

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MARCH 26, 2015

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Constantine Alexander, Chair  
Brendan Sullivan, Member  
Thomas Scott, Member  
Douglas Myers, Associate Member  
Slater W. Anderson, Associate Member

Sean O'Grady, Zoning Specialist

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(7:30 p.m.)

(Sitting Members Case #BZA-006009-2015: Constantine Alexander, Brendan Sullivan, Thomas Scott, Douglas Myers, Slater Anderson.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our custom, we will start with our continued cases from prior hearings.

The first case I'm going to call is case No. 006009, 30 Brattle Street.

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

(No Response.)

CONSTANTINE ALEXANDER: There appears to be no one here wishing to be heard.

The Chair would report that we are in receipt of a letter from James Grey Wagner, counsel for the petitioner.

(Reading) Please accept this letter as the

formal request of the applicant to continue for a third time the hearing of this matter. We request that the matter be rescheduled from March 26th to April 30th. You already should have our waiver of the deadline for action on the Variance should the hearing need to proceed.

The Chair moves that we continue this case until seven p.m. on April 30th, this being a case not heard. And there is a waiver, as the petitioner points out, of time for decision in our file.

On the conditions that:

One, that the posting sign be modified one more time to reflect the new date, April 30th, and the new time, seven p.m.

And further to the extent that the plans or dimensional form submitted

previously by the petitioner are going to change, those changes must be in our file no later than five p.m. on the Monday before April 30th.

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

(Aye.)

CONSTANTINE ALEXANDER: Case continued.

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

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(7:30 p.m.)

(Sitting Members Case #BZA-006518-2015:  
Constantine Alexander, Brendan Sullivan,

Thomas Scott, Douglas Myers, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will next call case No. 006158, 10 Canal Park.

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

(No Response.)

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

The Chair would report that we are in receipt of a letter from Anne, A-n-n-e K. Reynolds of the firm Prince, Lobel who represents the petitioner. (Reading) By this letter, the applicant respectfully requests the Board to continue the public hearing for the above-referenced matter scheduled for Thursday, March 26, 2015, at seven p.m. to its public hearing scheduled

for Thursday, April 30, 2015. The applicant is requesting a continuance in order to allow the applicant time to evaluate the feasibility of the design changes requested by the Board.

Based on this request we understand that the applicant's representative need not need to appear at tonight's hearing. Which is correct.

The Chair moves that this case be continued as a case not heard until seven p.m. on April 30th. A waiver of time for a decision already being in our files.

On the conditions that:

That the petitioner modify the posting sign to reflect the new date, April 30th, and the new time, seven p.m.

And, further, that to the extent that the petitioner is planning to modify

the photo simulations, plans, or dimensional form submitted with the original application, that these modified items must be in our files no later than five p.m. on the Monday before April 30th.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

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(7:35 p.m.)

(Sitting Members Case #BZA-006097-2015:

Constantine Alexander, Brendan Sullivan, Thomas Scott, Douglas Myers, Slater W. Anderson.)

CONSTANTINE ALEXANDER: Okay, we'll turn to our regular agenda now.

The Chair will call case No. 006097, 562 Franklin Street.

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

ATTORNEY EDWARD GOTTLIEB: I would.

CONSTANTINE ALEXANDER: Please come forward and give your name and address to the stenographer, please.

ATTORNEY EDWARD GOTTLIEB: My name is Edward Gottlieb, G-o-t-t-l-i-e-b. My office address is 309 Washington Street in Brighton Center, 02135.

CONSTANTINE ALEXANDER: Please sit

down.

ATTORNEY EDWARD GOTTLIEB: Thank you.

Gentlemen, we request a matter for hearing tonight be continued to April 30th to give us an opportunity to do some revisions to our plans, to submit a supporting statement for the Variance, and to take care of some dimensional issues which have arisen. And we include your conditions of such a continuance and we will make sure that this board sign is appropriately --

CONSTANTINE ALEXANDER: Better be otherwise you're going to be in trouble.

ATTORNEY EDWARD GOTTLIEB: -- to reflect the April 30th, seven p.m. hearing date.

CONSTANTINE ALEXANDER: And you

have to have that sign posted, the modified sign two weeks before.

ATTORNEY EDWARD GOTTLIEB: I understand. We're just going to let it hang if you will.

CONSTANTINE ALEXANDER: That's okay. Just get the magic marker out and change the date and time.

Do we have room on April 30th?

SEAN O'GRADY: We don't. There is a more important issue which is the advertisement is for one stair, the plan has multiple stairs. I'm not sure what the latest plan is. But there's also an addition to the building that's not advertised, and so there needs to be a whole new filing.

CONSTANTINE ALEXANDER: Did you hear that?

ATTORNEY EDWARD GOTTLIEB: I do.

CONSTANTINE ALEXANDER: You need new advertising, new filing fee.

Can we get it done, if they get their paperwork in and done by April 30th?

SEAN O'GRADY: I don't believe that that hearing will be April 30th. I don't know, but I would say May 14th would be a better time for the continuance.

ATTORNEY EDWARD GOTTLIEB: May 14th would be fine, Mr. Chairman.

CONSTANTINE ALEXANDER: Okay. So you have to file a new application. We will continue -- what we'll do is -- what we typically do is continue this case until after your May 14th hearing just to preserve your rights with respect to what you've filed already. We don't want to cause legal problems to yourself. So

we'll continue the case tonight until May 14th, but what you'll have to do is -- in order to hear this case. But you'll have to file a new application, new advertisement and the like.

So, the Chair moves that we continue this case as a case not heard until seven p.m. on May 14th on the conditions that:

Petitioner sign a waiver for time of decision. Mr. O'Grady can provide that for you.

ATTORNEY EDWARD GOTTLIEB: I believe one has been filed already.

CONSTANTINE ALEXANDER: Fine.

On the further condition that the posting sign be modified to reflect the new date, May 14th, the new time, seven p.m.

And that the sign be maintained for

the 14 days required under our Ordinance.

And lastly, to the extent that this case goes forward, any new plans and supporting statements that you would file must be in our files no later than the Monday -- five p.m. on the Monday before May 14th.

But, again, I would expect that we're going to be continuing the plans and stuff for the new case in which case this becomes academic. But that's the way it works.

ATTORNEY EDWARD GOTTLIEB: That's fine, Mr. Chairman.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. See you in May.

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

\* \* \* \* \*

(7:45 p.m.)

(Sitting Members Case #BZA-006156-2015:  
Constantine Alexander, Brendan Sullivan,  
Thomas Scott, Douglas Myers, Slater W.  
Anderson.)

CONSTANTINE ALEXANDER: The Chair  
will now call case No. 006156, 121 Raymond  
Street.

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

Give your name and address to the  
stenographer. We're keeping a  
stenographic record.

HEATHER WEISS: I'm Heather Weiss,  
W-e-i-s-s. Address is 155 Brookline

Street.

So am I presenting to you or have you already -- do you know what --

CONSTANTINE ALEXANDER: You can assume that we've read the file. You have to make your case. You have to present to us.

HEATHER WEISS: Okay, so we are hoping to widen an existing window. This is on the side elevation of the house.

This is the existing elevation and the proposed.

So we're simply hoping to add 18 inches in the width of this window. This is at a new kitchen. The kitchen is now renovated. We had to enlarge the kitchen a bit and add a large sink. And so there was a small sink centered under a small window, and now we have this large sink,

and we'd like to put a larger window over that sink so it looks better and gets more light in the kitchen.

So, that's what we're asking for because this wall is about five feet away from the property line.

CONSTANTINE ALEXANDER: Have you talked -- or has your client talked to the neighbors?

HEATHER WEISS: They have. All three neighbors who live next-door in the adjacent three-story house here, which is really the only place that can see this wall. They've all signed this letter which I think is in the file.

CONSTANTINE ALEXANDER: Yes, it is.

HEATHER WEISS: Saying they have no issue or concerns.

CONSTANTINE ALEXANDER: Okay.

Pretty straightforward.

Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I will open the matter up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: There appears to be no one wishing to be heard.

As the petitioner's representative points out we do have written communication from neighbors. If I can find it, I'll read it into the record.

Yes. We have a letter as states: As the neighbors and adjacent property owners to 121 Raymond Street, we support the proposed expansion of the lower

front -- the lower floor kitchen window by 18 inches. And this letter is signed by Danielle Kennedy, owner of 123 Raymond Street; Lesley and David Bliss, the owners of 127 Raymond Street; and Ann Densmore, D-e-n-s-m-o-r-e, owner of 125 Raymond Street.

So that's all she wrote.

Now, what we do when we grant relief is we tie it to the plans. And I take it the plans you just showed us is the one A3.5 that's in our files?

HEATHER WEISS: Uh-huh.

CONSTANTINE ALEXANDER: Just because you haven't been here before us before, if you decide to modify these plans, you'll have to come back before us. These are your final plans from your perspective?

HEATHER WEISS: Yeah.

CONSTANTINE ALEXANDER: Okay.

Comments or ready for a vote?

THOMAS SCOTT: Ready.

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

The Chair moves that this Board make the following findings:

That a literal -- no, this is a Special Permit case. Excuse me.

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

That the continued operation of or the development of adjacent uses will not be adversely affected by the nature of the proposed use. In this regard the Chair

would cite the letters from the affected neighbors that effect. That there would be no adverse affect and they are in support.

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

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

In regard to all of this, the Chair would note that the relief being sought is very modest in nature. It has no real impact on the city itself. And is in part and parcel of a project to include the habitability of the structure itself,

specifically the kitchen area.

So on the basis of all of these findings, the Chair moves that we grant the Special Permit requested on the condition that the work proceed in accordance with the plan prepared by Heather Weiss. It's numbered A3.5 and has been initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Good luck.  
Done.

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

\* \* \* \* \*

(8:00 p.m.)

(Sitting Members Case #BZA-006167-2015:  
Constantine Alexander, Brendan Sullivan,  
Thomas Scott, Douglas Myers, Slater W.  
Anderson.)

CONSTANTINE ALEXANDER: The Chair  
will next call case No. 006167, 179

Lexington Avenue.

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

Good evening. Yes, bring a chair up.

And as you should have gathered by now give your name and address to the stenographer for the stenographic record of the hearing.

OWEN TAYLOR: I'm Owen Taylor, owner of the property along with my wife.

MARINA ZHURAKHINSKAYA: Marina Zhrakhinskaya.

OWEN TAYLOR: And our architect is here.

LYNN HOPKINS: And I'm Lynn Hopkins and I'm the architect.

CONSTANTINE ALEXANDER: The floor is yours.

OWEN TAYLOR: Okay. So we bought the house about two-and-a-half years ago. And we moved in and we decided we wanted to do some improvements to make a layout, have a more spacious dining room and kitchen. And once we were looking at that we said, okay, working within the ten percent because this house is non-conforming, it's too close to one of the property lines, wasn't really feasible because the dormer has been already built and taking up the space. Okay, we said let's go for a Special Permit and add a little more space. And we came up with the current plan here which has a couple of things.

It has a very small vestibule in the front to make it more weatherproof.

There's a two-story addition on the

back which has room for the expanded dining room and kitchen, and also one bedroom is located above there. And moving the bedroom out there allows us to do some other improvements to the layout of the second floor of the house.

What I'd like to bring to the attention of the Board, I realized when we were viewing documents in preparation for the meeting, was that we didn't specifically call out in there that we will be moving -- we were proposing on moving some of the windows on the non-conforming face of the building.

So there's, there are interior changes as well as the addition.

CONSTANTINE ALEXANDER: Excuse me. Sean, they didn't advertise for relocation of windows?

SEAN O'GRADY: Are the windows in the addition or the windows in the old house?

OWEN TAYLOR: The windows are in the old house.

SLATER ANDERSON: In the setback on the side?

OWEN TAYLOR: Yes, they're in the setback on the side.

SEAN O'GRADY: I mean all I can say in their defense is they are advertised for 8.22.C.

CONSTANTINE ALEXANDER: That's interesting. The one letter we have, too, reflects windows from the neighbors.

OWEN TAYLOR: Yeah. Once I realized that there was this problem and finished the application, I asked the neighbor if they would be mind writing a

letter to say that the, that they had no changes. Because there's really only one neighbor that has view of the windows and that's the neighbor that is there.

CONSTANTINE ALEXANDER: We're not here to be difficult.

OWEN TAYLOR: I know.

CONSTANTINE ALEXANDER: What I have to point out is that if we go forward tonight, and I'm prepared to go forward, even though the advertising is questionable, you have to appreciate that if, you know, it could happen, but if a neighbor or someone wants to challenge the relief, they could -- you may be vulnerable because you didn't give adequate advertisement. Which means you have to come back to us somewhere down the line.

OWEN TAYLOR: Okay.

CONSTANTINE ALEXANDER: If you want to go forward tonight anyway knowing that risk, that's your call.

OWEN TAYLOR: Yeah, I think we'll accept that risk.

CONSTANTINE ALEXANDER: Okay. I just want to make sure you understand. Reading your rights is what it comes down to.

OWEN TAYLOR: Yeah.

CONSTANTINE ALEXANDER: Okay, so keep going back.

So you're building inside these windows on the conforming wall -- non-conforming wall. You're basically building a conforming addition to a non-conforming structure.

OWEN TAYLOR: Yes.

CONSTANTINE ALEXANDER: And the only issues in terms of non-conformance are setbacks on one side.

OWEN TAYLOR: Yes. Five feet.

CONSTANTINE ALEXANDER: Okay.

And the purpose of the addition is to give yourself additional living space which I see you must need.

MARINA ZHURAKHINSKAYA: Yes.

CONSTANTINE ALEXANDER: Okay.

Any questions from members of the Board?

SLATER ANDERSON: Can I just see the plans?

CONSTANTINE ALEXANDER: Sure. When Tom's done, I'll send them to you.

THOMAS SCOTT: I don't see a site plan. Which side of the building is in --

CONSTANTINE ALEXANDER: It's in

there somewhere. They're hard to find.

THOMAS SCOTT: Is it in here? All right.

LYNN HOPKINS: Here's one of them.

OWEN TAYLOR: Here's a site plan.

I don't know if -- I submitted it at the end.

THOMAS SCOTT: Here it is.

MARINA ZHURAKINSKAYA: It was in that copy, too.

CONSTANTINE ALEXANDER: I saw it.

MARINA ZHURAKINSKAYA: So just before the street layout it seemed.

DOUGLAS MYERS: The window of which you spoke earlier, can you put your finger as to where it's located? I'm giving you site plan now.

OWEN TAYLOR: They're on this side. So basically there's actually a

number of windows which are moved but not very much. It's -- so, but, yeah.

LYNN HOPKINS: You can see on this elevation, on A4, the original windows are dashed in and then the new windows are drawn in the darker ink and the lighter ones are the existing to remain.

DOUGLAS MYERS: So how many new windows will there be?

OWEN TAYLOR: One new window in the top row of windows there originally were three space windows and now there are four.

SLATER ANDERSON: Four up there. The door's becoming a window?

OWEN TAYLOR: The door's becoming a window. We're moving the stairs in the setback. Removing stairs in the setback.

LYNN HOPKINS: These are the

demolition drawings. You can see three windows at the top and now there's going to be four here and then those were shifted over side. And there was a stair that was encroaching even more on the side that's set back and that's being removed and the door's being eliminated.

CONSTANTINE ALEXANDER: I saw that.

LYNN HOPKINS: So that side is becoming less non-conforming with the removal of the stair.

CONSTANTINE ALEXANDER: While we're looking at those, is there anyone here wishing to be heard in this matter?

(No Response.)

CONSTANTINE ALEXANDER: There's no one wishing to be heard.

LYNN HOPKINS: And there are the

windows that are along that wall, that's the one that encroaches on the side yard setback.

CONSTANTINE ALEXANDER: It's long, narrow.

MARINA ZHURAKHINSKAYA: The letter is from the owner of this property.

CONSTANTINE ALEXANDER: I have the letter and I'm going to read it into the record at the appropriate time.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: Questions?

SLATER ANDERSON: You can go ahead.

CONSTANTINE ALEXANDER: Okay, well there's no one wishing to be heard.

We are in receipt of a letter from Ralph E. Dunphy, D-u-n-p-h-y. (Reading) I am writing to notify you that I, Ralph E.

Dunphy, owner of the property at 434-436 Huron Avenue have reviewed the proposed window locations and the construction plans of the Taylor/Zhurakhinskaya property at 179 Lexington Avenue. I have no objections to the proposed construction as it may impact my property. Please feel free to contact me if you have any questions.

And that's the sum and substance of our public comments.

I will close public testimony.

Anything further you want to add at this point? It's your last chance if you have anything to add.

OWEN TAYLOR: I don't think so. We believe this is a pretty reasonable change to the neighborhood.

CONSTANTINE ALEXANDER: And,

Ma'am, you understand that when we do grant approval, we tie them to the plans that in our files. So, if there are any changes, you're going to have to come back before us. These are the final plans.

LYNN HOPKINS: Yes, these are the final ones, yes.

CONSTANTINE ALEXANDER: Okay.  
Ready for a motion? I guess so.

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

That the petitioners cannot meet the requirements of our Ordinance given that this is already a non-conforming structure.

That the traffic generated or patterns of access or egress will result from the project will not cause

congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses as permitted by the Ordinance would 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 of the proposed use or the citizens of the city.

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

In this regard the Chair would note that the relief being sought is modest in

nature. Just some setback issues.

That all of this is required by the fact that this is an existing legal non-conforming structure. And that in fact the addition that is being proposed will be a conforming addition.

So, the Chair moves that we grant the Special Permit being sought on the condition that the work proceed in accordance with plans submitted by the petitioner, prepared by Lynn Hopkins architect, and the cover page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

SLATER ANDERSON: Can you just confirm that that site plan is in the

file?

CONSTANTINE ALEXANDER: I'm using the ones that she --

SLATER ANDERSON: Okay. Because there's another -- this set I didn't have --

CONSTANTINE ALEXANDER: That's the one we couldn't find. They're in the set.

MARINA ZHURAKHINSKAYA: Okay to leave them that set?

OWEN TAYLOR: Yes.

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

(8:15 p.m.)

(Sitting Members Case #BZA-006178-2015: Constantine Alexander, Brendan Sullivan, Thomas Scott, Douglas Myers, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 006178, 2516 Mass. Ave.

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

ZAREH ORCHANIAN: I'm Zareh Orchanian, the owner of 2516 Mass. Avenue and my wife Lori and Allen Rousseau is the gentleman who wants to rent it as a salon.

So I have the store that's been used as our office for the last 30 years and Allen wants to make it a small salon.

CONSTANTINE ALEXANDER: The issue -- just to -- not to make life complicated for you. But the issue we have, why you're here tonight, is that area has been zoned residential. Maybe it wasn't, once upon it time was commercial use. And in a residential district a store like this cannot be operated without getting a Variance from us. That's why

you're here.

ZAREH ORCHANIAN: Okay.

CONSTANTINE ALEXANDER: It's called a use variance.

ZAREH ORCHANIAN: Okay.

CONSTANTINE ALEXANDER: Now I have to tell you at the outset, not to alarm you, use variances are very difficult to obtain. And they're not often granted by this Board or other boards in other communities because they're very hard to satisfy the legal standard. That, however, we have granted use variances, let me stop right there, particularly in situations where the structure involved can only be used for retail. And so there's really nothing -- we'll leave it abandoned which is not in anybody's interest, or we allow a business use that

is compatible, as best we can, with the neighborhood in general.

ZAREH ORCHANIAN: Okay.

CONSTANTINE ALEXANDER: So just address that if you will. I mean what would you say the impact be on the surrounding residential area? I know there's some business there and there's also a residence there. Talk to us; parking issues? Are there noise issues? Odor issues? You know --

ZAREH ORCHANIAN: I don't think there will be any of those issues.

CONSTANTINE ALEXANDER: Okay.

ZAREH ORCHANIAN: I mean, the number of people that will use the salon is the same number of people that use it as an accounting office when I was there, maybe even less. He has one car parking

for himself. People will come and go within a half an hour, and so I don't think that's an issue. It's a busy road. There's plenty of places to park. This place has been there for 80 years.

CONSTANTINE ALEXANDER: Yes, I understand that. Is that part of the residential --

ZAREH ORCHANIAN: It's like the building's here and then it touches.

CONSTANTINE ALEXANDER: It touches?

ZAREH ORCHANIAN: Touches.

CONSTANTINE ALEXANDER: And is it a separate lot?

ZAREH ORCHANIAN: No, no. It's one property.

CONSTANTINE ALEXANDER: One property.

ZAREH ORCHANIAN: The whole thing's one property.

CONSTANTINE ALEXANDER: Okay.

That makes it extremely more difficult to do something with that. If it were a separate lot, maybe you could tear it down and build something else. That doesn't sound feasible here. I just want to make sure we cover all the bases. I'm not trying to alarm you again.

ZAREH ORCHANIAN: No. It's a small place. It's about -- the whole place up and down is about 500 square feet. 550 square feet. So, it's -- you're not going to do anything major there. It's good for a small business. He lives in the neighborhood. He just wanted to open up his own little salon. He lives right down the street. I

think it's a great idea. He knows everybody in the neighborhood.

CONSTANTINE ALEXANDER: Speaking of the neighborhood --

ZAREH ORCHANIAN: I talked to my neighbors. I know my neighbors for a long time. I used to live there. I lived there for 20 plus years, and I don't see any issues that will affect it.

CONSTANTINE ALEXANDER: Have any neighbors expressed any concerns to you or express any issues?

ALLEN ROUSSEAU: No.

CONSTANTINE ALEXANDER: I think we have some neighbors in the audience. We'll see the same thing. We'll see.

Okay, clearly the structure is such that it's not amenable to building a two-bedroom apartment out of this. It's a

very small piece of property. And so it's been used, as you point out, commercially for many years.

ZAREH ORCHANIAN: Many years.

CONSTANTINE ALEXANDER: It's non-conforming. This is a new commercial use which is why you have to come down before us.

DOUGLAS MYERS: How many stations will you have for serving customers?

ALLEN ROUSSEAU: Three stations. I have clients that will come to me.

CONSTANTINE ALEXANDER: How many employees will you have on the property, just you?

ALLEN ROUSSEAU: Me for right now. But we'll have three stations so there's an opportunity for two other people to work in the salon.

CONSTANTINE ALEXANDER: Will you lease out the stations to people?

ALLEN ROUSSEAU: Yes. Basically more of a salon. I've been in the business for 35 years on Newbury Street. I was managing at the JC Penney Salon. They just recently closed, and I've been all over the place trying to find something of my own. This is right down the street. It's right in the neighborhood. And I have my clients. And I just want to find a home, and this is an ideal spot. And I'm really looking forward to it and my clients are looking forward to it.

CONSTANTINE ALEXANDER: And there are no other hair salons in the vicinity at all. I'm just asking the question. She's going to dispute that.

You'll have an opportunity. Anyway, thank you.

Questions from members of the Board at this point or do you want to hear public testimony? I think we're ready for public testimony.

I'm going to ask -- I'm going to ask is there anyone here wishing to be heard on this matter? You don't have to get up. You can stay there if you want as long as we can hear you. Just give your name and address for the stenographer.

CYNTHIA HUGHES: My name is Cynthia Hughes and I work about 500 feet away from him in a hair salon. I never want to stop anybody from opening a business, but I'm literally there's one house in between where he'd like to open and where we exist. We've been in the

neighborhood for 40 years. Personally not myself, but the business itself.

We've -- we were in front of the store, we moved next-door two years ago, but we have a full service salon. We do a lot of men and we also have a lot of hair -- like, full service.

It's tough. Parking is terrible. Parking is so bad as it is, we're struggling with parking, but you know, it's also competition for us. And it's not a lob in the rule of thumb, you don't open a barber shop or a hair salon on the same block. You just don't. I mean, you bring your own clientele, yes. But it's a tough situation to, you know, it can be anything. Parking's the number one 1 issue. And competition, you know, and -- I mean we are literally, I could

throw a rock at his building. And I have to come here because I have a future, I have a son, I have to feed my family.

CONSTANTINE ALEXANDER: And I have to point out to you that from a Zoning point of view, which is what we're doing here tonight --

CYNTHIA HUGHES: Right.

CONSTANTINE ALEXANDER: -- the fact that he's going to be competition to you is irrelevant.

CYNTHIA HUGHES: Of course. And our -- we've been there forever. We've been there for a long time. It doesn't change when we move from 20 feet away to another. But that's a huge thing. That's -- parking is a big issue in our neighborhood. Residential.

CONSTANTINE ALEXANDER: Do

people -- do many people drive to your salon?

CYNTHIA HUGHES: Everybody does. Most people do. A lot of people do. And that's a huge thing for us. And it's -- I don't want to impact it anymore. I'm the manager, I've worked there for a long time. And it's gonna be a hit on us because we have -- we do the same thing that the new salon would do. And I mean, I don't want to discourage anybody from becoming something more. It just -- it's -- it's so close to us.

CONSTANTINE ALEXANDER: I'm puzzled. And it's just bad memory on my part. I can't remember another hair salon in this area. There's Fast Phil's --

CYNTHIA HUGHES: It's a salon.

FROM THE AUDIENCE: We do

everything.

CYNTHIA HUGHES: People think it's a barber shop. Fast Phil's we're a hair salon. People, they always think it's a barber shop because it's ten dollars. It's fast, people are in and out. And the hairdresser --

FROM THE AUDIENCE: And sports memorabilia --

CYNTHIA HUGHES: Haircuts there --

CONSTANTINE ALEXANDER: One at a time please.

CYNTHIA HUGHES: We're both hairstylists. We both have our hairdressing license and a barber's license. It's just, people continue to think it's a barber shop, but we do everything. The problem is, you know, it's competition.

CONSTANTINE ALEXANDER: I understand that.

CYNTHIA HUGHES: From parking --

CONSTANTINE ALEXANDER: It's not relevant to us, though, I'm sorry.

CYNTHIA HUGHES: And I understand, I really do. But, you know, parking's an issue. And it can be any business, but it's tough to open something that's the same right next-door. So that, that can impact us. But I mean, I can only fight for, you know -- I don't have a -- whatever you guys decide, but it's, you know, a little a problem for us.

CONSTANTINE ALEXANDER: One thing I find puzzling, right across the street on the same side of Mass. Ave. we had a case last month for a pet store.

CYNTHIA HUGHES: No. It's the next

door down. And --

CONSTANTINE ALEXANDER: Neighbors came to complain, not really complain, but raise questions. I don't see -- you raised your issues that are personal to you. I haven't seen any neighbors here express opposition or write a letter to us, unlike the other case, which suggested to me that there would be -- the neighborhood is accepting of this project or they're a little more skeptical of the other one, but not this one.

CYNTHIA HUGHES: Well, I have a parking spot upfront that I fought for four years for a two-hour parking spot. Parking is terrible in that neighborhood.

CONSTANTINE ALEXANDER: You've told me that.

CYNTHIA HUGHES: If a salon opens

up nearby, it's gone for a couple hours or an hour or whatever. But pet service, you drop off and pick up really quick. And parking's terrible there, too. It's literally next-door to them. There's just a little side street in between.

But before the previous businesses, there was really not a problem, but I potentially see this as a problem.

CONSTANTINE ALEXANDER: Okay, thank you very much.

CYNTHIA HUGHES: Okay.

CONSTANTINE ALEXANDER: Ma'am, do you have anything to say?

ZENAIDE LIMA: It's pretty much the same thing.

CONSTANTINE ALEXANDER: Name and -- give your name and address, please.

ZENAIDE LIMA: Zenaide Lima,

Z-e-n-a-i-d-e L-i-m-a.

CONSTANTINE ALEXANDER: I'm sorry, and your comment is? I didn't catch it.

ZENAIDE LIMA: Oh, the main issue's the parking, because we struggle with parking and especially with the inter -- and I literally didn't have a place to park and it's just really hard for parking.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard?

(No Response.)

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

Apparently we have no written correspondence one way or another from neighbors or other concerned citizens of the city. So I will close public

testimony.

Any final comments? Or you -- I think you wanted to respond to something.

ALLEN ROUSSEAU: I just want to say I've been in the business for 35 years, and I worked on Newbury Street where it was filled with salons at one point, and it wasn't so much of a competition as it enhanced us at one point. And then, of course, it becomes oversaturated. This isn't a case like that where you have two different salons, two different types of clientele. I have my clientele. I'm looking for a home for them. And that's all I'm looking for. I would not interfere with anybody else's business at all. It's just going to find my own space at this point to have a little more security, and this is the

ideal spot for it. So that's just what I'm looking for at this point.

Thank you.

CONSTANTINE ALEXANDER: Thank you.

I'm going to close public testimony at this point.

Discussion by members of the Board?  
Anybody want to express views before we go to a vote?

SLATER ANDERSON: What's the current use? What's going on inside the building now?

ZAREH ORCHANIAN: It's empty.

CONSTANTINE ALEXANDER: Before it was empty?

ZAREH ORCHANIAN: It was an office. It was a psychiatrist in there before that. I used it as my office, accounting office for tax preparation.

SLATER ANDERSON: And how long has it been empty?

ZAREH ORCHANIAN: Nine months I think. Eight months.

SLATER ANDERSON: And the psychiatrist was in there before the last -- they were the last tenant?

ZAREH ORCHANIAN: Six years.

SLATER ANDERSON: Five or six years?

ZAREH ORCHANIAN: Yeah.

THOMAS SCOTT: So have you had other people like solicit you to use that for any other uses?

ZAREH ORCHANIAN: I have -- I've had massages, which I will not put in there. I've had, I've had the pet place. There's absolutely no -- I don't want the pets in my building. Tattoos. There's a

lot of things that just didn't interest me, because I wanted to enhance the property, the location. This neighborhood is growing. I've been there -- I've owned this property now for almost 35 years, and what North Cambridge has become is shocking to me. Buildings are going up, beautiful places. The population's growing. I don't believe there's any issue with competition. I'm gonna rent this place to somebody, they're gonna need parking. They're always going to need the parking spaces. And so, I just thought that, you know, the salon, a nice salon there would really enhance the location.

THOMAS SCOTT: Are you going to make any improvements to the facade of the building or is it going to stay the same as it is?

ZAREH ORCHANIAN: It's pretty much going to say the same. He's going to put a sign up. And, you know, paint the inside and basic stuff that you do for a salon.

LORI ORCHANIAN: The footprint isn't changing at all.

THOMAS SCOTT: And it's on two levels, right?

ZAREH ORCHANIAN: Yeah.

THOMAS SCOTT: There's a basement?

ZAREH ORCHANIAN: Yeah.

CONSTANTINE ALEXANDER: The basement -- I know it's going to be used some use for the salon, but it's not going to be the primary?

ALLEN ROUSSEAU: The top floor will be used as the salon. So we'll have three stations and one shampoo area and a

sink and the waiting area for two chairs, reception desk, that's pretty simple.

THOMAS SCOTT: And now you say you have your own clientele.

ALLEN ROUSSEAU: Yes.

THOMAS SCOTT: Where are they coming from?

ALLEN ROUSSEAU: They're coming over from all over. In the area that I've been doing.

THOMAS SCOTT: Where do you work right now?

ALLEN ROUSSEAU: Mario's Salon in Davis Square. I have some that are coming from there. Some following me from Natick and JC Penney there and from all different areas. All the way from Revere. So -- but I live in the neighborhood. I could walk there which would help with my

weight issues.

CONSTANTINE ALEXANDER: We can't help you on that.

What about there have current customers who are in the neighborhood or likely to walk to your salon and not have to drive and create parking issues?

ALLEN ROUSSEAU: I do. I have some neighbors that are in the neighborhood as well.

CONSTANTINE ALEXANDER: You wouldn't figure a majority as of right now anyway, you don't expect them to be the majority of your customers?

ALLEN ROUSSEAU: Well, I think it's pretty mixed. I have some in the neighborhood locally, some that are in Davis Square, and some, you know, probably they will walk as well, too. It's pretty

close. And the only ones that I anticipate driving are the ones coming from Natick, and there's a spot in the back that they could park.

ZAREH ORCHANIAN: We have a good bus system. It stops right in front of my building.

CONSTANTINE ALEXANDER: Any other comments? Questions?

BRENDAN SULLIVAN: The only, the thing that resonates with me is that if we're going to alter what's allowed in the zone, it should probably complement the neighborhood. I think I would feel a little bit more comfortable if you went to the North Cambridge Stabilization Committee, they had a review of it as they did on the previous one, and they had commented on it. If, you know, a donut

shop, coffee shop was allowed, I think we get into this need basis type of thing and is there a saturation. I don't think there's going to be a saturation, but yet, if a donut shop is allowed and another one opens up next-door and so on and so forth, that's fine. If we're varying what's allowed in the zone, it should complement the neighborhood and yet not saturate. In other words, and again even though that's not in our criteria, a need base, but yet it has the flavor of that need base. And I know that there was an outpouring of support the last time when the barber shop went in because they were moving down, and a lot of people in the neighborhood. Richard Clary of all people came down that night, wasn't feeling well, and spoke highly of it. And I think the

stabilization committee had voted in favor of it. So that's the only thing that resonates with me. There's a little bit of a hesitation as to -- and with the pet store going in and the people complaining about that, or raising the issue of a saturation of parking. The side street has resident parking. Unfortunately what they're doing on Mass. Avenue lately, as it is throughout the city, they are taking away parking spaces wherever they can, everywhere they can. And there's a little bit of a --

CONSTANTINE ALEXANDER: Well, there is one possible compromise solution with one we used in the pet store case, and that is grant the Variance for a limited period of time and see what happens in terms of the parking impact. I

think we gave two years to the pet shop? They've got to come back before us. We can do the same tonight or some other relevant period.

I mean, you could -- are you signing a long-term lease for this property?

ALLEN ROUSSEAU: Yes.

CONSTANTINE ALEXANDER: How long?

ALLEN ROUSSEAU: Five years.

CONSTANTINE ALEXANDER: Maybe the lease -- they would have to give you an out if for some reason -- anyway, that's my thought. I don't know what other members think. We can give it two years and let's see what happens after two years and people can come back and we'll have actual experience to draw on.

THOMAS SCOTT: I have a question. Is the change of use to retail? So let's

say his business fails, does that mean a retail --

CONSTANTINE ALEXANDER: No, the new business would have to -- whatever it is --

THOMAS SCOTT: The new business would have to come back?

CONSTANTINE ALEXANDER: Yes.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: Yes. Even if it were a -- no, another hair salon could continue.

THOMAS SCOTT: Okay.

BRENDAN SULLIVAN: Well, that's the question that I had raised. And under the category of uses the barber shop, beauty shop, laundry, dry cleaning, shoe repair, self-service laundry, or other similar establishment could go in there;

is that correct? If we grant relief under 4.35.

CONSTANTINE ALEXANDER: Why would it be -- if that section applies, it should apply for tonight.

SEAN O'GRADY: I mean, you can tailor your grant to either a hair salon or any use under that section.

BRENDAN SULLIVAN: So it can be restricted?

SEAN O'GRADY: Sure. You'd have to do that as a condition, but yes, sure.

CONSTANTINE ALEXANDER: Well --

THOMAS SCOTT: Because that category is kind of a broad category.

BRENDAN SULLIVAN: Well, it's very broad, that's right.

THOMAS SCOTT: Yes.

BRENDAN SULLIVAN: And some of

those things that are unrelated.

SLATER ANDERSON: Well, it's unrelated I think, introduces potentially to the neighborhood than others.

CONSTANTINE ALEXANDER: Doug?

DOUGLAS MYERS: With respect to the pet store, there were neighbors who raised an element of controversy, not only parking, but odors and maintenance and an affect on the neighborhood. I think a broad controversy is lacking here.

As far as the impact on parking, no doubt there's a parking problem in the neighborhood, but the incremental burden that's being created by a beauty salon with three spaces, I think that kind -- three stations, I think that kind of gets lost in the general parking problem and is really not detrimental to

the city.

SLATER ANDERSON: There's one space, correct? There's one parking space?

ZAREH ORCHANIAN: Yes.

SLATER ANDERSON: So it's really two, two spaces that are needed parking wise.

CONSTANTINE ALEXANDER: What I think I'm hearing, certainly from Doug, is a feeling that we do not need to put a time frame on this. That we can make a final decision tonight, which is fine by me. I just --

DOUGLAS MYERS: I'm just one out of five, but that's the way I'm leaning, yes.

THOMAS SCOTT: But I would restrict it to the salon use.

CONSTANTINE ALEXANDER: Oh, yes, yes. I certainly would agree to that.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: Salon use for two years and then we -- they come back before us and take it from there.

Brendan, how do you feel?

LORI ORCHANIAN: He's going to have to spend money to renovate --

CONSTANTINE ALEXANDER: You'll have a chance.

Do you have any views? Or Slater?

SLATER ANDERSON: Well, I'm curious Brendan raised the stabilization committee.

Had you had any conversation with the North Cambridge Stabilization Committee at all? Or have they approached you?

CONSTANTINE ALEXANDER: Do you know who they are?

ZAREH ORCHANIAN: I don't even know who they are. I went in to the Building Department multiple times about this.

SLATER ANDERSON: No, that's fine. I'm somewhat surprised, because this is an address that would pop up --

CONSTANTINE ALEXANDER: That organization is not nearly as active as the East Cambridge Planning Team, in my experience. They sometimes get involved, but sometimes they don't.

SLATER ANDERSON: I get their e-mails. I mean, they're -- they go after bigger fish.

CONSTANTINE ALEXANDER: Yes.

SLATER ANDERSON: I mean, I think.

Unless there was neighborhood outcry, which, you know, I've seen. They've gone after little things. You know, people's --

CONSTANTINE ALEXANDER: They didn't weigh in on the pet shop. Even though there was one neighborhood expressed concerns, no, we didn't hear from them. That doesn't mean -- I don't know, what conclusion you draw from that, but I just wanted to point that out.

Brendan, you want to say something or not?

BRENDAN SULLIVAN: Just that I, I guess my thought would be -- I'd almost like to see a quieter use --

CONSTANTINE ALEXANDER: What's that?

BRENDAN SULLIVAN: A quieter --

CONSTANTINE ALEXANDER: Oh, quiet use.

BRENDAN SULLIVAN: -- use of the property, that's all. Because I think that little stretch of North Cambridge there is getting burdened somewhat. You know, and it extends all the way up to the city paint and what have you. Where today I have to ride around and ride around and ride around and couldn't even get a place until I wound up going down Brookford Street. I think it was halfway down there before I could find a place to park. And yet, you know, I have a resident sticker obviously, but it's just that it's -- everything is starting to impact, you know. That's all.

DOUGLAS MYERS: But can you -- I mean, I just raise the point, what

possible future use of this building would not impact parking? And indeed --

CONSTANTINE ALEXANDER: It's only three chairs.

DOUGLAS MYERS: There are three stations, three customers in the store and maybe one waiting, that's a very small margin of impact with compared to people saying other future unless it's -- I know a chess club or something, it's hard to -- anyway.

BRENDAN SULLIVAN: Anyway.

DOUGLAS MYERS: I think I'm in favor.

CONSTANTINE ALEXANDER: Well, all right.

DOUGLAS MYERS: But, again, I'm one of five.

CONSTANTINE ALEXANDER: I'm going

to make a motion. We have to make the motion to approve, and we'll see how the vote goes. I'm going to make the motion, unless people ask me to do otherwise, with no time frame.

So it will be restricted to a hair salon consistent with the plans that you submitted, the three chairs and the stuff in the basement.

Is that the sentiment or would you like a different motion?

SLATER ANDERSON: I mean the five year lease is five years? Part of me thinks that maybe we put five years on it.

CONSTANTINE ALEXANDER: I think we have to make sure he doesn't get thrown out and he's got a lease. I would hope that the owner would give him an out if after a five year lease, but a right to

terminate after two years should his  
Variance not be renewed.

Would you agree to do that?

ZAREH ORCHANIAN: Yeah, but why  
wouldn't I renew it?

SLATER ANDERSON: I'm saying have  
it for five years.

CONSTANTINE ALEXANDER: The  
Variance?

SLATER ANDERSON: The term of the  
lease so they sort of they're revisiting  
both --

ZAREH ORCHANIAN: So we have to  
come back here in five years?

CONSTANTINE ALEXANDER: Five  
years.

ZAREH ORCHANIAN: And do what? If  
he wants to continue?

CONSTANTINE ALEXANDER: He wants

to -- you come back and make the same case you made tonight, and say by the way, we've been there for five years and the world hasn't come to an end in North Cambridge.

ZAREH ORCHANIAN: All right.

BRENDAN SULLIVAN: I think that's way too long for me.

CONSTANTINE ALEXANDER: So do I.

SLATER ANDERSON: Okay, then.

LORI ORCHANIAN: Well, can I just say -- I mean, he's going to have to invest and renovating to make it a hair salon. So, I think two years just sounds like a short time frame.

ZAREH ORCHANIAN: I know. I never heard of this before. And the parking situation is no different than what we had before. I don't get it. I've been using

this place for 30 years.

CONSTANTINE ALEXANDER: You've had your opportunity, Ma'am.

The point is, though, that you make the choices -- if you think there's a risk that in two years you're going to get your Variance denied because there's going to be an outcry. Maybe you don't make the investment. Maybe you abandon the project. The people at the pet shop didn't seem concerned about that. That's their call.

They were very happy -- not very happy, but they were very willing to wait to have a two year look, make the investment. And I suspect they're going to make a greater investment than you're going to have to, and be confident at the end of two years there's no opposition.

That was them, not you. But I think five years is too far.

Otherwise, my suggestion would be to give the Variance, period. Or we give it -- or maybe three years, but a shorter period than five years. That would be my suggestion to my fellow Board members.

DOUGLAS MYERS: I'll say either way is fine with me.

THOMAS SCOTT: I'm not interested in the time limitation.

CONSTANTINE ALEXANDER: Okay.

SLATER ANDERSON: I'm not either.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: Go ahead and make your motion.

CONSTANTINE ALEXANDER: I'm going to make the motion, then, with no time limitation.

THOMAS SCOTT: I would say that I, you know, having another active storefront along there is positive for the neighborhood. That's my -- rather than having an abandoned storefront that looks abandoned, frankly. Having a sign there and some activity I think is always good for the neighborhood.

CONSTANTINE ALEXANDER: Before I make the motion I just want to identify the plans that have been in our file.

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

That a literal enforcement of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that this is a very small non-conforming structure in a residential

neighborhood that is really not adaptable to any use other than a -- and it's the premises that it has been used for many years for various commercial purposes.

It's not well suited at all to the residential use that's required under our Ordinance.

The hardship is owing to the shape of the structure. I mean, it's just a -- roughly 500 foot structure that's appended to a residential building.

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

In this regard the Chair would note, as we have done before, that this is a situation where you have a non-conforming

structure, a non-conforming use, a store in a residential area, and it's not the kind of thing where you can just convert the structure to residential use.

So, the Chair moves that we grant the Variance being sought to allow the operation of a hair salon, the interior configuration for which is in accordance with these two pages of plans that you submitted with your application, both of which have been initialed by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Four in favor?

BRENDAN SULLIVAN: Well, I would like to hold it as the same standard as the pet shop with a time limit. I would

pose the motion, I don't know if I abstain or vote no or whatever, but not in support of.

CONSTANTINE ALEXANDER: Abstain.

BRENDAN SULLIVAN: Abstain, because I think we should hold it to the same standard as the pet shop.

CONSTANTINE ALEXANDER: Fair enough.

Okay. Anyway, the motion has carried, four in favor and one abstention.

You're off and running. Remember, it's a hair salon that meets these plans and no time frame.

(Alexander, Scott, Myers, Anderson.)

ZAREH ORCHANIAN: Thank you.

LORI ORCHANIAN: Thank you very much.

\* \* \* \* \*

(8:45 p.m.)

(Sitting Members Case #BZA-006194-2015:  
Constantine Alexander, Brendan Sullivan,  
Thomas Scott, Douglas Myers, Slater W.  
Anderson.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 006194, 65 Ellery  
Street.

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

CAMPBELL ELLSWORTH: Good evening.

CONSTANTINE ALEXANDER: You know  
the drill.

CAMPBELL ELLSWORTH: My name is Campbell Ellsworth. I'm the architect for the project. I'm joined by my clients who can introduce themselves.

DAVID PAUL: David Paul.

ADAM SIEGEL: Adam Siegel. We're the developers.

CAMPBELL ELLSWORTH: These gentlemen are renovating a house at 65 Ellery Street. They've got -- they've got a Building Permit and now to commence the work and we're here for two Special Permits.

One is to add window openings in the north facade, which is the right-hand side of the house as you're facing it from the street. That, that facade, if you take a single plane calculation that facade would require a 12.93 foot setback and the house

has an existing 10.8 foot setback. There is a long driveway that runs down that side, and we felt that the layout of the plan would benefit from being able to have windows. Currently there are I believe no windows.

CONSTANTINE ALEXANDER: Have you spoken to the neighbors who would be most effected by these windows? The ones who would be in the non-conforming setback and have their privacy perhaps affected by the new windows?

ADAM SIEGEL: The neighbor on the right side, no, we have not spoken to them.

CAMPBELL ELLSWORTH: To the right on Ellery?

CONSTANTINE ALEXANDER: Wouldn't it have been a good idea to talk to them

to make sure they don't have a problem?

ADAM SIEGEL: I believe it's three rental units.

CONSTANTINE ALEXANDER: So. They still have an owner. The rental units have an owner.

ADAM SIEGEL: Right. They only have a couple windows that face that side themselves.

BRENDAN SULLIVAN: Probably bathroom windows.

ADAM SIEGEL: Excuse me?

BRENDAN SULLIVAN: Probably bathroom windows I think because when I went by there, that's one of the thoughts that occurred to me.

Can I see the abutters' list actually? It's in the folder.

CONSTANTINE ALEXANDER: Sure.

CAMPBELL ELLSWORTH: There's a second Special Permit we're also requesting this evening. May I describe that?

CONSTANTINE ALEXANDER: By all means.

CAMPBELL ELLSWORTH: There is a, the -- it was the owner's desire to start the project and to apply for a Building Permit that was as of right. So we, they have -- they're building an addition and a dormer which adds up to not more than ten percent which would be allowed as of right for a non-conforming, non-conforming structure. However, when we did the volume calculation of the volume that would be added for the basement space under that addition, even though we could, we could and would make it non-GFA space

by making it less than seven feet, the volume, the ten percent volume threshold was tripped. So, again, the permit application is for -- has been granted to have that addition not have a basement, but we're requesting that we be able to have that non-GFA space below it which of course will not change the look at all of the, of the structure because it's all below. It's all below.

CONSTANTINE ALEXANDER: I'm going to say again I'm distressed that you didn't think to talk to the affected property owner next-door. Everyone who comes before us with cases like this always speaks to the neighbor and hopefully gets a letter of support or at least some support. Here, I don't know what the situation is going to be.

SLATER ANDERSON: Can you clarify how, how did you go from below the ten percent to above? Because you took space out, is that -- the basement?

CAMPBELL ELLSWORTH: The choice was to add an addition -- there are two thresholds that get tripped for the non-conforming structures: One is square footage and one is volume. And even though we would be able to as of right to add non-GFA space in the basement, we were informed that that volume of space in the basement would count toward the volume and so that, it pushed it over.

SLATER ANDERSON: Okay.

THOMAS SCOTT: And what's that volume going to be used for in the basement?

CAMPBELL ELLSWORTH: Just

utilities.

ADAM SIEGEL: Mechanical space.

CAMPBELL ELLSWORTH: Mechanicals.

THOMAS SCOTT: And what's  
the -- so the ceiling height is less  
than --

DOUGLAS MYERS: Is it designated  
as such on your plan?

ADAM SIEGEL: We don't have the  
plan yet because we have not drawn for a  
permit.

DOUGLAS MYERS: But you have  
drawings of the space?

THOMAS SCOTT: It's this space?

CAMPBELL ELLSWORTH: Correct.

ADAM SIEGEL: It's mechanical  
space on the plan.

CAMPBELL ELLSWORTH: The rest of  
the basement had GFA over seven feet so

that's in the GFA and that would be non-GFA space.

THOMAS SCOTT: So less than seven feet?

CAMPBELL ELLSWORTH: Yes, correct.

And it's in fact that addition from the first floor actually steps down from the first floor into that addition, correct. Exactly. So that creating that non-GFA space we would actually be able to keep a continuous slab across the whole basement floor, and because the ceiling would naturally and realistically come down, it would eliminate it from GFA.

THOMAS SCOTT: Okay. I got it.

CONSTANTINE ALEXANDER: Other questions from other members of the Board at this point?

SLATER ANDERSON: Can I see those

plans?

CONSTANTINE ALEXANDER: Sure.

THOMAS SCOTT: So I'm troubled, too, that you don't have any support from your neighbor. It's seven windows. It's not, it's not a window, it's seven windows.

DAVID PAUL: We posted the sign on our front door, and then we did try to knock on -- but with three tenants it's kind of tough trying to get --

DOUGLAS MYERS: Tenant are people, too.

CONSTANTINE ALEXANDER: Yes. Plus, you know, you can find out who the owner is.

DAVID PAUL: Yeah.

CONSTANTINE ALEXANDER: I'm being frank, I'm not going to vote in support of

this tonight. I'm only one of five. I want to hear from the neighbors one way or another. Yes, we like it. No, we don't like it. We don't have an opinion. But I am troubled going ahead on something like this which involves privacy concerns. We're not hearing from the people whose privacy might, might be invaded.

CAMPBELL ELLSWORTH: Then I would respectfully request a continuance.

CONSTANTINE ALEXANDER: Members of the Board feel --

BRENDAN SULLIVAN: Well, I think you're right on point, exactly correct.

CAMPBELL ELLSWORTH: And let us correct that oversight. Thank you.

CONSTANTINE ALEXANDER: Okay.

I think we have to deal with this as a case heard because we got into the

merits and made a presentation.

So what's the date we can give them,  
May what?

SEAN O'GRADY: May 14th.

CONSTANTINE ALEXANDER: May 14th.

CAMPBELL ELLSWORTH: I don't know.

Would it -- will you be able to vote on  
the second Special Permit tonight?

CONSTANTINE ALEXANDER: I mean,  
the non-GFA.

SEAN O'GRADY: We can't split  
them.

CONSTANTINE ALEXANDER: It's one  
petition.

CAMPBELL ELLSWORTH: You can't  
split it?

SEAN O'GRADY: No.

CONSTANTINE ALEXANDER: No.

Can all five of us make May 14th?

SLATER ANDERSON: Let me check.

BRENDAN SULLIVAN: Is it really necessary to push it out that far?

SEAN O'GRADY: Yes, you're fully loaded until then.

BRENDAN SULLIVAN: I guess my --

CONSTANTINE ALEXANDER: Well, the thing about -- sorry to interrupt you. Some of the fully loaded are cases like Brattle Street and that case is not going to go forward.

What if we did April 30th? What do we have now for April 30th?

SEAN O'GRADY: We have Broadway and Canal and Brattle.

CONSTANTINE ALEXANDER: Broadway is going to take sometime.

Canal? And -- I think we can fit it in April.

BRENDAN SULLIVAN: My only thought is I think the issue is really quite simple.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: Actually they're for it or against it. If they're against it, that's one thing. If they're for it, then it can be dismissed, I think, without going into all the other stuff that -- so that it's really the feedback from the abutters on windows is -- I think we can handle it pretty quickly.

CONSTANTINE ALEXANDER: Yes, I agree.

BRENDAN SULLIVAN: And because I think the impact would be rather burdensome on them.

CONSTANTINE ALEXANDER: April 30th is roughly a month from now. That gives

you a month. You want to do it quicker than that?

BRENDAN SULLIVAN: I'm thinking the next one. They can get that within the next few days.

SEAN O'GRADY: I don't know, the other thing is you just jumped like ahead of four people.

CONSTANTINE ALEXANDER: We've done that before though, Sean, on certain, you know, the circumstances warrant.

SEAN O'GRADY: Well, I mean it's up to you. It's just that these conversations happen at the office. You know, we're encouraging the people to get in line, get in line promptly with their letters, etcetera. It's tough to then turn around and say that, you know, yeah, move them up the line.

DOUGLAS MYERS: I've said this before and I'll say it again, I think that where staff is taking a strong point of view on this, I think we should defer to the scheduling preferred by staff. I know no case is being made here for urgency and unless the Board members have a reason and lack of availability on a case heard or something.

CAMPBELL ELLSWORTH: We would be glad to make the case for urgency, but it's hard to do that in light of the oversight of what we've done. So, but they are under construction, they would like to continue as --

CONSTANTINE ALEXANDER: I understand the economics of it.

So we have one for April 9th and we have another member who would like it

longer to complying with -- not complying, but recognizing the views of the department. Other members have a view?

SLATER ANDERSON: Are we going from the 9th to the 30th, are those the dates?

SEAN O'GRADY: Well, we've got either the 9th or the 30th.

SLATER ANDERSON: Okay, so it's not the 16th. I can't do the 16th.

SEAN O'GRADY: No, no 16th.

I mean, if you want to do it the 9th, you can do it the 9th.

CONSTANTINE ALEXANDER: Let's do it the 9th.

Before I make the motion, if at all possible, I would like the views of your abutters, including the owner, in writing.

CAMPBELL ELLSWORTH: Sure.

CONSTANTINE ALEXANDER: I don't want oral reports, oh, yeah we talked to someone, a neighbor.

CAMPBELL ELLSWORTH: We'll make sure. Yep.

CONSTANTINE ALEXANDER: All right.

The Chair moves that we continue this case as a case heard until seven p.m. on April 9th on the following conditions:

That the petitioner sign a waiver of time for a decision. You're familiar with that, Mr. Campbell.

On the further condition that the posting sign be modified to reflect the new date, April 9th -- and you're going to have to do it almost immediately because April 9th is only a couple weeks, and the new time.

CAMPBELL ELLSWORTH: Seven p.m.

CONSTANTINE ALEXANDER: New date,  
new time. Seven p.m.

And that the sign be maintained for  
the 14 days required by our Ordinance. So  
don't wait a week and find out you don't  
have the 14 days under your belt.

CAMPBELL ELLSWORTH: Right,  
tomorrow.

CONSTANTINE ALEXANDER: Yes,  
tomorrow. Just get a magic marker, you  
know the drill.

CAMPBELL ELLSWORTH: Yes.

CONSTANTINE ALEXANDER: And then  
lastly, that to the extent that you modify  
the plans that are in our files right now,  
that those modified plans or dimensional  
form must be in our file no later than  
five p.m. on the Monday before April 9th.

So if you talk to your neighbors,

you have to modify where the windows are going to be located, new plans, you know, you have to get them in here by five p.m. the Monday before.

CAMPBELL ELLSWORTH: And you're looking for testimony in writing?

CONSTANTINE ALEXANDER: Yes. You know, if at all possible.

CAMPBELL ELLSWORTH: Yeah.

CONSTANTINE ALEXANDER: But I would urge you to try to get something from them in writing and get that, get that in our files, if possible, if -- only possible by five p.m. on the Monday before, but it's not essential.

CAMPBELL ELLSWORTH: Okay, very good.

CONSTANTINE ALEXANDER: All those in favor of continuing the case on this

basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Case continued.

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

\* \* \* \* \*

(8:55 p.m.)

(Sitting Members Case #BZA-006200-2015: Constantine Alexander, Brendan Sullivan, Thomas Scott, Douglas Myers, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 006200, 67 Lakeview Avenue.

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

ATTORNEY JAMES RAFFERTY: Good evening.

Good evening, Mr. Chair. For the record, my name is James Rafferty. I'm appearing this evening on behalf of the applicants Robert and Katherine Crowley. Mrs. Crowley is seated to my far right, and to my immediate right is Robert Linn and Mr. Linn is the -- L-i-n-n, and Mr. Linn is the project architect.

This is an application that seeks a Variance for two modest additions to a single-family home on Lakeview Ave. The Crowleys have lived here now for about a year. They're raising their three children; 7, 9, and 11 here. And the real objective is to try to create a mudroom at the rear of the house. And I think the issues before the Board are probably best illustrated by sharing with you the plot plan of the surveys for both properties.

What they're proposing is to add a mudroom most proximate to the existing garage and that, that -- it only represents about 58 square feet, but it is within the setback on that side.

This is a Residence A-1 District which has a 15-foot minimum requirement in the setback. It is, however, a setback that's consistent with the balance of the setback along the street, along that edge of the property line. I've got a photo that shows the adjoining property. It's generously off the side. But the adjoining property has a driveway here, and Mrs. Crowley has met with this neighbor and she has spoke with her. That's a non-conforming addition.

The second addition that they're proposing is on the opposite side of the

house, an in-fill into a little notch area. That one's only about, that one's about 58 feet. Sorry, the mudroom was 69. The floor plan shows the two areas of change. That's a conforming addition, but the property -- it's non-conforming because of that side yard setback. So as the Board knows, there are restrictions upon additions. And this had an earlier addition which utilized the 25 percent that can go by Special Permit. So one conforming addition, one non-conforming addition, however, both additions require a Variance because of that.

The property remains considerably hundreds of square feet below the allowable FAR. Open space is abundant. It's a modest change. They've met with the neighbors in the rear, the neighbors

across the street, and the neighbors on both sides and have received no objections.

CONSTANTINE ALEXANDER: Okay.

We have received no letters either one way or another.

ATTORNEY JAMES RAFFERTY: That's right, I'm aware of that, right.

They received a bottle of champagne from one neighbor thanking them.

CONSTANTINE ALEXANDER: And you didn't bring it down tonight?

ATTORNEY JAMES RAFFERTY: We considered that. But no letter but a bottle of champagne which I thought was a nice gesture.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

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

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

(No Response.)

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

ATTORNEY JAMES RAFFERTY:

Mr. Chair, I should note that there's one other change. They're reworking this bay window and there's a three-foot change here. So what you see in blue. So the total increase in GFA is 130 square feet, but that's the third component. There's a new bay window being installed there and picks up an additional three feet. So that's the third element of the construction that is the subject of the Variance.

CONSTANTINE ALEXANDER: Okay, we have -- I'll give these back to you.

ATTORNEY JAMES RAFFERTY: These are all submitted as part of the application.

CONSTANTINE ALEXANDER: Right.

And I'll let Tom take a look at these. Any questions at this point from members of the Board?

Slater, do you want to take a look next?

SLATER ANDERSON: Sure.

CONSTANTINE ALEXANDER: Give us a moment to review this, please.

DOUGLAS MYERS: I have a frivolous question simply to mark the time and allow my fellow Board Members to peruse.

I noticed in your existing elevations were in the order of west,

south, east, and north. And yet you're proposed elevation --

CONSTANTINE ALEXANDER: That's true.

DOUGLAS MYERS: -- were in the order of west, east, north, and south. Was there a reason for that?

ROBERT LINN: There was no reason whatsoever.

CONSTANTINE ALEXANDER: I noticed it.

DOUGLAS MYERS: I actually drew that inference myself, that there could not be possibly any reason for that. However, I must say it complicated in making the necessary comparison. Not that I wasn't capable.

ROBERT LINN: I'm sorry about that.

CONSTANTINE ALEXANDER: I had the same exact reaction.

ATTORNEY JAMES RAFFERTY: That's an impressive amount of scrutiny.

CONSTANTINE ALEXANDER: We're doing our job, Mr. Rafferty.

DOUGLAS MYERS: It's the response on a basic level of just convenience and that's all.

ATTORNEY JAMES RAFFERTY: That would be -- not as keen as the observation made years ago by a former member Mr. Heuer who noticed that the Notarization by Mr. Hope referred to me as someone who provided him with the copy of the license as opposed to personally known to him. I often comment that when we've got Board Members studying the acknowledgements on the Notaries, I said

they really are going above and beyond the call of duty.

DOUGLAS MYERS: If it's all the same to have it in corresponding order, it's simply a convenience to those people who are obliged to look at --

SLATER ANDERSON: We won't continue on that basis.

DOUGLAS MYERS: I did say it was a frivolous question.

ATTORNEY JAMES RAFFERTY: Not too frivolous.

ROBERT LINN: Good to know.

DOUGLAS MYERS: Hopefully it's achieved its purpose.

CONSTANTINE ALEXANDER: Comments or questions from Members of the Board? Ready for a vote?

The Chair moves that with respect to

the Variances being sought, we 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 the petitioner needs to make some liveable changes to the structure; namely, a mudroom that cannot otherwise be done because of the non-conforming nature of the structure.

That the hardship is owing to the fact that it is a non-conforming structure and its location on the lot.

And that a literal enforcement of the provisions of the Ordinance -- 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 the petitioners represented to us that they have -- they've contacted all the neighbors and the neighbors are in support, some more enthusiastic than others based on the bottle of champagne.

So, on the basis of these findings, the Chair moves that we grant the Variances being sought on the condition that the work proceed in accordance with plans submitted by the petitioner prepared by Moskow, M-o-s-k-o-w Linn, L-i-n-n Architects, each page of which have been initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor.

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

ATTORNEY JAMES RAFFERTY: Thank  
you very much.

\* \* \* \* \*

(9:05 p.m.)

(Sitting Members Case #BZA-006169-2015:  
Constantine Alexander, Brendan Sullivan,  
Thomas Scott, Douglas Myers, Slater W.  
Anderson.)

CONSTANTINE ALEXANDER: Okay, last  
but not least the Chair will call case No.  
006169, 68 Fayerweather Street.

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

ATTORNEY SEAN HOPE: Yes. Good  
evening, Mr. Chair and Members of the  
Board.

SLATER ANDERSON: Before we start,  
in consultation with the Department, I've  
noticed when I received the agenda for the  
evening that I do know Mr. Aronson. We  
have been known to play tennis together on  
occasion, and it's up to you if you would  
want me to sit or not. My take is that

I'm fine with sitting this evening, but it's up to you and your client whether you want me to sit. If I don't, you need four of --

CONSTANTINE ALEXANDER: I have a question for you. Who wins when you play tennis?

ATTORNEY SEAN HOPE: Strike that from the record.

ERIC ARONSON: We were partners, double partners.

SLATER ANDERSON: And there's never been any wagering.

ATTORNEY SEAN HOPE: I think we can proceed.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: Good evening, Mr. Chair, Members of the Board.

CONSTANTINE ALEXANDER: I have no

problem.

ATTORNEY SEAN HOPE: For the record, attorney Sean Hope, Hope Legal Offices in Cambridge. I have the owner of 68 Fayerweather, Eric Aronson and Jennifer Winn Aronson, and project architect Douglas Okun from Okun and Associates.

This is an application requesting Special Permit relief to enclose a rear patio that was already covered. This relief is modest in nature and the nature of the relief is because one of the setbacks is less than required seven and a half feet. In most of the ways the property is conforming. Because it's a covered patio, there's no increase in gross floor area. It's just that it's a non-conforming structure and we're altering it.

The rear patio, and I think if we just show since we brought the slides, the rear patio is sited in such a way that enclosing it is not going to be -- do you have the rear?

DOUGLAS OKUN: This is the rear here. This is the existing.

ATTORNEY SEAN HOPE: Photo.

DOUGLAS OKUN: There's a photo right there.

ATTORNEY SEAN HOPE: In the photos you can see the patio is really centered in the rear of the lot, and on each side there is a six-foot fence. This is the rear patio there.

CONSTANTINE ALEXANDER: That's in the file.

ATTORNEY SEAN HOPE: Yes.

And then here you can see the fence

is on the side so that you really can't view the patio from their side yards. We reached out to the neighbors, there was not any opposition. Most people want to even be able to be visible from the area. I also say, too, that this is a patio that is open now and if you enclose it, it will decrease any noise issues. It won't be privacy. But because the yard is so big in the rear yard, I don't think it's going to have an impact either way, but it will be a substantial impact to the property owners. I think everyone knows in the wintertime having indoor play space, which is a benefit for the children, is going to be a major benefit. And also to being seasonal, right now it's a seasonal patio, they'll be able to use this now year round if this is enclosed.

Again, often times when you're enclosing areas, the Board cares about massing. This is centered in the backyard not the rear yard. It's also on the first floor, not the second or upper floors so that even visually from the adjacent properties it's not going to have any impact. So I think it's modest in nature, and we haven't had any concerns from anyone else.

CONSTANTINE ALEXANDER: Thank you.  
Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Anyone want to look at plans?

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We have no letters in our file, but you have represented to us that you have contacted the neighbors and they are certainly not in opposition. They're in support or indifferent.

Okay.

I have no questions. Let Tom take a look at the plans.

DOUGLAS MYERS: I don't have any frivolous questions up my sleeve.

THOMAS SCOTT: I'm good.

CONSTANTINE ALEXANDER: Okay, ready for a motion, folks.

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

That traffic generated or

patterns -- well, that first of all, the petitioner cannot comply with the requirements of our Ordinance given the fact it is a non-conforming structure.

That the traffic generated or patterns of access that will result from the relief being sought 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/or welfare of the occupant or the citizens of the city.

And that the proposed use will not impair the integrity of the district or

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

In regard to all of these, the Chair would note that the relief being sought is rather modest. It has virtually no impact on surrounding properties, particularly given the size of the yard and the fencing around the yard.

So, on the basis of these findings the Chair moves that we grant the relief being sought on the condition that the work proceed in accordance with plans prepared by Douglas Okun, O-k-u-n and Associates, each of which page has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. Relief granted.

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

(Whereupon, at 9:10 p.m., the  
Zoning Board of Appeals  
Adjourned.)

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

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, SS.

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

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

**IN WITNESS WHEREOF**, I have  
hereunto set my hand this 8th day of  
April, 2015.

---

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

My Commission Expires:  
April 23, 2015

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