

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING
THURSDAY, FEBRUARY 28, 2013
7:30 p.m.
in
Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Thomas Scott, Member
Douglas Myers, Member
Janet Green, Member
Kevin C. McAvey, Associate, Member

Sean O' Grady, Zoning Specialist

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PROCEEDINGS

(7:30 p.m.)

(Sitting Members: Constantine Alexander, Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: Good evening. I'm going to call this meeting to order, and as is our custom we're going to start with the continued cases, and the first case I'm going to call is case No. 10387, 6 Hillside Place.

Anyone here on that matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one is here. The Chair would also advise the Board that we are in receipt of a letter from Don DiRocco, who is with the architectural firm for the work that's under consideration. And the letter it says:
(Reading) On behalf of Cambridge Nursery School -- that's the Petitioner, the party of interest -- I am requesting a continuance for 6 Hillside Place. I would advise the Board

that the reason for the continuance is that upon review of the files, it was determined that Hillside needs additional relief beyond which they advertised for. So they're going to have to file a new application seeking a Special Permit as well as the Variance. And when they do that, then we'll hear the whole case as one, one case. Rather than hearing one part tonight and then another part some other time.

I'm going to make a motion that this case be continued until March 28th at seven p.m. on the condition that the Petitioner modify the posting sign to reflect the new date and the new time.

This is a case not heard, and we have as I said, a waiver in our files of a time for a decision.

So on this basis I move to take a vote. All those in favor of granting this continuance on the basis that I specified,

say "Aye."

(Aye.)

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

CONSTANTINE ALEXANDER: Five in
favor. Case continued.

* * * * *

(7:30 p.m.)

(Sitting Members: Constantine Alexander,

Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: The Chair will next call case No. 10391, 675 Massachusetts Avenue.

Anybody here wishing to be heard on this matter?

(No Response.)

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

UNIDENTIFIED WOMAN: Which one is that?

CONSTANTINE ALEXANDER: That's the restaurant and the building in Central Square.

UNIDENTIFIED WOMAN: Yeah. So has it been continued?

CONSTANTINE ALEXANDER: No, it's going to be withdrawn?

UNIDENTIFIED WOMAN: Oh, it is? Do

you know why?

CONSTANTINE ALEXANDER: Apparently they have found the parking they needed. They were seeking relief from --

UNIDENTIFIED WOMAN: Okay, I just looked at their website and I came to speak in favor it so I can go.

CONSTANTINE ALEXANDER: I'm sorry, if you had let us know, we would have told you not to stick around.

UNIDENTIFIED WOMAN: I live around the corner, it's not that big a deal. Thank you.

CONSTANTINE ALEXANDER: Okay.

Well, anyway the Chair is in receipt of a letter from James J. Rafferty, Esq, counsel for the Petitioner. It states: (Reading) Please accept this correspondence as a request on behalf of the Petitioner to withdraw the above-captioned case currently scheduled for February 28th.

All those in favor offering the motion the
request for withdrawal say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Case
withdrawn.

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

* * * * *

(7:35 p.m.)

(Sitting Members: Constantine Alexander,

Thomas Scott, Douglas Myers, Janet Green,
Kevin C. McAvey.)

CONSTANTINE ALEXANDER: We'll next
turn to a continued case for the same address.
It is case No. 10299, 675 Massachusetts
Avenue. I note that there is no one here in
the audience that wishing to be heard on this
matter.

I would advise the Board that we are in
receipt of a letter from James J. Rafferty,
Esq., counsel for the Petitioner. It reads:
(Reading) Please accept this correspondence
as a request on behalf of the Petitioner to
withdraw the above-captioned case currently
scheduled for February 28th.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

(Alexander, Scott, Myers, Green,

McAvey.)

CONSTANTINE ALEXANDER: Case
withdrawn.

(A short recess was taken.)

* * * * *

(7:45)

(Sitting Members: Constantine Alexander,

Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 10392, 8-10 Vineyard Street.

Anyone here wishing to be heard on this matter?

EMILY SEQUEIRA: I'm the owner. I'm new at this. Should I come up to the table?

CONSTANTINE ALEXANDER: If you would, please. Have a seat. And our practice is to give your name and address. We keep a transcript.

EMILY SEQUEIRA: Sure.

CONSTANTINE ALEXANDER: The stenographer is here.

EMILY SEQUEIRA: So my name is Emily Sequeira. I reside at 56 Maple and I'm the owner of 8-10 Vineyard.

CONSTANTINE ALEXANDER: Okay. And

you're seeking a Variance to construct a new landing in the front yard as well as a Special Permit to enclose an existing front roof porch and add a new door.

EMILY SEQUEIRA: Yes.

CONSTANTINE ALEXANDER: Okay.

EMILY SEQUEIRA: So there's an existing front porch. So we bought it, it's a two-family. It has two front doors with a covered front porch with side, two side stairs going off to the side. We would like to make it one front door. We're converting it into a single, and enclose, enclose the foot walls up. Enclose the front porch.

CONSTANTINE ALEXANDER: Right.

EMILY SEQUEIRA: And create a new stair with a little landing --

CONSTANTINE ALEXANDER: That will go straight.

EMILY SEQUEIRA: -- that goes straight to the sidewalk instead of having

two that go around.

And the reason I'm here is because we have one foot too little or something.

CONSTANTINE ALEXANDER: Okay. I think your issue is, if I can see it, I don't have the -- your dimensional form is such that I couldn't even tell why you needed relief. I accept you need relief. It's because of the steps going forward into the toward the sidewalk.

EMILY SEQUEIRA: Correct. And I think it's the positioning of the landing relative to the current foundation and the positioning of that relative to -- the positioning of the current existing relative to the sidewalk or where the curb starts.

CONSTANTINE ALEXANDER: And to give you the relief, just -- we have to check off some boxes.

EMILY SEQUEIRA: Okay.

CONSTANTINE ALEXANDER: And I'll

help you with this.

We have to make a finding that literally enforcing the Ordinance would involve a substantial hardship to you. And the hardship would be that your front landing is not as desirable and you're changing it into a single-family house, so therefore it makes more sense to have the stairs going towards the street rather than the two side stairs when you're only going to have one front door.

EMILY SEQUEIRA: Correct.

CONSTANTINE ALEXANDER: Is that right?

EMILY SEQUEIRA: Yes.

CONSTANTINE ALEXANDER: And the hardship is owing to the special circumstances relating to the shape of the structure. The structure is non-conforming now, is it? It's non-conforming. So any modification requires Zoning relief. And relief can be granted without substantial

detriment to the public good. In this case you're talking a very, very minor relief, just putting steps going toward the street and enclosing the porch.

EMILY SEQUEIRA: Correct.

CONSTANTINE ALEXANDER: The purpose for enclosing the porch is what? Are you going to make a room out of it?

EMILY SEQUEIRA: The purpose of enclosing the porch is that because it's a house built in 1880, when you walk in the front door, the staircase is, I think, there's not even enough room for the door to open, so it's a very narrow area. So what we'd like to do is create more of an entranceway, because we're turning it into a single-family and then also have a place to put coat closets.

CONSTANTINE ALEXANDER: A mudroom essentially?

EMILY SEQUEIRA: Yeah, basically.

DOUGLAS MYERS: In other words, once you enclose it you don't intend to use it as a separate room in the house with a new function like a porch or a sun room?

EMILY SEQUEIRA: No, no. It will be the way you enter the building.

CONSTANTINE ALEXANDER: How big is it roughly? Approximately?

EMILY SEQUEIRA: I believe it's -- well, the current porch is, I believe, it's five feet deep and maybe 14 feet wide. I don't --

CONSTANTINE ALEXANDER: I have your plans here.

EMILY SEQUEIRA: Okay.

CONSTANTINE ALEXANDER: I'm not sure they have the dimension for that. In any event, it's not big enough for a real room the size of the porch?

EMILY SEQUEIRA: No. Basically we'd like to have a proper entrance to a

single-family.

CONSTANTINE ALEXANDER: That's the bottom line.

Other questions from members of the Board or any questions?

(No Response.)

CONSTANTINE ALEXANDER: Did you want to take a look at this, Tom?

THOMAS SCOTT: Sure.

CONSTANTINE ALEXANDER: While you're doing that, is there anyone here wishing to be heard on this matter?

You have to come forward and just give your name and address again.

ABBY STEINBERGH: Sure. I'm Abby Steinbergh. I live at 15 Vineyard, and we live directly across the street and I just wanted to support their plan to make the entrance look a lot better.

CONSTANTINE ALEXANDER: Thank you. Anyone else in that row?

(No Response.)

CONSTANTINE ALEXANDER: We do have letters of support I believe in the file, and I will read them once I get the file back.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: I was mistaken. There are no letters of support in the file. We just have the oral testimony that we heard.

Any further questions, comments, or are we ready for a vote?

Ready for a vote.

The Board makes the following findings with regard to the Variance being sought: That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being is that the location of the front stair, the front entrance, and the nature of it is such that you can only modify it by further violating the Zoning By-Law, this being a

non-conforming structure. That the shape of the structure is -- the hardship is owing to the shape of the structure. It's non-conforming, too close to the street per our current setback requirements and, therefore, any modification to the steps or the entrance requires Zoning relief. And that relief may be granted without substantial detriment to the public good.

As there is testimony, it is a very, very modest change to the structure. They're just adding stairs going toward the street and replacement of stairs on the side of the current side of the current front porch.

On the basis of these findings the Chair moves that we grant a Variance to the Petitioner on the grounds that the work proceed in accordance with the plans submitted by the Petitioner and initialed by the Chair. There are 1, 2, 3, 4, 5, 6. I

don't think there's anymore. Six pages.

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

(Aye.)

CONSTANTINE ALEXANDER: Variance granted.

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

CONSTANTINE ALEXANDER: And now we'll do your Special Permit.

The Special Permit relates to the actual enclosure of your front porch.

EMILY SEQUEIRA: Okay.

CONSTANTINE ALEXANDER: And Special Permits are different. First of all, that they're less onerous to comply with. Basically you're entitled to do the work provided we make certain findings. And we have to make a finding that -- well, tell us a little bit. You've told us about the porch. To make sure we have it correct, it's

not a room. It is just to rationalize the entranceway to what is going to become a single-family house.

EMILY SEQUEIRA: Correct.

CONSTANTINE ALEXANDER: You're not changing the footprint of the porch, just enclosing.

EMILY SEQUEIRA: Correct.

CONSTANTINE ALEXANDER: Questions?
Comments?

THOMAS SCOTT: I didn't see, are there windows in the enclosure?

EMILY SEQUEIRA: There are windows in the front.

THOMAS SCOTT: Okay.

EMILY SEQUEIRA: So there's a door and windows on the sides.

THOMAS SCOTT: And it's flanking windows but no windows on the side?

EMILY SEQUEIRA: Correct, yeah. Because we wanted to use that space for

closets.

CONSTANTINE ALEXANDER: Anyone here wishing to be heard on this matter? You want to speak in favor of the Special Permit?

ABBY STEINBERGH: Sure.

CONSTANTINE ALEXANDER: The person who spoke before whose name you have is in favor, recommends approval for the Special Permit.

I will close public testimony. I will note there are no letters in the file or other communications.

I think we're ready for commentary and a vote.

Any comments?

(No Response.)

CONSTANTINE ALEXANDER: Vote?

The Chair moves that this Board make the following findings with regard to the Special Permit that's being sought:

That the Petitioner cannot satisfy the

requirements of our Ordinance because of the fact that it is a non-conforming structure and therefore needs relief. That what is being proposed, the enclosure of the porch, will not cause congestion, hazard or substantial change in established neighborhood character.

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

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

These findings are on the basis that the work again is modest in nature. It is just to enclose an existing area. It's -- and

this area is in the front yard setback which why there is a Special Permit required.

On the basis of these findings, the Chair moves that we grant the Special Permit being sought on the condition that the work proceed in accordance with those same plans that I identified in the Variance request and have been initialed by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Special Permit granted.

EMILY SEQUEIRA: Thank you.

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

CONSTANTINE ALEXANDER: Good luck.

(A short recess was taken.)

* * * * *

(8:00 p.m.)

(Sitting Members: Constantine Alexander, Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10393, 94 Thorndike Street.

JENNIFER McCONNELL: Jennifer McConnell.

CONSTANTINE ALEXANDER: Okay, you're going to have to speak up. State your name again.

JENNIFER McConnell: Jennifer McConnell, M-c-C-o-n-n-e-l-l. My neighbor David is with me.

CONSTANTINE ALEXANDER: David, we'll need your last name.

DAVID VE SWAAN ARONS: Okay. V-e S-w-a-a-n A-r-o-n-s.

CONSTANTINE ALEXANDER: Okay, why are you here tonight?

JENNIFER McCONNELL: Because I

would like permission to put a door out of my kitchen area as in --

CONSTANTINE ALEXANDER: Which is in the rear?

JENNIFER McCONNELL: In the rear of the building as an egress to the patio and my parking area. Because as it is now I have a narrow stairway through the basement and that's the only way to get to my patio.

CONSTANTINE ALEXANDER: And you're going to build a porch, too, though, on the patio.

JENNIFER McCONNELL: It's a landing. It's an eight-by-four. It's not a covered porch or anything.

CONSTANTINE ALEXANDER: No, no, I know that. It's a deck.

JENNIFER McCONNELL: It's not a deck because it's really not big enough. It's just an eight-by-four landing across the back of the house, and that's because if we went

straight out of that right side, there's an air conditioning vent, two air conditioners, and you can't put the steps straight down. So one of the doors on the side, and then have it, the stairs going right down by the air conditioning unit.

CONSTANTINE ALEXANDER:

Technically that deck, porch, whatever you want to call it, is considered part of the structure and it counts in what we call your FAR requirements. It's one of the reasons you need a Variance.

JENNIFER McCONNELL: Right.

CONSTANTINE ALEXANDER: You are, just for the record, you are right now have an FAR -- your residence of 1.54 in a district that's supposedly you're not supposed to have more than 0.75. You're adding 75 feet of additional FAR by virtue of the porch which will increase your FAR to 1.56, so a slight increase. But, you know, at this point

you'll be twice what's permitted to the district. And also you have an issue on your left-side setback because of the narrow lot.

JENNIFER McCONNELL: Right.

CONSTANTINE ALEXANDER: So you need relief there. Okay, that's just to put the setting of this.

JENNIFER McCONNELL: Okay.

CONSTANTINE ALEXANDER: As you may have heard before, we have to find a special circumstance, substantial hardship. I think you've already identified that is that you need a second means of egress through the rear.

JENNIFER McCONNELL: Exactly.

CONSTANTINE ALEXANDER: It doesn't work very well for you right now.

JENNIFER McCONNELL: Exactly.

CONSTANTINE ALEXANDER: The safety for you or any other occupant of the building to get out.

JENNIFER McCONNELL: That's right. Like, when my smoke detectors go off, the ladder's in the garage in the back. I have to carry it all the way around to the front of the house to get it in the front door. The stairs are too narrow to go up through the basement with the tall ladder to reach the ceiling.

CONSTANTINE ALEXANDER: Okay.

And the deck is, well, is part of the means of egress and that causes a setback issue on one side, on the left side.

JENNIFER McCONNELL: Exactly.

CONSTANTINE ALEXANDER: Okay. And the hardship is owing to special circumstances being, basically it's a row house with very long and narrow lot and -- well, simply that. It's that. And so between the need for a second means of egress, a better means, and the narrow lot is why you need relief, and there will be no

substantial detriment to the public good. In fact, it will be facilitated, improved for better safety for the occupants of the structure.

JENNIFER McCONNELL: Yes.

CONSTANTINE ALEXANDER: Questions?

DOUGLAS MYERS: I have a question about the plans. The plans seem to be very basic set of plans, and the question is more for the enforcement officer, whether or not Mr. O'Grady felt the plans were adequate for him to work from?

SEAN O'GRADY: They will be sufficient for the purposes.

CONSTANTINE ALEXANDER: Yes, I agree with you, Doug. I thought they were for our purposes, they're generally very sparse, and it's a good question to ask.

DOUGLAS MYERS: Sean's answer is fine for those purposes.

CONSTANTINE ALEXANDER: Fine.

SEAN O'GRADY: For the purposes they're adequate. Being that it's just the deck --

DOUGLAS MYERS: Right, I understand.

SEAN O'GRADY: -- I wouldn't encourage that level of sparseness.

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

(No Response.)

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

Anyone here wishing to be heard on this matter? Sir?

DAVID VE SWAAN ARONS: I've already written a letter of support.

CONSTANTINE ALEXANDER: Right.

DAVID VE SWAAN ARONS: I think it makes complete sense. I've been at the house many of time. And indeed to get from the yard to the kitchen it's basically a squirrely

basement, and it doesn't make any sense. This will make complete sense, and if you like I had the privilege of going through the house, you would see just what a wonderful job they've done in renovating the house and really adding value to the neighborhood. It's just as simple as that.

CONSTANTINE ALEXANDER: Thank you. The Chair will note for the record that we were in receipt of numerous letters all in support of the Petition. I don't propose to read them into the record right now and embarrass you for one thing. But they're, they will be part of our record. They will be incorporated as reference as if I had read them to the Board.

And, again, seriously you should be flattered, the letters speak very well to you as a citizen of the city and as a neighbor.

JENNIFER McCONNELL: Thank you.

CONSTANTINE ALEXANDER: They're all

very, very complimentary.

I will close public testimony at this point.

Any commentary or are we ready for a vote?

Ready for a vote, okay.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner, such hardship being that sufficient means of second egress is -- will be lost unless we grant the relief. What is there now is barely sufficient from a safety point of view.

That the circumstances, the hardship is owing to circumstances relating to the shape of the lot. It is a long and narrow lot, and so any relief to the back, including a means

of egress, triggers a need for Zoning relief. And the relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

In this regard the Chair would note that what is being sought will improve the safety of the persons who occupy this structure, which is certainly in furtherance of the public good, and that there is almost a unanimous -- there is absolute unanimous support from neighbors and abutters and even a City Councillor for the project. So there was no opposition at all.

On this basis the Chair moves that the Variance be granted on the condition that the work proceed in accordance with the plans you submitted. They're two page. I've initialed them. And I guess that's it.

All those in favor of the Variance say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Variance
granted.

(Alexander, Scott, Myers, Green
McAvey.)

JENNIFER McCONNELL: Thank you very
much.

(A short recess was taken.)

* * * * *

(8:15 p.m.)

(Sitting Members: Constantine Alexander, Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10386, 158 Cushing Street.

Anyone here wishing to be heard on this matter?

MAGGIE BOOZ: I'm Maggie Booz, B-o-o-z, and I'm with Smart Architecture, the architect for 158 Cushing Street and the Borelli family.

ANTHONY BORELLI: I'm Anthony Borelli.

THERESA BORELLI: I'm Theresa Borelli.

CONSTANTINE ALEXANDER: And you both live at 158?

ANTHONY BORELLI: She does. She's owner and occupant. She's my aunt.

MAGGIE BOOZ: So 158 Cushing Street is three units, a triple decker, three-unit

owner occupied on the first floor and then the Borellis rent the upper two floors. Two different apartments. And about a year ago this time they were looking into renovating the building and they knew that they had a -- some sort of foundation problem. And so they hired geo technical experts who went and did borings around the site to find out what was going on with the site. They also consulted at the time a general contractor to talk about what kind of work it would involve to repair the building and what was going on with the foundation. I think the general contractor, in fact, was the one who recommended the soil engineering; is that right?

ANTHONY BORELLI: Right. Actually it was a general contractor who referred us to a structural engineer who --

MAGGIE BOOZ: Who recommended the soil.

ANTHONY BORELLI: Well, who also described the type of foundation work that needs to be done, and then that's when we got the soil borings.

MAGGIE BOOZ: So, we got the soil test report, which I've given to you. I think that's part of our file.

CONSTANTINE ALEXANDER: Yes, it is.

MAGGIE BOOZ: And it was clear that indeed on the north side of the building, along the north side, which is the right side of the building as you're looking at it from the street, there's organic fill. And there's organic fill with clay that was put over that, and the soil experts felt that -- their opinion was that that had been installed at the time of the construction, but that it didn't sufficiently -- it didn't sufficiently cover the fill, the organic fill and below so it was losing bearing. The building was losing bearing. And the report

says that that bearing has continued to degrade. And that there had been very little loss of bearing on the south side of the building, and about I think one and a half inches of compaction over the course of the life of the building, and the engineer felt that had probably happened within the duration of the construction of the building. So we've got a building --

CONSTANTINE ALEXANDER: How old is the building? When was it built?

MAGGIE BOOZ: What's that?

CONSTANTINE ALEXANDER: How old is the building? When was it built?

MAGGIE BOOZ: 1890s.

ANTHONY BORELLI: '97.

MAGGIE BOOZ: '97.

So they measured it and it's about a five degree out-of-kilter wall, which I was doing a little diagram of that in my office, and that's about two and a half feet at the

top of the building, but that's, you know, that's a little bit to the north.

And so, the Borellis came to me and said that they would like to design a new building. They would like to take the building down and design a new one, but they wanted a building just the same. They wanted two units. They wanted the owner unit -- Theresa's unit on the first floor and rentals above. And so we embarked on designing a new building. But as you probably know with the three-family Building Code, that is anything that's not the one and two-family state Building Code, the three-family code gets more -- a lot more egregious in terms of what it demands out of stairways and other things. So stairways instead of, you know, the one and a half, in the one and two-family code stairways are, you know, eight and a quarter maximum rise, nine and a half, nine and a half inch tread, and with the three-family and above it's a

seven-inch rise and an eleven-inch tread. So stairs tend to get very elongated and wider, and everything about anything that's about not one and two-family is more strict in terms of dimensions. So we ended up with a building that was larger than the footprint of the original building. And there were certain, you know, there were also certain things that the Borellis had asked for; two bathrooms in the unit instead of one bathroom in the unit. If you look at the plans of the units currently, they aren't, they aren't modern. You're walking from one room through another to get to another. You're walking through a kitchen to get to a bathroom. You're, you know, it's not a modern plan.

So we came, we understood that the Board was not pleased with the idea that that building was growing any bigger on that site, and so we redesigned the building keeping it

within the footprint of the existing building but trying to hold on to some of the things that we wanted -- that the Borellis wanted to have in the units so that they would be more modern. And so we're coming to you tonight with this building that is the -- is approximately the same footprint as the existing building, and I'll show you a diagram of how it changes, and asking for relief due to the fact that the site is narrower than the Ordinance allows.

That it's a smaller site than the Ordinance allows. It's 95,000 square foot site.

That we have unusual soil conditions that are making for a really difficult situation, difficult to repair.

And that they're asking for no more than they have currently.

CONSTANTINE ALEXANDER: That's not true. The building you're asking for is 400

square feet bigger.

MAGGIE BOOZ: Yes, true.

CONSTANTINE ALEXANDER: That's 10 percent bigger than what it is roughly.

MAGGIE BOOZ: Yes, true, true.

So I'll show you a diagram of how that, what that change is.

So this Board illustrates -- first of all, I'll tilt it up in just a second.

CONSTANTINE ALEXANDER: That's fine.

MAGGIE BOOZ: So the existing and the proposed plot plans we're straightening the building out on the site. That allows us to get a little more room up front and get a porch back on the building. So we're kind of -- and allowing us to have sort of regularized side yard setbacks.

These are the -- these are the diagrams that exhibit to you what is, you know, what these plans look like now; basement and

basement of the existing and proposed, first floor and first floor of the existing and proposed.

And this shows you where the additional square footage is.

So what we have is, we have the porch itself is additional square footage. There is a bit of porch here now, and we're continuing it across the building. We thought it would be a nice buffer between the street and the building itself, and just make the building more attractive. And then we're in-filling these back -- requesting to in-fill these back two areas of the property.

We also have a little bit more in the chimney that's off to the side.

And then this wall, this front wall of the building, whereas in the old building the bay is popping out and this wall is pulling back a little bit, we've popped the bay out and that wall is forward a foot from where it

is on here. Understand?

You see it? Everything?

CONSTANTINE ALEXANDER: Yes.

MAGGIE BOOZ: Okay.

So in addition to those areas that we -- or I should say, those areas that are filled in on the plan, those back areas are -- and these are just the elevations of the building and photographs of the existing building. The areas that are filled in in the back, I would argue that those aspects of a building that are required by the state Building Code, and that aspect, those aspects that make a building, a three-family building larger than a three-family building was in 1897 and that is corridors and stair halls and sprinkler, you know, room for the sprinkler system and thicknesses of partition walls because they have to have sound transmission ratings, all those things contribute to the fact that this building is a 10 percent larger

building and that's, and we've tried to get it by filling in those back two areas.

CONSTANTINE ALEXANDER: Why not just do a two-family building? I understand more rental income from a three-unit building, but there are a lot of serious issues to my mind.

MAGGIE BOOZ: Okay.

CONSTANTINE ALEXANDER: Why don't we get into those right now.

MAGGIE BOOZ: Okay.

CONSTANTINE ALEXANDER: It is an established practice of our Board is that when there is a non-conforming structure that someone wishes to take down and put a new structure up or even a part of that structure, we approach the case on a basis that we assume there never was a building on the lot and would we allow the new building, the replacement building in this case, to be built. We would never allow this to be

built. The FAR is three times what is permitted in the district. You're violating front yard and rear yard setbacks. So I have to ask the very starting question, why not -- why are you not just repairing the foundation problem? And I know it's you want a new building. But you can repair the foundation. It would be less expensive I would presume than tearing down and building a new building. And in any event, you could do that as a matter of right because you may not -- we'll find out in a while -- you may not be entitled to a Variance.

MAGGIE BOOZ: So I guess I'd address that in a couple different ways. Why a three family? We're asking for permission to build a three family because there's a three family there. That's the first reason.

The second thing that I'd like to address is what would be allowable on that site as a conforming building? So I just did

a little calculation of a 3800 square foot lot, and 0.5 FAR and 1900 square foot building. And a building with a basement and two floors and an attic would mean that each floor would be about 550 square feet. It's a very, very small building. If I were, if I were asking for a one or a two-family building on this site, I'd be here asking for floor area ratio relief because, because a conforming building -- even if the building conforms to setbacks; front, side, and rear, the FAR is on a site that's so small is very, very little. The floor area, allowable floor area. So you know, so I would say that, you know, for some explanation as to what that site can allow and why we would be in here, you know, asking for a Variance. And in case it seemed audacious, which I don't think it is, I don't think it is audacious to ask for what you have.

And then the third thing I'd say is that

we'd meet the conditions of relief. We have an unusually small site. We have unusual soil conditions that are unique to that site, and we have a building that to repair it, would result in a building that was A, by, you know, by the word of the state Building Code, it would be less safe in numerous ways than a modern building would. It's, it's -- it is as I say a very old fashioned plan. And the -- it seems to me that the desire to have a building that was, that was modern and up to code would outweigh the idea of renovation.

And in addition I'd say that I would question whether it's cheaper. I don't know that it would be cheaper to renovate. I think you would have to strip every bit of that building off. I mean, we did this on Walden Street. We stripped a building on Walden Street I did, one of my projects, a three family. We stripped the interior and

the exterior in order to fix a failing foundation. And that -- and so everything was stripped out. I mean, there wasn't anything left except that frame. And you know, what did you -- what do you end up with? Is it better? I don't think so. I don't think it's better for the city. I don't think it's -- I don't think there's anything about it that's better, and I don't think it's cheaper.

CONSTANTINE ALEXANDER: Well said. Then why a bigger building than now? Why not build a building with roughly the same amount of square feet as it exists now? Why 400 additional square feet?

MAGGIE BOOZ: Well, I think I made that point which is that the things that the state Building Code demands out of a three-family building compared to a three-family building in 1897, cause an increase in square footage even when I

reduced the bedrooms. You know, I've got one of the bedrooms at seven and a half feet wide. It's very small. This isn't egregious request. This isn't a request where we designed something so extravagant and so outrageous or outlandish that we should be chastised for that.

CONSTANTINE ALEXANDER: I'm not chastising.

MAGGIE BOOZ: I know. I know, but I'm just saying. I'll use the word. I don't really mean that you're doing that. I mean we're trying to be modest and modern at the same time.

CONSTANTINE ALEXANDER: How much of the 400 additional square feet is attributable to state Building Code and how much would you have desire in a structure? I mean, it's like the Rolling Stones said, you can't always get what you want. So and I understand the desire to upgrade and to get

something better than what you have.

MAGGIE BOOZ: Yes.

CONSTANTINE ALEXANDER: But at the same time we do have a Zoning Ordinance in our city.

MAGGIE BOOZ: Yeah.

CONSTANTINE ALEXANDER: And if we were to grant relief, we would be stretching it, I think, stretching the Ordinance a bit. But to then do it in a way that you get even more building. It's, again, I think pushing the envelope. To me anyway. My fellow board members may feel differently.

MAGGIE BOOZ: Right.

Well, I'd say that the stairs, the stairs alone have got to be at least 25 percent bigger than, than the existing stairs are. You know, what the code demands of the stairs. So I haven't done a piece by piece breakdown of what, you know, what the increase is and what's causing the increase,

but I can say that that's a big one, the stairs. You know, I have -- necessarily have two stairs in the building, and each one of them is 25 percent bigger than the stair that exists.

CONSTANTINE ALEXANDER: But how much additional square feet does that translate to?

MAGGIE BOOZ: I don't know. I haven't done that calculation.

CONSTANTINE ALEXANDER: Okay, no, but I mean you're taking a stairwell and you're increasing it by 25 percent or stair, it doesn't get anywhere close to 400 square feet.

MAGGIE BOOZ: Well, you're saying it's a 10 percent increase from what we have now to what we're asking for, it's 10 percent.

CONSTANTINE ALEXANDER: Yes, because that's --

MAGGIE BOOZ: And I'm saying that of

the stairs, that the stairs are probably 25 percent bigger.

The porch, you know, obviously adds -- it's 130 square feet or something, that porch.

ANTHONY BORELLI: We have a tiny porch now. The porch that we would like clearly it's nicer for the aesthetic of the house, but it also does contribute to the street and to the streetscape, and it's a nice thing for us and for the general public. And the chimney, it's small, but that's, that's a little extra footprint.

MAGGIE BOOZ: Yeah, the -- I think if you really examine the plans, you won't find that we've asked for something substantially bigger in terms of anything really about it. I mean, maybe the living spaces are a little bigger. They're more open certainly than the existing building has, but they're not, they're not outrageously large or something.

The bedrooms are 12-by-12 and 7-by-12, you know, or seven-and-a-half-by-12.

CONSTANTINE ALEXANDER: Right.

MAGGIE BOOZ: They're not large. We did keep -- we did try to keep the two bathrooms. I'd say that certainly attributes to the back of the building's larger. And the existing bathroom, the existing bathroom in the place are you would not even find them possible.

THERESA BORELLI: They're small.

MAGGIE BOOZ: They're very small.

So --

ANTHONY BORELLI: And I would just add the, you know, it's an old building. It's 1898 just to correct what I said earlier. Our family's been there since 1960 living in that --

THERESA BORELLI: Since 1957.

ANTHONY BORELLI: We've lived in the building even longer than that. Even longer

than anyone else by decades, right. This project would enable us to stay in the neighborhood. It will enable us to continue to live in that building and to provide rental units, which we've always offered and it's been a great opportunity, not just for our family because I've lived in some of those rentals, but for other people in the neighborhood.

The building now is very much -- the existing building, it contributes to the character of the street, it always has. It was thought of at the time of rezoning. This triple decker, along with the other dozen that exist on Cushing Street and Holworthy and all the streets in between are part of what this neighborhood is about. We're essentially designing an up to date version of a triple decker to serve our needs obviously, but also to reflect what has always been here and what has always served

this neighborhood as an urban design feature, as part of a diverse housing stock, and as part of what it means to, like, help stabilize the neighborhood.

So what we're proposing, certainly in keeping with the existing character of the street. It was a consideration when the Zoning happened in the 80's. Which by the way, was largely about controlling, if I remember correctly, I was younger, in-fill development on a large under built lots. That was, that was a problem in the 80s. The rezoning set out to address that. It did not address our specific condition in any way, because I think it recognized that it was an anomaly. It was something that probably couldn't be handled in the same way as the other Zoning issues could be handled.

And so what our project -- it essentially is replacing what we have now. It should have no significant effect on

anything in the neighborhood relative to what we have now. And it does have the support of neighbors. Which I think is important. Which we've been very open. We've been very open about our plans, and we've talked to them about it since the first go-round when we were asking for demolition approval from the Historical Commission. Who, by the way -- or which by the way, while the building is old and significant, the Commission found that it was preferable not to preserve this building given what our rebuilding plans were. And I know it's a different body and you have different considerations, but nonetheless, it's a body that is concerned with the general welfare of the public and they agree with us.

CONSTANTINE ALEXANDER: Do we have a letter in the file from Historical? I don't remember seeing one.

SEAN O'GRADY: I don't know.

CONSTANTINE ALEXANDER: Do you know did you get anything from Historical in writing?

MAGGIE BOOZ: I did, I think.

CONSTANTINE ALEXANDER: I don't remember seeing it in the file when I looked at it.

MAGGIE BOOZ: I wanted to mention something about the Historic Commission, too --

CONSTANTINE ALEXANDER: Sure.

MAGGIE BOOZ: --because not only did they approve our -- I don't think I have that letter.

CONSTANTINE ALEXANDER: Okay. I don't see it in our files either. Okay, keep going.

By your representation you did go to his Historical and they did not, and they did what? Finish the sentence. What was Historical's --

MAGGIE BOOZ: They -- not only did they find it not preferably preserved and that the replacement building was preferable to what was there. But they also made mention of the fact, of the fact that there was this diversity of housing stock and types of housing in the Strawberry Hill Neighborhood. I mean, they made a point of talking about the fact that there are all sorts of building on Cushing Street; there were triple deckers, there are single-families. You know, there's a four-family that's right next to the Hegarty School. They have different histories. Some of them were moved there, some of them were built there, but it's a, it's a neighborhood with a lot of diversity given architecturally.

CONSTANTINE ALEXANDER: I'm sorry, keep going.

MAGGIE BOOZ: Yeah. Yeah, here's

the letter from Historical. Sorry.

CONSTANTINE ALEXANDER: Can I keep this for our files?

MAGGIE BOOZ: Sure.

CONSTANTINE ALEXANDER: I'll read it into the public record at some point.

MAGGIE BOOZ: Okay.

ANTHONY BORELLI: This is a letter that I, I thought I had e-mailed yesterday.

CONSTANTINE ALEXANDER: I think we have it in the file. It looks like one. But I'll keep it anyway.

Keep going.

MAGGIE BOOZ: We talked about building a one -- not a one, but a two-family building at the beginning of this project, and I was concerned about Zoning. And I, you know, I did not know that it was the history of the Board to, you know, or what the history of the Board had been in terms of this sort of thing happening. And Anthony told me

that -- at that time -- I said, are you going to sell these? Are these going to sell off, is that why, you know, you're going to have three units? And he said they had no -- absolutely no intention of selling them off now or in the distant future. And one of the things about this building is that Anthony's brother and Anthony feel that they would have someplace, you know, someplace in the city, in Cambridge, because this building was there and had three units. And that was one of the considerations and you should know that. This is a family that's been very much dug into the Strawberry Hill Neighborhood for a long time and it's, you know, in their blood. So it's something to consider. And then, you know, then the idea was well, why not? Here's a building that we either we could try to renovate, we've got a narrow site. One the problems from the renovation in my mind is just getting equipment on to the

site, trying to just maneuver in a very small space, and so it could happen. I think it would, honestly I think it would cause as much as rebuilding, but it could happen. And then, you know, and then what do you have? You have the building that isn't in a lot of ways nearly as good a building. I mean, not aesthetically, not practically, not safety-wise, not to Building Code as, you know, as the building we've proposed.

ANTHONY BORELLI: Any questions?

CONSTANTINE ALEXANDER: My only observation on that and I don't want to badger you, that's true of a lot of buildings.

MAGGIE BOOZ: It is true.

CONSTANTINE ALEXANDER: It's not unique to you, to your situation. Almost any older building would be nicer if you took it down and rebuilt it add some modern amenities and modern building codes.

What continues to trouble me is the fact

the building, the new building will be 10 percent bigger than the old building. If the building were roughly the same size in terms of dimensions or number of square feet, I would be very sympathetic. I'm not saying I'm against it anyway, but I would be much more sympathetic. The 10 percent is a desire, perfectly natural to improve your living situation, but we have a Zoning Ordinance. And the Zoning Ordinance says, you know, there are only certain things you can do. It doesn't justify building a bigger building on a substandard lot that is substantially non-conforming.

MAGGIE BOOZ: Right.

CONSTANTINE ALEXANDER: I've said enough.

MAGGIE BOOZ: Yeah. You --

CONSTANTINE ALEXANDER: You don't have to respond. I'm just shooting it off.

MAGGIE BOOZ: Well, I'm just

thinking well, if I reduce the basement by 400 square feet I could, I could have come to you and said that the building was exactly the same square footage as the existing building, and does that matter? Do those numbers -- are those numbers relevant to you?

CONSTANTINE ALEXANDER: It seems to me, and again, speaking for myself and probably only myself, to give the relief you're seeking is a departure from what we do in our Zoning Code.

MAGGIE BOOZ: Yeah.

CONSTANTINE ALEXANDER: At least I can hang my hat on something and saying well, you're not building a bigger building than was there before on a substandard lot.

MAGGIE BOOZ: Yes.

CONSTANTINE ALEXANDER: What troubles me now you are building a bigger building on a lot that we know is legal and non-conforming. It's too small. And it

strikes me as a little too much. You're asking for a little too much. That's just my reaction so far.

MAGGIE BOOZ: Okay.

CONSTANTINE ALEXANDER: I want to hear everybody else, members of the Board --

MAGGIE BOOZ: All right.

CONSTANTINE ALEXANDER: -- and others before I reach my final decision. Those are my concerns.

MAGGIE BOOZ: Okay.

Well, I would just say that I think that the three things that probably contribute to that, that I think are justified, are the porch, the size of the bathrooms, and the fact that, you know, the fact that the bathrooms that are in the existing units now are substandard, really, really too small. They're too small to have three fixtures in.

CONSTANTINE ALEXANDER: That goes to if you wanted to restore the building

rather than rebuild. You could rebuild it and have one standard, no longer substandard bathroom, you could have two.

MAGGIE BOOZ: Yeah. And then the fact of the three-family and what's demanded of us from the code.

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

THOMAS SCOTT: I mean, you know, the existing building is essentially grandfathered. There are a lot of buildings like that in the city that have been renovated, and maybe to accommodate the modern amenities that you talk about, they have to sacrifice something. Maybe there's a one less bedroom or, you know, maybe the kitchen's smaller or whatever. But I think it's doable. And I guess my question is how, how much investigation have you done with regard to the restabilization of the foundation? Like, I know you have reports

that say it's not stable and it would need to be repaired if you were going to continue to live there, but to what extent? Do you know how much it would cost? Do you know how long it would take?

MAGGIE BOOZ: No.

THOMAS SCOTT: I mean, what are the impacts? It's hard for me to kind of judge what you're asking for without knowing like how severe the impact is.

MAGGIE BOOZ: And this is always the conundrum in my mind of going for Zoning relief because we don't know if we, if we're going to receive Zoning relief, so how far down the line to the Borellis invest money and time into get drawings done so they could get pricing back, real pricing, not guesses, you know, real pricing back so that they can determine what those cost implications are.

THOMAS SCOTT: But I think if you --

MAGGIE BOOZ: You can't --

THOMAS SCOTT: No, but if you decided on a method, you know --

MAGGIE BOOZ: Right.

THOMAS SCOTT: Whether it's helical piles or whatever. Somebody can give you a budget and to say well, to put in 15 helical piles that were 15 feet deep, it's X. So I mean you have some order of magnitude.

MAGGIE BOOZ: It's going to be helical piers whether it's a renovation or whether it's a new construction. It's going to be helical piers.

KEVIN McAVEY: So the general contractor who was contacted who then referred you to a soil engineer, did he give you any indication of the magnitude on a relative scale, like, what would be required to renovate and set the foundation?

MAGGIE BOOZ: In terms of price?

KEVIN McAVEY: Yes.

MAGGIE BOOZ: That's what I'm

saying. I'm saying --

Kevin McAVEY: There was no indication given?

MAGGIE BOOZ: No, we didn't get pricing back before we designed the building.

CONSTANTINE ALEXANDER: Just out of curiosity, why not? It doesn't cost you to get a contractor to give you --

MAGGIE BOOZ: Well, yeah, it does. You have to have a set of drawings that's complete enough that they can actually give you more pricing.

KEVIN McAVEY: But you're making the decision now to just knock down the entire house and start over; is that correct?

MAGGIE BOOZ: Oh, yeah, okay.

ANTHONY BORELLI: The decision was significant investment and saving this property either by renovating it or by demolishing and constructing a new property.

KEVIN McAVEY: Well, wouldn't you be

weighing that A or B?

ANTHONY BORELLI: We would. I mean cost is always a factor in everything, but the way we looked at it was significant investment, really complicated foundation system, the frame of the building is damaged as a result of the foundation failing. It's over 115 years old. Well, you know, we could probably build a better building new, better for us and better for the neighborhood, if we could do new construction.

MAGGIE BOOZ: In order to straighten a building, we got a building that's two and a half feet that's out of plumb at the top of it. In order to straighten that building and in order to not have it do that again, A, we need a new foundation. So we need to lift a building up, hold it there while the foundation is removed, and pour a new foundation on helical piers. And in order to lift that building up and straighten it, I

mean, you have to take everything out of the building.

KEVIN McAVEY: Yes, I completely --

MAGGIE BOOZ: Interior and exterior.

KEVIN McAVEY: -- just for my own informational purposes just to make sure I'm thinking about this properly.

MAGGIE BOOZ: Oh, okay.

KEVIN McAVEY: One of the things that I'm thinking about right now is the next set of individuals who come here, and we have these Zoning Ordinance that have to govern our decisions to a great extent. And right now I mean the building is 1.3. I don't know, I think it's going up to 1.3 something.

CONSTANTINE ALEXANDER: It's going from 1.3 to 1.4 and the district allows 0.5.

KEVIN McAVEY: Yes. And so I mean that's one leeway. And then this is going again beyond the current square, gross square

footage of the building. And I'm thinking about the next set of people coming here -- who come in and say that -- they demonstrate that they have a crack in the building and then the soil is of significant -- questionable quality, should we then allow them to demolish the building and then build something, build something new and something bigger? And so that's kind of in the back of my mind as I'm thinking about this. And I would really love for some hardship to be demonstrated to not only give me the reason to vote for this, because I really do want to vote for almost everything that comes before here, not only to vote for this, but then to say, you know what, it's okay to -- forget about that. We're going to even allow to you build a bigger building. I mean, I live in a 700 square foot apartment, 400 square feet isn't insignificant and so that's what I'm trying to think about in my

own head.

ANTHONY BORELLI: This feedback is extremely helpful. I wish I had it earlier to be honest.

CONSTANTINE ALEXANDER: We can continue this case again if you want to get the information to give us the feedback. You're not, you're not forced to make to have the case heard tonight. You know that. Just so you know that. You're not being put in a corner.

ANTHONY BORELLI: I mean, I feel like, you know, if it's about taking some space out of the basement or foregoing the porch or eliminating the chimney, I mean these are things that I think are really nice, not just for us and people on the inside of the building, but it looks better on the outside and it contributes to the streetscape, I think, in a meaningful way. But those are the things that, you know, icing

on the cake. They're really nice. And we really want them. But if we have to go without, I mean those are things that we can talk about. I would hope we can talk about.

CONSTANTINE ALEXANDER: Well, and we have not even finished the questioning. I just have to point out that if we go to a vote tonight and you don't get the necessary votes, so you know, your dead for two years unless it's a completely different project. Or you can continue the case -- to continue the case. You've heard some of the comments already. Whether you can reduce the size of the structure. Whether you can give us information about -- more information that we now have about what it really would take to repair the foundation rather than build a new building. I mean, that's your -- that's going to have to be your call. I mean, you have to listen to us and make your judgment as to where you think we're going and we'll

give you some indication. We haven't even heard from two members to my left yet.

MAGGIE BOOZ: Right, right. In other words, this is the feedback.

ANTHONY BORELLI: Right. I appreciate it.

CONSTANTINE ALEXANDER: Janet, what do you have to say? You don't have any questions, you don't have to say anything at all.

JANET GREEN: I do have something. Because you didn't feel given where the 400 square feet was going that it was such a problem. They -- and I felt that, I was moved by the Historical Commission. I would be interested to hear what they say in their letter. But the fact that the Historical Commission looked at this house and said that the plan that's there now is going to be -- it's going to be better than the house that's there now. I was moved by that. I

wondered if you had pictures about the porch of how it looks like now and how it would look with the additional square feet and porch. It was a little hard to try to guess how that might improve the street scape or whatever. And also I wondered about your neighbor next-door, aren't they sitting right on the same kind of land?

MAGGIE BOOZ: Yes, they are.

They're concerned about that.

JANET GREEN: I bet they are.

MAGGIE BOOZ: And they're concerned about the construction.

JANET GREEN: I bet they are.

MAGGIE BOOZ: You know, and we talked about that, what happens, you know.

JANET GREEN: You know, Strawberry Hill went through a very extensive neighborhood program for defining how the neighborhood should look, that there's a big report that was written about it.

MAGGIE BOOZ: That's right.

JANET GREEN: And it did really speak to wanting to have triple deckers and single families, and that that diversity of architecture was really important to the quality of the neighborhood. And a lot of neighbors participated in that study. So I actually felt if I see could the porch --

MAGGIE BOOZ: Was that 1980s?

JANET GREEN: It might even be a little bit after that.

CONSTANTINE ALEXANDER: I think so.

JANET GREEN: Yeah, it was --

MAGGIE BOOZ: Okay.

JANET GREEN: So anyway, that's what I'm thinking right now. And I'd like to see the front porch and that I'm -- I think that Historical Commission's recommendation, for what I think it says --

CONSTANTINE ALEXANDER: Well, let me get to that.

JANET GREEN: -- take that seriously.

CONSTANTINE ALEXANDER: All that the letter says is that the Historical Commission deems that the current structure is significant but not preferably preserved and therefore they grant the demolition permit. There is no commentary about the new structure. Just that it's as to whether they can demolish the old structure.

JANET GREEN: Yes.

MAGGIE BOOZ: Yeah, well what we need is the minutes of the meeting from the hearing.

CONSTANTINE ALEXANDER: We don't have the minutes. All we have is what they tell us.

JANET GREEN: That would be good to have. So anyway, those were my comments.

CONSTANTINE ALEXANDER: Doug, any questions?

I'm sorry, I didn't mean to cut you off.

DOUGLAS MYERS: No, but to kind of explain my thinking at the present time. I'm also concerned as a member of the Board about the precedent we're setting, especially because it's just very clear under our Ordinance that when a non-conforming use is eliminated, it's just a very clear principle of Zoning by which this Board should act is that you don't replace -- once the non-conforming use is eliminated, you don't replace it with a new non-conforming use. Now, I realize because of the history of the Zoning and history in the neighborhood and other Zoning-type of questions which we can consider, that it would be terribly unfair to make you replace this with the full rigor of the limitations of 9300 feet of FAR.

But on the other hand, there's no right to replace. When you've eliminated, when you've eliminated a non-conforming use,

there's no right to replace, no right to replace. And certainly there's no right to enlarge. So, those are considerations that as a member of the Board I just don't feel I can freely disregard not because of any feelings about the difficulties of this case, because of the next case and the case after that and the case of the people two streets away that come up. I mean, I feel the duty to apply the Ordinance, and I feel the duty to be consistent. And also, I mean, it's not -- it's not as if you don't have a choice. You do have a choice. You have a choice to deal, to deal with the property you have in some way that's acceptable to you in terms of cost, in terms of desire of reconstruction. I mean you do have a choice. You don't have to go down this road of destroying the non-conforming use and saying I want to replace it or I want to enlarge it.

So while I think it would be unfair,

even harsh of this Board to hold you to the full rigor of the Zoning as written, I think frankly for you to keep a building that exceeds the Zoning Code by two and a half times is generous, and I really can't see any basis in terms of precedent, consistency, and kind of taking our Zoning Ordinance seriously to increase it by seven, eight, nine percent. That's my thinking.

CONSTANTINE ALEXANDER: Why don't we open it up to public testimony. You'll have an opportunity to comment further.

MAGGIE BOOZ: Sure.

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

ABBY STEINBERGH: Hi, I'm Abby Steinbergh. I live at 15 Vineyard and my backyard abuts their backyard. So I look at the back of their house. And I have no hesitations or reservations about what they're proposing. I think anything that

they put there would be a lot nicer than what's standing there. I can see the cracks from my backyard, and so I'm just here to support their proposal.

CONSTANTINE ALEXANDER: Thank you.

THOMAS SCOTT: Thank you.

CONSTANTINE ALEXANDER: Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one else wishes to be heard.

We do have a number of letters in the file which I will read. I'll start with the Cambridge Historical Commission as I summarized briefly before, but let me do it, let me read the actual letter.

(Reading) On December 6, 2012, the Cambridge Historical Commission voted to find the existing building at 158 Cushing Street significant but not preferably preserved as defined to the City's demolition

delay ordinance, chapter such and such. And in the context of the plans for the replacement building described in the architectural drawings by Smart Architecture, etcetera, etcetera. The Commission requested that the engineering report documenting the soil conditions of the site be submitted for the record. And then they have the demolition permit application on file and can sign it when the demolition contractor's ready to file the application.

So, what the Historical Commission is saying is that the building can be demolished.

There is a letter that you just submitted to us from Anthony Borelli for the record, but it's not a letter from a neighbor. It's in further support. And I think the points in this letter you've made or can make before us, so I'm not going to read it if you don't mind. I want to get to letters of

people who are impartial in the sense that they are neighbors. We do have another letter from you. We have two.

ANTHONY BORELLI: It's the same letter.

CONSTANTINE ALEXANDER: Same letter, yes.

I know there are letters, let me just get to them. My notes indicate that there are letters but I'm not finding them. Don't see them.

I read the file before. I have notes that there were letters of support. It must be someone walked off with them --

DOUGLAS MYERS: They're probably buried.

CONSTANTINE ALEXANDER: They're probably in another pile here. Let me take another second if you bear with me.

KEVIN CASEY McAVEY: Could it have been the letters that were already in there?

CONSTANTINE ALEXANDER: Yes, It could be. My notes say there were letters of support. It could be. And someone has already spoken.

MAGGIE BOOZ: Yes, we've spoken to all the surrounding abutters.

CONSTANTINE ALEXANDER: And no one expressed any opposition?

MAGGIE BOOZ: No, no. Indeed just the opposite.

CONSTANTINE ALEXANDER: I'm going to close public testimony at this point. Anything further now? You have an opportunity to say anything further before we start our deliberations.

MAGGIE BOOZ: I would just say that in terms of, you know, one of the major differences in this building versus the existing building, and that is the front porch and the fact that the front porch isn't possible or isn't -- doesn't seem to me very

feasible to put a front porch on to the building that exists there. It would come so close to the sidewalk that it would be kind of absurd and it would be a very uncomfortable relationship, I think, between the building and the street, and unusual in the neighborhood. So, you know, one of the, one of the things about the building in pushing the front foundation back a little bit is in order to get that porch, and I think it's a highly desirable change in the building. Yeah.

CONSTANTINE ALEXANDER: Okay.

ANTHONY BORELLI: And I would only add that I think it's -- I understand your concern for precedent and how this could, you know, someone else could come in and make some more arguments, but I think that this is a special case. I mean, every case should be looked at, you know, for its merits, on its merits. And I think this is a non-conforming

use. It's special in the sense that it is part, it is a defining part of this neighborhood's character, so it's not, it's not a non-conforming use that could be seen as undesirable in some way, and sort of continue something that's non-conforming in a certain way should not be seen as a negative. In fact, just the opposite. We're reinforcing something that's been long part of this neighborhood character.

CONSTANTINE ALEXANDER: Okay. You still -- and I don't mean to pester. You're still not addressing the point why a bigger building? To me, and I'm only one person, I would be much more sympathetic to allowing a reconstruction of a building, rather than forcing you to repair your foundation, if you were building something the same size as before. But you're not. And you're building something -- 10 percent is not a small amount. 400 square feet is not a small

amount.

ANTHONY BORELLI: One minor correction. We're not building something that's 10 percent larger. We're asking for that, and perhaps we will build something that's exactly the same.

CONSTANTINE ALEXANDER: That's a good segue.

MAGGIE BOOZ: That is a good segue.

CONSTANTINE ALEXANDER: We're going to have more commentary, but I suspect that people have said what they're going to say. And so now the moment of truth for you is do you want to go forward with a vote or do you want to think more about it? Or in other words, continue the case further?

MAGGIE BOOZ: I think it is apparent that we need to continue.

CONSTANTINE ALEXANDER: It would be a case heard so we have to get the same five of us as you know.

MAGGIE BOOZ: Right.

CONSTANTINE ALEXANDER: Sean, do you have a date that would be available?

How much time would you like I mean to think about this and come back? You may decide to come back with different plans that's the only reason I would ask.

MAGGIE BOOZ: We would come back with different plans.

CONSTANTINE ALEXANDER: The reason -- I'll do it now. As Doug is pointing out and correctly so, it's more for your benefit and Maggie knows this, to get relief from us, you need not just a majority of the five of us, you need the four out of the five. And if one member -- and it's got to be the five, five voters of the five people here. If we hold it on another date and continue it and one of the five of us can't be here, we can still go forward if you wish with four of us, but then you need a unanimous vote, that's

four out of four. You don't have any margin of error. That's why we have to get a date where all five of us need to be here.

SEAN O'GRADY: April 11th.

CONSTANTINE ALEXANDER: April 11th.

Now let's see if our members can make it.

We could do April 25th.

MAGGIE BOOZ: I would love to do it sooner.

SEAN O'GRADY: Yes, well we're full.

MAGGIE BOOZ: Full until April --

CONSTANTINE ALEXANDER: We've only got two in March.

MAGGIE BOOZ: Oh, yeah, it's March already.

DOUGLAS MYERS: The next meeting is March 14th.

CONSTANTINE ALEXANDER: We can go to another case if you want to talk in the back and you can come back.

MAGGIE BOOZ: Okay. Maybe we

should do that.

CONSTANTINE ALEXANDER: We'll recess this case and move on to the another case. When you're ready, come back and we'll take you.

THOMAS SCOTT: I have a problem with the 11th of April.

CONSTANTINE ALEXANDER: Okay. The 11th does work. We're looking at the 25th.

SEAN O'GRADY: Is everybody okay for the 25th?

THOMAS SCOTT: That's works for me.

CONSTANTINE ALEXANDER: I'm okay.

DOUGLAS MYERS: Yes.

CONSTANTINE ALEXANDER: So we're looking at the 25th if you want to continue this case.

DOUGLAS MYERS: I had a few comments to make.

CONSTANTINE ALEXANDER: They're going to come back and we'll have more

commentary.

(Case recessed.)

* * * * *

(9:05 p.m.)

(Sitting Members: Constantine Alexander,

Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10394, 42 Chilton Street. Please come forward. And as you know by now, we need your name and address for the record.

JOHN LaFRENIERE: Good evening. My name is John LaFreniere, LaFreniere Architects. My office is right down the street here. And this is Ann Snyder the owner of the property at 42 Chilton Street. Ann's going to explain the context of the house and I'll explain the issue.

CONSTANTINE ALEXANDER: Before you do that, I know you're ready for this. We noticed or I noticed going through the file and from the benefit of Sean. It was a case before our Board ten or so years ago. None of us were here then, to excavate the basement. And in the dimensional form that was filed, it shows that -- and the relief was

granted. That you were going to go to a floor area of -- this is the new case. I'm sorry.

Anyway, the numbers don't jive with what you have now. It shows you want to go to a floor area of 3400 square feet. And now in your application here you're showing that you've got far less than that. So we're a little bit puzzled. I'm puzzled on the correct dimensions.

ANN SNYDER: We never did it. We never did the construction in the basement.

CONSTANTINE ALEXANDER: Is that what happened?

ANN SNYDER: And I completely forgot that we even applied for the Variance.

CONSTANTINE ALEXANDER: All right.

ANN SNYDER: And so, you know, we had teenage children, we needed more room, we actually just buttoned in together and stayed in the smaller space.

CONSTANTINE ALEXANDER: Okay.

ANN SNYDER: So the figures in this proposal are the accurate figures.

CONSTANTINE ALEXANDER: Okay, thank you. That's what I wanted to know. Okay. I'm sorry, now you can go on.

ANN SNYDER: John asked about it, and I said no, I have no idea. I guess I'm 59. My memory, so....

So that our situation is that we've lived at the house at 42 Chilton Street for 22 years. And, you know, it's a house that's had some issues. And we began thinking as our children have grown and we're working from home that we wanted to figure out where we wanted to be next. And after looking around at lots of things, we realized that this is really our neighborhood and this is our home and we'd like to stay. And so we embarked on a renovation project and enlisted John LaFreniere and his company to help us figure out how to do that. And so the

proposal before you, which I'll let John explain, is about the design and the slight modifications that we need a Variance for.

CONSTANTINE ALEXANDER: And you need a Variance and a Special Permit because you're altering windows in a setback, right?

JOHN LaFRENIERE: Right.

CONSTANTINE ALEXANDER: We'll cover both. The Variance involves three small additions according to your advertisement.

ANN SNYDER: Correct.

JOHN LaFRENIERE: Right.

CONSTANTINE ALEXANDER: So when you go through your presentation, please identify those.

DOUG MYERS: Gus, I'm really sorry. I'm basically confused. Are we handling case 10382 or 10394?

CONSTANTINE ALEXANDER: 10394.

DOUG MYERS: And what is the status of 10382?

CONSTANTINE ALEXANDER: That's continued.

DOUGLAS MYERS: And we will deal with it presently.

CONSTANTINE ALEXANDER: As soon as we're done with this case.

DOUG MYERS: Okay, fine.

CONSTANTINE ALEXANDER: Yes.

DOUG MYERS: Sorry.

CONSTANTINE ALEXANDER: That's okay.

JOHN LaFRENIERE: Okay?

CONSTANTINE ALEXANDER: Yes, whenever you're ready.

JOHN LaFRENIERE: So this is the site plan of the property. And so the heavy red line is the property line, the setback line, seven and a half feet from it.

CONSTANTINE ALEXANDER: Where's the street?

JOHN LaFRENIERE: Oh, sorry.

Chilton Street is out here. It's seven and a half feet back. And seven and a half feet here and with the other property line would be here. I mean the other setback. So the, it turns out when the building was built, was seven and a half feet back on this corner, but on this corner it was skewed. So it, the reality is that we are over the setback line slightly by about a foot at this end of the building. That's what throws us into the property line and, therefore, the change in the windows on this side which I'll illustrate in a moment comes into effect.

The square footage issue is related to what we're doing to the plan. And there was, you can see this dotted line. There's a very large, right now, deck on the second floor which has space under it which is open space but it's covered essentially so it counts as FAR. It's the access up to the second floor which is right now the Snyder's living space.

That we no longer need since we -- it becomes a single-family residence.

CONSTANTINE ALEXANDER: Right.

JOHN LaFRENIERE: So basically I did the math and I said well, I have that much credit which of course I don't, because we're slightly over the FAR.

CONSTANTINE ALEXANDER: Yes.

JOHN LaFRENIERE: It's I guess 0.5 is what's allowed, and we're point whatever. I don't have the exact percentages.

CONSTANTINE ALEXANDER: You're at 0.57. You're at 0.57. And you're right, 0.5 is what's allowed.

JOHN LaFRENIERE: Right. So we are in fact over, and so we need to come for -- but we are in fact reducing the total FAR in this project.

CONSTANTINE ALEXANDER: You'll still be non-conforming --

JOHN LaFRENIERE: Exactly.

CONSTANTINE ALEXANDER: Let me just for the record, so we have it in the record.

JOHN LaFRENIERE: Okay.

CONSTANTINE ALEXANDER: I know you know the answer.

JOHN LaFRENIERE: Okay.

CONSTANTINE ALEXANDER: But we're going to go from -- you're going to go from 0.57 to 0.549 and the district is 0.5. So you are decreasing the FAR, but you're still slightly over.

JOHN LaFRENIERE: I'm still over, correct.

So the three areas that we're looking for some relief is one in the back where this is the main living space, the kitchen becomes here. And we need a little bit of a vestibule from there. So we want to project that out to, again, to just provide a little relief so we aren't walking directly into the living space. The second area is the, you know,

their living room becomes here. We're trying to get a little more feeling of space. So this is going to be a fireplace with some window seats. If that were to move in, it basically occupies the living room and it's going to be hard. And so we want this little bump on the side. And which is way within the setback on this side. And on the front, we actually are not where -- we're changing what's there but we're not -- the setback is set by the average of the two properties which are -- you can see with this line. So we're actually back from that. But it is a square footage increase slightly, which is in this case, actually outside where it's a porch where we're trying to create to just provide some coverage as you come in the front door.

CONSTANTINE ALEXANDER: What I couldn't figure out from the file whether you have a front yard setback issue?

JOHN LaFRENIERE: No, we don't.

CONSTANTINE ALEXANDER: You don't. Okay. I didn't think you did.

JOHN LaFRENIERE: No. We would if we were doing the 15, but because of your unusual Cambridge allowance, then we're okay.

CONSTANTINE ALEXANDER: Right. But on the left side setback that's where you have a setback issue by one inch.

JOHN LaFRENIERE: Exactly. Unfortunately.

But we're also projecting, we're building in that area so that is the other piece of the Variance section. And let me show you if I can the elevations.

So, in terms of the windows, this is the side elevation as it exists and we're actually -- this, right now because it's a two-family there's a door and a couple of windows here. This is going to become the kitchen side. We're going to have just a pair of little small windows really just to

little a light in next to the stove. This is actually going to be more privacy for the neighbor on that side. And this side is actually barely in the setback zone. And we're taking some windows out here. So we're actually reducing it from the neighbor's point of view.

The front -- this is the existing front elevation. This is the new porch which is gonna basically give it more of a single-family residence appearance. And the site, you know, bump is actually this which is just going to have a gas fireplace so that vents out the side somewhere. So it's a relatively minimal, modest kind of exercise here, but I think it's gonna end up making the house look a lot nicer and work much better for them as a resident.

CONSTANTINE ALEXANDER: So again just for the record, the reason you're here for the Variance --

JOHN LaFRENIERE: Yeah.

CONSTANTINE ALEXANDER: -- we'll get to the Special Permit as you know that.

JOHN LaFRENIERE: Yeah.

CONSTANTINE ALEXANDER: Two problems you have, Zoning problems --

JOHN LaFRENIERE: Right.

CONSTANTINE ALEXANDER: One is your FAR is going to be too high --

JOHN LaFRENIERE: Yeah.

CONSTANTINE ALEXANDER -- but it's only by a slight amount and it's actually going to be less than what you have now.

And two, you have a setback violation by one inch.

JOHN LaFRENIERE: Right. Or approximately.

CONSTANTINE ALEXANDER: We're not going to hold you to exactly.

JOHN LaFRENIERE: I think actually at that end I think it's actually it's almost

a foot because of the skew. It is there. I mean it's not -- yeah.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: You'll have a chance to comment further, but let me open it to public testimony.

JOHN LaFRENIERE: Sure.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

The Chair will also note that there are letters in the file. All are in support which I'll read.

There's a letter from Daniel Chessman, C-h-e-s-s-m-a-n who lives in Lexington.

(Reading) I am the owner of a six-unit apartment building at 46 Chilton Street.

Tom and Ann Snyder have owned the abutting house -- this is directed to the abutter -- the abutting house for over 22 years, they take good care of their property, have been considerate neighbors to my tenants, and contribute to the long-term care and upkeep of properties, trees, and landscape on Chilton Street. Ann and Tom have contacted me about their renovation plans for the 42 Chilton Street property. I understand that the Petition for a Variance pertains to the redesign of the front and a minor encroachment on the setback. This letter is to express my support for the renovation plans at 42 Chilton Street.

And then we have several other letters. They're identical in form. And I'll just read the letter and I'll state who has written them.

The letter is as follows: (Reading) I live on Chilton Street. I know Tom and Ann

Snyder as considerate neighbors who lived on the street for 22 years. They take good care of their property -- the same letter -- are supportive of our home improvement endeavors and contribute to the long-term care and upkeep of property, trees, and landscape on Chilton Street.

Ann and Tom have spoken with us about their plans to renovate their home at 42 Chilton Street. I support their Petition for a Variance allowing for a redesign of the front and a minor encroachment on the setback. And this letter is from the residents at 43 Chilton Street. I can't read the handwriting of the person who signed, but 43 Chilton Street, 43 Chilton Street. It must be -- it looks like the spouse of the first letter. 39 Chilton Street. This letter is from Laura Gerhard, G-e-r-h-a-r-d. From the resident at 36 Chilton Street, 30 Chilton Street, No. 2. Excuse me. 24

Chilton Street. And last but not least another 24 Chilton Street.

All letters of support and none in opposition.

With that I'll close public testimony. Any further comments or things you want to tell us?

ANN SNYDER: No, just that I'll hope you approve it. I love the design and love the street, so....

CONSTANTINE ALEXANDER: Okay.

Okay, now I'll close public testimony entirely.

Comments from the members of the Board. Tom?

THOMAS SCOTT: I'm all set.

KEVIN CASEY McAVEY: I appreciated the design and the presentation. It's a beautiful house.

CONSTANTINE ALEXANDER: Janet?

JANET GREEN: No questions.

DOUGLAS MYERS: It really looks better, the simple change in the front is a nice improvement.

ANN SNYDER: Isn't it great?

DOUGLAS MYERS: I noted it. I would vote for it.

CONSTANTINE ALEXANDER: All right, we have two types of relief being sought, a Variance and a Special Permit. Let me start with a Variance.

The Chair proposes that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that desirable plans to convert this two-family to a one-family would be thwarted unless relief is being granted. That the hardship is owing to the fact of the shape of the structure. The structure is a non-conforming structure and therefore

almost any modification would require relief. And that relief can be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance.

In support of that, the Chair would note that there is unanimous neighborhood support.

That the relief being sought actually improves the FAR non-conformance from what exists now.

And that the structure will generally be enhanced by the relief being sought.

On the basis of these findings, the Chair moves that we grant a Variance on the condition that the work proceed in accordance with the plans submitted by the Petitioner, which I will initial. Let me just interject, these are the final plans, right? These are the ones you showed us?

JOHN LaFRENIERE: Yeah.

CONSTANTINE ALEXANDER: Because if you don't follow these, you're going to have to come back before us. Sometimes the architects don't realize that. I know you do.

JOHN LaFRENIERE: Yes.

CONSTANTINE ALEXANDER: Okay, initialed by the Chair. It's one page, two pages, three pages, four pages, five, and six. Six pages in all.

All those in favor of granting the Variance I have proposed say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

ANN SNYDER: Thank you so much.

CONSTANTINE ALEXANDER: We're not done yet.

JOHN LaFRENIERE: That's the Variance.

CONSTANTINE ALEXANDER: Now we need the Special Permit, and the Special Permit is necessary because they're altering windows in a setback, a non-conforming setback. And so that under our Ordinance that requires a Zoning relief Special Permit.

We have to make several findings. The first finding the Chair moves that we make these findings:

That what is being proposed, the relocation of the windows will not be substantially more detrimental to the neighborhood than the existing non-conforming use.

And further, that allowing to replace or remove or relocate the windows will not cause congestion, hazard or substantial change in established neighborhood character.

It will not affect the operation or development of adjacent uses.

It will not create nuisance or hazard to the detriment of the health, safety, and/or welfare of the occupant or the citizens of the city. And it will not impair the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of this Ordinance.

In regard to these findings, the Chair would note that the neighbors most affected by this -- any issues that are coming, the result from relocation of the windows could be privacy issues to abutters, and the abutters seems to have no problem with the relocation or concerns about invasion of their privacy.

So on the basis of these findings the Chair moves that a Special Permit be granted to the Petitioner, again, on the condition that the work proceed in accordance with the

plans identified and initialed with regard to the Variance.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: Special Permit granted.

KEVIN CASEY McAVEY: Happy building.

CONSTANTINE ALEXANDER: Don't go. You have another application we have to withdraw. You had your original one that you continued.

JOHN LaFRENIERE: That's right.

* * * * *

(9:25 p.m.)

(Sitting Members: Constantine Alexander, Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: And now that you've gotten relief, I would trust you would ask us to withdraw the other one.

The Chair moves that we accept the request for withdrawal for the prior Petition. Let me get the number. Case No. 10382.

All those in favor of withdrawing that case say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Granted.

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

CONSTANTINE ALEXANDER: Withdrawn. You still have your Variance.

ANN SNYDER: Thank you so much.

JOHN LaFRENIERE: Thank you.

(9:25 p.m.)

(Sitting Members: Constantine Alexander, Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10395, 130 Spring Street.

Anyone here wishing to be heard on this matter? Name and address for the record, please.

MATTHEW ANDERTON: My name is Matthew Anderton and this is my wife Allyson Livingstone and we're at 130 Spring Street.

CONSTANTINE ALEXANDER: Okay. And you're so bold to request a Variance to construct a first floor deck at the rear of your house?

MATTHEW ANDERTON: It's huge. So, yeah, the issue is that we want to build a deck that goes right out off of the first floor which is about five and a half feet, give or take off, of the ground in the back. And my

understanding is that if it's that high, then the setback is in effect and the setback is seven and a half feet on each side, and we have a 15-foot wide lot so that equals zero feet.

So it's a row house. So the six of us are connected and we're in between two. And our two neighbors on either side both have -- one has about, I don't know, a 14-foot addition on the back. And the other one has about an eight-foot addition the back or so. So we just want to build the deck basically right in between there, about 10 feet out from the back of the house, so we're able to walk straight out on to the deck instead of stepping down, you know, a foot and a half. We also have a basement egress there now. So if we build something that's four feet high, it would be really difficult to get into the basement under the deck. So if it was five and a half feet high, we would be able to walk out underneath which would make it a lot

easier.

ALLYSON LIVINGSTONE: And we can store our trash cans there.

MATTHEW ANDERTON: And we can store our trash cans there. And that's the whole deal.

CONSTANTINE ALEXANDER: That's it.

MATTHEW ANDERTON: That's it.

CONSTANTINE ALEXANDER: Questions from members of the Board?

THOMAS SCOTT: Do your neighbors have decks?

ALLYSON LIVINGSTONE: Yes.

MATTHEW ANDERTON: Well, yeah, so they have the additions. And then one has a low deck passed the addition and another one has a --

ALLYSON LIVINGSTONE: A deck off the addition.

MATTHEW ANDERTON: Yeah. A three-foot deck maybe passed our addition.

So we have letters of support from both of our neighbors as well.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: I will read them into the record. They're all in support.

Other questions from members of the Board?

KEVIN CASEY McAVEY: Any neighbors behind you?

MATTHEW ANDERTON: We do have a mid-block neighbors behind us. So our lot, our back lot is about 35 feet long and they're, they're start of their house is maybe 10 feet passed that. So 45 feet, yeah. They're hard folks to get in touch with but they're nice.

ALLYSON LIVINGSTONE: They seem nice, but they don't talk much.

CONSTANTINE ALEXANDER: They didn't oppose it.

MATTHEW ANDERTON: Right, they didn't oppose it. We're lucky, we like all of our neighbors.

DOUGLAS MYERS: You said that they know about it. How do you know that they know about it?

MATTHEW ANDERTON: Oh, just with chatting with them. I asked our two abutters for letters of support. I didn't ask our rear neighbor.

CONSTANTINE ALEXANDER: Plus they would get notice anyway.

MATTHEW ANDERTON: Oh, they certainly got notice, sure, but just with talking with them. And they're like oh, that's nice. Like, okay.

CONSTANTINE ALEXANDER: Further questions?

I'll open the matter to public testimony. Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard. There are letters in our file, which I will read into the record.

There's a letter from City Councillor Timothy J. Toomey, Jr. (Reading) I am writing in support of case No. 10395, an application by Matthew Anderton and Allyson Livingstone of 133 Spring Street to construct a first floor deck on the rear of their house. A deck would improve the owner's access to and enjoyment of outdoor space which can be scarce in East Cambridge. I hope the Board finds favor with this application by the owners to improve their home.

There are also letters -- here we go again.

MATTHEW ANDERTON: Last page.

CONSTANTINE ALEXANDER: I think you're right. They're in the back. There's

at least one letter here.

MATTHEW ANDERTON: It's the same letter.

CONSTANTINE ALEXANDER: Same letter everybody wrote?

MATTHEW ANDERTON: Yeah.

CONSTANTINE ALEXANDER: Okay. I'll read the letter and then I'll say who has written it.

As the owner of and -- I'll fill in the blank in a second -- (Reading) We have been made aware of Mr. Anderton's proposed deck. We have also inspected the plans and have no objection to the construction. We welcome the improvement that Mr. Anderton would like to make on his property. And this letter is signed by the occupants of 130 Spring Street. No, the proposed deck is 130. The occupants of 132 Spring Street, and the signatories are Amy, A-m-y Hayward, H-a-y-w-a-r-d and Peter Sanichara, S-a-n-i-c-h-a-r-a.

There's also a letter from the person at 128 Spring Street, same letter. Mary Pacheco-Daniluik, D-a-n-i-l-u-i-k. Another letter from Ann Hayward and Peter Sanichara. Maybe they thought if you say it twice -- and another letter from Mary Pacheco. And I think that's it. More from the same people. And that's it.

Okay. I'm going to close public testimony.

Anything further you want to add to what you've already said?

MATTHEW ANDERTON: I don't think so. Pretty cut and dry I think.

CONSTANTINE ALEXANDER: I think you're right. I'll completely close public testimony.

Commentary from members of the Board or are we ready for a vote? Ready for a vote. Okay. I've been told we're ready for a vote.

Okay, the Chair -- we're talking about

a Variance to construct a square deck. The Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being is that they would unable to better use and utilize their rear yard.

That the hardship is owing to circumstances relating to the shape of the lot. This is a row house, and a long and narrow lot. And as the Petitioner has advised us, given the setback requirements of that, of that district. They would not be able to build anything in the rear yard without intruding on the side yard setbacks. In fact, the reason for the relief being sought tonight is setback relief and nothing else. Not an issue of FAR. Let me make sure that's right. Yes, just setback issues.

And that relief may be granted without

substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of this Ordinance.

The relief is modest in character.

It affects only -- it's not visible from the street given the row house nature of the property.

That the people who would be affected by the deck are in support of the Petition. And that in generally as City Councillor Toomey has pointed out, it does create a -- better able to use scarce open space in your area of the city.

So on the basis of the foregoing the Chair moves that a Variance be granted on the condition that the work proceed in accordance with the plans submitted by the Petitioner and initialed by the Chair. The pages are one, two, three, four, and that's it. Four pages.

All those in favor of granting the

Variance on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

* * * * *

(9:35 p.m.)

(Sitting Members: Constantine Alexander,

Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: The Chair will call 42 Sacramento Street, case No. 10396. Anyone here wishing to be heard on this matter?

You're here seeking a Special Permit because you wanted to relocate two existing double hung windows?

SHIRIN PHILIPP: That's correct.

I'm Shirin Philipp. I own 42 Sacramento Street with my husband John Higgins. We've lived there for just over nine years. We've lived in Cambridge for almost 15 and 16 years. I'm here with my architect Steve Hart.

CONSTANTINE ALEXANDER: Why? I'm curious, why are you proposing to relocate the windows?

STEVE HART: The windows currently look directly at the abutting neighbor's

house and by moving them to the south there's a chance for light and some view instead of a clapboard wall.

CONSTANTINE ALEXANDER: And improving privacy issues I presume as well?

STEVE HART: The neighbor doesn't have windows on their wall.

CONSTANTINE ALEXANDER: Okay. So there's no privacy issues. Just light and aesthetics?

STEVE HART: Aesthetics, yes.

DOUGLAS MYERS: Just out of curiosity, why did you choose to remove and replace? In other words, why did you not just choose to add additional windows?

SHIRIN PHILIPP: We really don't use the window much because it does look right out at our neighbor's wall. So it's -- we use it in the summertime when we want more circulation, but most of the time the shade is drawn. And without it it would bring some

symmetry, also, and it would give us some wall space that we lose by having an additional window.

CONSTANTINE ALEXANDER: The new windows, what would they look out at?

SHIRIN PHILIPP: The backyard.

CONSTANTINE ALEXANDER: The backyard of the neighbor?

So I guess to that extent you are theoretically raising privacy issues with your neighbor. But they -- have you spoke with that neighbor?

SHIRIN PHILIPP: We have.

CONSTANTINE ALEXANDER: I know we have letters that we're going to read. Is one of those letters from the neighbor?

SHIRIN PHILIPP: It is.

CONSTANTINE ALEXANDER: We have that, thank you.

STEVE HART: The rest of the answer is that the -- we're not getting too far into

it, an unprotected opening that close to an abutter's house is a safety issue. And by eliminating those windows and moving the new windows to beyond the corner of the neighbor's house, less chance of -- without getting into the specifics of the code, less chance of fire jumping from one house to another if there's no window there. It's difficult -- I don't believe we'd be allowed to add new windows where the old ones are. Obviously we can leave them alone.

DOUGLAS MYERS: Okay, thank you.

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

(No Response.)

CONSTANTINE ALEXANDER: I'll open this matter to public testimony. Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there's no one is wishing to be

heard. We have in our files letters from interested parties, which I will read into the record.

There is a letter from Kristin, K-r-i-s-t-i-n Semmelmeier, S-e-m-m-e-l-m-e-y-e-r. (Reading) I own and live at the house at 40 Sacramento Street adjacent to Shirin Philipp and John Higgins at 42 Sacramento Street. I understand they have requested permission to move two existing windows on the western wall of their house closest to mine from their existing locations, towards the southern edge of their house. I have no objection to their request.

And this is the one that could have a privacy issue and doesn't have a problem. Just more copies of the same letter I guess. That's the only letter? I guess so. I guess so. Okay. So the one letter in support from the person most interested in the -- should be most interested in the case.

Anything further you want to add?

STEVE HART: Nothing.

CONSTANTINE ALEXANDER: I'm going to close public testimony, all testimony. Discussion among the Board or do you want to go to a vote?

THOMAS SCOTT: I'm good with it.

CONSTANTINE ALEXANDER: It's not a difficult case.

Okay, so the Chair moves that the Petitioner be -- well, the Chair moves that this Board make the following findings with respect to the Special Permit requested by the Petitioner:

That the relocation of these windows will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely affected by the nature of the

proposed use.

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

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

These findings will be made on the basis that the work being sought is rather modest in nature.

That the person's most affected; namely, the neighbor at 40 Sacramento Street is not in opposition. Supports the petition. And that otherwise the impact on the city is very minor to say the least.

But the Special Permit would be granted on the condition that the work proceed in accordance with the plan -- more than one?

No. A plan submitted by the Petitioner.
This is the one?

STEVE HART: Dated 11, January 2013.

CONSTANTINE ALEXANDER: Let's see.
Yes, January 11, 2013.

And just for accuracy, I'll initial
that plan.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

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

* * * * *

(9:40 p.m.)

(Sitting Members: Constantine Alexander,

Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10397, 9-11 King Street. Anyone here wishing to be heard on this matter?

As you now know by heart, name and address for the record, please.

TRUMBULL BARRETT: My first name is Trumbull and my last name's Barrett. And my wife Lia Monahon.

LIA MONAHON: Good evening.

TRUMBULL BARRETT: And we live at 9-11 King Street, unit 2.

CONSTANTINE ALEXANDER: And you want to build two dormers?

TRUMBULL BARRETT: We do, that's correct.

CONSTANTINE ALEXANDER: And you submitted the plans to us. And the reason for the dormers, additional space?

TRUMBULL BARRETT: Yes.

CONSTANTINE ALEXANDER: That's your hardship, your hardship is you don't have adequate space for your growing family?

TRUMBULL BARRETT: There you go. You quoted what I wrote. There you go. That's what I said.

CONSTANTINE ALEXANDER: Speaking of what you wrote, actually, I did notice the question I would have asked anyway --

TRUMBULL BARRETT: Yeah.

CONSTANTINE ALEXANDER: -- is -- let me find it. You make reference to a letter that's attached from your -- the owner of the condo next to you, who says he has no objections.

TRUMBULL BARRETT: Right.

CONSTANTINE ALEXANDER: So we have also attached a letter from the unit stating no objections. The letter is not here. Do you have a copy of that by any chance?

TRUMBULL BARRETT: Oh, I do. Yes, I have it right here. Sorry about that.

CONSTANTINE ALEXANDER: No problem. It's, by the way, very important that you got that letter, because otherwise you could have a problem down the road legally because you need the approval. The two of you are the condo association?

TRUMBULL BARRETT: Yeah, that's the whole association. Yeah, and Sean was very clear we needed that letter.

CONSTANTINE ALEXANDER: Good. I want to give you a gold star. Your plans comply 100 percent with our former guidelines, and that is very unusual.

TRUMBULL BARRETT: I'll relay that to our architect.

CONSTANTINE ALEXANDER: We appreciate that, too. We usually have to hassle with usually the architect, but sometimes the owners about why you just can't

comply with the former guidelines. And we do try to enforce them. But we tend to also be lenient under certain circumstances. But we don't have to be tonight.

TRUMBULL BARRETT: No -- and we didn't need -- there was no need to really push the regulations. So we just -- there was no problem. But thank you for the gold star. That's awesome.

KEVIN CASEY McAVEY: It is a rare thing. I've never seen a gold star.

LIA MONAHON: Our 18-month old daughter will be very impressed.

TRUMBULL BARRETT: Yes, this is true.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

I'll open it to public testimony. Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Obviously there's no one here.

We do have a letter in the file from Cathleen, spelled with a C-a-t-h-l-e-e-n McCormick at 9 King Street. And Ms. McCormick says (Reading) I have reviewed the plans and elevations of the addition of two dormers of the third floor of 9-11 King Street adding approximately 106 square feet of living space. I have no objection to this.

And I should state for the record that the reason you need a Variance is your FAR. You are now at 0.864 in a 0.5 district and you're adding about 106 square feet so you'll go to 0.907. Almost twice of what's permitted in the district, but not unusually -- an unusual departure based on our cases we've heard in the past. And as you've identified, a substantial reason for

the need for that 106 square feet.

And that's it. That's the sum and substance of public testimony.

Anything else you want to add at this point?

TRUMBULL BARRETT: I don't think so.

CONSTANTINE ALEXANDER: Okay.

Commentary from members of the Board?

KEVIN CASEY McAVEY: I think that accommodating your hardship is also really important for Cambridge, and I really want to thank you for choosing to grow your family here. I think we need more young families and housing accommodations that accommodate young families.

CONSTANTINE ALEXANDER: Well said. I will endorse that as well.

LIA MONAHON: We didn't want to move meaning we didn't want to leave Cambridge. Thank you. We're very happy. We hope to be able to stay.

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

The chair moves that we make the following findings with respect to the variance being sought.

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that you will be deprived of the additional space you will need for your growing family, which in turn is necessary to allow you to stay in Cambridge.

That the hardship is owing to circumstances relating to the shape or the structure. It's a non-conforming structure, and therefore any modification to the structure 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 no neighborhood opposition.

That the proposed relief involved dormers that comply 100 percent with our dormer guidelines, and that it also has the beneficial impact on the City of Cambridge and that allows young couples like yourself to stay in the city rather than to have to move out.

So on the basis of the foregoing the Chair moves that a Variance be granted on the condition that the work proceed in accordance with the plans submitted by the Petitioner, prepared by Thea, T-h-e-a, Massouh, M-a-s-s-o-u-h Architect. The plans are dated January 14, 2013, and the first page of which has been initialed by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. Variance granted. Good luck.

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

* * * * *

(9:45 p.m.)

(Sitting Members: Constantine Alexander,

Thomas Scott, Douglas Myers, Janet Green,
Kevin C. McAvey.)

CONSTANTINE ALEXANDER: Okay,
what's your pleasure?

MAGGIE BOOZ: We'd like to continue.

CONSTANTINE ALEXANDER: To April
25th?

MAGGIE BOOZ: April 25th, yes.

CONSTANTINE ALEXANDER: And all
Board members think they can be here God
willing.

MAGGIE BOOZ: Yes, God willing.

CONSTANTINE ALEXANDER: I will move
that this case be continued as a case heard,
so the five of us have to be here, until seven
p.m. on April 25th on the condition that the
sign be modified to change the new date and
the new time. That if you do that, we can
hear you at seven o'clock, you don't have to
stay. You have to change the time.

MAGGIE BOOZ: Okay.

CONSTANTINE ALEXANDER: And you've signed a waiver of time for a decision and I think that's it.

Any new plans, just for the record, any new plans must be in our files no later than five p.m. on the Monday before April 25th. If you don't do that, we will not continue -- we'll continue the case further.

KEVIN CASEY McAVEY: And there was interest in other things, right, minutes from Historical?

MAGGIE BOOZ: Minutes from Historical.

CONSTANTINE ALEXANDER: We don't need that. You're right, but it's a good point. Anything -- any additional submissions should be in the file by that time as well.

MAGGIE BOOZ: Okay.

CONSTANTINE ALEXANDER: Thank you.
All those in favor of continuing the

case?

DOUGLAS MYERS: I have not changed my mind necessarily.

MAGGIE BOOZ: Sorry.

DOUGLAS MYERS: That's okay. I did say it, but I've changed my mind.

CONSTANTINE ALEXANDER: Yes, and also in light of what you heard, any further information you can give about the demolition, I'm sorry, the structural repair alternative would be helpful I think to this Board.

MAGGIE BOOZ: Sure. Okay.

CONSTANTINE ALEXANDER: But I think we should focus, again, speaking just for myself about the size of the structure.

MAGGIE BOOZ: Okay.

CONSTANTINE ALEXANDER: All those in favor of continuing the case on that basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. We'll see you in April.

MAGGIE BOOZ: Thank you very much.
(Alexander, Scott, Myers, Green, McAvey.)

* * * * *

(9:45 p.m.)

(Sitting Members: Constantine Alexander,

Thomas Scott, Douglas Myers, Janet Green, Kevin C. McAvey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10398, 274-280 Brookline Street. Is there anyone here wishing to be heard on this matter?

(No Response.)

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

The Chair would also report that there is a letter in our file from the Petitioner AT&T and it reads as follows: (Reading) AT&T requests that the hearing for the case 10398 be continued so we can meet with the Planning Board on March 5th and receive their formal comments regarding the photo simulations. This letter and the attached sign waiver is our formal request for a continuance.

I would just point out to the Board that the issue at hand here is that as you all know, we hear from the Planning Board on a regular

basis on these telecom cases. And with respect to this case, the Planning Board refused to consider the case because they thought the photo simulations that were submitted were inadequate. And new simulations have been submitted but the Planning Board has yet to meet to consider that. So I advised the Petitioner that we don't like to decide these cases until we hear from the Planning Board and that's the reason for the continuance.

So what date?

SEAN O'GRADY: 3/28.

CONSTANTINE ALEXANDER: That's what we talked about, March 28th. And do we have a waiver of notice from them?

SEAN O'GRADY: Yes, it came in at the last minute.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued until seven p.m. to March 28th on

the condition that the Petitioner modify the sign to reflect the new date and the new time, seven p.m.

And that the modified sign be maintained in accordance with the requirements of our Zoning Ordinance.

The Chair would note that this is a case not heard and that we have received a sign waiver of the time for a decision.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

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

When the Errata Sheet has been completed and signed, a copy thereof should be delivered to each party of record and the **ORIGINAL** delivered to Inspectional Services Department, to whom the original transcript was delivered.

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ATTACH TO ZONING BOARD OF APPEALS

DATE: 02/28/13

REP: CAZ

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

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
 BRISTOL, SS.**

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

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of

this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of March 2013.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
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My Commission Expires:
April 23, 2015

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