and that's not fun. So to fit a bathroom in we need a dormer there. We also wanted to -- we're changing the number of bedrooms on the third floor so that in place of current floors or very marginal bedrooms, we're going to have three. And so two of them are going to be joined together in a single bedroom, and we -- after some thought we realized that large bedroom doesn't need a dormer to make it larger in the back, because it's got a small dormer in the front and just because it's a big open space. So we're -- we have that here, and then our daughter will be in this bedroom here with a

dormer in front. And our son, who as you can see is tall, needs a little bit more space. He's got this one here. And then of course this is the space that's going to become the bathroom. So I realize it's an asymmetrical solution. It's not our favorite solution. Our favorite solution ends up with one that was more symmetrical. Dormer, dormer, dormer, but that was considerably over the 15-foot guideline. So we opted to conserve the space on one side and sacrifice the dormer space on that side.

CONSTANTINE ALEXANDER: Okay.

LILLIAN PORTEN: One thing I wanted to mention also is that it's minimally visible from the street.

CONSTANTINE ALEXANDER: Right, I agree with you.

LILLIAN PORTEN: No one can see it

from Andrew Street. Our two next-door neighbors might be able to see it at certain angles. Behind us, the house directly behind us, the units that have windows on our yard could see it. But from the street there's only a tiny little window where you can see it. So it's not going to be very visible at all. For the visual impact.

CONSTANTINE ALEXANDER: I've been by the property and I can testify that being the case.

Questions from members of the Board?

JANET GREEN: I would just say and there was neighbor support even though it was an odd kind of dormer configuration at the rear, I thought the dormers in the front were quite good and attractive. And the dormers in the back looked utilitarian more.

My question was more about the parking.

Do you use the back area for parking at all?

CHARLES HENEBRY: A section of it is deeded parking. And evidently the two properties, our property and the property on the other side of the driveway, share that driveway. And at the time when they were split and sold, there was an agreement worked out so that there's a space immediately behind the house.

JANET GREEN: Immediately behind your house?

CHARLES HENEBRY: Yeah. So you come down here, the driveway runs down here mostly on our side of the line, a little bit on their side.

JANET GREEN: Yes.

CHARLES HENEBRY: And they have a little parking space here. And we have two parking places that are like that.

JANET GREEN: That go like that?

CHARLES HENEBRY: And only go about that far in. Because about the length of a car. And then this, this slightly larger --

JANET GREEN: And that's always been that way. That's not something new?

CHARLES HENEBRY: Not something we've added. I've only been acquainted with this property for about a year and a half so I can't testify how long back that goes. But it's a gravel driveway. It's sort of -- so it's got -- it's -- I mean clearly somebody took the time to make that driveway sort of sound and it's not just driving on dirt or something like that.

And yeah, sorry.

CONSTANTINE ALEXANDER: Doug, any questions?

DOUGLAS MYERS: Yes. There are --

CHARLES HENEBRY: You can see the driveway in the pictures.

DOUGLAS MYERS: Your deck does not extend to the third floor?

CHARLES HENEBRY: It does not.

LILLIAN PORTEN: No, no, it never did.

DOUGLAS MYERS: There was a notice in front of your house.

LILLIAN PORTEN: Yeah. I don't know why. It must have been a clerical error.

CHARLES HENEBRY: I kind of fixed that once I noticed that. For some reason -- I mean that's the way it's read since we've got it, but -- and I didn't know how to go about getting that changed. And I figured that we can talk to you guys and make clear that there is just a deck on the second

floor and nothing on the --

CONSTANTINE ALEXANDER: Well, the relief, if we grant you relief, will be tied to the plans that you've submitted and those plans don't show a third floor deck.

CHARLES HENEBRY: Yeah.

LILLIAN PORTEN: Yeah, right.

CONSTANTINE ALEXANDER: So it solves itself.

CHARLES HENEBRY: That's right.

DOUGLAS MYERS: And the deck on the second floor is unenclosed, it's open.

CHARLES HENEBRY: Unenclosed, open.

LILLIAN PORTEN: Yeah.

DOUGLAS MYERS: And could you explain about the exact living arrangements that -- your application covers 20 -- No. 28 and No. 30 Andrew Street.

CHARLES HENEBRY: Right.

LILLIAN PORTEN: It's a two-family.

CHARLES HENEGBRY: It's a two-family. I don't know quite why it's numbered that way because there's just one door.

LILLIAN PORTEN: I think originally there were two doors.

CHARLES HENEGBRY: It may have been at one time side by side, but right now --

DOUGLAS MYERS: What is the configuration of the living units?

CHARLES HENEGBRY: There's an apartment on the first floor, and then a separate apartment on the second and third floor.

LILLIAN PORTEN: Yeah.

CONSTANTINE ALEXANDER: That's yours. The second and third floor?

LILLIAN PORTEN: That's the one we

plan to occupy.

DOUGLAS MYERS: And are there any other dormers, front dormers on Andrew Street at the present time?

LILLIAN PORTEN: I don't know.

CHARLES HENEGBRY: I have a picture.

LILLIAN PORTEN: Our house looks different from most of the houses on the street.

DOUGLAS MYERS: Would you say it's larger than most of the houses on the street?

CHARLES HENEGBRY: All the houses are differently shaped.

LILLIAN PORTEN: It's wider. Some of them are deeper.

CHARLES HENEGBRY: Yeah, most of them are set sort of 90 degrees to this one. So they run back. Ours has a larger lot than most of them on the street, and -- but, yeah,

a lot of them are set the other way. And as for dormers, I'm pretty sure that the people across the street from us have a dormer. You can see a dormer on a house down that way some distance away. Now that you ask me the question, though, I wish I had a --

DOUGLAS MYERS: That's a side dormer, you're right. It doesn't front the street.

CHARLES HENEBRY: Yeah, it doesn't front the street. It's because our house -- most of the houses, as I say, are 90 degrees rotated with respect to ours. Ours happens to be lengthwise. So the only direction the dormers can go is front to back.

CHARLES DUMONT: Some of the houses across the street are three-family, you know, box type.

JANET GREEN: Triple deckers.

CHARLES HENEERY: Triple deckers.

CHARLES DUMONT: Triple deckers, yeah. My name is Charles Dumont, and I want to thank you for considering this relief. I'm responsible for the plans on this project that's why I'm here.

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

Andrea, any questions?

ANDREA HICKEY: No.

CONSTANTINE ALEXANDER: I'll open it up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there appears to be no one needing to be heard.

There are letters in our files, letters

in support, which I will read into the record in a second as soon as Brendan gives me back the plans.

LILLIAN PORTEN: I think there are only two new letters. We just provided all of them for your convenience.

CONSTANTINE ALEXANDER: Thank you.

CHARLES HENEGBRY: Yeah, the -- of the letters, three of them we received when we came up before with -- and so only two of those letters are --

LILLIAN PORTEN: Only one.

CHARLES HENEGBRY: -- are new letters.

CONSTANTINE ALEXANDER: Did I read the old letters in the file? I don't think I read them then.

CHARLES HENEGBRY: You may not have.

CONSTANTINE ALEXANDER: I'll do it

now so it's part of the record.

We are in receipt of a letter from Charles Henebry, H-e-n-e-b-r-y and Lili, L-i-l-i --

LILLIAN PORTEN: That's us.

CHARLES HENEBRY: That's the letter that we used --

LILLIAN PORTEN: -- that we sent to them.

CONSTANTINE ALEXANDER: Oh, I'm sorry. Thank you.

CHARLES HENEBRY: Trying to be wholly honest.

CONSTANTINE ALEXANDER: You're right. No, you're right. I read that before.

All right, we have a letter from Andi Butler, 32 Andrew Street. (Reading) Since I will be your -- it's addressed to you folks.

Since I will be your next-door neighbor in the near future, I'd like to say thanks for dropping in today to share your new plans with me. I hope the Planning Board, right, the Zoning Board of Appeals -- the Planning Board finds this new scheme appropriate for the neighborhood. As a homeowner, I may have to copy your bike storage plan sometime in the future. It is always hard to know where to park a bike and your solution is great. I hope they okay these plans and you get to move in soon.

A letter from John Ward. It doesn't have an address of where Mr. Ward lives.

LILLIAN PORTEN: He's across the street.

CHARLES HENEBRY: Across the street.

CONSTANTINE ALEXANDER: Okay.

It's again addressed to the Petitioner.

CHARLES HENEBRY: He's at 33 Andrew Street.

CONSTANTINE ALEXANDER: Okay, thank you. 33 Andrew Street.

(Reading) Thanks for stopping by with the revised plans for your home on Andrew Street. As with your original plans, I think the design will fit in nicely with the other homes on the street. There is nothing that I see that is out of the norm for a home of that size and for other similar homes in the area. Like before, my only concern is the length of the project and its affect on parking. I occupy the handicap spot in front of the house and will probably have to park elsewhere once construction starts. Will you -- and then there's a question about -- between you and them about parking.

It's not our concern.

He concludes by saying: Either way, I'm okay with the project going forward. Good luck.

We have a letter from Grant Welstead, W-e-l-s-t-e-a-d and Sarah Lenz, L-e-n-z, 20 Andrew Street. (Reading) We received your letter in the mail with the outline of your proposed modifications. Thank you for your correspondence and welcome to the neighborhood. It is a great street and we are pleased to have another owner-occupied unit on it. The plans look good to both Sarah, my wife, and me as long as the added dormers are done in a tasteful manner. Some renovations like the one you're proposing can be aesthetically displeasing if done without care. I.E. the additions to the back of the two houses across the street from you. Based

on the plans you mailed to us it looks as if your thinking is in line with maintaining the architectural integrity of your new home. This is great. The only question I have related to the deck fire escape behind the house. Do you have plans to expand this? If so, we want to make sure that there is not a major expansion on the second floor level due to privacy concerns. Anything on ground level will not be problematic for us.

Let me just stop and interject.

They've seen these plans? They'll know what --

CHARLES HENEBRY: Yeah, we've shown them the new version. That's exactly right.

CONSTANTINE ALEXANDER: Back to the letter: (Reading) I also wanted to take the opportunity to inform you that I have recently done some neighborhood gardening.

That's between you and them. I guess that is it. (Reading) Good luck tonight. I hope you don't have any substantial push back. I will not be able to attend the meeting to vocalize my support in favor of your project, but feel free to refer to this communication as evidence of our support if necessary. Sarah and I look forward to meeting you when you eventually make it over to Andrew Street.

And then a letter from Greg Katz, K-a-t-z. (Reading) Deb and I -- I presume Deb is his wife -- Deb and I received your letter about your recent purchase of 28 Andrew Street and the extension you are planning in the back. We live across the street at 21 Andrew Street, along with our son Noah, and in September a daughter as well. Your extension project seems perfectly reasonable to us, and we're happy to have

another family moving. In although we have also liked having a hive of grad students on the street. I think you will find Andrew Street to be a wonderful place to live. We moved in a couple years ago and are quite taken with the neighborhood generally and Andrew Street in particular. Good luck with the ZBA hearing and we look forward to meeting with you sometime soon.

And actually one more letter. It's from John Ward. (Reading) I'm the landlord/trustee of 33-37 Andrew Street. I'm in favor of your proposal. I think it's a good idea and believe it will look great once completed. My only concern is the length of the project and its affect on parking. He's also worried about the handicap spot, too.

CHARLES HENEBRY: It's the same guy.

LILLIAN PORTEN: Same person. It's a second letter.

CONSTANTINE ALEXANDER: Okay, and that's it. So all letters of support. They speak for themselves.

With that I'm going to close public testimony.

Anything further you want to add before we start our deliberations?

CHARLES HENEBRY: No. I appreciate the time you're taking to consider everything.

LILLIAN PORTEN: Do you have any questions for us?

JANET GREEN: No.

CONSTANTINE ALEXANDER: I guess not.

I'm going to close public testimony and open the matter up to discussion by members

of the Board. You want to have any views you want to express or do you want to go to a vote. What's the pleasure? I'm ready for a vote.

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: Andrea?

ANDREA HICKEY: I'm ready.

CONSTANTINE ALEXANDER: Doug,
Brendan?

Okay, the Chair moves that with respect to the Variance being sought, we make the following findings:

A literal enforcement of the provisions of the Ordinance will involve a substantial hardship, financial or otherwise, to the Petitioner. Such hardship is being that the home is a home that is too small for the family, and that without relief being able to effectively use the residence, their living unit will be severely compromised.

That the hardship is owing to the fact that this is a non-conforming structure right now, and therefore, any changes that are proposed to be made 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 would note that there is unanimous neighborhood support apparently for this project.

That it does allow a family, a young family, a growing family to occupy the structure.

It upgrades the housing stock of the City of Cambridge.

And the relief being sought substantially, I think substantially departs from the requirements of our Ordinance.

The Petitioners put forth compelling evidence as to why we should grant relief under these circumstances.

Therefore, based on these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with the plans prepared by Momentum Architecture. They're many pages in length and they run from A1.0 to P9.0. The first page of which has been initialed by the Chair.

And before we take a vote, these are the final plans? Because if you change them, you're going to have to come back before us.

CHARLES DUMONT: These are the final plans.

CONSTANTINE ALEXANDER: These are the final plans, okay.

All those in favor of granting the

Variance on this basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Good luck.

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

* * * * *

(7:45 p.m.)

(Sitting Members Case #BZA-003187-2014:

Constantine Alexander, Timothy Hughes, Brendan Sullivan, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: We're going to our regular agenda it's going to be quick because one is going to be continued and one is going to be withdrawn. In that case if anyone is in the audience for those cases, I don't want them to hang around needlessly.

The Chair calls case No. 003187, 8 Kennedy Road.

Is there anyone here wish being to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: There appears to be no one. We have a letter in the file from Martin Cafasso Designs, LLC. Cafasso is spelled C-a-f-a-s-s-o.

(Reading) I am writing to you today to request

a continuation for the hearing on the Variance and Special Permit application for 8 Kennedy Road scheduled for this evening. My clients Peter and Sigall Bell, S-i-g-a-l-l, two L's, will not unfortunately be able to present as planned tonight. We apologize for the short notice and thank you in advance for your kind consideration in this matter.

When can we continue this case to?

SEAN O'GRADY: We can do it to March 13th.

CONSTANTINE ALEXANDER: March 13th. It's a case not heard.

The Chair moves that this case be continued until seven p.m. on March 13th as a case not heard on the conditions that the Petitioner sign a waiver for a time of decision.

That the sign that is now posted on the premises be modified to reflect the new date and the new time, seven p.m. on March 13th.

And lastly, on the condition that to the extent there's a modification in the plans that were submitted by the Petitioner, that these modifications and changes to the dimensional form, be in our files no latter than five p.m. on the Monday preceding.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

* * * * *

(7:45 p.m.)

(Sitting Members Case #BZA-003192-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Janet Green, Douglas
Myers.)

CONSTANTINE ALEXANDER: Next case
is 003192, 5 Cottage Court.

The Petitioner in this case has
requested a withdrawal and does not want to
proceed. And I don't think there's anything
more to be said.

I make a motion that we accept the
request for withdrawal.

All those in favor say "Aye."

(Aye.)

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

CONSTANTINE ALEXANDER: Five in
favor. Case withdrawn.

(7:45 p.m.)

(Sitting Members Case #10502: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: 10502.

286 Concord Avenue.

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

This is what you've handed out, these are the same plans?

ATTORNEY SUSAN ROBERTS: I just want to make sure you have a February 26th, Zoning drawings.

DAVID FORD: That's what it was.

CONSTANTINE ALEXANDER: Wait, wait, a minute. I don't want to have a private conversation. The drawings that we have you've presented to us tonight are the ones that were in our files by five o'clock on Monday except with one modification?

DAVID FORD: Except for the stamp.

CONSTANTINE ALEXANDER: Yes, the stamp. You haven't changed them. You just gave us an amended FAA-1A certification?

DAVID FORD: Right, that -- showing the correct elevations that were updated in the file, that's it.

CONSTANTINE ALEXANDER: That's right. Other than that --

DAVID FORD: Right.

CONSTANTINE ALEXANDER: The elevation -- the photo simulations are the same as they were before?

ATTORNEY SUSAN ROBERTS: Same.

CONSTANTINE ALEXANDER: Plans are the same as before?

ATTORNEY SUSAN ROBERTS: No, they're not. The plans that were given to you on yesterday showed the correct building

height and the FAA-1A is what the backup is for that correct building height because they were wrong.

CONSTANTINE ALEXANDER: But otherwise the --

ATTORNEY SUSAN ROBERTS: Otherwise everything is the same.

CONSTANTINE ALEXANDER: -- the nature of the roof structure and design --

DAVID FORD: The design, everything is the same.

CONSTANTINE ALEXANDER: Okay, we can proceed. Ms. Roberts, the floors is yours although you want to give your name.

ATTORNEY SUSAN ROBERTS: I will do that.

Good evening. Thank you very much. My name is Susan Roberts. I work at Anderson and Kreiger. I am AT&T's attorney. With me

is David Ford from Centerline Communications and Deepak Rathore from AT&T.

So we are here tonight because this hearing was continued from October 24, 2013. We're seeking a Special Permit from this Board in order for AT&T to install a wireless facility on the roof of 286 Concord Avenue. We filed our application on July 31st. As you know, the Board referred the matter to the Planning Board. We went to the Planning Board once late in the summer. And then as the facility was redesigned, we're now submitting for you tonight the third redesign. We actually went to the Planning Board again this past February 11th, and the Planning Board wrote a recommendation to this Board as of Tuesday evening or Tuesday afternoon rather.

DAVID FORD: It's included in the

packet as well.

ATTORNEY SUSAN ROBERTS: And the Board recommended the design and recommended that this Board issue a Special Permit for the facility with the condition that the chimneys, which you'll now see be red brick in color. They indicated that the design was a pleasing one. And so that we hope is something that the Board will consider very appreciably.

CONSTANTINE ALEXANDER: By any chance do you have an extra copy?

DAVID FORD: I've included it in the package.

CONSTANTINE ALEXANDER: It's in the package?

DAVID FORD: It's in the package there. The Planning Board recommendation?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SUSAN ROBERTS: It's dated February 23rd.

CONSTANTINE ALEXANDER: I inspected the files on Tuesday, and the letter apparently came in after that.

Go ahead, keep going.

ATTORNEY SUSAN ROBERTS: So just to fill the Board in on the action, activity that's occurred since we last were before you on October 24th. In response to the Board's suggestion on the evening of the 24th of October, we fundamentally changed the design of the facility. We're gonna go through and show you exactly how the designs changed since the date that we've first submitted them back in July, but what we're now --

CONSTANTINE ALEXANDER: I'm sorry to interrupt you. We have a lot of people here who are very interested in what you're

saying. If you're going to do that, do it in a fashion that they can see and hear maybe what you're proposing.

ATTORNEY SUSAN ROBERTS: We'll do that.

CONSTANTINE ALEXANDER: Maybe putting yourself to the side, Ms. Roberts, then they can hear better. You don't have your back to the group, so maybe over there. At least over there.

ATTORNEY SUSAN ROBERTS: Oh. You want me to stand over there?

CONSTANTINE ALEXANDER: Yes, to the side, then your voice can carry and they can hear as well.

ATTORNEY SUSAN ROBERTS: Okay. Over here? That's good?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SUSAN ROBERTS: I can start

over from where we're going to explain the activity that has occurred since October 24th.

So since October 24th AT&T has provided a third redesign of the facility. At the suggestion of the Board that evening, we now are using faux chimneys to look as well as other chimneys, real chimneys, that are in the neighborhood.

CONSTANTINE ALEXANDER: Are there any chimneys on this building now?

DAVID FORD: Yes.

ATTORNEY SUSAN ROBERTS: Yes. There are two currently. And we are -- as you'll see, we are going to replace those two so there will be a total of two if this facility is installed, a Special Permit being granted.

CONSTANTINE ALEXANDER: What

happened to the other chimneys?

ATTORNEY SUSAN ROBERTS: The other chimneys we are removing them. One of them has no utility at all for the building, and the other one we're cutting down to just about two feet and you won't be able to see it from the street.

In addition to substantial design change, we also held some meetings with neighbors. We held one meeting on January 8, 2014. That was a meeting that was held in the neighborhood itself at the Concord Avenue cafe. A total of eight people came. There was -- admittedly I made a mistake and left a few people off the list of notice and some of those people did not get notice until the night before the meeting. However, I believe that all of those people showed up.

In addition, because there was that

notice issue and because it turned out on January 9th that we continued the hearing to this date, we decided to hold another meeting at which time we were also going to have some more information regarding the property value issue, since we know that the neighbors were concerned about property value. And so we had one on the 18th of February which was last Tuesday. There was a snowstorm that evening, a total of three neighbors came, and we did discuss the entire effort from design and, you know, radio frequency coverage and property values and so forth. We did discuss everything with the people who did show up.

Because of the snowstorm, though, we thought okay, we'll have one more meeting scheduled, which we did, for this past Tuesday, no snowstorm, but no neighbors showed up on that date.

And by the way, with regard to notice for the meeting on the 18th of February, I personally left 100 leaflet notices in the neighborhood.

With regard to the property value report, we commissioned that. And as you'll see and as I'll explain, the property value reporting that we did actually analyzes wireless -- the actually analyzes the effect of two wireless facilities less than a half a mile away on property in very close proximity to the wireless facility. So one of those is at 80-96 Sherman Street, the brickyard office park there on Sherman Street, and there are some condominium units across the street that sold. And the other one is the MetroPCS facility at the former Masse Hardware. And so we analyzed so condominium sales that occurred across the

street from that facility.

CONSTANTINE ALEXANDER: Is there someone that your company uses regularly?

DAVID FORD: Just an independent consultant. This is the first time I personally used him so, no.

ATTORNEY SUSAN ROBERTS: I don't know, you know, he lists qualifications in the back. He lists his clients. He does have wireless clients. He has all sorts of clients. But I, I worked with him to get properties that would be relevant to the neighborhood here because we wanted to make sure that the properties analyzed actually had relevance.

CONSTANTINE ALEXANDER: Let me stop you for a second. We're trying to do this -- you can't hear?

UNIDENTIFIED AUDIENCE MEMBER: We

can't hear.

CONSTANTINE ALEXANDER: We don't have a microphone. Feel free to come closer, stand on the side. I apologize I don't have anything better. I thought it would be better but that's how our -- why don't you pull some chairs up so she can sit down.

ATTORNEY SUSAN ROBERTS: I'll try and talk louder as well.

CONSTANTINE ALEXANDER: You can pull up closer. I know someone else said they couldn't hear. Whoever can't hear, you can manage by coming up front.

ATTORNEY SUSAN ROBERTS: So that concludes all the activities that we've done: Redesign, neighborhood meetings, property value report.

So we're here tonight. And I was planning to go through again for the Board why

we need this facility and how badly or how extensively, I should say, we looked for a site, an alternative site to this one and we couldn't find one. And I can tell you that both David Ford and Deepak Rathore are available to answer questions. But I'm going to start at least.

We have -- you want to set up the coverage maps?

DAVID FORD: Sure.

ATTORNEY SUSAN ROBERTS: So typically what happens when AT&T discovers a gap in coverage --

CONSTANTINE ALEXANDER: Can you just --

DAVID FORD: I'll just hold it up.

CONSTANTINE ALEXANDER: Yes. So the neighbors can see it. As us, too.

DAVID FORD: Yes.

JANET GREEN: So, David, turn it just a little bit so she can see it for a moment.

DAVID FORD: Sure.

ATTORNEY SUSAN ROBERTS: So typically what happens when AT&T discovers that there's a gap in their radio frequency coverage, they create what we call a search ring. And in this case the search ring consisted initially a few years ago of properties that were pretty close to Harvard, Harvard Square -- north of Harvard Square. You know, along Mass. Ave., Follen Street, that area. And we were not able to find any property in that area. And so the search ring actually migrated northwest to the Concord Avenue area.

In any case, so the search ring migrated to the west, northwest. So we are sort of now

in the Concord Street area. And we filed for you on Monday an alternative site summary that David prepared, and it summarizes all of the locations that we looked at both with the initial search ring and with the second search ring. There are a total of 27 properties that were looked at. Many of them consisted of residential condominiums. Many a few of them were commercial properties, dealerships. I think there was a store, there was a bookstore. There were a couple of properties at Harvard. There were -- there was a school, the Tobin School. There was a property at the City of Cambridge owned including water district property. And this property at 286 Concord Avenue was the last property that we looked at. And for one reason or another the entire list of other -- 26 other properties was unavailable

for various reasons. Either it didn't work sufficiently well to cover our radio frequency coverage gap or there were problems with constructibility of the facility at the site, building just wouldn't work for our facility or the property owner was not interested in having a facility at their location. Or in some cases I believe there were some property owners who were unresponsive.

CONSTANTINE ALEXANDER: With regard to the first or of the four categories you just enumerated, it just didn't work well enough from the properties.

DAVID FORD: As far as constructibility in RFY so coverage was --

CONSTANTINE ALEXANDER: What about the possibility of maybe getting two properties and between the two of them

getting what you need to do rather than having the one on this building?

DEEPAK RATHORE: So basically we have two separate facility to the north and south of this particular site.

DAVID FORD: I can show you on the map right here so --

DEEPAK RATHORE: And these work together.

DAVID FORD: I'll explain to the Board first and then to the audience.

So right here, this is our current coverage. Right here is 807, 286 Concord Avenue, the search ring for this site. Right here, so up and down the corridor here you can see -- just to reiterate, green is in-building coverage, blue is in-car coverage, yellow is outdoor coverage, and red is very little to no coverage or almost a dead

zone. So as you can see up and down this corner, north to south, there's an almost a complete gap right here. So our site is in the middle right here. Recently approved is the 102 Sherman Street site, which is up here. And also recently approved and is being built as we speak is the Mount Auburn Street site which is down here. So the whole point is to fill in this huge corridor that doesn't have any coverage. We have two of the three sites permitted and approved. This is the final -- as you can see, this is the final test to fill in this coverage gap. Because Mount Auburn and 102 Sherman haven't been built yet, they're not shown on this map, but they cover in these gaps. And then 286 Concord Avenue, more or less, fills that gap between the two recently approved sites. And then once that's done, the goal is to have this

full corridor filled in, all these sites tie together, and to have Cambridge basically full service.

CONSTANTINE ALEXANDER: Technology change being the watch word of your industry, what's the possibility then that a year or two from now you will be able to solve your problems without having to put the faux chimneys on top of 286 Concord Avenue?

DEEPAK RATHORE: So basically the design (inaudible), but we are using our futile spectrum. Everything that we are -- as we go as of today basically. So we are -- sorry about that.

THE STENOGRAPHER: Is it possible for you to speak a little slower, please?

DEEPAK RATHORE: Sorry about that.

So basically we are designing network for the future as well. We have that

consideration in our design where the size should be located and we are considering having our spectrum spanning as of now. So I can speak as for our plan. This is a three to five year plan, and we should be able to have good coverage in the gap for the plan.

CONSTANTINE ALEXANDER: And the question was, and maybe I missed it. Two years from now might you not have means of providing coverage in this area assuming that we don't, that's assuming, you're not granted relief tonight, two years from now you'll come up with a solution that will solve the problems. So I'm just -- this is hypothetical. So, therefore, I ask myself why should we allow this now, which you brought is a project that has a lot of problems as we all recognize, if we know we've got a solution down the road.

DEEPAK RATHORE: As of today, I don't know any other solution to cover this area and provide our customer with the best network high speed data. So what we are doing the design is based on what we currently have was the AT&T standard for designing the network. That's what we are using. And, you know, I'm not sure what the technology is going to come in the future. It might need more size. I can't say right now, but that -- as far as today's concern, that's what we are doing.

CONSTANTINE ALEXANDER: Okay. But you want to -- you want to make the same presentation to the audience.

DAVID FORD: So real quick here, this is the current coverage in Cambridge. Right here is the corridor that I talked about, all red.

UNIDENTIFIED AUDIENCE MEMBER:

Concord Avenue, that corridor?

UNIDENTIFIED AUDIENCE MEMBER: And what red is?

DAVID FORD: Everything you see in red is -- so I'll say it again.

Green is in-building coverage.

Blue is in-car coverage.

Yellow is outdoor coverage.

And red is low to none. No coverage at all slash gaps.

UNIDENTIFIED AUDIENCE MEMBER: Do you have a response to that? I'm an AT&T customer, cellphone customer and I've never not had coverage in Cambridge.

DAVID FORD: Well --

CONSTANTINE ALEXANDER: Excuse me, Ma'am, could you just give your name and address to the stenographer? We need to keep

a record.

GINA WARD: 290 -- well my, my address in Cambridge is my business, 298 Concord Ave.

DAVID FORD: Okay.

ATTORNEY SUSAN ROBERTS: Would it be okay for us to continue?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SUSAN ROBERTS: So just to address your issue about technology, obviously we don't know what's going to happen in two years. We don't know what's going to happen in five years. We're presented now with the technology that we have. And as Deepak has just said, we're presenting you with what our plan is going to be in the next three to five years. If there's technology that, you know, drops from the earth or I mean drops from the sky on to

the earth and somehow or other AT&T discovers another way of doing things, I mean maybe this site gets decommissioned. But the fact is that this is what we have now. This is the technology that AT&T, as well as, of course you all know, the other providers also have. It's not like we're behind in any way. If anything, we are struggling ourselves to try and find the technology that will best meet our customers' needs. And obviously no one likes to have to go through Zoning. If there were a way for us to do something that was invisible to everyone, of course, we would do that. We are here now because this is what we have for technology and we have to deal with that. And all of that said, you know, I think what we've been doing with this site is actually, you know, quite good in terms of the visual effects of our site after many,

many -- after three iterations beyond the initial design that we put in.

Given that, we want to fill this gap. And given that we have looked extensively in the area, we have landed on this site. And what I wanted to do now is to actually go through the design, because it is important to me that people see what we're proposing and that people see that what we're proposing actually looks very good and fits well within the neighborhood and is very similar to other chimney installations that are on Concord Avenue, that are on Royal Street, that are in -- that are on Saville Street.

CONSTANTINE ALEXANDER: In doing that, we have the photo simulations which you're going to go through.

ATTORNEY SUSAN ROBERTS: Yes.

DAVID FORD: Right.

CONSTANTINE ALEXANDER: The audience does not.

DAVID FORD: I'm going to go ahead and do it right now.

ATTORNEY SUSAN ROBERTS: So one second. What I thought we would do is go and show you the design from the beginning so you can see the evolution of where we've been and where we are now and you can see the improvement that we've made. And in addition to the facility itself, the property owner also wants to make the building look good and has said that it is his plan to redo the siding on the house as well. So, this is going to be a good looking property and we also submitted drawings showing you that as well.

CONSTANTINE ALEXANDER: I only suggest that with regard to where you started

out is not all that relevant to us tonight.

ATTORNEY SUSAN ROBERTS: Okay.

CONSTANTINE ALEXANDER: Okay?

So if you want to just briefly touch on it, but I think what's important is what you're proposing tonight.

ATTORNEY SUSAN ROBERTS: Certainly.

DAVID FORD: Okay, so just to recap for the Board and the audience. I'll just talk loud.

The first item that's presented has 12 antennas as you know. It started out as a rooftop penthouse. That penthouse had eight-foot antennas making the penthouse ten feet tall above the roof line. So as you can see we proposed, two, ten-foot tall rooftop penthouses. They're 10-by-10, very large as you can see. The Board suggested we go back and revise.

I'll show the audience the same thing. Two penthouses on the roof with antennas mounted within. That was the first design.

We moved on from that design to a second design. We added some characteristics to that penthouse to make it look better, make it blend a little bit better with the property, added some windows to it, added some other, you know, minor characteristic tweaks and same thing, though. Same height, ten feet, same amount of antennas, 12, because that's what a standard AT&T network needs, 12. So we didn't want to reduce our count right away. And that's what's showing right here.

So, again, very similar to the first design. Ten-foot tall rooftop penthouse, two of them, with just some windows added this time.

Again, we revised. This time we dropped from 12 antennas down to nine, and we dropped from eight-foot antennas down to six. So as you can see, again, we're still proposing, this time around, design No. 3, still proposing two rooftop penthouses. But instead of ten feet, these drop down to eight because we reduced antenna height and we reduced antenna count as well, so they shrank from 10-by-10 down to roughly I think it's seven-by-seven as well.

So this is No. 3. Again, smaller penthouses. These are eight feet now instead of ten. Still two of them. Nine antennas total instead of 12. So this is design No. 3. The Board still suggested that we go back and redesign. So, again, we went back.

We now dropped from 12 to nine to six

antennas. So this design, our fourth design, the one we're showing you tonight, has only six antennas. We dropped from eight-foot antennas to six-foot antennas now down to four-foot antennas making the proposed faux chimneys only five and a half feet. Five and a half, six feet with the windows in. The plans show six, but they're really closer to five and a half.

CONSTANTINE ALEXANDER: But I thought your letter -- this file is so long, I can't find it, said the faux chimney's going to be four feet high.

DAVID FORD: The existing chimneys that's what the old letter said, yes. The existing chimneys on the roof, we originally thought to be four and a half feet tall. But the landlord Eric actually went out there yesterday and personally measured them and

they are six feet.

So there's two existing six-foot chimney on the roof.

CONSTANTINE ALEXANDER: Now?

DAVID FORD: They're black.

Yes.

CONSTANTINE ALEXANDER: And one's going to be --

DAVID FORD: The rear one is completely removed. The front is going to be cut down so you cannot see it from the roof. And we're proposing the new faux chimneys, two total in very similar locations to mimic.

CONSTANTINE ALEXANDER: And the size of those faux chimneys?

DAVID FORD: Those are shorter actually than the existing ones. They're five and a half -- under six feet. They're roughly five and a half. The existing

chimneys are six. So we're going from two existing chimneys to two chimneys after it if we are approved tonight. So there's going to be no change in aesthetics on the building --

CONSTANTINE ALEXANDER: Well, you're going to add condenser to the roof, though.

DAVID FORD: That's true.

CONSTANTINE ALEXANDER: And you're going to add a guardrail to the roof?

DAVID FORD: It's in the rear, right.

CONSTANTINE ALEXANDER: So you are changing the roof line beyond just two chimneys for two chimneys?

DAVID FORD: Right, right. Okay.

So just to explain. And we gave the Board three options as well. So you cannot see the rear chimney in this angle of Concord

Ave.

And there's a black chimney, brick chimney, and a chimney painted with facade. So we're getting color options to see what the Board and the community would like the best. And these are just some examples. We have some more here. Some more examples just different shots. So these are a lot smaller than our first three designs.

Again.

THOMAS SCOTT: How is it you go from 12 to six antenna and it still does the same job?

DAVID FORD: It doesn't.

ATTORNEY SUSAN ROBERTS: It doesn't do the same.

THOMAS SCOTT: Oh, okay.

ATTORNEY SUSAN ROBERTS: That was actually one of the points I was going to

make. Because we need the site so badly it's so important to fill this gap, we're willing to shorten the antennas to four feet and to drop them to six.

CONSTANTINE ALEXANDER: How are you going to solve your insufficiency?

ATTORNEY SUSAN ROBERTS: So what, what -- and I'll have Deepak talk to you about, it is where there's red, even under the proposed coverage map, where there's red, if we had the 12 antennas, that red might be yellow. And where there's yellow, that might be blue.

Do you want to.

DEEPAK RATHORE: So when we went down from four to two antennas, we had to start combining the technology together. And we also did one more change and instead of putting (inaudible) near the antenna, we

moved it down to the where at the basement so that basically extra use (inaudible) in the system. And that's what is causing basically for us to not fully cover that outdoors.

DAVID FORD: So the gap that we're experiencing due to the loss of antennas is still this little gap here. But the goal of the site to tie in the Mount Auburn and the Sherman Street sites is still gonna be achieved.

And again --

THOMAS SCOTT: You don't have the map that shows all three sites and how --

DAVID FORD: Unfortunately because they're not built yet. He probably has it on the computer.

DEEPAK RATHORE: No, I don't have with me that now.

DAVID FORD: Because Sherman Street and Mount Auburn simply have not been built yet, they're not turned on and they're not shown on the main network map that's why it's not shown here. Mount Auburn's being built as we speak and Sherman Street was approved I believe three weeks ago.

CONSTANTINE ALEXANDER: Yes. Not very far. Sherman Street is not very far from this --

DAVID FORD: To speak on this, yes. So the closest facility --

UNIDENTIFIED AUDIENCE MEMBER: We can't hear you.

CONSTANTINE ALEXANDER: Speak into the mic.

DAVID FORD: The closest facility to this site is the Masse Hardware property. It's 0.3 miles away. And as far as -- what

was your question again? Sorry.

CONSTANTINE ALEXANDER: No, my point is you -- the Sherman Street facility that we have approved is not that far from where you are.

DAVID FORD: Right exactly.

So the Sherman Street site is not covering this gap area. It's covering the gap to the north here. So even though Sherman Street site is probably I believe less than a mile from 286 Concord Ave., it's not achieving the same coverage goal. So even with 102 Sherman Street turned on on air, it would not be covered the gap down here.

CONSTANTINE ALEXANDER: Let me ask you a question that you probably can't answer, but your competitors, how are they servicing the area that you're not able to serve right now?

DAVID FORD: Right. MetroPCS, as Suzie explained, is 0.3 miles away. There's a facility there. There's also --

ATTORNEY SUSAN ROBERTS: At the Masse Hardware there's a MetroPCS.

CONSTANTINE ALEXANDER: Where?

ATTORNEY SUSAN ROBERTS: Masse Hardware.

CONSTANTINE ALEXANDER: No, I know that. What about the other --

DAVID FORD: There a T-Mobile facility at the brickyard that she can explain as well.

ATTORNEY SUSAN ROBERTS: The concept in radio frequency coverage is a link system. So that wherever we have facilities, they need to link with each other. We can't all go on the same places. I mean, there are, certainly are some

buildings in Cambridge that --

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SUSAN ROBERTS: -- you know, that have wireless there and that works for us and we try to do that. But in some cases, it's depending on where AT&T already has a facility. We have to put it, we have to put the next facility in a place that will link up to the existing one. So, here we're trying to link up with 102 Sherman.

Obviously we can't go on Masse Hardware because the -- we have the 102 Sherman Street and we have the Mount Auburn. So for us in this corridor that works. In other parts of Cambridge it's great and we can all be on the same building, but generally speaking we must link up with each -- you know, with our own sites. It's a link, a line of sight type of system. So you have to be able to have that

line of sight so that a radio frequency can be transmitted and received in that, in that way.

So I just wanted to make sure that everybody understands the design, sees, you know, the way that it blends into the neighborhood, how it looks like the other chimneys that are all along on flat roofs, actually on Royal -- on the corner of Royal Street. There's some on Saville. We've taken pictures, right? We've taken pictures of the other chimneys that are in the neighborhood so that you have a sense of what we're proposing is not, is not at all crazy and doesn't blend with the neighborhood. I have to say I (inaudible).

CONSTANTINE ALEXANDER: Coming up on Concord Avenue, driving toward Harvard Square, you're going to see two chimneys, two

faux chimneys, you're going to see a condenser, you're gonna see a guardrail, which is not exactly typical of Cambridge.

ATTORNEY SUSAN ROBERTS: This is what I did today. No, this is what I did yesterday. I did, I did exactly that. Because I knew that you were concerned about what the views are both going down from Huron Avenue and from coming up from Fresh Pond. And so what I did was I, I walked in the middle of the street on the right-hand side as if I were, you know, heading up towards Fresh Pond and I took pictures. And you can see that the building itself, here's -- and I labelled them all. So we're starting from -- okay, this is just -- this is 322 Concord, right before -- no, those aren't in your -- these are pictures I took yesterday.

CONSTANTINE ALEXANDER: I know

that. I want to take a look -- I mean with all due respect to your photographic ability, we're looking at the photo simulations. I wanted to look at the photo simulation that shows that view coming up Concord Avenue.

ATTORNEY SUSAN ROBERTS: It does not because it's taken from the other side. If you look at photo 4 I think it is, photo 4's taken from the other side of the street. So you're on, you're on the sidewalk on the other side of the street. It's not -- that is not a picture that you're taking as you're coming up Fresh Pond. That's taken as you're walking down toward Fresh Pond.

CONSTANTINE ALEXANDER: I'm sorry, I'm having trouble finding it. Wait one second.

ATTORNEY SUSAN ROBERTS: If you look at the photo locations --

JANET GREEN: 4A or 4B?

THOMAS SCOTT: 4B.

ATTORNEY SUSAN ROBERTS: I'm sorry,
3, 3. It's 3.

CONSTANTINE ALEXANDER: Yes,
there's one that has -- you can see the
condenser, you can see the --

DAVID FORD: 3B, 3C, and 3D. You
can see the chimneys.

ATTORNEY SUSAN ROBERTS: So those
were taken on the other side of the street,
and you can definitely get a better look
there. But if you're coming up -- that means
you're going down. You're going down
toward -- and you're not, if you're driving
in your car, you're not going to look behind
you. So but if you are coming up from Fresh
Pond, you're gonna see this view which is what
I took yesterday. And you don't see it --

CONSTANTINE ALEXANDER: You can't contradict your own photo simulations.

ATTORNEY SUSAN ROBERTS: I'm not.

CONSTANTINE ALEXANDER: Your photo simulations show you're going up Concord Avenue, you can see the condenser.

ATTORNEY SUSAN ROBERTS: That's going down.

CONSTANTINE ALEXANDER: And you can see the guardrail and of course you can see the stealth chimney.

DAVID FORD: Just to comment, yeah. I mean, you can in fact see the condenser -- let's go with photo 3B so we're all looking at the same photo. So 3B you can see the condenser but it's sticking up just maybe a foot above the roof line and then the guardrail the same story. So I mean, yes, you can see it, it's but compared to other

wireless facilities that have been approved and those existing obviously, this compared to, I mean, designs that we've proposed in the past is I think personally a great aesthetically pleasing and it matches the character of the neighborhood as well. It's not like we're trying -- before we were putting a 10-foot tall penthouse, that didn't blend and made an eyesore, we realized that, people sitting on their porches or whatever it may be. This really does match the characteristic of the neighborhood. Like I said, 0.3 miles away Masse Hardware is like the exact same facility. Actually, the chimneys on Masse's Hardware are taller than these chimneys, so I mean 0.3 miles away.

CONSTANTINE ALEXANDER: Well, just speaking for myself personally, I think it's -- the facility on Masse's Hardware you

can't even tell that's a faux chimney.

That's a very good --

DAVID FORD: Right.

CONSTANTINE ALEXANDER: I think here you will be -- in my judgment, you will be able to tell. I don't think the comparison to Masse's Hardware, the former Masse's Hardware are irrelevant.

ATTORNEY SUSAN ROBERTS: We did take pictures at Masse's Hardware --

CONSTANTINE ALEXANDER: This is about this property not Masse's.

ATTORNEY SUSAN ROBERTS: It's about this particular facility. But, again, I did want to point out that the photo location for the 3B, C, and D I guess pictures are taken from the other side. So in other words, somebody who is going to be walking on the street as opposed to driving. So if you're

driving, you will not see all of that -- you won't see the second chimney and you won't see the condenser and you won't see the guardrail. You only will see the first chimney.

DAVID FORD: Because it's taken from the sidewalk.

ATTORNEY SUSAN ROBERTS: Because it's taken from as if you were driving in a car going up. So that eliminates a lot of view in my view.

Okay. In terms of the facility having an effect on property values, because there was concern that neighbors expressed. We had a property value report done. As I mentioned before, we found two facilities in the neighborhood that have been built in the past eight years. One is the one that's on the brick yard office building along Sherman

Street to 80-96 Sherman. That consists of a T-Mobile facility. There is one chimney there. Now in that analysis, the appraiser used what's known as a paired sales analysis. And what he did was he looked at condominium units that sold that were in close proximity to that facility. There were some -- I think there was one unit, actually one unit that sold that had a direct view of the facility. And then there were other units that sold that did not have a view of the facility and that actually faced the park in the back. And so the analysis centered on whether the condominium unit that had full view of the facility sold for less because it was affected by the facility. And in fact the units that were in the rear that face the park actually sold for less. The one that was in the front sold for more.

With respect to the other wireless facilities, the MetroPCS facility that we were just talking about at Masse's Hardware, there were condominium units that were sold across the street and down a little ways toward Concord Avenue, and there were several units sold all in the same building and it turned out that in the end there was approximately a 3.8 percent difference in pricing both before and after the facility. So this was a different kind of an analysis, still a paired sales analysis. This was an analysis where the inquiry was the value of properties both before the facility was installed and after. And what turned out to be true, largely because one unit was sold twice, and it was a little bit skewed in terms of price, which I'll explain, but the units that were sold before the facility were

installed, actually did sell for more than the units that were sold after the facility was sold. There was about a 3.8 percent difference which the appraiser wanted to investigate. And so what he did was he called the brokers of all of the sales and he spoke with the broker -- actually, just one broker who sold all those properties. And the broker said that one of the units sold twice and the first buyer who bought the unit prior to the installation of the facility in 2008 was very enthusiastic about his unit and actually paid more, but he paid more than the assessed value and paid what the broker described as a very enthusiastic price apparently. And so as a result, that did cause the values to go up. In the end the appraiser does not believe that 3.8 percent difference is significant and is actually

minimal and could be due to another number of factors, not at least one could be negotiating ability of the buyers and so forth. So that in the end is our conclusion which are that the wireless facilities in both of those instances has not affected property values in this area of Cambridge.

Finally, I do want to address the RF emissions issue because neighbors also are and have -- are concerned and have expressed concern both at the hearing that we've had here and at the neighborhood meetings. And as the Board knows, that if AT&T -- if AT&T can demonstrate, as we have with the filing of the maximum municipal emissions report that we filed, that once the facility is installed, that the radio frequency emissions will be within the FCC guidelines and that is all you can ask and you're not

allowed to go any further and the radio frequency emissions is not one that can be considered by the Board in determining whether or not to grant the Special Permit.

That's said, as the Board is also probably familiar, the FCC has opened what they call a "Notice of Inquiry," and they did that last year. It has not been completed. And the notice of inquiry does, does state that the FCC is requesting comments to determine whether its RF exposure limits and policies need to be re-assessed. And I'll read to you what the purpose of notice of inquiry is so that you -- so you have an understanding of the purpose in the event that anything ever changes, it may or may not, but for now, you know, the existing guidelines do apply.

But in the event that anyone asks a

question about it, I did want to read it. And what the FCC is stating is that the inquiry is intended to open discussion on both the currency of our RF exposure limits and possible policy approaches regarding RF exposure. While the FCC has continuously monitored research and conferred with experts in this field, it is confident in its RF exposure guidelines and the soundness of the basis for its rules, it is a matter of good government to periodically re-examine regulations and their implementation. The FCC looks forward to developing a complete record by soliciting the input of qualified expert agencies and organizations and the public to determine whether the current rules and policies should remain unchanged or should be relaxed or tightened.

So that's where the FCC is. They're

just reviewing it as a matter of good government and that's where we are on our RF emissions.

CONSTANTINE ALEXANDER: Do you have any sense or does your client have any sense how long this process is going to go on and when there might be something further from the FCC? They're open to the inquiry now but is there a time frame?

ATTORNEY SUSAN ROBERTS: I do not, I do not know.

DAVID FORD: I personally don't know but just so the Board knows and the community as well, the output of this site -- the output of this proposed after it's been built its peak uncontrolled limit is only going to be 0.447 percent of the federal limit. So we need to stay, in order to get the site approved or be built, stay out the maximum FCC

limit of 110 threshold. This is a 0.447 percent at its peak max uncontrol.

ATTORNEY SUSAN ROBERTS: So, that concludes my presentation although I would like to go through the various criteria for siting of wireless and for obtaining a Special Permit if you would like or I didn't know if you wanted to take --

CONSTANTINE ALEXANDER: Why don't you do that now and then we'll open it to public testimony.

ATTORNEY SUSAN ROBERTS: Okay.

So going through the various criteria for siting a wireless facility, if you look at what Wireless Ordinance 4.32G1 and 4.40 Footnote 49, AT&T has the requisite licenses to show the authority to operate the facility, and we have submitted those with our application.

The visual impact of this facility is minimized to a great degree by the design that we're submitting tonight which are the faux chimneys. And we suggest that the faux chimneys blend well with the neighborhood, with the character of the neighborhood, and that we have minimized in all respects, to the point where we are actually suffering some loss in radio frequency coverage, which we are willing to do to get the site permitted. And I will say as well that the design is similar to the MetroPCS facility that is around the corner just a third of the mile away on Walden and Sherman Street where we're permitted in 2009.

Though we are not in a residential district, I still would like to make the point that we have a great need for radio frequency coverage in the area as we've demonstrated.

That we have looked high and low both in this neighborhood and in the neighborhood closer to Harvard to try and cover the gap that we have. And this property owner is the only property owner that we were able to find that actually was willing to enter into a lease with us. And I will add that one of the reasons he was willing to do that is because he does own another piece of property where he has another wireless facility there so he had some familiarity. It wasn't a totally foreign thing for him, and he's also very interested in making the building itself look much improved from the grey vinyl siding that -- or aluminum siding that we have right now and as we showed in our submissions on Monday. But the siding is going to look decidedly improved once that's done and that's expected in the spring. And I believe

that he's going to talk to you about that as well.

And with respect to the individual Special Permit criteria under Section 10.43 we suggest, as I've just said, that the requirements of the wireless ordinance have been met.

That no traffic access or egress that -- no traffic issues, access or egress, concerns will be present that would cause congestion, hazard, or substantial change to the neighborhood character.

As a result of the facility being here as you know and as we've suggested before there's -- there are visits that AT&T personnel make to the facility to maintain it once or twice a month and that's, and that's the extent of it.

And the continued -- the continued

operation of adjacent uses in this neighborhood area will not be adversely affected by the nature of the facility. Indeed it seems to me that barely anyone will know that it's there.

No nuisance will be created to the detriment to the health, safety, welfare of occupants or citizens as a result of the facility for the reasons that we've stated.

And there will be no impairment of the integrity of the district or the adjoining districts nor derogation from intent or the purpose of the ordinance as a result of the facility being installed here.

CONSTANTINE ALEXANDER: Thank you.

Questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: I guess

not. Tom, any questions that you want or go to public testimony?

I'm going to open the matter up to public testimony and obviously from the number of people in the audience that we are going to get comments. I'm going to make two requests:

First, I'm going to ask for the ones in favor of the project to speak and then the ones opposed. So everyone who wants to speak will have a chance. I would ask, maybe I should say urge, that if some -- don't just say the same thing over and over again. We get it I think, I hope maybe after the second time we hear it. And we don't want to prolong this hearing tonight.

So please be brief. Please do not be repetitive if you could.

Okay, with that I'm going to start with

those in favor of the project. Is there anyone here who wishes to speak in favor of the relief being sought? Mr. Landlord, you can go first.

ERIC HOGLAND: Hi. Can everyone hear me? My name is Eric Hogland. This is my mother Molly and my wife Cindy. I'm here tonight, I -- there's a few things I want to address.

One, I was born in Cambridge. I've gone to school in Cambridge my whole life. I married my wife at St. Peter's Church, and there are some things, notes around about the absentee landlord. And fell in love with my wife in this building when I was going to college. And the reason I moved out was to help my mother and father who has Alzheimer's and -- severe Alzheimer's, and she lives downstairs and I live upstairs in the

two-family around the corner. So I don't, I take offense to that and not anyone personally, but just people saying I'm absentee is frustrating. So....

I'm a businessman and I'm (inaudible) and I used to have an AT&T cellphone. There was no iPhone when it came out and signals dropped. And AT&T said they needed a signal, it made sense to me. And I'm for a strong signal and connectivity. I do not own a landline. I do not have a landline. So I only use a cellphone. This is before AT&T approached me just to say.

And I have another building at 1925 Mass. Ave. where it's a T-Mobile installation. So I'm somewhat familiar with the technology. But I would never do anything that would hurt anybody. If I thought I was going to hurt someone, I

wouldn't do it. I just noticed that a lot of people use Smartphones and it's very frustrating when you don't have a good signal. So as a businessman I benefit from this, okay? I benefit clearly. I was trying to service a need of the community. Okay? Because people have dropped signals, so there must be a demand for it. That's the true intention. There's a lot of people here that I'm sure are against it. There's a lot of people for it tonight. I guess maybe for it just raise their hand to signal. So all the people for it raise their hand.

And so you should probably raise your hand.

And so --and, so and I wish not -- I never thought it would create this type of decisiveness, argument or disagreement. I really, truly thought I was doing something

good and I think I stumbled onto a hornets nest. But my intention was to provide a service that made sense to me. I'm not asking you to agree with me, but that's how I got here. And once again, we own a home in Cambridge. We own a two-family. The reason why we're not at 286 Concord Avenue, and we have tenants here tonight from 286 Concord Avenue obviously for the cell tower.

The second point, I wanted to take the resources to just provide to upgrade my buildings. I take tremendous pride and care in my buildings. If you saw them all, you would be astonished for a particular landlord, some are scum lords. I do believe I'm the opposite. I do anything a tenant asks. And nothing would make me happier to re-side the building and make it look good. It will balance the neighborhood, benefit my

tenants, but also pride. I take pride in this. Okay, I take pride in Cambridge. And my goal is just, is in terms of property values, I want them to go up. I don't want them to go down. That's the last thing I want. I wanted to get those things across. I'm a person and with my mother, I'm not trying to put a show, but we do take care of my father. You can see us any day of the week, we have a 24-hour nurse there. And that's what we do and that's why I'm there.

And my wife Cindy wanted to say something.

CINDY HOGLAND: My name is Cindy Hogland and I work and live in Cambridge. And I work in the technology industry, and so I have a particular perspective on the importance of communication and the speed of communication. For context, I work for a

company that represents and works with the U.S. Federal Government. And in particular I sell public safety technologies to both local as well as Federal Government. And then as part of that, the reliability of communication and the network and the speed of the communication that goes across that network is important for many local governments services. First responders, Public Works information. Any type of data when you need to know where a responder or a local government worker is, where you need to quickly be able to rely on that network, it's critical. And there's more that we do with these networks than you may know. So both local government impact, state, federal, as well as public companies, private utilities, and public companies, they have services, landscaping companies, for instance, that

need to be able to get from one location to the next. Comcast comes to your building to repair something, if you want to call that Comcast driver and know where he is, that goes back to the network and the speed and the reliability of the network.

So what we were trying to do was provide a facility that would strengthen that network for the local community. And we live in this community. We contribute to the community. And we want to continue to reinvest in the community.

CONSTANTINE ALEXANDER: Can I ask you a question with regard to the public safety and the first responder issue? That issue relates only to use of the AT&T network. Other carriers do have full coverage in this area. And so first responders and the like, if they use other networks, can do all that

they need to do. Am I right?

CINDY HOGLAND: Yes.

CONSTANTINE ALEXANDER: The issue is only if they want to use AT&T, that might have a problem. It's not like the neighborhood is going to be bereft of public responder support. Am I right?

CINDY HOGLAND: Yes, that is true. But that's just one benefit that you get for communication as a whole. Whether it's this carrier or another carrier, the services that we receive day in and day out in our communities come from many individuals that are using these cellphones and so that was really more of the point. It's a triangulation and satellite in total, but yes.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishing to be heard on this

matter? In favor.

UNIDENTIFIED AUDIENCE MEMBER: I would.

CONSTANTINE ALEXANDER: Give your name and address to the stenographer.

COREY O'BRIEN: Corey O'Brien, 14 Concord Ave. And there are just two issues.

One is you were talking about the future. You know, what if technology changes, then just take it down. I mean, that wouldn't be an issue if you know five years from now they didn't know it, they just dismantle it so I think if you tried it and it's not a --

CONSTANTINE ALEXANDER: Concern on that, and I don't want to debate it with you, is that they just may abandon it, the facility, and they would leave it up on the roof. And then it would not be gone and it

would there forever.

COREY O'BRIEN: I don't think if he owned the building it's going to take away from it visually. Why would he put something that's an eyesore on something he owns? I think he's going to do it in the right way. In five years from now if you don't need it, then I'm sure you know.

DAVID FORD: And to your point, usually, I'm sorry, to your point, usually with a Special Permit, if not used --

CONSTANTINE ALEXANDER: Yes, we have a condition. We've learned from other properties in the city, the petitioners years later forget about the condition, don't remove it, and the facility stays there. So you're right, you're right. Technically you're absolutely right.

I'm sorry, sir, are you through?

COREY O'BRIEN: Yes.

CONSTANTINE ALEXANDER: I didn't mean to cut you off.

Ma'am.

UNIDENTIFIED AUDIENCE MEMBER: I'm a Cambridge public school teacher. I teach --

CONSTANTINE ALEXANDER: Give your name and address.

ERIN GARCIA: Erin Garcia. I live at 41 Linnaean Street, but I'm a Cambridge public school teacher and I teach English language learners and we go on Cambridge neighborhood walks all time, whether we're studying rocks and minerals and we're going to collect rocks, but my kids represent nine different languages. I'm not bilingual. I don't speak their language. And often when we're on our walks, I need to use the internet

to translate words to be able to communicate with them. And it often takes a long time on my AT&T to get that service going. So kids have to just stand there and wait for me to be able to translate what I'm trying to say to them. So that's just the difficulties I've had in the neighborhood with it.

CONSTANTINE ALEXANDER: Thank you. Thank you for taking the time to come down.

Sir, way in the back.

MAX GARCIA: Max Garcia. I live at 41 Linnaean Street. That building that I live at I also --

CONSTANTINE ALEXANDER: Please come forward.

MAX GARCIA: I'm sorry. 41 Linnean Street. It's condos and I'm a live-in super and caretaker for the building. It is in the national historic registry as for the

architecture of the building. So as far as the aesthetic piece of this, I would just like to say from my experience living there, living in Cambridge and working around that I think that the change will actually be better aesthetically for this building and especially for the siding and other updates that I think is overall going to make everything look more beautiful.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishes to speak in favor?

Sir.

NICHOLAS PARSA: Hi, my name is Nicholas Parsa. I live at 286 Concord Ave, the unit in question. First off, I'd like to say that Eric is a -- he's a very visible landlord. I saw him the other day with the snowblower and pulling our trash cans out to the curb. He does care about his tenants.

Second off, I have AT&T. I do not get service in my unit. I have to walk outside and freeze when I need to be on my phone. It's, it's you know, very unfortunate. And I'm very excited about the possibility of this project going forward.

So thank you.

CONSTANTINE ALEXANDER: Thank you very much for taking the time to come down.

Anyone else wishes to be speak in favor?

UNIDENTIFIED AUDIENCE MEMBER: Just quickly, I live in the building also.

CONSTANTINE ALEXANDER: Name and address, sir.

JOHN SORTINO: John Sortino, S-o-r-t-i-n-o, 286 Concord Ave. I have Verizon and I have one bar all the time and I always have dropped calls. So 9-1-1 is a concern for me. Recently I've learned some

stuff about me so I think that's important.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishes to speak in favor of the relief being sought?

(No Response.)

CONSTANTINE ALEXANDER: I note there appear be to be no one else.

We're now going to hear from those who wish to speak against the relief being sought. Ma'am?

VIVIAN JOHNSON: My name is Vivian Johnson. I'm the owner of the property at 308-310 Concord Ave. I've learned a lot tonight. I'm thinking that I really don't want this just because I got my house in 1971 and I just think that one person gets their foot in the door, somebody else is gonna do it. So AT&T is doing it now, and I think that yes, you can say, oh, no that won't happen.

But I think this won't be the stop. Verizon, whoever else is gonna want to get in. This whole -- so I'm really concerned about that. But also the value of my property, I'm getting older and I've seen changes, I'm seeing changes in the vicinity now. So I'm very concerned about how the property and the next person that's going to put these things up on the top.

CONSTANTINE ALEXANDER: Anyone else wishes to speak in opposition for the relief being sought. Sir?

NICK CONWAY: Yeah, I'm Nick Conway of 363 Walden Street which is about under 100 feet from 286 Concord Avenue. This just came to my attention on Saturday. So I know a hundred flyers were distributed and I have direct line of site to 286 Concord Ave. on my front door so I don't know how I missed out

on that earlier. But anyway, that said, I think the big things that I'd like to point out are -- the big problem is that the building is already, as the Board knows, is already over the Zoning limit, right? It's 37 --

CONSTANTINE ALEXANDER: If you don't mind, I'm going to interrupt you on this. There's been late developments on this issue. It troubles me a little bit, but there have been. When they filed their application, they said the height of the building was 37 feet, 7 inches and the Zoning was supposed to be no more than 35 feet, as you point out, it's over the height.

Two days ago or a day ago they submitted a new letter from a professional land surveyor, it's part of the certification they had to give to the FCC.

ATTORNEY SUSAN ROBERTS: FAA.

CONSTANTINE ALEXANDER: FAA. And they said now they corrected it. The building is not higher than 35 feet which is complying with our Zoning Ordinance.

Why it was 37 feet, 7 inches before and now all of a sudden at the last minute it becomes 35 feet, we all can draw whatever conclusion we want to draw. But --

NICK CONWAY: It was documents were submitted on Monday, too. And ample time for me on Saturday to figure this out.

Yeah, what is the true height at the moment?

DAVID FORD: The true height is 35 feet. I can explain what happened.

NICK CONWAY: And then what is the final height going to be? Because I read a document that said 37.7 feet.

CONSTANTINE ALEXANDER: It's going to be roughly 41 -- with the top of the faux chimneys, about 41 feet.

DAVID FORD: Right. But they're not considered to increase the height of the --

CONSTANTINE ALEXANDER: No, no. That's right.

DAVID FORD: So 35 feet is still going to be the height of the building before and after.

CONSTANTINE ALEXANDER: For Zoning purposes the building will be 35 feet high.

NICK CONWAY: Okay.

CONSTANTINE ALEXANDER: But actually they'll have a six-foot projection above that which doesn't count for Zoning purposes.

NICK CONWAY: Okay, so that hurts my

first point. But the second point referring to Code 1043.F referring to Code 1931, No. 1, the suitable transitions. I mean anything you put on that roof is gonna add further noise to the transition. If you look to the left of the building, you have House of Cheng. And to the right, you've got the yoga studio and Concord Ave. Cafe. Both buildings that are on the order of 15 feet in height. And, you know, the Zoning Code says we're looking for smooth transitions, and it's already like a terrible transition. So as we've already discussed, we have these awful views coming up Concord Ave. from my, you know, building, from 363 Walden Street, I see, you know, this real -- this great view. You know, and, you know, I don't really see that as being adding to the spirit of the neighborhood. And so that's one thing.

And then second thing is there's still unquantified as far as a nuisance, the noise of the condensers. We haven't had anything, anybody speak to what that's going to be.

Now, the last thing I would say is that the property value, which is I probably the thing that I really care about the most, I found it pretty insulting that Valentino and Associates report, I don't know if the Zoning Board actually read this, but having two data points -- we have an engineer over there. There's two data points. Is that enough for a compare -- you know, a good comparative analysis to say oh, this is a trend that we have, you know, it does not affect property value? Considering we're at a booming market in Cambridge for real estate, I would -- and that all of the assessments were relative to assessed value, I'm sure there's

plenty of data points to be added to that to say what the relative difference is now for the market rate of what things are selling for based on their assessed value, that we could have added to the -- added to the narrative that was not there. So I really, I really did find that not helpful.

I guess that's -- I think that's about it. All right, thanks very much.

CONSTANTINE ALEXANDER: Thank you very much for taking the time.

Sir?

DEAN BRAGONIER: My name is Dean Bragonier, B-r-a-g-o-n-i-e-r, 150 Lakeview.

Thank you. So I came in tonight with one objection to this proposal and now I've got like 12. So it's been fascinating night for me. I hope I can remember them all.

The first is one comment by AT&T's

attorney I found is interesting was the comment that this is a non-residential area, yet a majority of the people that stood up in favor and against this refer to living in this area.

CONSTANTINE ALEXANDER: Just let me interrupt you on that. What she meant -- what she was saying is this area is zoned for business.

DEAN BRAGONIER: Totally understand that. What I as a residential neighbor --

CONSTANTINE ALEXANDER: Right.

DEAN BRAGONIER: -- I hear residential versus commercial, I understand from the Board's perspective there's a distinction, but from a real life perspective there's not much of a distinction.

CONSTANTINE ALEXANDER: Okay.

DEAN BRAGONIER: So that concerned

me first and foremost. I also am a father of a six-year-old and I know that within proximity to this location, of course, is the Cambridge Montessorri, The Tobin School, you've got Spring Hill Montessorri. My primary concern coming in tonight was health related, and I will get to that. Some of the other things that -- aesthetics, you know, there's, I think, a three percent drop in comparable real estate sales of other properties associated with installations like this. I think that was the right number, three-point something. And it was referred to as non-substantial or non-significant. I know what houses are going for in West Cambridge, three percent is actually quite significant. It's a high school, private school education. Higher education, whatever it may be. So many

things, gosh, this is fascinating.

You know, my primary concern is a -- and forgive me, I didn't study Spanish in high school, but there was a study that was released last year by a woman, her name is Dr. Liza Dole (phonetic) -- Doe, excuse me. She did a study in Brazil, and this is the most recent study, all you have to do is enter and Google some keywords and you'll get infinite studies. But there was, she reported over a ten-year period from 1996 to 2006 there was a 34 percent increase in mortality correlated based on her studies with deaths associated with neoplasm? Is anyone an MD?

UNIDENTIFIED AUDIENCE MEMBER:

That's cancer.

DEAN BRAGONIER: It's cancer. So there was a 34 percent increase in cancer deaths over a ten-year period which

correlated to 7,000 people within a 1.3 mile district. Excuse me, 0.3 mile location of these towers. Now I live at 0.5 so my concern theoretically if it only applies to that radius, I'm outside that radius. But these are my neighbors, and I don't think that I'm immune by that point two-tenths of a mile away difference. I'm deeply concerned.

There is FAA references or FCC references, wonderful. There's the same government, present company excluded that approved cigarettes. I think we're ready for a very rude awakening. I'm an AT&T customer. AT&T customer. Not a problem whatsoever in that area. I use that dry cleaner. One of the other specific examples that I heard was this correlation between 9-1-1 calls as well as first responders. If you've ever dialed 9-1-1 from your cellphone, it is redirected

to a state police department. Why? Because the correlation of where you're located does not automatically deflect to the most -- the closest proximity police department.

Therefore, I have purchased a landline which I never use for the sole purpose of being able to dial 9-1-1 if it's necessary.

So the second thing is that as far as I'm concerned, I don't know of a police department that uses cellphones to communicate. I mean, aren't they all on their own private radio frequencies? So why first responders are so dependent on delivering their occupational obligations based on AT&T's cellphone coverage on a corridor running down Concord Avenue perplexes me. And I'm sure there are bright examples of yes, I mean this first responder or that. I empathize with people that might

have to go out and stand out in the cold to make a telephone call. I empathize with this. But I also wonder how on earth we existed in a world where we didn't have cellphone coverage in our home? I mean, did the world freeze over? Did we all die? I don't think so. I think we managed to survive. So I think there's a tremendous amount of concern, a tremendous amount of flawed data with this presentation, and this really just doesn't sit right with me at all. It really doesn't sit right. I appreciate the Board being so thorough. I respect both sides of this equation. I'm one individual. I'm verbalizing my concerns.

If it's any consolation, I went to high school. I lived here in high school. I live here today. I don't think it makes me more qualified to speak on the subject, but it's

been talked about.

Thank you for your doing your job.
Thank you all for showing up. Much obliged.

CONSTANTINE ALEXANDER: Thank you
for coming down.

Anyone else wishes to speak? Ma'am?

UNIDENTIFIED AUDIENCE MEMO: Hi,
hello.

CONSTANTINE ALEXANDER: Name and
address, first.

WANI YAN: My name is Wani Yang. I
live at 280 Concord Avenue. My name is
spelled W-a-n-i Y-a-n-g.

I am the grandniece of David Yang whose
property abuts multiple sides of 286 Concord
Avenue. This includes 280-282 Concord
Avenue, 290-291 Concord Avenue, and 380
Walden. And it literally lies adjacent to
286 Concord Avenue. And my uncle couldn't be

here tonight because he's limited in mobility during this cold weather. He's 86-years-old so.... but he wanted me to convey to the Board today that as a man who has invested so much for over 40 years in this particular neighborhood, he truly loves the neighborhood and always hoped that his investments would be safe, continue to grow with security in his heart that his legacy would continue to love and take care of his property as hard as he has maintained it and with great hope and welfare at all. But this view has changed, and I want to say that without these investments my uncle has made I wouldn't be here today because he's helped multiple family members come over here and see their dreams come true and help us.

But then I also want to say that, Ken, you say today that anybody can guarantee that

any of these antennas are completely and irrevocably safe for your legacy and all our investment, no one can say that right now. And, again, I want to say with retrospect with the building of -- with the building of so many antennas for the sole purpose of boosting technology's reaches and sadly for monetary gain, I'm gonna leave with this little quote from Einstein, I just thought it was very good: "We cannot solve our problems with the same thinking we used when we created them." And for me that states when our antennas considered necessary or just wanted and when will the one too many and all too much. Because we never know. I mean right now we live in the moment but we don't know what the future lies ahead of us. So that's all I have to say. I love my neighborhood. I'm sorry. I grew up here.

CONSTANTINE ALEXANDER: Thank you very much for taking the time to come down.

Anyone else wishes to be heard?

ELLEN GAGLIARDI: Ellen Gagliardi, G-a-g-l-i-a-r-d-i, 279 Concord Ave.

Good evening and thank you for your time and understanding. As a direct abutter of this property I do have the concerns of property value and the appearance of the neighborhood. I do agree with you on your drive from Harvard Square on how this will look. As I stand on my front porch and look across the street, that's the view that we are going to consistently have. The major concern I have now is when we met -- when they met with us, they addressed an issue that it may not be adequate, they're not sure. So are we opening the door for them to put in the 12 towers versus the four?

Thank you.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishes to be heard?

Oh, I'm sorry, sir, I didn't see you.

PATRICK BARTON: Hello, I'm Patrick Barton, B-a-r-t-o-n, 130 Appleton Street. That's in the area of this building. I was an AT&T customer until last year. Very satisfied with the service. Very rarely had any calls dropped. I have a concern that hasn't -- that wasn't raised tonight which is is there presence of asbestos or lead paint on the property? It seems likely that the construction on the roof and so forth and the maintenance on the roof that construction dust is going to be put into the air, and I think the neighborhood deserves to know if asbestos and lead paint are present on the property.

Thank you.

CONSTANTINE ALEXANDER: When we -- at the end when you have the final comments, if you want to answer that question that he raised.

DAVID FORD: Sure.

CONSTANTINE ALEXANDER: Sir?

HARVEY LIPSKY: My name is Harvey Lipsky. I live at 267 Concord Ave.

Two little points: One is there are a lot of three-story residential buildings on Concord Ave. and they all have chimneys, but the chimneys do not look like the proposed chimneys. The proposed chimneys are four-feet wide and four-feet deep, five or six feet high. Take a walk or a ride down Concord Avenue and see the a three-story residential building and find any chimneys that are anything like that dimension.

These are not faux chimneys. They're sheds. They're not faux sheds, they're real sheds. They may be faux brick on the fiberglass panel but that's the only thing faux about it.

The other point, this is a moot point because I hate to tell people how to do their business, I read, I read the list of all the properties that were not suitable and I'm quite sure that the most popular reason that properties were not suitable is because the landlord never got back after being mailed a letter. They were approached by mail. They never got back so they were -- they're on the list as not suitable. Not, you know, it's not -- I'm not in this business. I think AT&T has a lot of money. They should be able to find a way to engage landlords with properties that don't, you know, that won't make it necessary to come into our

residential neighborhood with this stuff that everybody is very uncomfortable with.

Those are my only thoughts.

CONSTANTINE ALEXANDER: I thought I saw some hands back here.

Ma'am.

CAROL WEINHAUS: My name is Carol Weinhaus. I live at 271 Concord Ave. and I share a lot of the other concerns. I won't go into them. But the presentation kept saying no one will see this from the street. No one will see this. I live on the third floor of a triple decker, there's a whole row of them, everybody, we're on a hill. The hill goes like this, you can see a lot of the hill as you come down the hill from Huron Ave. All of us can see them circling from the third floor. You can see them from the second floor, and you can see the roof from our front

porch.

The other question that I have is when they did the height of the building, is the height of the building from the ground.

DAVID FORD: Yes.

CAROL WEINHAUS: Because for us to find out about this at such a late date, as I recall, but I would have to like look at pictures, it seems the building might be slightly higher up on the ground on the rise, but that I don't know. So this is the first that I'm hearing that the building height is different and it was never brought up to the neighborhood. I was at -- I was at the same meeting that Ellen was at. And so I have concerns about even a question about that being entered into the record.

CONSTANTINE ALEXANDER: I'm going to pursue that a little bit after we have

public comment.

CAROL WEINHAUS: Yeah. Those are the two things that haven't been brought up.

Thank you.

CONSTANTINE ALEXANDER: Anyone else?

UNIDENTIFIED AUDIENCE MEMBER: I forgot to hand the petition to you. These are signed petitions I forgot to hand you, I got too nervous.

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

(No Response.)

CONSTANTINE ALEXANDER: There appears to be no one else.

UNIDENTIFIED AUDIENCE MEMBER: I have one.

CONSTANTINE ALEXANDER: Oh, I'm sorry. I didn't see you. I apologize.

BETH ADAMS: Hi, my name is Beth Adams and I live at 31 Donald Street, and I've been there for five years and we have two young children. We lived around the corner at 140 Garden Street for five years before that. We clearly love the neighborhood and that's why we stayed in the neighborhood. And I'm acutely concerned about many things that people have said tonight. And it's concerning enough to me to have more and more cell towers in our neighborhood that we would actually consider moving outside of Cambridge. So that's what I just have to say.

So, thank you.

CONSTANTINE ALEXANDER: One more time, anyone else?

(No Response.)

CONSTANTINE ALEXANDER: Okay, no

more public comments. Before I close public testimony, we are in receipt of this pack of communications. People writing in favor or against the relief being sought. I'm not going to read them into the file. They will all be part of our record. I would only say that I -- my quick scanning of these suggests that there are more letters or persons in opposition than in support. And including those in opposition is a City Councillor Mark McGovern. But otherwise, these documents speak for themselves.

There's also, as the Petitioner has indicated, they did go before the Planning Board. The Planning Board did send a memo to us which I will read if I can find it. I know it's here. I saw it. Brief.

It's a memo from the Planning Board to this Board dated February 25th. (Reading)

The Planning Board reviewed the revised Special Permit application to install equipment and antennas on the roof. The Planning Board finds the brick chimneys to be fine and appropriate for this location and that this is a pleasing design. The Planning Board recommends the Board of Zoning Appeal grant the Special Permit and that there be a condition that the brick is a preferred color for a rooftop installation.

Okay. With that --

BRENDAN SULLIVAN: Before you close, can I ask that you read the letter from the Mayor?

CONSTANTINE ALEXANDER: There's a letter from the Mayor? It was from Mark McGovern I thought.

BRENDAN SULLIVAN: There's one from the Mayor.

CONSTANTINE ALEXANDER: Let me find it. I didn't see that.

At Mr. Sullivan's request I will read the letter from --

ATTORNEY SUSAN ROBERTS: Is it signed?

CONSTANTINE ALEXANDER: Yes. Mayor of Cambridge.

UNIDENTIFIED AUDIENCE MEMBER: Could you use the microphone? Because it's really hard to hear in the back.

CONSTANTINE ALEXANDER: Sure.

This is a letter addressed to this Board from David Maher. (Reading) I am writing to express my opposition to the proposed cellphone antenna at 286 Concord Avenue. As mayor and as a homeowner who lives near this proposed antenna, I have serious concerns about this proposal. My opposition is

largely based on the overwhelming neighborhood opposition to this proposal and this is a poor choice of location. Since this proposal was first made public, I have received numerous e-mails, letters, and phone calls from residents expressing their opposition to a cell antenna at 286 Concord Avenue. Also several residents have informed me that the company pursuing the Special Permit has been rather uncooperative and generally not receptive to their feedback. I do not believe that it is appropriate to have these antennas placed in the middle of a residential neighborhood on small scale wood framed homes. The building at 286 Concord Avenue is a non-owner occupied residential building surrounded by predominantly owner-occupied homes and small businesses. While the owner of 286 Concord

Avenue will benefit from the income this cell antenna will generate, there is no benefit to the neighboring homeowners. While I understand the need to place cell antennas in our city, I do not believe this equipment should be -- should not be sited -- I think there's too many negatives here. I do not believe this equipment should not be sited in a dense mostly residential neighborhood such as the area surrounding 286 Concord Avenue. I hope the Board will listen carefully to the many neighbors and residents who are opposed to this proposal.

Anything else you want me to read?

BRENDAN SULLIVAN: Actually there was another letter in there that he had introduced or there is an order of the City Council now to do a moratorium, but I thought that was in that letter but it's not. That's

okay. It's a moot point.

CONSTANTINE ALEXANDER: Okay.

JANET GREEN: So there is an order?

BRENDAN SULLIVAN: That's in a subsequent letter from the mayor to I think in response to a letter. And that was the key phrase I think I was trying to get out. But I did not see that particular letter that you read.

CONSTANTINE ALEXANDER: I should also mention since I mentioned Mr. McGovern's letter in opposition, there is also a letter from another City Councillor in opposition Dennis Carlone. I don't propose to read the letter any more than I read Mr. McGovern's letter.

So I'll give you an opportunity to conclude remarks. And the one thing that I ask that you not deal with is the question

about being uncooperative that was raised in Mr. Maher's letter. I don't want to get into that. I think the record speaks for itself.

I would particularly like you to address the height issue since that has come up. And I have some problems with that, or the questions, and the asbestos question that was raised and anything else you want to talk about, but cover those issues at least.

ATTORNEY SUSAN ROBERTS: Thank you and thank you for reading the Planning Board's recommendation into the record.

In terms of the building height, here's what happened and what we just discovered: The engineer who worked on this project from Dewberry Engineers said that field measurements were taken and those field measurements were the ones that were used in Zoning drawings that we submitted to you on

July 31, 2013. Subsequent to the field measurements Dewberry received the FAA-1A certification that is dated July 25th of -- no, actually, it's dated July 31, 2013. So simultaneously with our submission of the Zoning drawings that have the building height being 37 feet and 7 inches based on the field measurements of the engineer, we got from a land surveyor, somebody who is certified to do this for the FAA, because that's required for us to file this certification, that the building height is in fact 35 feet.

Unfortunately the engineer did not update the Zoning drawings and they remain at 37 feet, 7 inches throughout this period until the other day when we realized that the building height was an issue. And we checked with her as to what the building height was, how she arrived at the 37, and then she said wait, I

have this FAA-1A certification and this is what it says. And that's how this came about.

CONSTANTINE ALEXANDER: Let me comment to that, though, Ms. Roberts. I don't mean to be combative, but the issue of the height of the building was raised at the outset. 37 feet, 7 inches you're starting with a non-conforming building. Why did it take so long to find out?

DAVID FORD: I can answer that. Literally it was the landlord Eric, who went out there two days ago just curious, I'm going to get on the roof, see how tall it is. He measured it and called us and said, guys, I think your plans are wrong. And then we called the engineer and said what's the issue? You know, it's not matching up. And she said -- she figured out oh, my God, I never

updated the plans after I did my initial field measurement. So we've gone through multiple versions, as you can tell, on these plans. The first was from 3/26/13 all the way up to today, 2/26/14. The first time she did these drawings back on 3/26/13, the 37.7 was entered and that just carries on through every revision. It was never updated where it was supposed to. So it was an error on the engineer. She admitted that it was her fault and it was thankfully caught by Eric.

ATTORNEY SUSAN ROBERTS: So we didn't have any reason to know that --

DAVID FORD: Or discredit her.

ATTORNEY SUSAN ROBERTS: -- that was incorrect until, you know, the property owner the other day went up there because it didn't seem right to him.

CONSTANTINE ALEXANDER: Okay.

DAVID FORD: And I just wanted to address, you know, some of the things that we talked about in the community. As we heard, you know, the majority that they're approving the application and a majority that are not approving the facility. Some of the issues that were touched on, I just want to briefly explain. So termination as far as, you know, down the road two years from now and, you know, say AT&T doesn't need the site anymore, as long as AT&T has their equipment on the roof, they have to continue to pay Eric. So if the site's not working for AT&T, they are going to decommission it. They have full termination rights. They can terminate for any reason or no reason with 30 days' notice to Eric. So if the facility finds out in five years from now it's obsolete, AT&T is not going to want to pay the X amount of dollars

per month that they are entitled to pay Eric to have equipment up there. They're going to turn in the termination papers and move on. That's the first point.

Secondly, for the asbestos point that was made. Every site that AT&T makes has to build, has to go through a phase one environmental testing. This phase one is based on the final design. So because of our design changed a bunch of times. We haven't filed the design yet. We're holding on that phase one environmental work to be done, but once the final design, if we are approved tonight, this design goes to them, they do the work on-site, and they go test and they do the phase one. If the phase one comes back positive and that asbestos is found to be in the building, they do a phase two testing that basically comes up with a plan that

construction to mitigate the issue so that before this facility is actually built, the asbestos on-site is dealt with.

So phase one, phase two, it's done by EBI Consultants our environmentalists. So that answers that question.

With regard to the ultimate site you guys sent a letter --

CONSTANTINE ALEXANDER: Sir, one second.

DAVID FORD: It was mentioned we sent a letter and if you didn't hear get back, you got added to the list. I personally reached out to 27 candidates. I personally made this list as well. I met with probably over ten different condo associations throughout the area. Unfortunately all of them voted against it. I, if maybe one or two on this list could have been unresponsive

letter, but the large majority of these 27 properties were hands on. I met with the landlords. I met with, you know, we brought construction teams to the building. Failed a constructibility visit, etcetera. So it's not just in the letter, don't hear back, oh great, and we add it to our list. I wanted to clear that up.

One more thing as well, I know a lot of people were saying not in my backyard. We don't want it here. The fact of the matter is it's already there. I mean, there's existing MetroPCS, Verizon in the very close vicinity of this neighborhood if not in the neighborhood itself. So the fact of the matter is saying, you know, "I don't want it here," doesn't really apply.

Lastly, the chimneys we talked about from a porch view, and I can see that there.

The fact of the matter is that the existing chimneys versus the proposed chimneys are actually shorter, and the existing chimneys versus the proposed chimney, they're exactly one square foot larger. So I believe a figure of 5-by-5 was thrown out by one of the community members, that's not true. As we talked about before it was 10-by-10 and went down to six-by-six, now we're closer to three-by-three. So really what's existing to what's proposed, there's not huge changes. We're going down in actual height. We're slightly increasing our footprint. I wanted to clarify that.

CONSTANTINE ALEXANDER: Thank you. Now I did close public commentary, sir, but you raised the question about asbestos.

PATRICK BARTON: Thank you for addressing the asbestos concern. You

haven't said anything yet about lead paint.

DAVID FORD: It's called an ACMLCP report.

PATRICK BARTON: I don't know what you're saying.

DAVID FORD: Oh, sorry. Phase one, if it comes back positive, ACMLCP asbestos containing material, lead containing ACMLCP paint, it's also part of it.

CONSTANTINE ALEXANDER: Is that it, Ms. Roberts?

ATTORNEY SUSAN ROBERTS: Yes, that's all I have.

CONSTANTINE ALEXANDER: Thank you.

THOMAS SCOTT: I have a question about the surveyor's report.

DAVID FORD: Sure.

THOMAS SCOTT: It says that the site elevation is accurate to within plus or minus

three feet vertically. Is that -- to me that, if that said three inches, I wouldn't even question it. But it says three feet.

DAVID FORD: Right. That's I mean whether you get this one for Concord Ave. or any site throughout Cambridge or Boston, the FAA is --

THOMAS SCOTT: I mean, you guys are trying to say that the height of the building is 35 feet based on this survey data, and then the survey data of the surveyor is saying that it's accurate within three feet. That's a pretty huge margin of error.

CONSTANTINE ALEXANDER: If this building is 30 feet high, the three feet of plus or minus would not be all that relevant. But when you're at 35 feet, then it's a little bit more relevant.

ATTORNEY SUSAN ROBERTS: It's the

site elevation. I don't think it's the building height.

ERIC HOGLAND: You're dealing with the site elevation. You're dealing with the ground. The actual structure, I don't know if I can talk or not.

UNIDENTIFIED AUDIENCE MEMBER: The number of sea -- above sea level.

ERIC HOGLAND: Versus the building structure is less than -- I dropped the tape on all four corners of the building, ranges from 39 feet to --

DAVID FORD: Look at the top, it says the ground elevation is 35 feet. That's the plus or minus.

THE STENOGRAPHER: Okay, we need people to speak one at a time, please.

ERIC HOGLAND: Okay.

THOMAS SCOTT: I need this

clarified.

CONSTANTINE ALEXANDER: I thought we closed public testimony. You've had your opportunity.

ATTORNEY SUSAN ROBERTS: Did you want me to -- he was going to explain about the height?

CONSTANTINE ALEXANDER: Oh, about the height. Do you need more explanation, Tom?

THOMAS SCOTT: Yeah, I wanted you to finish the explanation. Thanks.

ERIC HOGLAND: The building structure of height is 35 feet or less. I dropped the tape on all four sides of the building because I originally went up there for chimney height. The chimney height in the original design was four feet tall. And I remember them not being able to look into

the chimney, so I measured all the chimneys they ranged from five -- six to five feet tall. All four corners of the perimeter down to the ground. It doesn't actually exceed 34 feet in the building structure, but they're being conservative saying 35. It threw me off when I saw the measurement in the latest design. Because I know I painted this myself. They're not 12 feet between floors. I know the height when I'm painting it. So it was just -- it's just -- we're not going to alter the height or change the height. I think it's just an error and I personally caught it myself and it was hands on. If that makes a difference so.

DAVID FORD: And just to clarify that, plus or minus is for elevation not for building height.

THOMAS SCOTT: Yeah.

CONSTANTINE ALEXANDER: Okay, that will be it for public testimony. I think we will now discuss the merits of case.

Anyone wants to speak?

BRENDAN SULLIVAN: Did you mention that the antenna do not count as far as height is concerned?

CONSTANTINE ALEXANDER: I believe they don't count. From point of view from the height of the building antennas are not part of the measurement. Am I right?

ATTORNEY SUSAN ROBERTS: That's correct.

CONSTANTINE ALEXANDER: On the Zoning Ordinance.

SEAN O'GRADY: There's a little confusion.

BRENDAN SULLIVAN: Well, let me just on the height exemption, I'm citing from

5.23, the provisions of this Ordinance stemming the height of building structures in all the districts shall generally not apply to chimneys, water towers, air conditioning equipment, elevators, bulkheads, skylights, ventilators, and other necessary features are pertinent to buildings which are usually carried above roofs and not use for human occupancy. Let me skip to C.

Wireless or broadcasting towers and otherwise unenclosed structures which occupy less than 10 percent of the floor area. I would proffer that these are enclosed structures.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: Therefore, they are not exempt from the height restriction.

CONSTANTINE ALEXANDER: Just to carry that further one step, it doesn't go

to -- it's not dispositive as to whether we grant relief or not. It's just one negative on the column that you said was not a negative believing that you had a 35-foot high building.

ATTORNEY SUSAN ROBERTS: Well, I would like to address that because I disagree with all due respect to your interpretation of the Ordinance. I mean, it wasn't specifically says chimneys. And while we have antennas inside the chimneys, clearly the Ordinance is meant to exclude areas where people do not live and --

BRENDAN SULLIVAN: But this is not a chimney.

CONSTANTINE ALEXANDER: That's right. It's the same fair.

BRENDAN SULLIVAN: A chimney is a feature that is absolutely pertinent to the

use and occupancy of the structure.

CONSTANTINE ALEXANDER: Yeah, absolutely.

BRENDAN SULLIVAN: This has nothing to do with the use and occupancy of the building. So it's not a chimney in the common vernacular of the day which is to expound fuels.

ATTORNEY SUSAN ROBERTS: It is a faux chimney.

BRENDAN SULLIVAN: Call it what you will.

ATTORNEY SUSAN ROBERTS: Which is what we say.

BRENDAN SULLIVAN: And faux to begin with. But anyhow.

ATTORNEY SUSAN ROBERTS: And I would suggest that we're dealing with visual effects.

CONSTANTINE ALEXANDER: Yes, that's right.

ATTORNEY SUSAN ROBERTS: And so as a result, it will turn the Ordinance on its head quite frankly for this to be considered part of the building when it looks exactly like any other chimney which is the whole point of, it seems to me anyway, the Ordinance 5.2 -- 5.23A.

BRENDAN SULLIVAN: Okay. It is not a chimney.

CONSTANTINE ALEXANDER: I'm going to speak further later presumably, but I have to say that you've touched on to me the raw nerve that bothers me and that's the visual impact of what is being proposed here. To be sure you're taking steps to minimize it. You've gone from A to B to C in terms of what you're doing, but at the end of the day, you

haven't eliminated the visual adverse -- in my judgment, the adverse visual aspect of what you're planning to do. You can see these three structures or more. The two faux chimneys and condenser and even the guardrail from certain areas in surrounding you. Your photo simulations should show that, No. 1.

The fact of the matter is that -- well, I have another thought, it just escaped me so I'll stop right there. But I am very much troubled by the visual impact of this.

Oh, the other point being the faux chimneys, nice word, but as this gentleman pointed out, they don't look like chimneys. They're sheds. They're sheds with a brick veneer and that troubles me as well, because I don't think you can minimize the visual impact sufficiently, at least in my judgment. Anyway, I'll shut up at this point.

Anyone else wish to speak?

JANET GREEN: I think I'd say that my concern is about the public safety aspect of it, and I think we see increasingly that people use cellphone communication in times of emergency. And while there might be other Verizon and other carriers in the neighborhood, if you're holding an AT&T phone, those don't help you at all. And so I feel quite concerned about the fact that the connection isn't really adequate for this neighborhood.

CONSTANTINE ALEXANDER: Anyone else wishing to speak or do you want to go to a vote?

TIMOTHY HUGHES: I think the only thing I will say is that this is a Special Permit, and as far as I'm -- the presumption on the Special Permit is that it should be

granted unless there's compelling reason not to grant it. I am not moved by, you know, arguments about property values. On the one hand the city is moving to be a more technologically savvy city and depending on technology and more ways than it ever has and the idea of having wireless communication in your units, especially since people aren't putting land lines in anymore, seems to me to enhance a property's value rather than take away from it. And so I'm not -- and as far as the 3.8, while it might be a percent with a considerable number, it's not, it's not a number that you couldn't bounce back and forth as a good negotiator when you're buying a property. It's -- I think that the examples for about the property values that maybe it dipped by 3.8 percent weren't good examples. You know, it's like -- so I'm not

moved by the property value question at all. In fact, I just bought a house right next-door to my own house in a very dense area of Wellington-Harrington in which I can see out my kitchen window a building, you know, in -- a non-residential building on Hampshire Street that probably got 12 pieces on top of it already or it will by the time everything is said and done. And I tell you what I paid for that house next-door nobody was bothered by those antennas on top of that building. I did not see a discount on that because of the, you know, the view out the window. And so I'm not moved by that. I'm not moved by the idea that there's any, that there's any danger, right, you know. I mean, in fact it's not even discussible. It's like the FAA and the FCC are already made their comments on this. This is not even something we can take into

consideration. So I, you know, since I don't see a compelling reason not to grant the permit and the presumption is that the Special Permit is allowable unless there's a compelling reason not to grant, I would have to vote in favor of this petition.

CONSTANTINE ALEXANDER: Any other comments or we go to a vote?

I think we're ready to go for a vote. Just for the benefit of the audience I will make a motion to grant the relief, that's how we proceed. For the relief to be granted, it must be a four votes in favor. There's five of us up here. It's not a simple majority. Our Ordinance says what we call super majority, four out of five. So if two vote against it, even though three, vote in favor, it's hypothetical, the motion will be defeated and the Special Permit will not

being granted.

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

That the Petitioner is a duly licensed FCC carrier in good standing.

That the Petitioner has taken steps to minimize but not eliminate the visual impact of the various elements of what is being proposed.

That traffic generated or patterns of access or egress resulting from what is being proposed will not cause congestion, hazard, or substantial change in established neighborhood character.

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 the occupants the proposed use or the citizens of the city.

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

On the basis of these findings the Chair moves that we grant the Special Permit being sought subject to the following conditions:

That the work proceed in accordance with plans submitted by the Petitioner. They are dated, and I can't find the date. The first page of which has been initialled by the Chair.

DAVID FORD: 2/26/14.

CONSTANTINE ALEXANDER: That's right, there it is. 2/26/14. The first

page of which has been initialed by the Chair.

That the work be in accordance with the photo simulations in terms of visual impact prepared by Dewberry. I don't see a date on this one.

DAVID FORD: 2/05/13.

CONSTANTINE ALEXANDER: 2/05/13.

And the first page which has been initialled by the Chair.

On the first condition that the Petitioner must maintain the structures that are being proposed in the condition they were when the first were erected. In other words, they must maintain them and not let them deteriorate.

That the faux chimneys will have a brick facade, a brick facade and approach as suggested by the Planning Board.

That should the facility not be used for

a period of six months or more, that it be promptly removed from the structure and the structure be restored to its prior condition to the extent reasonably practical.

I think I got all the conditions.

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

(Aye.)

(Hughes, Scott, Green.)

CONSTANTINE ALEXANDER: One, two, three.

Opposed?

(Show of hands.)

CONSTANTINE ALEXANDER: Two opposed. The Special Permit does not pass.

* * * * *

(9:35 p.m.)

(Sitting Members Case #10477: Constantine

Alexander, Timothy Hughes, Brendan Sullivan, Janet Green, Douglas Meyers.)

CONSTANTINE ALEXANDER: The Chair will call case No. Case No. 10477, 288 Norfolk Street.

Just identify yourself for the record.

ATTORNEY SUSAN ROBERTS: Susan Roberts and David Ford.

TIMOTHY HUGHES: I'd like to hear what's going on, but we don't have to have the same five people if we're just going to continue the case.

DAVID FORD: So just to briefly recount. So at the October 10th meeting we presented you guys four or eight options, designs, do you recall that?

CONSTANTINE ALEXANDER: I'm not sitting.

DAVID FORD: So there's eight

options. We've given you guys eight options. You picked the chimney option, two chimney per sector option. We were supposed to bring back only photo simulations the amount of locations that you guys favored and then we're to bring corresponding drawings as well. So in the interim we found out that the structural analysis couldn't be done. The information wasn't available to keep the nine locations that you guys more or less approved. You told us to come back with final versions with.

So we came back, the version was slightly off, in which you guys, there was a, you know, a debacle over that and why these were different. So that's the reason why, it's because the structural information wasn't there and they had to go with what they had. We only had two weeks.

ATTORNEY SUSAN ROBERTS: At the time we didn't have the actual structural report. It was based on assumptions about the roof --

DAVID FORD: The old data.

ATTORNEY SUSAN ROBERTS: -- based on assumptions about the roof without having a firm analysis, because the landlord didn't want us to do any roof penetrations at the time.

DAVID FORD: Okay. So that was on the 11/14 hearing when you guys saw all those options.

Again, so then on 11/21 the faux chimney photo simulation was released. We came back on 12/5 to show you that photo simulation, roughly a different amount of locations, and that was the issue. So in the meantime we basically went back to figure out how we could structurally approve those nine locations

that the Board favored at the 11/14 hearing. In order to do that, the only way to do that is if a four-inch timber beam is run across the entire fifth floor and there's an architectural firm in there. So the landlord heard this and was, like, no way. We even did a site visit on 1/28, went in there, and we just couldn't do it. It was not possible to build, but then parameters. So due to that we had to go back to the drawing board and find another modification that would allow us go with the nine locations that the Board favored.

ATTORNEY SUSAN ROBERTS: So we're looking to see now -- I know. We're looking to see now what other modifications we can make to the roof to -- in order to place or situate the antenna installations where they were on the 14th of November.

DAVID FORD: Exactly where they were.

ATTORNEY SUSAN ROBERTS: It's not clear that we'll be able to do that, but our main goal, no matter what, is to minimize the visual impact. So in the event that for structural reasons where we don't want to or where we can't interfere with tenants, in the event that we have to re-situate the antennas, our goal will be to minimize the visual impact. So in the event that we, for example, need to provide supports, we are looking for ways to situate the antennas so that the visual impact will look good to all of you. So that is our main goal. But we are still limited to do that. So we had to go out to the site again and do further testing and so forth. But our interest, of course, is to site these, situate the antennas in locations

where it's structurally they will be fine and where visually they will look good. And those are our goals. And so we just need more time. Unfortunately there was a lot to work through when we received the structural report after the penetration. So we're dealing with the landlord, potentially dealing with tenants, and, you know, now we're trying to find a fix that will work that won't disturb the tenants, that will provide the structural integrity that we need and still have the --

CONSTANTINE ALEXANDER: How much more time are you going to need?

ATTORNEY SUSAN ROBERTS: We understand that you're not going to be available in March which is fine for us. So I think doing the April 10th, that would be fine.

SEAN O'GRADY: The 24th is your first opening.

DAVID FORD: That's fine.

CONSTANTINE ALEXANDER: What was it?

SEAN O'GRADY: 24th.

DAVID FORD: Of April? That's fine.

BRENDAN SULLIVAN: Is this building just getting too tough to deal with?

DAVID FORD: Well, there are three different carriers, and we're trying to, you know, obviously co-locate, which is our goal. And just we need to figure out how we can do instructional (inaudible). We had the lock down with the structural mod on the fifth floor. (Inaudible). But, again, our architectural firm is too much existing equipment in the area, take it all out over

a weekend, install this beam and getting everything up before Monday morning before they walked back in is just not possible. So based on that we're trying to figure out another way to structurally support these chimneys while reverting as close as possible to the locations that the Board approved on November 14th, and just take the time to do so. It's a multiple site that I'm personally going on with the engineers. We don't want to waste the Board's time.

CONSTANTINE ALEXANDER: I appreciate it.

DOUGLAS MYERS: May I be heard, Mr. Chairman? This case has been continued five times.

DAVID FORD: Correct.

DOUGLAS MYERS: Tonight would represent the sixth continuance.

DAVID FORD: Right.

DOUGLAS MYERS: And as I, I hope I'm not summarizing unfairly what you've just said, but it really appears that although you say you want to go back to the November 14th hearing, which was two hearings ago, really you're going back to the drawing board. And it seems that all bets are off because it's not clear that you can produce the structures, the proposal that you presented to us on November 14th.

DAVID FORD: Right.

DOUGLAS MYERS: So it really seems to me that, and in fact, you're saying all bets are off. You want to -- you really want to rethink and reconfigure this whole thing and try to do what's right and try to avoid an adverse impact. But I think Mr. Sullivan is along the right lines, it's too much. It

may be too much for AT&T. But as far as I'm concerned, it's too much for this Board. I think six continuances is enough especially where you come in and say we don't know where we're at. And I would also point out that in terms of the way these continuances have an effect, since the last hearing of this Board on December 5th, which was the contentious hearing, 84 days have passed. That's 12 weeks have passed since the last hearing, and we're told tonight in the sixth hearing that you're basically -- all bets are off and you're going back to the drawing board. I think the record in this case is hopelessly flawed and I really, I'm not in favor of continuing the case.

DAVID FORD: I should have clarified it. We're not going back to the drawing board on the design. The design is staying

exactly the same as it was favored by the Board on 11/14, two faux chimneys per sector. We are not diverting from that whatsoever.

DOUGLAS MYERS: But there's no assurance that that design is technically feasible.

DAVID FORD: There is, actually. We have confirmation that it's technically feasible. We're just trying to get back to the --as close to the nine locations that the Board favors. We already have a mod design right now that the landlord has approved.

DOUGLAS MYERS: I thought you said something like it's not clear that we can do that. At least that's the note that I wrote down.

DAVID FORD: It's not clear that we can do?

DOUGLAS MYERS: That you can

actually reestablish the application proposal of November 14th.

DAVID FORD: Through post option, that's what we're exploring right now right.

ATTORNEY SUSAN ROBERTS: The design will be the same. The question is whether we'll be able to situate the antennas in the locations that they were originally. And so that's what we're -- that's what we're suggesting we need a little more time for. It is difficult to, you know -- we needed the time from December 5th until it actually took with holidays and weather and so forth, it took a while for us to do the roof penetrations necessary, then to deal with the landlord, because quite frankly we wanted those antennas where you saw them on the 14th. And so in order to do that we had to deal with the tenants.

DOUGLAS MYERS: But that's not what you said at the last hearing of this Board. The last hearing of this Board you said you would correct the drawings that you presented to us that night, and that all that remained was what we adjourned last time seemingly was some clean-up.

DAVID FORD: And that was done.

DOUGLAS MYERS: In the course of the clean-up it turned out that there was a lot more things needed cleaning up than you ever expected.

DAVID FORD: Right.

So what we told you guys we're doing going back and making correlating drawings of the 11/14, that was done. The fact that what those options are is just not aesthetically pleasing to the landlord and the Board as well. So that is done. We have that in

hand. It's just that I can even show you right here.

DOUGLAS MYERS: That's all right. I've spoken my piece.

BRENDAN SULLIVAN: I'm going to be a cynic. I suspect the next time we meet you're going to say there is some tweaking of the locations and that it's just impossible.

DOUGLAS MYERS: If you come in again, if this Board grants the continuance and you come in again and it's not right and it's not perfect, the case goes on and on. I think, I think, I think, I think the procedure has reached a point which could not be terminated.

BRENDAN SULLIVAN: I would give it one more try.

DAVID FORD: And that's all we need. That's all we need is one more time.

ATTORNEY SUSAN ROBERTS: Can I ask for my benefit, in the event that we are unable to put the antenna installations where they were on the 14th --

BRENDAN SULLIVAN: That's just what I just said.

ATTORNEY SUSAN ROBERTS: Yeah, exactly. Because I want to know what the -- I guess what I'm asking so I can be prepared to address, you know, this potential problem, because obviously we don't want to put antennas where they're not gonna be structurally sound.

BRENDAN SULLIVAN: I suspect engineering is going to do this, they're going to do a cost basis and they're going to say it's way, way, way more expensive and too expensive. And they're going to send you back with the message that they have to be

repositioned to a more affordable installation.

ATTORNEY SUSAN ROBERTS: With all due respect, I have no idea if that's the case.

BRENDAN SULLIVAN: I think that's what the bottom line is going to be after much internal discussion and yelling and screaming, that you cannot go back to those people with that message but that's, that's your job.

ATTORNEY SUSAN ROBERTS: So here's my question, my question is if they do have to be in another place, but they still look as good or better even than what we've given you --

BRENDAN SULLIVAN: It would have to be a compelling reason.

ATTORNEY SUSAN ROBERTS: Is that a

problem for you?

BRENDAN SULLIVAN: It would have to be a compelling reason why it cannot and not because, and I may read between the lines, that it's going to be more costly than what they want to spend.

DAVID FORD: I can tell you right now engineering cost has no factor in this design.

ATTORNEY SUSAN ROBERTS: This is helpful because --

BRENDAN SULLIVAN: I don't believe that. Anyhow, you can say that.

ATTORNEY SUSAN ROBERTS: I just want to say this is helpful to know because we can be prepared to have, you know, our construction person explain and the person that did the constructional design in the event that we're not able to duplicate.

DOUGLAS MYERS: If you have everything you said, next time do you expect to bring in a proposal that's substantially resembles the proposal of November 14th or something that's completely new?

ATTORNEY SUSAN ROBERTS: I don't know. As of right now, there will be the faux chimney. So that is what your choice was and that will be correct. Whether or not they'll be four feet away from where we showed you, whether they'll two feet away from where we showed you, or whether they'll be seven feet away, I don't know yet. And so that's why I don't want to make a commitment one way or the other. And quite honestly I should -- at the time that we talked about this before, it was not my understanding that there would be a problem structurally that has not what I understood.

DOUGLAS MYERS: That's one of the reasons I believe the record in this case to be so inadequate. But I've said that before.

TIMOTHY HUGHES: That having been said, the alternative to not continuing this case is hearing it, and we can't do that because we don't have the five members.

CONSTANTINE ALEXANDER: We could if they wanted to waive the --

TIMOTHY HUGHES: If they waive it which --

JANET GREEN: That would be crazy. If they were inexperienced.

DOUGLAS MYERS: I understand, Tim. I understand. Nonetheless, I wanted to say what I said.

CONSTANTINE ALEXANDER: Let me follow up -- I didn't mean to cut off discussion particularly since it's not my

case. I suggest we continue the case with the strong admonition that this is the last continuance.

DAVID FORD: That's fine.

TIMOTHY HUGHES: If you can't make it work this time, find another building.

DAVID FORD: Understood.

CONSTANTINE ALEXANDER: What was the date, April 24th?

DOUGLAS MYERS: The 24th, I'm sorry. That's fine.

CONSTANTINE ALEXANDER: Make sure Andrea can do it. I hope she can.

ATTORNEY SUSAN ROBERTS: She said she could do the 10th.

JANET GREEN: She was okay for that.

CONSTANTINE ALEXANDER: Well, let me make a motion to continue to the 24th. You check with Andrea. If she can't do it, we

will give you another continuance assuming you want it because you'll want five people. So we'll exempt you from the one more continuance rule for Andrea.

My guess is she will be able to make it.

Okay. The Chair moves that this case be continued certainly as a case heard until seven p.m. on April 24th on the condition that the Petitioner once again modify the sign, the sign required by our Ordinance to reflect the new date, April 24th, and the time, seven p.m.

And that the sign be maintained in accordance with the requirements of our Ordinance, the 14-day requirement.

And further that to the extent that there are going to be new plans and photo simulations and the like, that they be in our file no later than five p.m. on the Monday

before April 24th.

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

(Aye.)

CONSTANTINE ALEXANDER: It's four in favor.

(Alexander, Hughes, Sullivan, Green.)

DOUGLAS MYERS: Opposed.

(Whereupon, at 9:50 p.m., the
Zoning Board of Appeals
Adjourned.)

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