

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MARCH 28, 2013
7:05 p.m.
in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Timothy Hughes, Vice Chair
Brendan Sullivan, Member
Janet Green, Member
Douglas Myers, Associate, Member
Kevin Casey McAvey, Associate Member

Sean O' Grady, Zoning Specialist

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PROCEEDINGS

(7:05 p.m.)

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

CONSTANTINE ALEXANDER: The Chairman is going to call the meeting to order. The first case we're going to hear is a continued case. Case No. 10240, 85 Hamilton Street.

Is there 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 also notes that there's a letter in the file from James J. Rafferty, counsel for petitioner in the case, saying: (Reading) Please accept this correspondence as a request on behalf of the Petitioner to withdraw the above-captioned case currently scheduled for March 28, 2013. In view of the request for withdrawal, the Chair moves that we accept the request for withdrawal made by

the Petitioner.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

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

* * * * *

(7:10 p.m.)

(Sitting Members: Constantine Alexander,

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

CONSTANTINE ALEXANDER: The Chair will next call Case No. 10378, 85 Hamilton Street, a companion case to the one we just heard.

Is there anyone wishing to go heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

The Chair would note that we are in receipt of a letter from Attorney Rafferty again, counsel for the Petitioner.

(Reading) Please accept this correspondence as a request on behalf of the Petitioner to withdraw the above-captioned case currently scheduled for March 28, 2013.

In view of that request the Chair moves that we accept the request for withdrawal.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

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

* * * * *

(7:15 p.m.)

(Sitting Members: Constantine Alexander,

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

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 no one wishes to be heard.

The Chair notes that this Board is in receipt of a letter from the Petitioner as follows:

(Reading) New Cingular Wireless PCS, LLC (AT&T) has applied to the Board of Zoning Appeal, the Board, for the Zoning relief listed above to install and operate a wireless telecommunications facility on the rooftop of the building located at 274-280 Brookline Street. A public hearing before the Board is scheduled for March 28, 2013.

However, after learning of the possible failure of the required posted notice under Cambridge Zoning Ordinance Section 10.429.1 AT&T respectfully requests that the public hearing be rescheduled and added to the Board's agenda for consideration on April 25, 2013. By way of background, AT&T filed this application on January 31, 2013, and a public hearing was scheduled for February 28, 2013. Subsequently the Board referred the matter to the Planning Board. Because completion of the Planning Board's review and AT&T's response to that review did not occur until a meeting of the Board on March 5th, AT&T filed a Board of Zoning Appeal waiver form and requested a continuance to March 28, 2013, which was granted. On March 25, 2013, AT&T learned from Mr. O'Grady that members of the Board had observed that the required posted notice of the upcoming hearing was not properly installed in accordance with Zoning

Ordinance Section 10.421. After speaking with Mr. O'Grady and to confirm this information and investigate any problem, I visited the site yesterday afternoon, and yesterday afternoon would be March 25th, and learned from workers who had erected scaffolding at the site that one of them had moved the panel to the side of the building so that it would not interfere with work being done there. Accordingly, to ensure compliance with the Ordinance 10.42(1), AT&T requested that the hearing be continued in order to repost the notice. Please advise of the Board's approval of this request and confirm that this matter will be placed on the Board's agenda as of April 25, 2013.

I want to add for the record that the Petitioner is not exactly forthcoming with respect to the first continuance. It is true that they did not have review from the Planning Board by the required, the original

meeting date, but it is also true that there was no sign posted then either, and there was no scaffolding either at that time. So twice now the Petitioner has failed to comply with our requirements of posting of signs. I'm going to suggest to the Board that we grant one more continuance, but that the Petitioner be instructed that there will be no further continuances on this case with regard to the posting of signs. If they are not complied the next time around, I'm going to move that we dismiss the case for failure to comply with our Ordinance.

I'd also note that there are plenty of places within the building that -- at least two doors, doorways with glass panels, they could put the sign inside the glass panels. So no scaffolding or any workmen can knock it off. I must say I'm disappointed, for the record, with the Petitioner's reported compliance with the basic requirements of our

Ordinance. That being said, however, I would entertain a request to continue until April 25th -- we have space in our agenda?

SEAN O'GRADY: Yes. April 25th.

Inside the glass of the door --

CONSTANTINE ALEXANDER: They could put it there. They don't really have to. But if they're worried about someone knocking it down, at least no one from the street can knock it down or anyone on the exterior of the building.

SEAN O'GRADY: Okay.

DOUGLAS MYERS: May I be heard?

CONSTANTINE ALEXANDER: By all means.

DOUGLAS MYERS: I don't know really what the historical practice of this Board is with regard to number of successive times that a notice is improperly carried out or posted, but it seems here they missed once, and then the second time was sort of through

circumstances beyond the applicant's control, and I just wonder whether in fact, although I certainly understand anyone's frustration on the subject of posting a notice, an improper posting, but I wonder if it just might be a little harsh to ring down the curtain when in fact they've only been at fault in the posting once. That's my comment.

CONSTANTINE ALEXANDER: Well, again, I didn't make it as part of my motion. I was expressing my views as Chair. If we -- if it comes to a motion on my part to withdraw the next time around, it can be voted down certainly. But I do feel that two continuances, for whatever reason, is enough. And I think it's been observed, and this is for the record, too, that our continuance practice, which is I think has been generous in the past, is maybe starting to be abused by various Petitioners, and I

think we're going to be a little bit tougher on continuing cases. This is, to, is the first application. We've already had two continuances and I don't want to be faced with a request for a third continuance unless there's good reason showing. But the fact that a sign was knocked down by workmen with scaffolding, I somewhat question that. I also wonder -- when I visited the property, there was no sign, that might have been before they claimed the workmen knocked it down with the scaffolding. I'm not sure frankly. So I'm a little bit skeptical about that. But I do feel the first time around they did not post the notice, and I heard no excuse as to why it wasn't posted.

BRENDAN SULLIVAN: This failure of proper posting is -- it used to be a problem then became -- now it's become an epidemic, and I would think at some point whomever is representing their client would take it upon

themselves to on the back side of the posting sign say this is a legal notice and nobody is to remove this sign without first contacting, and giving a phone number or something.

CONSTANTINE ALEXANDER: That's a good thought.

BRENDAN SULLIVAN: I know if I were representing a client and I would want it to come off rather flawlessly or as with few bumps in the road as possible, and we're getting an awful lot of that, whether the window washer took it down or somebody else, or it fell down or something like that, and somebody just picked it up and threw it off to the side. And all it does is it impedes our operations. It makes people come down when they have better things that they could be doing, so it's somewhat disrespectful of and inconsiderate of the Board and its members. So anyhow, I would -- I just don't understand how it is being treated as lightly

or nonchalant as it is.

So anyhow, that's my editorializing on that.

CONSTANTINE ALEXANDER: Okay.

Well, I already gave my tirade, so all set.

Okay. The Chair moves -- unless we have any further comments from members of the Board?

TIMOTHY HUGHES: No, I don't have any tirades.

CONSTANTINE ALEXANDER: You're good with the motion for continuance I guess?

TIMOTHY HUGHES: I am.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case not heard until seven p.m. on April 25th.

The Chair noting a waiver for time of decision is already in our files.

This motion would be granted on the conditions; first condition that the posting sign, in fact, be posted and maintained

during the required period of our statute, Section 10.42. Except that a sign should state now that the new date, April 25th, and the new time, seven p.m.

And on the further condition that should the Petitioner desire to modify the plans or photo simulations that are in our file, that they must -- they should be reminded that they must be in our files, the new ones, by no later than the five p.m. on the Monday prior.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The case is continued.

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

* * * * *

(7:30 p.m.)

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

CONSTANTINE ALEXANDER: We'll turn to our regular agenda, and the Chair will call case No. 10407, 6 Hillside Place.

Is there anyone wishing to be heard on this matter?

Please come forward.

MARK HAMMER: Good evening.

TIMOTHY HUGHES: Good evening.

CONSTANTINE ALEXANDER: Please come forward and give your name and address to the stenographer. We keep a transcript.

MARK HAMMER: Mark Hammer, Hammer Architect.

DON DiROCCO: Don D-i-R-o-c-c-o, Hammer Architects.

JANET KOVNER: Janet Kovner, K-o-v-n-e-r.

MARK HAMMER: We're here to discuss

a Cambridge Nursery School. We're here to seek a Special Permit for parking. We require three spaces, and for window changes in the non-conforming setbacks for continuance of non-conforming dimensional regulations and for the alteration, enlargement of the non-conforming urban building in a residential zone.

Cambridge Nursery School has been in this location since 1928. It was originally founded elsewhere in 1923. It's a two-classroom, one-story building in a residential zone primarily of two- and three-story buildings. There are two classrooms. They have on an average of 13 to 15 children, preschool children.

CONSTANTINE ALEXANDER: For each classroom?

MARK HAMMER: Each classroom. So a total of somewhere between 26 and 30. Four teachers and one director.

It's an interior lot off of Avon Hill, nicely segregated from the community, a good neighbor to the community. I think much beloved by the people in the community who either attended there or whose children attend.

The nature of our application is really essentially to continue the existing non-conformance. There's no parking on-site now. We want to continue not to have parking on-site. It would be impossible to park three cars there. It would cause a lot of traffic for the neighborhood, and it would be in violation of the regulation to have a certain amount of outdoor play space for children which is a state requirement.

The building -- the existing building is now non-conforming on three sides. The front yard is 19.6. It's just under 20 feet allowed. The side yard setback is 4.5 feet, and the rear yard setback currently is 3.4.

And this side is 19 feet, which is conforming but only required to have a 10-foot setback on that side.

CONSTANTINE ALEXANDER: To what extent are you going to -- with the three non-conforming sides, setbacks --

MARK HAMMER: Yes.

CONSTANTINE ALEXANDER: -- to what extent are you going to increase the non-conformance or are you?

MARK HAMMER: We're only increasing the non-conforming on one of the non-conforming sides.

CONSTANTINE ALEXANDER: What are the numbers going to be?

MARK HAMMER: Going from 3.4 feet to .57 feet.

CONSTANTINE ALEXANDER: And it was supposed to be 20 feet?

MARK HAMMER: 20 feet is the required.

CONSTANTINE ALEXANDER: That's the required. You're woefully non-conforming now.

MARK HAMMER: Right.

CONSTANTINE ALEXANDER: And you're going to increase that by 50 percent I think?

MARK HAMMER: No, no.

CONSTANTINE ALEXANDER: 50 percent of -- you're going to get 50 percent closer to the line than you are now.

MARK HAMMER: No, we're three to four feet away now. We're going to 2.5 feet. 2.6 feet.

The nature of that non-conformance is to allow an egress stair from the basement. The nature of our project is really to provide existing classroom -- the building is not handicapped accessible. It's many levels. We've been asked, and I think we came up with a solution that provides accessibility all on one level. We've done that by lowering the

existing floor of the building by 18 inches and providing a new two bedroom -- two bedroom...two classroom wing. That's what we do most of the time -- which has now direct access to the outside. We've provided new toilets for not only the kids, greater number than they have now, but also a handicapped accessible toilet that can be used by adults and a central activity space.

CONSTANTINE ALEXANDER: Will you increase the number -- if we grant you the relief you're seeking, will you increase the number of students in the school?

JANET KOVNER: No.

CONSTANTINE ALEXANDER: The number of teachers, a staff of five still?

JANET KOVNER: Uh-huh.

CONSTANTINE ALEXANDER: Where do the staff of five now park? You're one of the staff?

JANET KOVNER: I'm the director.

Three of us walk, and currently two people park -- there are a couple of spots that are non-permitted during the day, so they park there. Sometimes they park in parent's driveways.

CONSTANTINE ALEXANDER: Have you had any complaints from neighbors about parking issues?

JANET KOVNER: A few years ago we did, you know, during that major snowstorm, but --

CONSTANTINE ALEXANDER: A lot of complaints during major snowstorms.

JANET KOVNER: That was a tough winter, but otherwise no.

MARK HAMMER: So the nature of the increase in non-conformity has to do with the fact that there's no storage in the building, and use of the attic of the existing building storage which is just woefully inaccessible and --

CONSTANTINE ALEXANDER: I would point out for the Board's benefit, you haven't mentioned this so far, there are no FAR issues here. And you're well under FAR and you're still going to be well under --

MARK HAMMER: Yes.

CONSTANTINE ALEXANDER: -- even with the additional --

MARK HAMMER: FAR, open space, and height requirements.

CONSTANTINE ALEXANDER: It's just purely the setback issues --

MARK HAMMER: Right.

CONSTANTINE ALEXANDER: -- that bring you here. On the Variance. You have a separate issue with the Special Permit and parking.

MARK HAMMER: Correct.

We are increasing the -- decreasing the dimension to this property line, but there we are conforming, so it was about a foot gain

here. So as I was saying earlier, the only increase of non-conforming is a result of getting this egress down from the basement which allows the new addition to have a full basement for storage and a complying means of egress.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: No questions.

I will open this up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one expressing a desire to be heard.

I'm going to get next to -- are these copies of letters that we already have?

JANET KOVNER: I don't know. I was

told to bring copies of what I have.

CONSTANTINE ALEXANDER: Okay. Why don't you give me what you have just in case.

JANET KOVNER: Okay.

CONSTANTINE ALEXANDER: The Chair will note for the record that we are in receipt of voluminous correspondence entirely in support of the Petition. I don't purport to take two hours to read all the letters. I just will note that these letters are part of the record and incorporated by reference as if they had each been read to this Board and to the audience in general. And those letters include two letters of support from two members of the City Council. And lastly, I guess I would characterize the letters as supporting your assertion that the school is much beloved by the neighborhood.

With that I'll close public testimony.

Any further comments before we discuss it?

MARK HAMMER: No, I don't this so.

DON DiROCCO: We went to Historic.

CONSTANTINE ALEXANDER: I'm sorry?

DON DiROCCO: Did you get the
Certificate of Non-Conforming from the
Historic?

CONSTANTINE ALEXANDER: Didn't have
it as of the other day.

DON DiROCCO: Sarah sent it.

MARK HAMMER: Sarah sent it today,
yeah.

CONSTANTINE ALEXANDER: Okay. You
have a Certificate of Non-Conformance?

JANET KOVNER: Approval.

DON DiROCCO: We went through the
Historic process.

CONSTANTINE ALEXANDER: They would
have notified us if there were other
conditions or issues and they haven't.

MARK HAMMER: And then I should just
mention, the net increase of the size of the

building from is 277 square feet. So it's very small.

CONSTANTINE ALEXANDER: Well, that would be more relevant to me if you had an FAR issue, the number of feet. But since you don't have an FAR issue --

JANET KOVNER: And that's just for accessibility issues.

CONSTANTINE ALEXANDER: Okay. I will close public testimony.

Comments from members of the Board?

BRENDAN SULLIVAN: No. I think it's very necessary and a worthwhile endeavor.

CONSTANTINE ALEXANDER: Ready for a vote?

Okay, we have two forms of relief being sought so I'll take the Variance up first.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being is that longstanding and beloved nursery school needs to upgrade its facilities to provide better space and hire quality space for the students.

That the hardship is owing to circumstances relating to basically the shape of the lot and the structures on the lot. This is a non-conforming structure, so virtually any modification would require 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 or purpose of the Ordinance.

In this regard the Chair would note that the relief -- the Variance relief being sought is very modest in nature.

That the change is unanimously supported by the neighborhood and by residents throughout the city.

That this is a nursery school that has been in existence, one of the oldest cooperative nursery schools apparently in the country and it's been in existence since the 1920s and needs modest modification to the physical structure to continue to offer the apparently first rate services that the school now offers.

So on the basis of these findings, the Chair moves that a Variance be granted to the Petitioner as requested on the condition that the work proceed in accordance with plans submitted by the Petitioner. They were prepared by Hammer, H-a-m-m-e-r Architects. They are several pages long. The first page of which is numbered L-1, dated -- I don't see a date. L-1 and initialed by the Chair.

All those in favor of granting the

Variance say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

CONSTANTINE ALEXANDER: Next we go to the Special Permit.

With regard to this the Chair would note that under our Ordinance the Petitioner is required to have three parking, off-street parking provisions for the operation of the school, and is seeking a Special Permit to lessen this requirement. Section 6.35 of -- 6.35.1 of our Ordinance provides that this Board by a Special Permit may reduce the parking requirements. We must cite evidence in our decision that the lesser amount of parking, being zero number of spaces, will not cause excessive congestion, endanger public safety, substantially reduce parking

availability for other uses, or otherwise adversely impact the neighborhood. And then there are various things we can take into consideration, like the availability of surplus off-street parking in the vicinity, the use, being served. And the Petitioner's represented to us that there is adequate off-street parking on, what is it, Avon Hill Street? Avon Hill Street. And the cul-de-sac on which the property now sits.

The Chair would move that we make this finding that the Petitioner is entitled to the benefits of 6.35.1 based on the letters of support that we received which supports the notion that a lesser amount of parking, i.e., the three, the less than three parking spaces now provided do not cause excessive congestion, endanger public safety, or substantially reduce parking availability or other further uses in the neighborhood. There's ample, I think evidence on the record

that parking is not an issue and will not be an issue since you're not purporting to increase the number of students to the school or the number of employees on the premises.

With regard to the Special Permit we have to make further findings. I'll get to that.

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

That with respect to the Special Permit being sought, i.e., the reduction of required off-street parking, that what is being proposed will not cause congestion, hazard, or substantial change in established neighborhood character. As previously indicated, letters from the abutters and neighbors generally support that they would not cause congestion, and there would be no substantial change in established neighborhood character since for many, many years or decades there have not been

sufficient -- the required three off-street parking spaces.

That the continued operation or development of adjacent uses will not be adversely affected by the parking relief being sought.

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 what is being proposed, the reduction in off-street parking, will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance. Again, this practice of having less than the three required spaces has long been in existence in the neighborhood. It's caused no problems whatsoever it would appear. And that, again, the ultimate goal here is to allow this cooperative nursery

school to continue the services it's been providing for many decades.

On the basis of these findings, the Chair moves that the Special Permit be granted to the Petitioner to reduce the amount of off-street parking as requested by the Petitioner on the condition, again, that the work proceed in accordance with the plans identified and specified as a condition to the Variance that's been granted.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. You're all set.

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

DON DiROCCO: The windows.

CONSTANTINE ALEXANDER: Oh, the windows. Thank you very much.

The Petitioner is also seeking a

Special Permit with respect to certain windows treatments. All of the findings I made with respect to the Special Permit regarding parking would apply equally to the other part of the relief. So the Special Permit is granted for that as well.

All in favor, say "Aye."

(Aye.)

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

DON DiROCCO: Thank you.

* * * * *

(7:50 p.m.)

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

CONSTANTINE ALEXANDER: You have a continued case. We need to have you withdraw that. There's no reason to keep it going. Do you request a withdrawal?

The original Petition you filed --

JANET KOVNER: Oh, okay.

CONSTANTINE ALEXANDER: -- didn't seek all the relief you needed to seek.

JANET KOVNER: Oh, right.

CONSTANTINE ALEXANDER: And you continued it.

JANET KOVNER: Okay.

CONSTANTINE ALEXANDER: And now you want to withdraw that case?

JANET KOVNER: Correct, yes.

CONSTANTINE ALEXANDER: Okay. The Petitioner has requested that we withdraw the case.

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

(Aye.)

BRENDAN SULLIVAN: Case 10387.

CONSTANTINE ALEXANDER: Five in favor.

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

* * * * *

(7:50 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Janet Green, Douglas Myers, Kevin Casey McAvey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10408, 3 Foch Street.

Is there anyone wishing to be heard in this matter?

DAVID TAYLOR: I'm David Taylor.

CONSTANTINE ALEXANDER: Whoever is going to speak just give your name and address to the stenographer.

DAVID TAYLOR: I'm David Taylor the designer. My address is 33 Tierney Street in Cambridge.

ANNIE DUNBAR: I'm Annie Dunbar. I'm one of the owners.

THOMAS DUNBAR: Thomas Dunbar, the other owner.

CONSTANTINE ALEXANDER: Please have a seat. And before you get started, maybe you can solve a dispute among the Board

members. How do you pronounce the name of your street?

ANNIE DUNBAR: I would like to know.

DAVID TAYLOR: I say Foch

(Pronounced Fosh).

CONSTANTINE ALEXANDER: If you say Foch, Foch it is.

Okay, sir, you're here because?

DAVID TAYLOR: The -- I'm sure everybody has the documents there. But the existing rear porches to this residence and the exits that are from the second floor is in serious disrepair and is not code conforming at present. And so the Dunbars would like to rebuild a stair that conforms to code, and then also rebuild the decks, which as I said, are not in good shape. The supports are not in good shape. So to bring things up to code, and basically rebuild what's there. But also extend a portion of the back part of the deck.

CONSTANTINE ALEXANDER: That notwithstanding, you're actually going to reduce -- the problem you have is you're a non-conforming structure because your FAR is over.

DAVID TAYLOR: Correct.

CONSTANTINE ALEXANDER: You're going to be taking one of the roofs off the top deck --

DAVID TAYLOR: Correct.

CONSTANTINE ALEXANDER: -- which reduces the amount of FAR even with the additional space standing out.

DAVID TAYLOR: Correct.

CONSTANTINE ALEXANDER: You're not creating any setback issues.

DAVID TAYLOR: Correct.

CONSTANTINE ALEXANDER: And you're going to reduce the FAR from --

DAVID TAYLOR: It does reduce it slightly.

CONSTANTINE ALEXANDER: -- .66 to .64 in a district that requires no more than 0.5.

DAVID TAYLOR: Yes.

CONSTANTINE ALEXANDER: That's the issue.

DAVID TAYLOR: That is correct.

CONSTANTINE ALEXANDER: And you are, as I said, improving, if you will, the Zoning situation with regard to this non-conforming structure.

DAVID TAYLOR: Yes, sir.

CONSTANTINE ALEXANDER: And these are the plans?

DAVID TAYLOR: Yes, sir.

CONSTANTINE ALEXANDER: So you know, if we grant relief, assuming we will, it will be tied to compliance with these plans. So if you modify them, you're going to have to come back before us. These are your -- you're comfortable, these are the

plans?

DAVID TAYLOR: Yes.

CONSTANTINE ALEXANDER: Questions from --

DAVID TAYLOR: You mean the bottom stair? Sorry.

Annie is asking one question there. On sheet A1 where the -- there are new wood steps to grade up there --

CONSTANTINE ALEXANDER: Not everybody has the plans in front of them. Maybe you can hold them up?

DAVID TAYLOR: Yes. She wants to be sure that if -- there are some steps that go from the first floor deck down to the ground or grade level, and she's wondering if she chooses to bring these around to the side to reorient these, is that something that could be done later if she decided that in the construction process? Would that be --

CONSTANTINE ALEXANDER: From my

point of view, I don't think we need to worry about that.

TIMOTHY HUGHES: No.

JANET GREEN: I think it's okay.

DAVID TAYLOR: There would be no substantial change.

CONSTANTINE ALEXANDER: Well, when I get to the motion, I'll deal with that.

DAVID TAYLOR: Okay.

CONSTANTINE ALEXANDER: Anything else?

DAVID TAYLOR: I don't think so.

CONSTANTINE ALEXANDER: It's your moment, your chance, your moment in the sun. I'm not egging you on.

DAVID TAYLOR: We should thank the neighbors for --

WILLIAM S. EDWARDS: We're their immediate abutting neighbors.

CONSTANTINE ALEXANDER: Okay. Let me open it to public testimony.

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

(No Response.)

WILLIAM S. EDWARDS: My name is William S. Edwards. We live at 1 Foch Street. We sort of share a yard.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one else has expressed a desire to be heard.

The Chair would also note that there don't appear to be any letters in the file in support or opposition.

Have you spoken with your neighbors besides the folks to your right?

ANNIE DUNBAR: Yes. There is a list of neighbors who have signed.

CONSTANTINE ALEXANDER: Do we have that?

DOUGLAS MYERS: Yes, it's there.

CONSTANTINE ALEXANDER: Okay. It came in after I checked this files. Oh, here it is.

Okay. The Chair would note for the record that we are in receipt of a Petition. It states as follows: The existing rear exterior wood exit stair and open porches/decks are in a state of disrepair. We propose -- and they have the Petition -- we propose to replace them with same to conform to current code and substantially improve exterior appearance. See attached plan. And the Petition states: We support our neighbors to proceed with the described reconstruction plan.

And it's signed by persons residing at 24 Newman Street, 9 Foch Street, 1 Foch Street, 5 Foch Street, and again 23 Newman Street.

And there appears to be no letters in

opposition to the relief being sought.

With that I'll close -- unless you have anything further to say?

DAVID TAYLOR: No.

CONSTANTINE ALEXANDER: Close public testimony.

Any comments from members of the Board? Or questions?

DOUGLAS MYERS: Question.

See if you can follow this question and if you can, then please answer it.

DAVID TAYLOR: Okay.

DOUGLAS MYERS: With respect to the second floor deck.

DAVID TAYLOR: Yes.

DOUGLAS MYERS: As I look at the plans --

DAVID TAYLOR: Yes.

DOUGLAS MYERS: -- to be constructed, it will not extend passed the rear line of the existing one-story wing of

the house.

DAVID TAYLOR: That's correct.

DOUGLAS MYERS: Thank you.

CONSTANTINE ALEXANDER: Further questions? Ready for a vote?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this Board make the following findings with respect to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance will involve a substantial hardship to the Petitioner. Such hardship being that she will not be able to upgrade the appearance of her structure and improve the code compliant -- make her rear deck fully Building Code compliant.

That the hardship is owing to the fact that the structure is a non-conforming structure, and, therefore, any modification to the structure would require Zoning relief.

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

In this regard the Chair would note that there is no neighborhood opposition to the relief being sought.

That what is being sought will improve the housing stock of the City of Cambridge, which is a stated goal of our Zoning Ordinance. And will bring -- will improve the safety of the structure to the occupants by removing, eliminating some failure to comply with the Building Code.

On the basis of these findings, the Chair moves that a Variance be granted on the condition that the work proceed in accordance with plans submitted by the Petitioner, the first page of which has been initialed by the Chair, except that with regard to the stair off the bottom of the deck to the ground

level, that the stair may be reoriented from what is shown on the plan. It may be put in a different location.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted. Good luck.

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

* * * * *

(8:00 p.m.)

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

CONSTANTINE ALEXANDER: The Chair will call case No. 10409, 341 Pearl Street.

Is there anyone wishing to be heard in this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair would further note that we are in receipt of a letter from the Petitioner to the following effect: Unfortunately due to work-related travel, one month assignment in our office in Brazil, I was unable to pick up and post sign for the public hearing scheduled for my property for March 28th. I apologize for the extra work that this causing to the City of Cambridge employees. I would like to attend public hearing on April 25th and will be able to pick up the sign on Monday, April 1st.

Thank you.

Is April 25th doable?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: And what about the Monsignor O'Brien?

SEAN O'GRADY: That's going to be the 11th.

CONSTANTINE ALEXANDER: That's going to be the 11th. Okay.

Okay. The Chair moves that -- do we have a waiver of notice?

SEAN O'GRADY: I don't think we do on this one.

CONSTANTINE ALEXANDER: Probably not.

The Chair moves that this case be continued until seven p.m. on April 25th as a case not heard on the following conditions:

That the Petitioner sign a waiver for a time for decision.

That the sign be posted in conformance

with our Zoning Ordinance. And that the sign indicate that the hearing will be on April 25th at seven p.m.

And further that the Petitioner be reminded that if she decides to modify the plans that are in our files right now with respect to the relief being sought, that such modified plans must be in our files by five p.m. on the Monday prior.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

* * * * *

(8:15 p.m.)

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

CONSTANTINE ALEXANDER: The Chair will call case No. 10410, 120 Vassar Street.

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

DAVID ARCHAMBAULT: My name is David Archambault. I represent Sprint, and we are here to try to get a Special Permit to upgrade our system. We have an existing site now on the side of a building on 120 Vassar Street. It's a -- typically we have three sector sites. This is a two sector site. So we're only facing our antennas in two directions. Each sector has four antennas right now. We're going to reduce that down to one antenna in each sector. A little bit bigger antenna. And then on the roof behind where no one will see there will be a small radio head. It's

in the drawings. And then our base equipment will -- inside will also be updated along with switching with copper phone lines so fiberoptic phone lines.

CONSTANTINE ALEXANDER: If my memory's correct, the new antennas are not going to extend above the roof line; right?

DAVID ARCHAMBAULT: Correct.

CONSTANTINE ALEXANDER: And you've submitted photo simulations as well as plans?

DAVID ARCHAMBAULT: We submitted photo simulations. The corner of the building is pretty hard to see from just about anyplace other than on campus there. But one close up set of photos, Rev. 2, shows the before and after. Photo location 1 shows the existing four, and then that we would end up with one. The new antenna is longer than the existing, but it would extend down --

CONSTANTINE ALEXANDER: Down.

DAVID ARCHAMBAULT: -- instead of

up.

CONSTANTINE ALEXANDER: And it's pipe mounted?

DAVID ARCHAMBAULT: They are pipe mounted. There are existing pipe mounts there. I did see a copy of the letter from the Planning Board that suggest we talk about removing the pipes. We certainly can do that, but just so you know these pipe mounts are at -- the brackets for them anyway, are drilled into the cement and then epoxy's put in with bolts. So if we remove them, the only way to remove them is to cut them flush, which will leave little metal dots around there and that could rust. We could certainly cover them with another epoxy. But if we ever go back to put antennas there again, we're going to have to drill more holes right next to the existing. Again, you're really -- it's hard to see these from any of the streets. It's just on the school property or it's set back

into the school property considerably. If it's your decision to remove the pipe mounts and the brackets, we'd certainly do that. We prefer to leave them there for potential future use.

CONSTANTINE ALEXANDER: Let me just read into the record for the benefit of the Board members who haven't seen it, the Planning Board letter that you referred to.

(Reading) The Planning Board reviewed the Special Permit application for the replacement of antennas at the existing location at buildings W34 and W35 and supported this proposal dated 3/27/12. The installation appears to be matching the facade of the building being used. The Planning Board would suggest that if the Board of Zoning Appeal grants the Special Permit, that the unused mounting brackets and any other equipment not being used is removed from the building to reduce the visual

clutter on the building.

So that's what this gentleman's referring to. I think at some point we'll have to discuss whether we want to impose a removal as suggested by the Planning Board if the conditions for relief will be granted but not right now.

There are other things you're supposed to cover, and you haven't been before our Board?

DAVID ARCHAMBAULT: I have not.

CONSTANTINE ALEXANDER: Okay.

You have to deal with a number of other issues and we can do it right now for the record.

DAVID ARCHAMBAULT: Okay.

CONSTANTINE ALEXANDER: You have to please affirm to us that Sprint is a licensed carrier, FCC carrier in good standing?

DAVID ARCHAMBAULT: Yes.

CONSTANTINE ALEXANDER: It is.

This building, believe it or not, is in a residentially zoned district.

DAVID ARCHAMBAULT: Correct.

CONSTANTINE ALEXANDER: Under the Zoning Ordinance, we have to make certain findings and you're going to have to help us make these findings.

DAVID ARCHAMBAULT: Okay.

CONSTANTINE ALEXANDER: Okay?

And where it says -- I'm going to read from the statute.

DAVID ARCHAMBAULT: Yep.

CONSTANTINE ALEXANDER: Where it is proposed to erect such a facility in any residential Zoning District, we have to deal with, we have to consider the extent to which there is a demonstrated public need for the facility at the proposed locations. Demonstrated public need is such that you need to upgrade the service in the area?

DAVID ARCHAMBAULT: The service

is -- what we're doing now, we're doing two things: We're reducing the amount of equipment that we have on the side of the building, and we are upgrading the capacity and the speed at which the system will work. And in most places fire, police, town businesses, public safety, public utilities, all use cellphones and services in one way or another and it would, it would -- with the increased load in the area, it's going to make sure that people aren't being kicked off the service and have the speed and capacity to handle the area.

CONSTANTINE ALEXANDER: Good.

We have to deal with the existence of alternative functionally suitable sites in non-residential locations.

Are there any --

DAVID ARCHAMBAULT: There are none. And, again, we're not looking for a new site here. We're modifying an existing site.

And anything in the area that's gonna cover the area as it is, really needs to be centralized right, right where those antennas are because of -- typically you would say topography, but it's more building structure in the area than hills.

CONSTANTINE ALEXANDER: Do you know when the original, the equipment that you're replacing and upgrading was installed?

DAVID ARCHAMBAULT: I had that. I don't have that with me, and I don't remember off the top of my head.

CONSTANTINE ALEXANDER: Presumably you did it at a time when the Zoning Board -- your company did it when it had the very same requirements. So if we granted you relief the first time --

DAVID ARCHAMBAULT: Yes.

CONSTANTINE ALEXANDER: -- they must have made these same findings before.

DAVID ARCHAMBAULT: Right. And

when they first came there, they were looking for a new site.

CONSTANTINE ALEXANDER: Right.

DAVID ARCHAMBAULT: Again, we're not looking for a new site, we're just modifying the existing site.

CONSTANTINE ALEXANDER: Okay.

We have to, I'm just going to read from the statute.

DAVID ARCHAMBAULT: Yes.

CONSTANTINE ALEXANDER: The Board of Zoning Appeal shall grant a Special Permit to erect such a facility in a residential zoning district only upon a finding that non-residential uses predominate in the vicinity of the proposed facility's location, and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood.

I think on the -- whether the finding

that a non-residential uses predominate in the vicinity of the proposed location, I take it the MIT classrooms and offices and the like?

DAVID ARCHAMBAULT: Yes.

CONSTANTINE ALEXANDER: So this is not a --

DAVID ARCHAMBAULT: Ball field.

CONSTANTINE ALEXANDER: This is not a typical residential district where we have single-family homes all around and two-family houses.

DAVID ARCHAMBAULT: Right. And as far as fitting in, it is painted to match the existing building.

TIMOTHY HUGHES: In fact, I don't think there are any residences on that side of the tracks.

DAVID ARCHAMBAULT: Both sides of Vassar Street are commercial.

CONSTANTINE ALEXANDER: It's

puzzlement to me why the City zoned it as residential.

TIMOTHY HUGHES: Dormitories?

DOUGLAS MYERS: Simmons Hall there?

DAVID ARCHAMBAULT: I don't know.

DOUGLAS MYERS: MIT dormitory would really have on guard architecture.

CONSTANTINE ALEXANDER: In that area?

DOUGLAS MYERS: It's right across from there.

JANET GREEN: The one with the colors in the windows.

DOUGLAS MYERS: Very small windows.

JANET GREEN: Small windows.

DOUGLAS MYERS: Simmons Hall?
Residential dormitory.

CONSTANTINE ALEXANDER: Any questions from the Board members?

What are the thoughts of the Board members on the question about the Planning

Board's recommendation and this gentleman's mild suggestion that they prefer not to do it?

BRENDAN SULLIVAN: Well, I think the question is which will be more stealthy, which will be less obvious? And if you were to remove the pipes and the clamps that are holding the pipes on, you would have holes where the leg bolts were.

DAVID ARCHAMBAULT: Correct.

BRENDAN SULLIVAN: So what you could do is to remove those and then put a stainless steel leg bolt, machine bolt or something back into its place.

DAVID ARCHAMBAULT: Again, they wouldn't be removed. They would be cut flush.

BRENDAN SULLIVAN: Are they not on with a bolt?

DAVID ARCHAMBAULT: No, they're -- there's actually a hole drilled and then an epoxy is put in with a bolt. So

the bolts are typically epoxyed in.

BRENDAN SULLIVAN: Oh, I see what you're saying.

DAVID ARCHAMBAULT: So to remove it, we'd cut them flush.

BRENDAN SULLIVAN: So it's not a leg shield that's in there, it's an epoxy application?

DAVID ARCHAMBAULT: Yes.

CONSTANTINE ALEXANDER: But still even if you cut them flush and it's going to be less visible than having --

DAVID ARCHAMBAULT: Yep.

CONSTANTINE ALEXANDER: -- the poles there anyway.

DAVID ARCHAMBAULT: It's more of at some point we will likely be back here to add more antennas to keep up with the demand and we'll end up just having to drill holes next to the existing holes. I mean --

BRENDAN SULLIVAN: Well, we'll get

you to cover the existing.

DAVID ARCHAMBAULT: Whatever you want to do.

BRENDAN SULLIVAN: Well, I think a naked pipe is going to be rather unsightly. So that to remove it and the bracket and to put a button over the remaining hole.

DAVID ARCHAMBAULT: Okay.

CONSTANTINE ALEXANDER: I agree with you. That's my view as well.

Other members of the Board?

TIMOTHY HUGHES: Well, it's been the practice of the Board to put as a condition of granting these Special Permits, the removal of any equipment once it's not being used. And I don't see any reason why we shouldn't change that practice.

JANET GREEN: Right.

DAVID ARCHAMBAULT: That's fine.

TIMOTHY HUGHES: Maybe next time when they drill the holes, you can put a

shield in where you can screw it in and then you can take it down again and you won't have to shave things off.

JANET GREEN: Next time they're only going to use a pack of gum or something. They're getting smaller.

CONSTANTINE ALEXANDER: Yes, you're right.

TIMOTHY HUGHES: That whole epoxy system seems antiquated to me.

CONSTANTINE ALEXANDER: The Chair will open this matter up to public testimony. Is there anyone here wishing to be heard in on this matter?

(No Response.)

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

There are no letters or the like in the file other than from the Planning Board which I've already read into the record.

BRENDAN SULLIVAN: Can I see the

file?

CONSTANTINE ALEXANDER: Anything further you want to add at this point?

DAVID ARCHAMBAULT: I think I'm okay.

CONSTANTINE ALEXANDER: I'll close then public testimony.

Any comments from members of the Board?

TIMOTHY HUGHES: No more than I've already said.

DOUGLAS MYERS: I think the relevant points have been raised and you framed the motion.

CONSTANTINE ALEXANDER: I think we've already made the basic findings on the residential neighborhood issue the last time around we granted relief.

Sean, you don't remember when the -- I didn't see it in the file for the -- usually we get the files for the previous time. I didn't see it in the files. Do you know -- I

assume it was done --

SEAN O'GRADY: I thought Maria got files.

CONSTANTINE ALEXANDER: It could have been done before there was non-conforming?

SEAN O'GRADY: There are installations in the Ordinance, but I don't know, yes.

CONSTANTINE ALEXANDER: The only reason I like to reference the prior findings --

SEAN O'GRADY: I know Maria got the cases, I just don't know the answer to that.

CONSTANTINE ALEXANDER: Okay.

DAVID ARCHAMBAULT: I know that there was before you guys before, I have the stuff at home.

CONSTANTINE ALEXANDER: Yes, you said you didn't --

DAVID ARCHAMBAULT: I just -- I

didn't bring it with me.

CONSTANTINE ALEXANDER: Okay.

DAVID ARCHAMBAULT: And I do quite a few of these to remember which one was which.

CONSTANTINE ALEXANDER: I'm about to make the motion, but just so, again, because you haven't been before us before, when we grant relief, like I said, as we do for residential structures, we tie it to the plans, and in this case the photo simulations that you submitted. If these photo simulations are inaccurate in any respect or if you wish to change, when you get to do the work, from the plans that you have here, you're going to have -- you got it. You'll be back before us.

DAVID ARCHAMBAULT: Other than the removal of the pipes that are --

CONSTANTINE ALEXANDER: What happens is that we're going to make as part of the condition of the --

DAVID ARCHAMBAULT: Okay. So those will change. I don't need to come back.

CONSTANTINE ALEXANDER: No, no. I'm going to make a motion which I assume will be adopted which will require you to remove them, and you're all set.

DAVID ARCHAMBAULT: Understood.

CONSTANTINE ALEXANDER: All right, I think we're ready for a motion.

The Chair moves that this Board make the following findings:

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

That the work being proposed is designed to minimize the visual impact of the various elements of the proposed facility by matching the new antennas to the -- and texture -- and well, color at least, to the color of the facade of the building to which it will be attached.

That this structure will be, these

antennas and other equipment will be put in a residentially zoned district.

That there was a demonstrated public need for the facility of the locations. The need being the need to upgrade the systems and to improve the telecommunications aspect of them.

That there are no other functionally suitable sites in non-residential locations.

That in fact the prevailing uses in the area are consistent with what is being proposed. And that non-residential uses do predominate in the vicinity of which you're proposing to do, and that the telecommunication facility will not be inconsistent with the character that does prevail in the surrounding neighborhood.

In regard to these last points the Chair notes that we believe, though we cannot demonstrate that findings to this extent were made in a prior case involving antennas to

beyond the building that's before us tonight.

On the basis of these findings, and we have to make further findings, we further find that granting the relief being sought will not cause congestion, hazard, or substantial change in established neighborhood character. In fact, what is being proposed is the attachment of two antenna on the side of a building -- high up on the side of a building.

That the development and operation 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, MIT, or the citizens of the city.

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

Ordinance.

In this regard the Chair notes that there already is existing telecommunication facilities on the structure, and that improving the quality of telecommunications services in the city is a desired goal of our city.

On the basis of the foregoing, the Chair moves that a Special Permit be granted to the Petitioner subject to the following conditions:

That the work proceed in accordance with plans submitted by the Petitioner, the first page of which is entitled T-1 and initialed by the Chair. And in accordance with photo simulations submitted by the Petitioner. They're dated 12/10/12, and the first page of which has been initialed by the Chair.

That with respect to the existing antennas and accompanying brackets that are

there now which will be replaced -- where's the letter from the Planning Board? Do you have it?

BRENDAN SULLIVAN: I thought it was right there.

CONSTANTINE ALEXANDER: Here it is. I'm sorry.

That the Petitioner, as soon as he installs the new facilities he proposes to install, that the unused mounting brackets and any other equipment not being used will be removed from the building as promptly as practicable.

And lastly, should you discontinue -- and in connection with that, to the extent that there's anything left on the side of the building, you will, by one means or another, minimize the visual impact of the remaining plugs or whatever that you're planning to sheer the brackets from the side of the building.

And that to the extent that you discontinue the use of the equipment we're approving tonight, that for any period of six months or more, that this the new equipment be promptly removed and the facade of the building be restored to its current state as nearly as practicable.

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

(Aye.)

CONSTANTINE ALEXANDER: All in favor. Special Permit granted.

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

DAVID ARCHAMBAULT: Just so I could have some timing, typically how long does it take to write the decision?

SEAN O'GRADY: About two months out.

DAVID ARCHAMBAULT: Two months out?

SEAN O'GRADY: Yes, you'll get a letter from us.

DAVID ARCHAMBAULT: Thank you.

(8:30 p.m.)

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

CONSTANTINE ALEXANDER: The Chair will call case No. 10411, 17 Prentiss Street.

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

Have a seat. As you know by now, just give your name and address to the stenographer, please.

DERICK SNARE: I'm Derick Snare. I'm the architect, 158 Central Street, Somerville, Mass. Formerly of Cambridge. These are the owners.

RACHANA MANANDHAR: Rachana, R-a-c-h-a-n-a Manandhar, M-a-n-a-n-d-h-a-r.

SANJAY MANANDHAR: Sanjay, S-a-n-j-a-y last name Manandhar, M-a-n-a-n-d-h-a-r.

CONSTANTINE ALEXANDER: You're here before us seeking a Variance and a Special Permit?

DERICK SNARE: Yes.

So the existing house it's a one structure split in two, and in the mid-nineties the No. 19 converted from a one-family to a two-family. And now that they're children are growing up, they sort of have been inspired to do the same. So, right now the first floor is a rented apartment and so that will be --

CONSTANTINE ALEXANDER: So you're going to go -- originally this was an attached two-family, two families on one side and two families on the other side?

DERICK SNARE: Yes, exactly.

CONSTANTINE ALEXANDER: Now, if you get relief, what's happened prior we need single-families on each side.

DERICK SNARE: Exactly. Yeah.

So presumably that's, you know, a plus for the neighborhood and should make people happy.

So, the first floor plan now has a living area, bedroom, a bath, and small kitchen. So we will, the bedroom will go away. The bathroom will go away. We want to enlarge the kitchen and then make a powder room. The neighbors sort of have a plan that sort of worked very well. In that sort of using the common wall, where there's plumbing to create a powder room there, that's gonna squeeze the kitchen from when we do that, so that's why we'd like to bump out two feet only.

CONSTANTINE ALEXANDER: You're really going to only add 26 --

DERICK SNARE: 28 square feet.

CONSTANTINE ALEXANDER: 28 square feet.

DERICK SNARE: Yeah.

And, you know, some people said why don't you just go further? But this is really all we need, and it's the minimum disturbance on the existing bulkhead. So it's just we need to get some circulation around the island.

And also there's an existing three-part window, the back of the kitchen, and we'd like to convert that to a sliding door because there's an existing deck back there and it will just make it more accessible, more light. It's actually the same thing the neighbors have next-door. But we'll revise this deck with the steps slightly. It would be a skylight over the kitchen. But right now -- so setback's 25 required. We're 11 feet, 6. Our little bump out will end up being 16 feet, 6, but we're still within that.

CONSTANTINE ALEXANDER: Okay.

Question: In the file are plans, which I think are the plans you're just showing us,

right here. And these two separate pages, what are they supposed to cover?

DERICK SNARE: Oh, we added the skylight later.

CONSTANTINE ALEXANDER: That's just for the purpose of the skylight?

DERICK SNARE: Yes.

CONSTANTINE ALEXANDER: Do they need Zoning relief for the skylight?

DERICK SNARE: Well, I guess --

SEAN O'GRADY: Is it in the setback?

DERICK SNARE: Half of it is within the setback.

CONSTANTINE ALEXANDER: Okay. I was just curious.

Okay, for the record, the reason you're before us is because of FAR relief? The building is now 1.03, your residence. And you're going to go with a 28 feet to 1.04. It's a very, very slight increase. The district only permits up to 0.5. So you have

non-conforming structure that you want to slightly -- I'll characterize as slightly increase the non-conformance. And I think you have some setback issues, too, as I recall looking at the file. Those are the reasons that you're here before us.

DERICK SNARE: Yes.

CONSTANTINE ALEXANDER: I got it right, okay.

Questions from members of the Board?

DOUGLAS MYERS: I have a question.

CONSTANTINE ALEXANDER: Go ahead.

DOUGLAS MYERS: In terms of our time table and yours, what is the date on which the tenant would vacate the first floor unit?

SANJAY MANANDHAR: End of May.

DOUGLAS MYERS: End of May.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair

notes no one wishes to be heard.

This Board is in receipt of certain letters of support from neighbors which I will read into the record.

There's a letter from Elizabeth Keller, K-e-l-l-e-r and Steven, E-v-e-n Bonsey, B-o-n-s-e-y who reside at 16 Prentiss Street. (Reading) We as residents and owners of 16 Prentiss Street, Cambridge, are in full support of the petition before the BZA of all works at 17 Prentiss Street. Sanjay Manandhar -- my apologies if I got it wrong -- and his family of 17 Prentiss Street have been great neighbors, and we understand their need to create an appropriate living space for their family. We fully support both the Variance to construct an addition to the kitchen and a Special Permit to replace a window with sliding door for access to the rear deck.

There's another letter from Jean,

J-e-a-n H. Kindleberger,
K-i-n-d-l-e-b-e-r-g-e-r who resides at 19
Prentiss Street. (Reading) I'm writing in
support of the application of my neighbors at
17 Prentiss Street who are hoping to get
permission to extend the wall of their
kitchen two feet from its current footprint
into an area that is their side yard and
install a sliding glass door at the rear of
the house. I support this idea in its
entirety and have no reservations about the
plan. It will facilitate the conversion of
the current structure of two units into one.
For me and for our neighborhood a desirable
change. This family is a very good and
considerate neighbor and I am glad that they
appear to be planning to remain here for a
good, long time.

We have a letter from Nina Tumarkin,
T-u-m-a-r-k-i-n and Harvey Cox, C-o-x. It's
on the -- it's addressed to our Board.

(Reading) We as residents and owners of 65 Frost Street, Cambridge, are in full support of the petition for BZA for all works at 17 Prentiss Street. Sanjay Manandhar and his family of 17 Prentiss Street have been great neighbors and we understand their need to create appropriate living space for their family. We fully support both the Variance to construct an addition to the kitchen and the Special Permit to replace a window with sliding door or access for the rear deck.

That appears to be it. And there is, I should say there are no letters in opposition.

I will close public testimony.

Any further comments?

DERICK SNARE: No. I only note that as a result of this design process and in talking with the neighbor at No. 19, now they are both thinking that they're going to remove the fire escape since neither of them

need it as a second means of egress. So that will also be a plus eventually.

CONSTANTINE ALEXANDER: Okay. But it doesn't require Zoning relief though.

DERICK SNARE: Right.

CONSTANTINE ALEXANDER: It improves the appearance of the building.

Just to be clear, we grant relief tied to plans. These are the plans you've submitted. These are the final plans. Because if you modify them, you're going to have to come back before our Board. I want to be sure you understand that.

DERICK SNARE: The skylight was the only thing that sort of got added after the original submission so I'm hoping it's good.

CONSTANTINE ALEXANDER: Okay, but it's now located where you're going to put it?

DERICK SNARE: Yes.

CONSTANTINE ALEXANDER: Comments from members of the Board? Ready for a

motion?

Okay. We have two motions, one for the Variance and one for the Special Permit.

Starting with the Variance, the Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that they will not be able to modify their converted two-family to single-family structure without relief.

That the hardship is owing to the fact that the structure is currently non-conforming, and any change in terms of extension, even as modest as 28 square feet, would cause a need for Zoning relief.

Relief may be granted without substantial detriment to the public good or nullifying or substantially derogating the intent or purpose of this Ordinance.

And in that regard the Chair notes that the relief being sought is quite modest. There is unanimous neighborhood support for what is being proposed.

So on the basis of these findings the Chair moves that a Variance be granted to the Petitioner on the condition that the work proceed in accordance with plans submitted by the Petitioner, the first page dated 18 February, 2013 prepared by Snare and Snare Design, the first page of which has been initialed by the Chair. And by, looks like three pages, three pages of drawings also prepared -- dated February 18, 2013, prepared by Snare and Snare Designs and initialed by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

CONSTANTINE ALEXANDER: Now the
Special Permit.

Okay, the Chair moves that this Board
make the following findings:

That the Special Permit being sought
will not cause congestion. The work that is
subject to the Special Permit 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 of the
citizens of the city.

And that the use will not impair the
integrity of the district or adjoining
districts or otherwise derogate from the

intent and of the Ordinance.

On basis of these findings, the Chair moves that a Special Permit be granted to the Petitioner to proceed with the work proposed on the condition that the work proceed in accordance with the plans and drawings previously identified with regard to the Variance.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: All set.

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

SANJAY MANANDHAR: Is there a
minimum timing?

SEAN O'GRADY: I'm sorry, what's the
question?

SANJAY MANANDHAR: The timing.

DERICK SNARE: The timing. The
gentleman asked about our tenant. Is there
like a minimum timing?

SEAN O'GRADY: You did it perfectly.
It will be just about two months before --

CONSTANTINE ALEXANDER: We have to
write up the decision and then we file it with
the City Clerk. There's a 20-day appeal
period.

SANJAY MANANDHAR: I see. Thank
you very much.

* * * * *

(8:45 p.m.)

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

CONSTANTINE ALEXANDER: The Chair will call case No. 10412, 209-221 Monsignor O'Brien Highway.

Is there anyone wishing to be heard on this matter?

(No Response.)

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

I think we are in receipt, yes, we are in receipt of a letter from James J. Rafferty, counsel for the Petitioner. (Reading) Please accept this correspondence as a request by the Petitioner in the above-captioned case to continue the hearing on its application until April the 11th, 2013. The East Cambridge Planning Team has canceled its meeting for this Wednesday night and will next meet on Wednesday, April 10,

2013. The Petitioner will now be appearing at that meeting to review its plans with residents of East Cambridge and answer questions. This request is being made in order to allow the East Cambridge Planning Team an opportunity to express its views on this matter to the Board.

On the basis of this request -- we don't have a waiver for a time of decision?

SEAN O'GRADY: We don't. Make that a condition.

CONSTANTINE ALEXANDER: The Chair will make the following --

DOUGLAS MYERS: I just have a question.

CONSTANTINE ALEXANDER: Go ahead.

DOUGLAS MYERS: If the meeting with the East Cambridge Planning Team is important and it's going to take place on April 10th, how will any results, reports, and response supposedly, I mean supposedly the meeting is

important, and as is often the comments of these boards inform our Board in our decision.

CONSTANTINE ALEXANDER: We did have a colloquy with Mr. Rafferty.

DOUGLAS MYERS: It went right over me.

CONSTANTINE ALEXANDER: Okay, no problem. I mean, if the East Cambridge, as I see it, if East Cambridge Planning Team supports it or supports a very minor modification, they will get a letter in to us and we'll have the letter for purposes of Thursday. On the other hand, if there's substantial problems, Mr. Rafferty basically said they're going to seek a continuance again as he tries to work these out.

DOUGLAS MYERS: Okay.

CONSTANTINE ALEXANDER: If he doesn't do that, I told him that I thought in

any event, a letter will not due. We would expect someone from the East Cambridge Planning Team to be here in person to explain what their problems are so that we can question that person directly. Because I don't think we'd have time -- I don't think we have sufficient time to digest a substantial letter of comment from the East Cambridge Planning Team. That's --

DOUGLAS MYERS: Not if we received it on the Thursday.

CONSTANTINE ALEXANDER: Yes, that's right on Thursday. That's why probably if there is such a letter or such a position, we will be continuing this case again.

DOUGLAS MYERS: On that basis, I'm completely satisfied. Thank you. And I'm sorry I didn't hear it the first time.

CONSTANTINE ALEXANDER: No problem.

TIMOTHY HUGHES: I think there was a promise. I don't know if Jim said it, that

the East Cambridge Planning Team would get a letter in -- if it was in support, it would get a letter in before noon on Thursday.

CONSTANTINE ALEXANDER: That's what they said. Yes, yes.

In any event, we would have it before the hearing.

Okay. The Chair moves that we continue this case until seven p.m. on April 11th. This being a case not heard, on the condition that the Petitioner sign a waiver of time for a decision.

And on the further condition that the Petitioner modify the sign that's posted on the premises now and there is a sign, believe it or not, on the premises now, to reflect the new time and the new date.

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

All those in favor of continuing the

case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

CONSTANTINE ALEXANDER: I think we're done.

(Whereupon, at 8:50 p.m., the Board of Zoning Appeals Adjourned.)

* * * * *

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 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 10th day of April 2013.

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

My Commission Expires:
April 23, 2015

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