

BOARD OF ZONING APPEAL

FOR THE

CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MAY 23, 2013

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Timothy Hughes, Acting Chair

Brendan Sullivan, Member

Thomas Scott, Member

Janet Green, Member

Slater W. Anderson, Associate, Member

Maria Pacheco, Zoning Secretary

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PROCEEDINGS

(7:00 p.m.)

(Sitting Members: Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green, Slater Anderson.)

TIMOTHY HUGHES: The Board will hear case No. 10424, 1-11 Marney Street.

Is there anyone here on that one? You know the drill.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman, Members of the Board. For the record, James Rafferty. I'm appearing as substitute counsel this evening because attorney Hope has departed for Washington so he asked me to cover for him in this matter.

This is a case involving an in-fill of two somewhat unusual porches.

They're recessed porches midway along the facade of a three-family dwelling.

Because of the nature of the current openings, they're already included in the

GFA for the house. I think the photograph here probably tells the best story of them. But they're not the typical porches at the rear of a structure that you would ordinarily see. As I said, they're midway and they're recessed so they don't project beyond the face of the building. The property owner has recently acquired the property and is renovating the property. And the objective is to try to come up with a more efficient program and layout of the space. So relief is allowed under a Special Permit because there are two issues involved:

One is by in-filling the way he's proposing is considered an extension of a non-conforming wall.

And secondly, he is proposing to

install windows in those openings.

Ironically the openings that are there now are larger than the window openings, but those openings are not windows. So it was funny when I looked at the case, I wondered if he just put in glass sliders in this opening whether or not he would need relief. And the conclusion was that it probably did still require relief because they were putting windows in where there are openings.

The window -- proposed window path, I think the file earlier I've been told contained correct elevation of the existing conditions. So what's proposed here are these two windows, two windows set that would in-fill. So the existing condition -- it's only the second and third floor. The existing condition

looks like this with this larger opening. And the proposed condition would simply continue the face of the building across the opening and reduce the existing window openings from three to two.

BRENDAN SULLIVAN: Those are porches now; is that correct?

ATTORNEY JAMES RAFFERTY: That's correct.

BRENDAN SULLIVAN: So they are a means of egress out of those two units?

ATTORNEY JAMES RAFFERTY: Well, I don't believe they go anywhere though.

BRENDAN SULLIVAN: I'm sorry?

ATTORNEY JAMES RAFFERTY: I would defer to know on the Building Code.

BRENDAN SULLIVAN: I'm not saying about the Building Code. I'm saying the practical use of that is you

could exit the unit onto basically a porch area.

ATTORNEY JAMES RAFFERTY: Yes, yes. My understanding is you can, but I don't believe you could then exit the porch. I don't think there's any stairways. They're third and second floor recessed porches.

BRENDAN SULLIVAN: Correct, right. I see that part of it.

And the purpose of the in-fill is?

ATTORNEY JAMES RAFFERTY: I think it's shown in the floor plans. It's because they're redoing the kitchens and the kitchens are rather small. And these porches were off the kitchens and they're proposing to reorganize the apartments and the layouts and it would allow them to essentially take advantage

of space that is as you know already included in the GFA of the building, and it's an attempt to incorporate it into the house itself.

In terms of the impact on abutters, the Special Permit with regard to windows is obviously in place to provide privacy for the non-conforming -- for the wall that's non-conforming. In this case there are significant openings now, and I think one could make the case that there's more privacy afforded the abutter with the enclosure than if the existing condition were to remain in place. Similarly the Special Permit that allowed for the extension of the wall doesn't really have a significant affect upon the massing. It's because of the recessed nature of these, there isn't any, there

isn't any bulk or mass associated with it. You can't see through these porches now. It's not like they have railings of any permeability beyond the large rectangular opening. So it was the property owner's hope that this represented a reasonable and modest adjustment to an older dwelling unit that's being upgraded to accommodate for modern living standards.

TIMOTHY HUGHES: Any other questions from the Board?

(No Response.)

TIMOTHY HUGHES: The Chair will open it up to public testimony.

Does anyone want to be heard on this case?

(No Response.)

TIMOTHY HUGHES: Seeing no one, I

will read into the record a form letter signed by two different people in support of the project. It says (Reading) I'm a neighbor of 1-11 Marney Street residing in the abutting property on Cardinal Medeiros Avenue immediately behind the building. Please be advised that after discussing the project with the developer's representatives and reviewing the renderings of the project I'm the opinion that the development at 1-11 Marney Street will be a welcome addition to our neighborhood. As a result, I support the project and urge the Board to grant the Petitioner's request. And this one is signed by Benjamin Priest at 363 Cardinal Medeiros. And the same letter signed by David Mahoney at 365 Cardinal Medeiros.

And that's the total of the correspondence. Closing public testimony.

Any further questions from the Board?

(No Response.)

TIMOTHY HUGHES: Any further statements?

BRENDAN SULLIVAN: I'm not totally enamored of in-filling because I do think it adds to a blankness even though you're going to pop in some windows, but....

TIMOTHY HUGHES: Any other comments?

BRENDAN SULLIVAN: Existing second floor has a rear deck and then the proposed, the proposed basement it looks like in that area you're actually adding

a bedroom. You're actually adding -- there's a --

SLATER ANDERSON: The kitchen's being moved completely to somewhere else.

BRENDAN SULLIVAN: The kitchen's being moved -- yes, what they're doing is creating in that space, two bedrooms. Seven-foot, two wide and six-foot, six wide. So you're getting this -- you're enclosing this area to basically create two bedrooms, one of which is seven-foot, two wide. And the other one is six-foot, six at that wall.

And on the third floor they're adding a -- it's a half bath and it's going to be a bedroom area and a closet, but it seems like they're adding to the occupancy of the units and to the building. I just think it has the, to me,

somewhat of an adverse impact as opposed to a benign one.

TIMOTHY HUGHES: Any other comments? Janet?

JANET GREEN: No.

TIMOTHY HUGHES: Tom?

THOMAS SCOTT: Yes, I mean the rooms they're adding, they're very awkwardly shaped, but I guess if that's what they're trying to do.

SLATER ANDERSON: Is the number of bedrooms increasing per unit?

ATTORNEY JAMES RAFFERTY: I must confess I don't know the existing number of bedrooms. I don't know if there's an existing floor plan. I mean, I understand the point, but I do think frankly that the Special Permit criteria suggests that the adverse impact would

have to be on surrounding uses. It's --

THOMAS SCOTT: Are there letters of support from this neighbor?

ATTORNEY JAMES RAFFERTY: Yes. That's the letter that was sent. I specifically asked Mr. Hope what the reaction was to the close --

THOMAS SCOTT: On both levels or just from --

ATTORNEY JAMES RAFFERTY: I don't know what the -- if those two letters -- my understanding is those two letters came from two residents of that building. Or the owner of that building at least. I think the existing house is, you know, it's typical in the neighborhood. It's the owner. The new owner is doing a significant rehabilitation of the house. It was seen

as having a modest impact on the facade. It doesn't change anyone's air or light. I mean, they are close separations between structures in that neighborhood. So if this were projecting, it would be a different impact. But the Ordinance does recognize that the test is adverse obviously.

SLATER ANDERSON: This is a nine-unit building; is that correct?

ATTORNEY JAMES RAFFERTY: I imagine the dimensional form will tell me that.

BRENDAN SULLIVAN: I think in the basement --

ATTORNEY JAMES RAFFERTY: Yes, that's -- according to the dimensional form there are nine units.

BRENDAN SULLIVAN: It just seems

to me that it's just cramming into every space to occupy it. And it just appears to tip the balance. If you look at the existing basement and then the proposed --

JANET GREEN: There were nine --

SLATER ANDERSON: The existing basement is unfinished?

JANET GREEN: And there were nine units to begin with and now there's still nine units?

ATTORNEY JAMES RAFFERTY: Yes. If you look at the dimensional form, it's somewhat striking, there is no change of any dimensional criteria, GFA.

BRENDAN SULLIVAN: So it just seems like they're --

ATTORNEY JAMES RAFFERTY: The dimensional form indicates that there are

currently nine units in the structure.

TIMOTHY HUGHES: Right.

ATTORNEY JAMES RAFFERTY: And this represents no change.

TIMOTHY HUGHES: It looks like that basement, finished basement, the basement is attached to units 1 and 3. And it looks like the, there is an addition of the bedroom on the center unit all the way up, first, second and third floors, which is what the in-fill of the porch is going to accommodate and turn one-bedroom units into two-bedroom units.

SLATER ANDERSON: So the first floor of that has two --

TIMOTHY HUGHES: One of them might even go to three bedroom. There's a tiny bedroom. No, it's just

reconfigured. The third floor is still a two-bedroom unit in the center.

SLATER ANDERSON: I mean, you're adding more residency in effect.

TIMOTHY HUGHES: You're adding three bedrooms to the place.

ATTORNEY JAMES RAFFERTY: Well, possibly. I mean it depends how the unit gets used. I think it's a reasonable inference to think an added bedroom, but in some settings these become studies, home offices.

SLATER ANDERSON: Well, it's labelled as a bedroom, not an office.

ATTORNEY JAMES RAFFERTY: Right, no. I acknowledge it's an added bedroom is what I'm saying. So I think it's reasonable to infer that might lead to --

BRENDAN SULLIVAN: It could be

one person, it could be six people.

SLATER ANDERSON: Yes, yes. All right.

TIMOTHY HUGHES: Six really small people.

JANET GREEN: Six children.

ATTORNEY JAMES RAFFERTY: I think six would require a lodging house license.

BRENDAN SULLIVAN: If you get a mother and father and four kids.

ATTORNEY JAMES RAFFERTY: Triple bunk beds -- oh, this is true.

BRENDAN SULLIVAN: The possibilities are endless.

ATTORNEY JAMES RAFFERTY: Yes, yes. I suppose it's an historical element of families of that size dwelling in there.

JANET GREEN: I'm comfortable with it myself.

TIMOTHY HUGHES: Any other comments from the Board? We ready for a vote?

BRENDAN SULLIVAN: Sure.

TIMOTHY HUGHES: The Chair would move that a Special Permit be granted to 1-11 Marney Street for the in-fill of porches and to adding of windows in a setback. Requirements of the Ordinance can and will be met for the following reasons:

With the requested Special Permit the Petitioner will be able to improve the layout and functionality of the property to the bedroom and the property and values of Cambridge. And no other relief will be necessary.

Traffic generated or patterns of access and egress would not cause congestion, hazard, or substantial change in established neighborhood character for the following reasons:

The porches having no stairs to the ground don't enter into the traffic patterns of the neighborhood at all. No traffic or patterns of access will be changed so there will be no negative effect.

The continued operation of the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of this proposed use for the following reasons:

The continued operation of the development as a residential unit will remain in a Zoning District that is a

Resident C Zoning District and pre-existing non-conforming multi-family residential use.

Nuisance or hazard would not be created to the detriment of the health, safety, and welfare of the occupant of the proposed use or the citizens of the city for the following reasons:

If anything, the proposed in-fill would create a more habitable living space inside and minimize nuisance and hazard.

And the proposed use would not impair the integrity of the district nor derogate from the intent or purpose of this Ordinance because the relief requested will allow Petitioner to upgrade the interior and exterior of the property as well as alter the layout

providing additional bedrooms that will add to the City's housing stock.

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

(Aye.)

TIMOTHY HUGHES: That's four in favor.

(Hughes, Scott, Green, Anderson.)

TIMOTHY HUGHES: Opposed?

(Sullivan.)

TIMOTHY HUGHES: One opposed.
Motion carries.

(7:15 p.m.)

(Sitting Members: Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green, Slater Anderson.)

TIMOTHY HUGHES: The Board will hear case No. 10435, 155 Webster Avenue.

How you doing? Please identify yourself for the record.

ALBERT PACHECO: My name is Al Pacheco, 55 Larchwood Drive, Cambridge, Mass.

CAMPBELL ELLSWORTH: My name is Campbell Ellsworth, 267 Norfolk Street, Cambridge.

ATTORNEY JAMES RAFFERTY: My name is James Rafferty, 130 Bishop Allen Drive, Cambridge. I'm appearing on behalf of Mr. Pacheco, the property owner.

This is a property that Mr. Pacheco has owned for many years and has had a somewhat unusual unique structure on the property. The principal use of the property is a three-family dwelling, but the structure that I'm sure you've seen

in the photos as well as possible site visits is -- well, Mr. Pacheco could probably give you a little bit of history of how it's used. He grew up across the street his whole life. The building's been -- this particular structure has been around nearly 100 years --

ALBERT PACHECO: Right.

ATTORNEY JAMES

RAFFERTY: -- according to the building's town records.

ALBERT PACHECO: It used to be a little variety store. Mr. Yetkins (phonetic) used to be there for many years until he passed away. And I took over maybe 35 years ago. And I use it, I have a business, a retail business, I use it for like little storage. But I would like to beautify the neighborhood

a little bit and maybe put a little studio in there or something.

ATTORNEY JAMES RAFFERTY: So as Mr. Pacheco noted over the course of his ownership he has maintained the property and has thought about what opportunities might exist, and he encountered Mr. Ellsworth who I'm sure many on the Board know and recognize. He is a Cambridge architect who has a specialty in residential architecture, particularly unusual or small scale residential. And he has come up with a plan that would allow for the structure to accommodate a dwelling unit. And the floor plans tell the story of what that dwelling unit would look like. The -- it's a compact space, but it's -- perhaps might be considered an

alternative to a one-bedroom apartment in a multi-family building. It's a one-bedroom space with the bedroom on the lower level. The site can be -- the egress requirements can be accommodated by the creation of some window wells. And Mr. Ellsworth could kind of work you through a couple of the facade changes. One of the interesting things if you look at the site plan, is that the nose of the property currently is owned by the property owner and the sidewalk comes around it. And part of the proposal would involve some attempt here to create a bit of a pleasing entry and edge to this property as you approach this unusual shape where Willow Street and Webster Ave. come together. Across the street on the Willow Street edge is the Harrington

School -- it's not the Harrington School.
It's the King School, the playground.

ALBERT PACHECO: Donnelly Field.

ATTORNEY JAMES RAFFERTY:

Donnelly Field, thank you. Maybe
Mr. Ellsworth could quickly walk the
Board through what's being proposed here
as well as the deck on the top of the
structure.

CAMPBELL ELLSWORTH: Sure.

Currently it is, as you can see from the
existing plans, it's one large room. As
Mr. Pacheco said, he's been using it for
storage, but it's got this history. I
think it goes back actually to 1896 is one
of the first plans, Cambridge plans that
show this structure on there. It's got
an existing bath in there. It has an
access down to a lower level crawl space,

and that crawl space would accommodate a lower level habitable space according to Massachusetts Building Code. And we thought since it's only a single story structure, that it would be terrific to be able to give since this is, this building is really sort of really jammed onto the site with zero lot lines on both, on both Willow and Webster that to give this, to create a living space and to create some sort of upper deck area with a small head house up above, that would access a modest deck upstairs. Again, pulled way back as far back as reasonable from the Willow and Webster Street so that the deck itself doesn't, you know, spill over. Also the head house would also be brought into the middle of the structure so that's not imposing on Willow or

Webster either.

Obviously creation of new fenestration, but we thought that was pretty attractive for the street trying to provide still privacy, but lots of light. And it's an unusually sort of tall space on the inside of this single story structure. The current roof is at about 13 feet and we would maintain that, maintain that height.

TIMOTHY HUGHES: Anything else?

CAMPBELL ELLSWORTH: No, that's it.

TIMOTHY HUGHES: Questions from the Board?

BRENDAN SULLIVAN: The space in the basement, you're saying right now it's a crawl space?

CAMPBELL ELLSWORTH: Right.

BRENDAN SULLIVAN: So floor to ceiling there is?

CAMPBELL ELLS WORTHS: Currently it's -- let me see if I've got it on here. I could probably measure it. It's about, maybe about five feet or so.

BRENDAN SULLIVAN: And so how are you going to gain the extra headroom?

CAMPBELL ELLSWORTH: Digging down and underpinning the existing foundation.

BRENDAN SULLIVAN: Okay.

And the fenestration requirement for that bedroom down there?

CAMPBELL ELLSWORTH: We would have -- on the back side, we would have an emergency egress well with -- I'm not sure what the size of that would be. We would have to meet egress code. And in

terms of when we're not able to -- if we're not able to do -- get enough natural lighting, then we -- there's a provision in the code is my understanding to be able to do artificial lighting.

BRENDAN SULLIVAN: And 0.35 panel power I think it is of the space. Well, the code reads for fenestration eight percent of the floor area. So I guess my question is how are you going to comply with that eight percent? And does that one window, which is -- you're saying that an egress window?

CAMPBELL ELLSWORTH: Yes.

BRENDAN SULLIVAN: So the sill height of that can not exceed 44 inches from the basement floor.

CAMPBELL ELLSWORTH: Correct.

BRENDAN SULLIVAN: And the area

has to be eight percent of the floor area in order to comply with the fenestration.

CAMPBELL ELLSWORTH: Yeah, I don't -- it's my understanding that if you're not able to hit the eight percent, that you're able to do it with -- I believe that has to do with lighting.

BRENDAN SULLIVAN: No, it's fenestration.

CAMPBELL ELLSWORTH: It's fenestration. Okay. Well, I don't we'll -- well, unless we enlarge that window well, I don't know that we're going to hit eight percent, but I would have to look into that to see what sort of alternatives there are.

BRENDAN SULLIVAN: Which is going to change that plan.

CAMPBELL ELLSWORTH: It would

only open -- it would only open the --

BRENDAN SULLIVAN: I guess what I'm getting to if we approve this plan tonight, that's what you're basically bought. That's what we're approving.

CAMPBELL ELLSWORTH: Okay.

BRENDAN SULLIVAN: So any changes to that are going to have to come back before us.

When I first looked at it and I saw that the basement was completely below grade, my -- I'm saying where are the windows for the bedroom? And then looking at the code it said requirement is eight percent of the floor area for fenestration. Artificial light you can comply with by putting in lighting, but it's not just natural light, you can comply that with artificial light. But

it's the fenestration which is the eight percent.

Now, you can attain that with windows, but it appears that it's lacking in that amount which then begets the question, if this is what is to be approved tonight and there's any changes to it, you know, any action on our part really is deficient. I mean, that's only one issue I have with it.

ATTORNEY JAMES RAFFERTY: If I understand your point, Mr. Sullivan, it's that the Applicant needs to be confident that the fenestration as depicted on the plan is adequate for the Building Code.

BRENDAN SULLIVAN: That is correct.

ATTORNEY JAMES RAFFERTY: And if

that's not the case, then we think that requires further examination, perhaps we should analyze that further and seek to return.

BRENDAN SULLIVAN: I think it's going to change the plan.

ATTORNEY JAMES RAFFERTY: If in fact that needs to increase, correct. Because I don't imagine that's something we're going to figure out as we sit here.

TIMOTHY HUGHES: Are we talking about eight percent of the square footage of that basement?

BRENDAN SULLIVAN: Correct.

TIMOTHY HUGHES: And how big is the window, do we know from this plan? It's not immediate.

BRENDAN SULLIVAN: What is the square footage of the basement?

CAMPBELL ELLSWORTH: My understanding is the square footage of the basement is the same of the first floor, which would be I believe it's 441.

BRENDAN SULLIVAN: So you're talking 300 -- I'm sorry, you're talking 32 square feet.

CAMPBELL ELLSWORTH: 441 times eight percent would be 35 square feet.

BRENDAN SULLIVAN: Right.

CAMPBELL ELLSWORTH: I certainly won't be able to hit that with a single window, but looking at this plan it would be possible through rearrangement in that basement, I have the ability to bring light in from the front. This is the ground floor plan. And this is, you know, we're not exactly at grade. We're 14 inches above. That's just the nature

of this. So I could, I've got windows right in the front here, and I could certainly put in window wells here as well right below those front windows which would create them in the lower level here and here. And obviously I've got to move that, move that closet. And if it's, you know, if I've got the requirement of 35 square feet divided by three, now I'm at 11 -- almost 12 square feet, and that I think I can achieve.

BRENDAN SULLIVAN: Okay.

TIMOTHY HUGHES: I'm a little confused because I don't see on your dimensional form an increase of 400 square feet.

CAMPBELL ELLSWORTH: It's not because it's not -- it would be below seven feet.

TIMOTHY HUGHES: It is right now. But your plan is to make it habitable space which to my mind this dimensional form should reflect that space being used as habitable space.

CAMPBELL ELLSWORTH: No, that's --

ATTORNEY JAMES RAFFERTY: Well, no, because I think the proposal is as designed by Mr. Ellsworth doesn't envision that space as seven feet high.

BRENDAN SULLIVAN: State Building Code defining habitable space is different than our Zoning Code.

TIMOTHY HUGHES: So you can use that space without it actually entering your floor area ratio?

CAMPBELL ELLSWORTH: That's correct.

ATTORNEY JAMES RAFFERTY: That's correct.

TIMOTHY HUGHES: Okay.

ATTORNEY JAMES RAFFERTY: For the reasons cited by Mr. Sullivan, that the ceiling height in the basement has a different -- it has to be -- below seven feet it is included within our definition of GFA, but yet in certain scenarios in a single-family dwelling like this my understanding is it can be used as occupied space. I believe that's why the -- that's why the impact on the GFA here is so modest because the use of the basement at a volume less than seven feet doesn't add any GFA.

TIMOTHY HUGHES: Okay.

SLATER ANDERSON: So six-feet, 11 and a half inches?

CAMPBELL ELLSWORTH: Correct.

BRENDAN SULLIVAN: The new international residential code, I think, is six-foot, eight is the minimum. Our Zoning Code says anything over seven, seven or above so you get that four inches of wiggle room basically.

ATTORNEY JAMES RAFFERTY: Now isn't that, however, isn't that however just for one, two, like, you can't do this in a multi-family, correct?

BRENDAN SULLIVAN: Correct.
For one and two's.

TIMOTHY HUGHES: Any other questions from the Board?

THOMAS SCOTT: I'm not particularly enamored with the head house that you're adding up top.

JANET GREEN: Yes.

THOMAS SCOTT: I really find that kind of out of place. It just seems like it's an odd entity added to the top of the building. I understand what it's for, but there are other ways to achieve that access without having such a huge structure up there I think. I just find it really odd looking. Did you investigate any other solutions for access to that?

CAMPBELL ELLSWORTH: I've designed hatches before. We can certainly do that, and that would not be visible at all from the street. They're just a little more tricky to maneuver for the user, but it's certainly possible. And it would still require obviously some sort of -- some sort of railing.

THOMAS SCOTT: A railing, yes.

CAMPBELL ELLSWORTH: A railing there. But that's completely possible. We could do that.

TIMOTHY HUGHES: Other questions?

JANET GREEN: No. My two questions were around the head house and the basement so I'm --

ATTORNEY JAMES RAFFERTY: I wonder if given the concerns about the head house and the uncertainty or the need to address fenestration in the basement, whether it might be appropriate to request a continuance at this point to have the drawings reflect those two modifications.

TIMOTHY HUGHES: I think that's where we're headed, but because I think that there are people in the audience that

want to be heard on this, in deference to them I'm going to open it to public hearing --

ATTORNEY JAMES RAFFERTY: Sure.

TIMOTHY HUGHES: -- first and decide where we're going to go.

Go ahead.

SLATER ANDERSON: Have you attempted to lease this commercially? Because you say you've been using it yourself, correct?

ALBERT PACHECO: I'm using it myself, yeah.

SLATER ANDERSON: Yes.

Any desire to rent it as commercial space?

ALBERT PACHECO: Not really.

ATTORNEY JAMES RAFFERTY: I would say it has a, it has an unusual

Zoning status. It hasn't been used as retail space for quite sometime, so it's not clear to me what use one could put in there. I think the only as of right use of this might theoretically be as an adjunct room to the existing three-family. But because we're seeking to create a separate dwelling unit, we need the relief from the density requirement of area volume per dwelling unit and parking requirement. But beyond that this could be a man cave for someone who lived in the three-family, but I don't know what else you could do with it.

TIMOTHY HUGHES: Is it big enough for a pool table?

BRENDAN SULLIVAN: Is it your intent, Mr. Pacheco, to rent it or sell

it?

ALBERT PACHECO: No, I don't sell, I rent.

BRENDAN SULLIVAN: Otherwise it would be a condominium unit with the three--family; is that correct? Because it's on the same lot.

ATTORNEY JAMES RAFFERTY: Oh, it's a single lot, right. So the lot goes from having, yes, three units to four.

BRENDAN SULLIVAN: In the absence of a subdivision, I mean it could be sold but it would be in condominium with the three-family.

ATTORNEY JAMES RAFFERTY: Yes, yes. It would be a pretty small lot, too, for a subdivision.

ALBERT PACHECO: I think my -- may I speak?

TIMOTHY HUGHES: Sure.

ALBERT PACHECO: I think that the whole building is unusually shaped, and I think that the house on top and the head house on top wouldn't do anything to the neighborhood. I think it would enhance the beauty of it. If you look at all my properties, it's all up to date. I've never been called by the Inspectional Services, and I'm a good landlord and all my tenants love me. You know? So I think we would enhance the neighborhood.

BRENDAN SULLIVAN: Well, this building may be a relic from the past. It's usefulness may have expired. I leave it at that.

ATTORNEY JAMES RAFFERTY: Well, we always find, too, in Cambridge that sustainability is such a watch word and

have an adaptive reuse. I looked at exploring the provisions of 5.28 that allow for an adaptation of a structure originally not constructed for residential use, but the conclusion was that the -- you can get one dwelling unit for every 900 square feet. But we didn't have 900 square feet. So we went around and around with Community Development, and they said well, they think that you probably have to have 900 square feet. So we couldn't get there by Special Permit. But it's, it's sustainable. It will provide a dwelling unit. It will be a dwelling unit of a certain size and appeal to a certain market. This, this location is a few blocks from the city's largest employment center, and there is every reason to think that this will

serve -- address a housing issue in the Eastern Cambridge area. So that's, I think Mr. Pacheco has, you know, been thoughtful in thinking about this over the years and figured that this may represent an opportunity to do something. The use of the fence out front creating a small little courtyard and a new entry would give the building a certain air of domesticity that it certainly lacks today. And it's one of those structures that makes cities interesting places. It's uniquely sized, positioned across the street from a park. It has frontage on two streets that come in at an angle, so you couldn't throw stones if you lived in this house because you have a lot of glass and, you know, people will -- it will attract someone. But one could see

some -- it's a very nice setting across from the park, and there's a parking -- there are parking spaces right across from this that -- on the street and in the parking for the park. So it's a very nice setting. Well maintained homes and residential street, and I think the hope here was that the hardships stem from the structure itself. And it's reasonable to try to make some productive use of the structure.

THOMAS SCOTT: Did you consider a gable roof structure of any kind? Was that -- because it strikes me as a building that was built as a small commercial building, and that's what it still kind of looks like after your renovation. My thought is -- and this, you know, heavy residential

neighborhood, you know, if you're really going to turn it into a residence, do you want to try to make it look more like a home, you know, as opposed to a little commercial structure that's a home.

CAMPBELL ELLSWORTH: I hadn't. I mean, the geometry of it, it's sort of like a flat iron building, right?

THOMAS SCOTT: Right.

CAMPBELL ELLSWORTH: It's putting a gable roof on that would -- I've seen geometries like that with gabled roofs and they come out kind of bizarre. Funny things will happen in geometry. So I hadn't looked at that.

THOMAS SCOTT: Okay.

CAMPBELL ELLSWORTH: And I, you know, there are plenty of flat-roofed residential structures in Cambridge with

little --

THOMAS SCOTT: Yes, but they're three stories high. They're not like this.

CAMPBELL ELLSWORTH: Yeah. Often. That's right. This is sort of an odd ball, although it's a little bit taller. So it has a nice presence on the street.

THOMAS SCOTT: I mean, I'm a little -- I'm struggling with the deck on the roof. You know, I just -- it just seems like it wants to be more of a residence. And this, I would say, it feels like it's going to become a man cave like you said. It's going to be a little house that, you know, the deck becomes a party area and it's so close to the ground that it, you know, you could have

interaction with people walking by. I just feel it's funny. It just -- it has some odd shape and size and it doesn't feel like a residence to me, that's all.

ATTORNEY JAMES RAFFERTY: Well, I mean, that's an accurate assessment. It certainly doesn't now. I think the challenge was could there be, through the introduction of the new facades and the openings, could it take on some of the aspects of residential use? But it is a different space. I think that the roof deck was appealing because, because it's on the second floor. It doesn't again add GFA. And it does allow an opportunity for someone who is living here to at least sit outside. But I think it's not a critical element to what's trying to be accomplished here. And

there is, there is a fair bit of open space across the street from the site. But we recognize the unique aspects of this. But I do think that there are, particularly in this part of the city, there are structures that are this close to the sidewalk. I think it's a, I think it's an alternative to a one bedroom. I think it might be appealing to a creative person who could, you know, who could sleep late because you wouldn't get a lot of sunlight glaring in the bedroom, you know. If someone worked at night and wanted to sleep during the day, it would be a rather attractive location.

CAMPBELL ELLSWORTH: There's a very interesting -- there was recent, couple years ago a rehabilitation of an existing structure on St. Mary's Road.

And I can't remember the larger cross street is. It's not Inman. It's one over from Inman. But there was --

ALBERT PACHECO: Amory.

CAMPBELL ELLSWORTH: Amory.

Amory and Saint Mary's.

ATTORNEY JAMES RAFFERTY: Oh, right.

CAMPBELL ELLSWORTH: And there was a single story square structure stuck right on the corner of that. And I can't remember actually what it was before.

ATTORNEY JAMES RAFFERTY: It was a, I had that case. It was a small retail store.

CAMPBELL ELLSWORTH: Small retail store.

ATTORNEY JAMES RAFFERTY: And Ms. Glenmullen was the Applicant, and

she --

SLATER ANDERSON: It was two buildings?

ATTORNEY JAMES RAFFERTY: Right.

CAMPBELL ELLSWORTH: Right.

They ended up doing -- and Mark Boyes-Watson may have been the architect there. And they wound up doing three units, and it's absolutely spectacular. Even though that one, the entrance -- that one structure that's right on the corner, zero lot line has, you know, an entry sort of cut into it, not unlike what we're trying to, you know, a recessed entry. I thought it was very effective. In fact, we looked at that.

ALBERT PACHECO: Yeah, we looked at that before --

CAMPBELL ELLSWORTH: Trying to

find those typologies here in town.

THOMAS SCOTT: I'll take a look at it.

ALBERT PACHECO: It really looked nice, and it beautifies the neighborhood.

TIMOTHY HUGHES: Any other questions from Board members?

JANET GREEN: No.

TIMOTHY HUGHES: I'm going to open it up to public testimony.

Is there anyone that wants to be heard on this case? Please come forward and identify yourself. I know you were here first so I'm going to let her go.

DEBRA MAGOWN: My name is Debra Magown, M-a-g-o-w-n --

TIMOTHY HUGHES: Can you com over here? She's the one that needs to hear

for the record.

DEBRA MAGOWN: -- and I've lived in the area for over 15 years. I live at 146 Webster Ave. which is directly across from this. And I want to say that the parking there right now is congested. What you've had is you've had the church sort of like have added units with the church, you've added units before at the end of the street with affordable housing in that there may be a park and there may be parking across there, but in the winter especially it's very difficult to find a parking space. Sometimes basically I can't find one so you park over into the parking lot near the school. And sometimes it's very difficult even with that to find a parking space around there. And then you think, okay, it's better in

the summer, but it's really not. I was lucky to find a parking space today because what you have is the park and you have all of the games. You have the Little League. You have adults. And they take the parking spaces. It's, you would think that it would be, you know, resident parking. But Cambridge has resident parking, we can park all along. So you can't guarantee that when you're coming home from work or you're coming home around seven or eight, you're gonna find a parking space in that parking across there. And I think that adding a new building without thinking about parking and is it for maybe one or two cars? You're adding a burden in the summer and you're adding a burden in the winter. And clearly they do not really

do a good job of snowplowing in that area because it is congested. They do not enforce the do not park on this side of the street in the snow emergency. They don't tow. So what you have is you have a lot of space that you can't use because it was never plowed. People didn't, can't at that point shovel it out because it's basically you need a blow torch or something, it gets really hard. So I think adding another dwelling would be a hardship on parking in the neighbors there, especially since they actually have a parking space and it looks like they would be taking it away. So that's my objection, that it's going to increase the demand for parking in an already congested place where there's limited parking anyway.

Thank you.

TIMOTHY HUGHES: Anyone else?

CLAIRE KOEN: Yep. I'm Claire, C-l-a-i-r-e Koen, K-o-e-n is the last name. I'm at 150 Webster Ave. and I'm the house that this property will block view of the park or whatever in front of me. I agree with the parking. My tenant on my first floor is handicapped and has been trying to withhold from getting an actual physical sign so that you can't park in front of our house any longer because there's three other handicap spots taken up on our very tiny street. So she's put that off. But every night because of the time she comes home, could very -- it's a rarity that she ever gets a parking space in front of our house. Someone else is there. And the winter, forget

it. It's a nightmare. And why?

Because of the property of the way Windsor and the way Webster Ave., Willow, and York, how that all comes together, it's very difficult for them to plow it. And it actually in front of that structure is where a lot of the snow is brought up and dumped just because we have no other place for it to go. And so definitely the parking.

The -- any structure to the top of it as far as an open area, a roof garden, or any kind of roof access, we've had problems with his property currently that's right in included with that with -- it's always occupied a lot of young folks in the neighborhood; MIT, Harvard, working in Kendall Square, have been out for parties up on top of that

roof, and I've called the police because there's no edge, and they're like gonna fall off with a couple of drinks in their hand. So to add another piece like that where that could be a potential, would be -- and something I have to look at across to look at the park from -- and for the tenant downstairs, it's blocking. It's a little tiny piece of property. It's been what it's been for a long time. I don't find it -- as long as you keep it painted properly, it looks fine. I mean, having a little bit of land in front of it and walkway for people to come for the kids to walk on, now we're taking all of that and just, you know -- excellent point about making it a condo, a single condo, and backing it in, putting a fence around it, and utilizing the property

between the three-family. I don't know. That sounds like logic to me. But anyway, it just -- the traffic issue and anything above it, it just -- it's -- it lends itself -- we have enough issues with noise and problems we've had with these little spaces, with some other little properties where they've been grandfathered into have people in and we end up one person. I mean, you're very good with your tenants and I do understand that. But I mean we just worked for a year trying to get another unit, get with issues with tenants that come and monopolize the -- or break the rules I guess, play close to the rules as far as noise and that and those kind of things. So it's just, you know, for us that have lived there a long time and really

respect, I keep up my property, spent a lot of money to redo it and take care of it. And it's just -- for my kids that are trying to work, my daughter works at home and tries to sleep at night, it's a, it's very -- can be very noisy and so adding more, adding more traffic for my tenant, she would be here if she could have been, for the parking situation. As long I'm glad to hear that you folks are looking at that.

JANET GREEN: Can I ask a question about -- I mean, I looked at that building today and, you know, it does look like it hasn't been used for a while or has been used as storage or something. It doesn't look like it's an addition to the neighborhood. But you say that that's better to have it like that?

CLAIRE KOEN: Well, for those of us who lived with it know --

JANET GREEN: Yes.

CLAIRE KOEN: -- personally it's just emotional for me. It was my little corner store that I went with my two sons and little girl and shopped in. So it's something in the neighborhood that's there, you know. I understand. I'm dating it and I mean, I'm really totally not against it being some kind of a residence, but absolutely it needs to have -- right now there's a little parking place behind it that a car could fit. I mean, I don't know if it's in the plans if it's some way to incorporate it with the third- family that it has a parking piece. I don't know, it just -- it's just another -- it's minor little things

of course, but added into a community that just gets hit everyday with every little space where can we put another piece of property? And I've had, as I said, the little grandfathered in downstairs apartment next to me has been nothing but massive headache in my life. I mean, I don't want to move, and that's what I'm feeling like. It's not a place -- it's not the neighborhood I grew up in. And I want it -- I'd like to have some semblance of that where my kids feel comfortable to work and sleep at night and at normal hours. Thank you.

TIMOTHY HUGHES: Thank you.

Anyone else?

CARMEN MEDEIROS: Good evening. My name is Carmen Medeiros. I have a house in 168-170 Webster Avenue,

Cambridge. My sister owns a four-family right beside me. I think that everything that has been said I'm sure that is true, but to me that is going to beautify the street and there's going to give more value to my house. So I do hope that you take this into consideration.

Commercial versus residential, no question about it. Residential is much better. So one unit there, that has been there for so many years. Kids stay overnight. Tonight when I go by, I go visit my sister, kids are there smoking, drinking, because there's nobody there to watch them. So I do hope that you take this into consideration.

TIMOTHY HUGHES: Thank you.

NATALIA FURTADO: My name is
Natalia Furtado, N-a-t-a-l-i-a

F-u-r-t-a-d-o. I live at 164 Webster Avenue. I think this building only would value our community and our neighborhood. Because I do my walks, I don't drive, I walk everyday around that area and I live there for 60 years. And it's a shame that I cannot walk without closing my eyes a lot of times seeing the kids passing marijuana to one another, and drinking. And lots of times I call the police. So, I hope that we put that in consideration to better our community and our neighborhood.

Thank you.

TIMOTHY HUGHES: Thank you.

Anyone else?

(No Response.)

TIMOTHY HUGHES: Not seeing anyone, I close public testimony.

You want a chance to respond?

ATTORNEY JAMES RAFFERTY: Well, I would only say that I think it would behoove the Applicant to reexamine the issues around the roof deck, because I would think that that needs attention. Also, the issues raised by Mr. Sullivan, I think, are worthy of examination. So if the Board were so inclined as the Board was thinking that addressing those issues would essentially be a wasted effort on the Applicant's part, I would ask that the Board to consider allowing us a continuance to make some modifications, share them with the concerned neighbors. I was struck by Ms. Koen's comment at the end, a legitimate concern about parking, but not necessarily opposed to the concept of a residence there. I'd like

an opportunity to explore that with some of the neighbors.

JANET GREEN: People keep referring to one single parking space. Could you say more about that? Is that going away or would that be connected only with this unit or --

ALBERT PACHECO: This here is a driveway.

CAMPBELL ELLSWORTH: And there's a curb cut.

ALBERT PACHECO: And a curb cut.

CAMPBELL ELLSWORTH: Existing curb cut.

ATTORNEY JAMES RAFFERTY: Two on there?

ALBERT PACHECO: On the one, one end. On Willow.

ATTORNEY JAMES RAFFERTY: And

who uses that driveway now?

ALBERT PACHECO: I use it when I go put my storage in.

ATTORNEY JAMES RAFFERTY: Do the tenants in the three-family use it?

ALBERT PACHECO: No.

JANET GREEN: Oh, so it's actually in the front of the building?

ALBERT PACHECO: It's in the back.

TIMOTHY HUGHES: No, it's in the back.

CAMPBELL ELLSWORTH: It's here. It's between the two structures.

JANET GREEN: Yes, I see it here, yes.

ALBERT PACHECO: I have a three-family. I have a picture if you want to see it.

ATTORNEY JAMES RAFFERTY: Well, actually -- so the three-family doesn't use the driveway. I was struck by the fact that when I was there, the gate to the driveway was locked.

CAMPBELL ELLSWORTH: That's the space looking through.

JANET GREEN: I didn't understand that.

THOMAS SCOTT: Could you fit two cars in there tandemly, you know, one behind the other?

CAMPBELL ELLSWORTH: Very small cars.

ALBERT PACHECO: Very small cars. One car for sure.

TIMOTHY HUGHES: Does it have the dimensions necessary for a parking space?

ALBERT PACHECO: It's a

driveway.

ATTORNEY JAMES RAFFERTY: It's a driveway.

ALBERT PACHECO: It's got a curb cut and everything. You want to see it?

TIMOTHY HUGHES: I know the area. I walk by the area --

ALBERT PACHECO: You look familiar.

TIMOTHY HUGHES: I walk by it a lot myself.

ATTORNEY JAMES RAFFERTY: Show it to Mr. Scott.

ALBERT PACHECO: I have a driveway. It's a legal driveway.

THOMAS SCOTT: So why don't you use it? Why don't you allow your tenants to use it I guess?

ALBERT PACHECO: No, not my

tenants. I would allow the store to use it, you know.

THOMAS SCOTT: I see. So this unit would have use of it?

ALBERT PACHECO: Yes. Would have use of that.

JANET GREEN: The unit would have parking?

BRENDAN SULLIVAN: But you're still going to have four units and one spot whoever uses it.

ALBERT PACHECO: Right.

ATTORNEY JAMES RAFFERTY: We now have three units and no spot.

THOMAS SCOTT: And no spot, right.

BRENDAN SULLIVAN: Well, you have one spot it's just not being used.

ATTORNEY JAMES RAFFERTY:

Correct.

BRENDAN SULLIVAN: Thank you.

ATTORNEY JAMES RAFFERTY: I think the testimony was that the spot is being used for the commercial building when Mr. Pacheco goes there to -- he does some loading and unloading, he uses the driveway for that purpose.

ALBERT PACHECO: There's a door right over here in the back, see? Right over here.

THOMAS SCOTT: I saw that.

ALBERT PACHECO: That's the back door.

I would just like to say something about what the young lady said. I'm always around that area. I see her lots of times. She never once complained about my tenants, the drinking. I have

two double locks on my roof. It's a rubber roof. No one is allowed there, and no one can get access to it. So I don't know what roof you're talking about. It's not my roof.

Yes, in the front like Mrs. Furtado said, there are some people there. It's a little gathering there because there's nobody there. So I think with the unit there would enhance, again, the neighborhood and someone would be living there. So I think in fact what a nice building in front of your house. I think you would be benefited -- we all be benefitting from the neighborhood, I think. I'm enhancing it. Look at my house over here. I spent thousands and thousands of dollars right here. It's a beautiful house. She can -- am I telling

the truth about my three-family?

TIMOTHY HUGHES: We don't need to make this a personal dialogue.

ATTORNEY JAMES RAFFERTY: Yes.

ALBERT PACHECO: All right. So I think I have to defend myself. Like I said, I'm a good landlord. I have all kinds of tenants there, professionals. No students. They're all professional people. They haven't got time to go on the roof and drink. So I dispute that.

TIMOTHY HUGHES: And --

ALBERT PACHECO: And then if there's anything, they can always get in touch with me. They know where I work and everything. So any problems, I'm around. I grew up in the neighborhood, and my kids grew up in the neighborhood right across the street, a four-family

house on the end. So we're neighborhood people. And I'm a Cambridgeidian all my life so I know what I am.

TIMOTHY HUGHES: Any questions concerning the request for a continuance or observation? Are we ready for a vote on the continuance?

SLATER ANDERSON: Well, I'll make an observation about the roof deck. The roof deck's probably what concerns me the most. The space exists. The Variance process exists for these irregular buildings like this. Something's going to happen here one way or another with this building. You're invested in it. You're entitled to income from this property. The roof deck to me is you're taking your -- you're introducing a change of use and you're

putting it in the exterior. So the roof deck's the part that troubles me. So I just say that as you think about going forward, the roof deck and the impact on the neighbors.

ALBERT PACHECO: Thank you.

TIMOTHY HUGHES: And I'd have to say I'm troubled by the idea of requesting a Special Permit or relief from parking when there's actually a parking space on the piece of property.

ATTORNEY JAMES RAFFERTY: Well, that -- I may be responsible for that because I wasn't quite sure --

TIMOTHY HUGHES: No doubt.

ATTORNEY JAMES RAFFERTY: I wasn't sure how the driveway was -- I studied the site plan and saw there was a driveway, but my assumption was the

driveway was servicing the three-family house. So I only recently learned that the driveway actually is used for the loading associated with the storage. So I think subject to confirmation by Mr. O'Grady, I'm not -- it may be that relief is not necessary; that we can use the driveway for that building because that has been how it's been used. There are --

TIMOTHY HUGHES: Well, presumably if it stops being a storage space, then the driveway would, you know, could go with the building rather than --

ATTORNEY JAMES RAFFERTY: Oh, that's the Petitioner's attention. So, and I wasn't aware of that frankly when we filed the application. So had I known that, we might not have even requested the

relief.

TIMOTHY HUGHES: All right, so are we ready for a --

BRENDAN SULLIVAN: And I just -- as a postscript, on the international residential code R303.1 governs the regulation for habitable spaces, and there may be exceptions there for artificial light, but also change of air for ventilation. But that is going to require a whole house type of thing which is mechanical equipment. And just be cautious when you come back if that's the route you're going to go, is where is the equipment going to go and the impact of that. Albeit, the noise ordinance and so on and so forth, because there's going to have to be exterior equipment somewhere because there has to be a change

of air.

CAMPBELL ELLSWORTH: Sure.

SLATER ANDERSON: I think I saw HVAC on the roof.

CAMPBELL ELLSWORTH: Yes.

BRENDAN SULLIVAN: HVAC is pumping in cool air. This is a ventilation system. So you have to exhaust it out and bring in fresh air. So just -- that's going to be something I ask -- if that's the route you go. You know, you may satisfy it with windows or window wells and other means, but if you decide no, we're going to go mechanical, artificial ventilation, then I'm going to key in on where it is and the impact that equipment may have.

CAMPBELL ELLSWORTH: Okay. And normally my experience has been --

BRENDAN SULLIVAN: You know, I don't want to ambush you --

CAMPBELL ELLSWORTH: No, no, no, I appreciate it. But I would say that those HRV or ERV units, those ones that exchange air only, those units actually can go inside the building because they're drawing air in, exhausting air out, and there's a heat exchanger right in the box.

BRENDAN SULLIVAN: Again, as long as it satisfies the Building Code.

CAMPBELL ELLSWORTH: Sure, right.

BRENDAN SULLIVAN: And then you wouldn't have to then change the structure --

CAMPBELL ELLSWORTH: Right.

BRENDAN SULLIVAN: -- which is a

road I don't want to go down. That it would be a change after.

CAMPBELL ELLSWORTH: Sure.

BRENDAN SULLIVAN: Because then that negates what we do and you're coming back again and that wastes time, so on and so forth. I mean, I have other issues but that's just one. Anyhow.

TIMOTHY HUGHES: So we're entertaining a motion to continue?

What kind of date are we looking at Maria?

MARIA PACHECO: Well, we have three continued already for June 13th, and you're not here on the 27th.

BRENDAN SULLIVAN: Correct.

MARIA PACHECO: Do you want to hear four on the 13th or do you want to move it to July 11th?

BRENDAN SULLIVAN: If I'm here,
I'm here.

SLATER ANDERSON: I can't do the
13th.

TIMOTHY HUGHES: All right.

MARIA PACHECO: So we'll do July
11th.

TIMOTHY HUGHES: Can everyone
make July 11th?

JANET GREEN: I can make July
11th.

TIMOTHY HUGHES: This is a case
heard.

THOMAS SCOTT: Yes.

TIMOTHY HUGHES: All right.

The Chair will move that we continue
this case to seven p.m. on July 11th on
the condition that the Petitioner sign a
waiver for a time to determine a decision,

and that the Petitioner change the sign to reflect the new date and time. And change the time to seven p.m. Make sure that gets changed, too, otherwise we won't be able to hear it until, well, 7:15 which is the regular time. Change the date and time on the sign.

CAMPBELL ELLSWORTH: Okay.

TIMOTHY HUGHES: And that sign needs to remain intact, you know, for 14 days prior to the hearing. Might as well just leave it up.

All those in favor --

BRENDAN SULLIVAN: And any new submissions be in the file.

TIMOTHY HUGHES: Oh. And any new submissions or plans be in the file by five p.m. on the Monday prior to the July 11th, that would be the 8th of July.

Five p.m. on the 8th of July.

All those in favor of the
continuance?

(Show of hands.)

TIMOTHY HUGHES: That's five in
favor.

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

ATTORNEY JAMES RAFFERTY: Thank
you.

(8:00 p.m.)

(Sitting Members: Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green, Slater Anderson.)

TIMOTHY HUGHES: The Board will
hear case No. 10436, 1 Rockingham Place.
The Petitioners seem to be in front of us.
Would you please identify yourself for
the record and spell your name when

necessary.

ROBERT GILMORE: I'm Robert Gilmore, the landscape architect of the project.

AMY DUWEL: And I'm Amy Duwel, D-u-w-e-l the owner of the home and my husband couldn't be here.

TIMOTHY HUGHES: Go ahead.

ROBERT GILMORE: Sure. So we are seeking relief from, let's see, 421h, side setback relief for an accessory structure. There's an existing shed on the property on a concrete pad, and we are seeking to extend it onto an existing concrete pad that's already there. It seems they might have had plans to build a shed a bit larger but never completed that act. So it's right on the property line. We have photographs to show you.

It's behind the neighbor's garage and keeping in style with the existing shed. They currently have trash cans and all sorts of things piled up on this pad. It's sort of the natural place for them to keep trash cans. So this will give them a place to enclose those trash cans.

TIMOTHY HUGHES: Have you spoken to the neighbors on the property line that are affected by the shed?

AMY DUWEL: I have not. I have not been able to get there when they're home. I -- in fact, in living there a year, I've only been able to say hello one time. They seem very friendly, but they rent out, and I'm not sure that they're always there. I was hoping they would come if they had an opinion because I don't know -- I know you guys send out

notes.

ROBERT GILMORE: Do you have the photographs that I've brought? I have a couple copies that I could pass out.

THOMAS SCOTT: Could we see those?

ROBERT GILMORE: Sure. And so just to orient you quickly, that's the existing shed right there, and I just sort of dashed in where we're going towards that. And you're seeing the back of the neighbor's garage there. And then this -- if you zoom in to that, that little circle area there, and this is the back of the neighbor's garage. That's the existing shed, the existing concrete pad, and just diagrammed in where we would like to enlarge the shed.

JANET GREEN: Is it the same roof

line on the shed that you're adding to the roof that's there already?

ROBERT GILMORE: Yes. We're just going to really extend everything. There's even a gutter on the existing shed and we're going to continue that.

And I would also note that I know in doing the dimensional form, which I apologize for not having it until very recently, but this property is not in conformance with the open space requirement, and there's concurrent landscape plan for the rest of the property that's going to remove a whole bunch of continuously poured asphalt, impermeable surface. So we're actually -- we're gaining about I believe it's 410 square feet of permeable landscape space. So that's bringing us

into conformance with the open space requirement.

TIMOTHY HUGHES: Any questions?

THOMAS SCOTT: My only question I would have really liked to have heard from the neighbor.

AMY DUWEL: I know. And you know what, I -- you're making me realize that that was a big oversight.

THOMAS SCOTT: Because it really impacts them more than anyone.

AMY DUWEL: Well, I feel like it's, you know, it would be polite to try and reach them. Maybe I can find their name on the web or something.

ROBERT GILMORE: Well, wouldn't they have been notified, though, as an abutter.

JANET GREEN: Are they the owner?

TIMOTHY HUGHES: Well, the owner of the property would have been notified. I don't know if that's who's living there.

AMY DUWEL: Right, exactly. So that's the reason I haven't been able to -- like, I kind of go and want to say hello, and it's rented to some grad students as far as I can tell, so I can't figure out -- so I guess I could try to find out, maybe ask them to put me in touch with the owner.

THOMAS SCOTT: With the owner?

TIMOTHY HUGHES: When I originally asked the question, I thought that you were moving closer to the property line. And now that I see you're extending along the property line, you know, along the back of the building and not sticking out passed that building,

I'm less bothered by the idea that the neighbor hasn't been contacted, you know, personally.

ROBERT GILMORE: It's not tied into their structure.

THOMAS SCOTT: Yes, I was going to ask that.

ROBERT GILMORE: Yes.

THOMAS SCOTT: They're separated?

ROBERT GILMORE: Yes.

THOMAS SCOTT: So that it's a completely separate structure.

ROBERT GILMORE: Yeah, and --

THOMAS SCOTT: If they tore down their garage, your structure would still remain --

ROBERT GILMORE: Yeah.

THOMAS SCOTT: -- or vice versa.

ROBERT GILMORE: You could see in that little four-inch of darkness behind the shed. That's it.

AMY DUWEL: Yeah. The existing one is already kind of there.

THOMAS SCOTT: Is that garage in good condition, the one that you're abutting up against?

AMY DUWEL: It seems like it because I can -- from my window --

THOMAS SCOTT: Like, it's not in danger of being torn down at any time?

AMY DUWEL: I actually look at their roof from my window. And since it, like, drains onto the shed, like, it looks like, it looks fine. It looks like they use it for bikes.

TIMOTHY HUGHES: Any further questions?

(No Response.)

TIMOTHY HUGHES: Opening this up to public testimony.

Is there anyone wishing to be heard on this matter?

(No Response.)

TIMOTHY HUGHES: Seeing no one, I'll close public testimony.

Further statements.

BRENDAN SULLIVAN: No, just I guess my thought is it's probably a natural extension. It's a natural placement for it. It seems quite benign because it's behind a garage, so it's really not visible from that neighbor in the back. Now, should that garage come down, now we've got something sort of -- I'm just wondering if it wouldn't be conditioned upon that it always remain

behind that garage structure.

TIMOTHY HUGHES: Well --

BRENDAN SULLIVAN: And I don't know how --

TIMOTHY HUGHES: I don't know how to phrase that without --

BRENDAN SULLIVAN: I mean, in a perfect world --

TIMOTHY HUGHES: They have to tear it down if the other garage comes down?

BRENDAN SULLIVAN: -- in a perfect world, if the garage came down, now you've got this sort of shed sitting there that's out of place.

THOMAS SCOTT: On a zero lot line.

BRENDAN SULLIVAN: Right.

THOMAS SCOTT: Right. Which is

not a good idea.

AMY DUWEL: On both sides -- I don't know if it affects your view of it, but on both sides of the garage there's actually a fence along the property line that was there when we moved there. So it would -- this isn't --

BRENDAN SULLIVAN: I guess what I'm looking for is total visual separation --

AMY DUWEL: Yeah.

BRENDAN SULLIVAN: -- between the shed --

AMY DUWEL: Right.

BRENDAN SULLIVAN: -- and the adjoining property. So if -- and, again, this is really stretching the point, but if the garage were to come down and the fence were to be extended, just as a

visual separation.

AMY DUWEL: Right if the fence were to be extended --

BRENDAN SULLIVAN: A barrier.

AMY DUWEL: -- this is not taller than the fence --

BRENDAN SULLIVAN: Is it your fence?

AMY DUWEL: It's our fence. And it doesn't appear that --

BRENDAN SULLIVAN: So you will agree that should the garage be removed, that you agree to extend the fence --

AMY DUWEL: Yes.

BRENDAN SULLIVAN: -- to encompass so as to enclose --

AMY DUWEL: So it would look pretty from their --

THE STENOGRAPHER: You have to

speak one at a time, please.

BRENDAN SULLIVAN: Right. That you will continue the fence similar or new to screen the back of the shed, the shed itself from the adjoining property.

AMY DUWEL: Yes.

BRENDAN SULLIVAN: Meaning the property in the back.

AMY DUWEL: Yeah.

BRENDAN SULLIVAN: Does that sort of get us there?

THOMAS SCOTT: I think that that's a good solution and I want to see that. Because if we're going to allow a zero lot line, you definitely -- the neighbor, you know, shouldn't have to look at this thing.

AMY DUWEL: Right. I think that would be something we would like to do so

the neighbor would see a continuous fence.

BRENDAN SULLIVAN: Correct.

AMY DUWEL: So, yeah, and we would --

BRENDAN SULLIVAN: Any chance that garage is going to be there longer than you are there. Anyhow.

TIMOTHY HUGHES: Barring tornados. In which case we won't care about your shed anyway.

JANET GREEN: Your shed will go before the garage goes probably.

TIMOTHY HUGHES: Any other comments, points that need to be made?

JANET GREEN: I think it's a really good idea to enclose trash cans in the city.

TIMOTHY HUGHES: Okay.

The Chair will move that the Variance be granted for the construction of the shed within a setback along the property line. A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the Petitioner because a new shed conforming to the setback requirements would be more costly and difficult to integrate in the proposed landscape. It would make it difficult to reclaim the open space that the Petitioner is (inaudible) by being able to set this shed back along the property line.

The hardship's owing to the following circumstances: There's already an existing concrete pad that's been poured, so it's relating to the shape

and topography of the structures on the property. By extending the existing shed onto it and behind the neighbor's garage, the owner provides concealment of trash and recycling containers.

And desirable relief may be granted without either substantial detriment to the public good for the following reasons:

The intent of the Ordinance is not undermined. In fact, with being able to put trash containers and recycling containers out of sight, it helps the overall look and desirability of the neighborhood.

Relief may be granted without nullifying or substantially derogating from the intent and purpose of this Ordinance for the following reason:

An extension of the shed does not negatively impact any abutters' use or enjoyment of the property since it's hidden behind the garage.

And as a condition of the Variance, if the garage should ever disappear, the fence would be continued to block the entire back of the shed between the two properties.

All those in favor of the Variance under those conditions?

(Show of hands.)

TIMOTHY HUGHES: That's five in favor. Granted.

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

AMY DUWEL: Thank you, guys.

* * * * *

(8:15 p.m.)

(Sitting Members: Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet

Green, Slater Anderson.)

TIMOTHY HUGHES: The Board will hear case No. 10437, 52 Church Street.

ATTORNEY JAMES RAFFERTY: At any rate, for the record, James Rafferty appearing this evening on behalf of the Applicant Bowery Cambridge, LLC. Seated to my right is Mr. Josh Bhatti, B-h-a-t-t-i. Mr. Bhatti is the manager of The Sinclair. And The Sinclair is a new entertainment venue in Harvard Square that opened about six months ago. It's a restaurant with a live performance base, and it's proven to be exceptionally popular. And its existence is in large measure owed to this Board because this was the space that you may recall that was a large atrium space historically, and there have been a

series of restaurants in it, and the most recent was a brew pub. But nothing had really succeeded there. And part of the challenge the landlord had concluded was that the space, the volume of the space, it had this glass top on it, the heating and cooling was just astronomical and spaces really didn't work. So he cut the space in half, lowered a roof, and at the time he did that, we thought that was an as-of-right move. But to the credit of the Building Department, they said well, you can put a roof there, but then what you've done is you've created a floor above the roof. And he said well, that's not a floor area. A long way of saying that it's an interesting space. It's set back from the street, and it really is one of the few remaining live performance

bases in Harvard Square. And it's a, it's a popular venue. And when we went through the permitting and the licensing through the License Commission, there was concern expressed, and I would politely say outright opposition by Ms. Gifford and many of her associates. We were at the Historical Commission last week on this sign, and she had no objection. And she wanted to come to express her view that after six months of operation, she thought it was a very good operation, she felt that the restaurant had been well received, and that she had not heard any complaints about it. So I think it's indicative of the work of Mr. Bhatti and his associates of trying to make this a success.

Part of the challenges and the

reason for the relief before the Board is related to the entrance to the premises which is set back a considerable distance from the sidewalk, from the public way. It's also -- we had looked at an earlier sign, frankly, over the entry to the building that simply had the words The Sinclair across it. It was frankly very similar to the words of the Cambridge Senior Center that's out here. Simply simple silver letters. And we reviewed it with Community Development, including Mr. Boothe, and we had told him that the original intention had been this sign here which was more of a theatrical entertainment style sign, but it was less conforming and we thought we'd do that. Well, he encouraged us to actually return to that. He thought the space was so

unique and that that was a good way to go here. So we felt the same way. We have been to the Historical Commission. They had frankly approved the earlier sign, so we went and change and submitted a new application, got approved.

And the building will actually have two signs. The first sign is over the entryway, and that's a marquis-style sign where with a different acts that perform get changed. And it's interesting, under Article 7 of the Ordinance, those signs in movie theatres are exempted from the sign ordinance, but this isn't a movie theatre. So a block down is the Harvard Square Cinema, which I'm sure many of you know has been closed for a while now. But the signage there which gets changed for different films come and go. That

signage, the marquis signage for theatres under Section 7 are exempted. Well, this is highly analogous to that. They have different live acts every evening. But if someone is going by during the day, it's helpful to know who's coming or to give people a few day's notice of what the performance is. So that sign is largely compliant with the exception of its height, and it's above 20 feet. And the challenge here is directly related to the topography, the hardship, because the area slopes down. This -- the access point here is down the side of the building between what we used to consider to be the Sage Building, the brick building at the corner of Church and Brattle. And this building has a driveway which loading occurs in. But

the entrance, the entrance platform you can see, you're already 13 feet above grade when you get to the door. So the 20-foot constraint really has a more of an impact at this location. So the two signs that require the relief are this sign here, that would allow for the marquis-style sign, and then for this sign here, The Sinclair sign which is on the side. The restaurant entrance is to the left. This was taken shortly before they began operation. But --

JANET GREEN: So the marquis sign is which one?

ATTORNEY JAMES RAFFERTY: It's the one --

JANET GREEN: It's the one at the top?

ATTORNEY JAMES RAFFERTY: Yes,

the square --

JANET GREEN: It now says The Sinclair on it if you look at it now?

ATTORNEY JAMES RAFFERTY: Yes.

JANET GREEN: And how does that change?

ATTORNEY JAMES RAFFERTY: That's going to become -- and I know that would become a marquis-style sign. Its dimensions would be unchanged, but it would have individual lettering --

SLATER ANDERSON: Is it a projection? How does it work?

ATTORNEY JAMES RAFFERTY: No, no. It's actually an opening into the wall there, and it's recessed into that opening. That opening was already there. So in that opening would go a sign of this dimension, but it would then

have -- I think we have, in one of the submittals we have how it looks.

THOMAS SCOTT: How do you reach the letters to change them?

JOSH BHATTI: It's a --

THOMAS SCOTT: Is it a pole?

JOSH BHATTI: Yeah, a telescopic pole.

THOMAS SCOTT: And you've tested it? The pole's long enough?

JOSH BHATTI: Yeah. The aesthetic is a classic aesthetic, you know, so we didn't want to do an LED sign or anything modern.

SLATER ANDERSON: Externally lit like --

JOSH BHATTI: Correct, yeah.

ATTORNEY JAMES RAFFERTY: And the lighting is there now. The external

lamps are there. But this is what the marquis sign would look like. And so it might have a performance and a date on it or a performer or two performers. And it's depicted to have those four lines, three at eight inches and one at six inches.

As I said in Article 7 such signs are exempt for a movie theatres and, but this is not a movie theatre but it's, it's very similar in its use, so.... And the issue with this sign is its height. The Sinclair sign itself really tucks in behind the building. This is a mixed use building. It's, it is a dato-tee (phonetic) out in the front, and then the balance of the building is really an office building. So there isn't a lot that tells the newly arriving patron

what's happening here. And we felt that the -- the aesthetic of this sign spoke to the theatrical entertainment.

SLATER ANDERSON: And that's neon lettering?

ATTORNEY JAMES RAFFERTY: And it's, you know, like the Paramount theatre, like those old marquis-style, you know, back before they had the sound in the movies, remember? They had these --

TIMOTHY HUGHES: Let the record show that James was looking at Brendan during that comment.

ATTORNEY JAMES RAFFERTY: I was here a week ago and my client wanted to know what the man on the left was talking about a phone call from Larch Road for a big order of hamburgers. I said, well,

there's an Irish expression called cheeky and you saw an example of cheeky behavior I had to explain what that was. That was just a reminder. But it is a -- it's a real special place. If you haven't had an opportunity to go there. And the restaurant, and it accommodates -- the performances are a couple hundred people in the --

JOSH BHATTI: 525.

ATTORNEY JAMES RAFFERTY: 525.

There's a ticket booth right there. And you might just want to talk for a minute about the type of -- it ranges -- it covers the full range of musical genres from acoustical.

JOSH BHATTI: Yeah, acoustic, jazz, rock, you know, the bulk are rock and roll concerts. You know, up and

coming bands. International acts. We have a lot of British bands coming in.

BRENDAN SULLIVAN: And for next March, anything special?

JOSH BHATTI: Next March?

ATTORNEY JAMES RAFFERTY: Around the middle of the month?

JOSH BHATTI: We had Paddy Saul in there.

ATTORNEY JAMES RAFFERTY: Who's that?

JOSH BHATTI: Irish singer songwriter.

ATTORNEY JAMES RAFFERTY: Oh.

BRENDAN SULLIVAN: The illumination of the sign, is that --

ATTORNEY JAMES RAFFERTY: It's external. It's fine on the marquis sign. It's, it needs relief for the internal

illumination on this one.

BRENDAN SULLIVAN: And the hours that it will be illuminated?

ATTORNEY JAMES RAFFERTY: Oh, good question. Have you given any thought to the hours?

JOSH BHATTI: We have. In knowing that, you know, would be a concern of the neighborhood is having it on all night. Our operating hours for the -- we have a one a.m., two a.m. license. The -- we're limited with entertainment on Sunday through Wednesday until midnight, 12:30 on weekends.

BRENDAN SULLIVAN: So you've already got something in place as far as the hours of illumination?

JOSH BHATTI: Yes.

ATTORNEY JAMES RAFFERTY:

Correct, yes, the license -- so it would only be lit when the venue was open.

JOSH BHATTI: When the venue is open, yeah.

ATTORNEY JAMES RAFFERTY: And they are --

BRENDAN SULLIVAN: Okay.

ATTORNEY JAMES RAFFERTY: During the week it's a one o'clock close, and on the weekends --

BRENDAN SULLIVAN: And that was already presented before Historical?

JOSH BHATTI: Yep.

BRENDAN SULLIVAN: Okay.

ATTORNEY JAMES RAFFERTY: Yes.

TIMOTHY HUGHES: And that's on the alley, right? It's not on the street?

ATTORNEY JAMES RAFFERTY: Yes,

it's set in the alley. And there's no -- the only -- there's no one, but -- it's across from the, probably that parking lot there on Church Street. So it's quite a distance before you're seeing --

TIMOTHY HUGHES: Any more comments from the Board?

THOMAS SCOTT: I think it's a great sign for the use, for the location, you know, it's what will draw people into the space. I think it's a great use of that type of signage.

ATTORNEY JAMES RAFFERTY: I would just note, Mr. Chair --

BRENDAN SULLIVAN: It's better than the Dunkin' Donuts coffee cup down the street.

ATTORNEY JAMES RAFFERTY: That's

being addressed, just so you know. We received a letter from the Building Commissioner. Ms. Gifford hired an MIT grad student to measure that under some metric that Ms. Paden didn't have such an instrument. So she's concluded that it exceeds the -- because that was a conforming sign when originally it was measured, but it hasn't -- he thought it would be seen as kitschy but yes, I -- my keen sense of discernment leads me to believe that it's not as popular as the applicant thought it might be so it's being revisited.

BRENDAN SULLIVAN: Not there.

ATTORNEY JAMES RAFFERTY: Yes.

BRENDAN SULLIVAN: Not there.

ATTORNEY JAMES RAFFERTY: I

would just note that there is a favorable

comment recommendation from the Planning Board, and the Certificate of Appropriateness from the Historical Commission.

TIMOTHY HUGHES: I have both of those.

ATTORNEY JAMES RAFFERTY: Thank you.

TIMOTHY HUGHES: I'll open it up to public testimony. Seeing no one, I'll close public testimony.

I will reiterate what Mr. Rafferty just said; there is a -- Planning Board has no objection. The Planning Board reviewed the sign variance application. Has no objections to the proposed sign. Setback from the public street and advertising and entertainment venue where the entrance may be difficult to

find. The Planning Board has no objection to the internal illumination.

There's also a Certificate of Appropriateness from the Cambridge Historical Commission that was issued on May 4th. The substance of it is that they're in favor of both of the signs in the way that they've been presented by the Petitioner.

Closing public testimony.

Any other comments? Are we ready for a vote?

JANET GREEN: Ready for a vote.

TIMOTHY HUGHES: The Chair would move that we grant a Variance from the sign regulations for 52 Church Street, The Sinclair.

A literal enforcement of the provisions of the Ordinance would involve

a substantial hardship to the Petitioner.

A literal enforcement would only allow for the signs at the size and height that would be difficult to alert patrons in the general public to the location of the premises because of the hardship is owing to the circumstances relating to the shape and the topography of the land and the structure on the land.

The premises operate as both the restaurant and performance-based and its principal entrance is located more than 60 feet from the street edge and is located at the top of a 12-step stairway.

Desirable relief may be granted without either substantial detriment to the public good, because the signs have been designed to invoke the entertainment nature of the venue and distinguish the

premises from the office building where it is contained.

And without nullifying or substantially derogating from the intent or purpose of the Ordinance in accordance with Section 20.52, the signs will contribute to the unique visual character of Harvard Square.

All those in favor of granting the Variance.

(Show of hands.)

TIMOTHY HUGHES: That's five in favor.

ATTORNEY JAMES RAFFERTY: Thank you very much.

TIMOTHY HUGHES: It's granted.

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

* * * * *

(8:30 p.m.)

(Sitting Members: Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green, Slater Anderson.)

TIMOTHY HUGHES: The Board will
hear case No. 10438, 822 Somerville
Avenue. I take you're here on that case?

FRED LEBOW: Yes.

TIMOTHY HUGHES: Okay. Please
identify yourselves and spell your name
for the stenographer.

FRED LEBOW: Fred Lebow,
L-e-b-o-w.

ROB TIBERI: Ron Tiberi from FSL
Associates. R-o-n T-i-b-e-r-i.

TIMOTHY HUGHES: You want to let
us know what's up?

RON TIBERI: We're looking for a

Variance from the sign ordinance allowing a sign to be placed above the second floor sill on the building at 822 Somerville Ave.

TIMOTHY HUGHES: It's just relief from the placement of the sign? The size of the sign conforms?

RON TIBERI: Yes. All we're looking for is relief from the height.

TIMOTHY HUGHES: Okay. And how high is it, just for the record.

RON TIBERI: It's --

TIMOTHY HUGHES: 20-feet being the limit.

RON TIBERI: 20 feet being the limit. The bottom of the sign is 25 feet and eight inches I believe.

TIMOTHY HUGHES: Any questions? Anybody want to see this?

THOMAS SCOTT: Let's see it.

JANET GREEN: Does the size of the sign conform? Because it looks so huge to me, maybe because it's red.

ROB TIBERI: That very well could be. But you're allowed the 60 square feet, and minimum height, the minimum distance in any vertical or horizontal direction is 30 inches. So what they did is they made it 30 inches tall, and the rest of the 60 square feet runs out about 18, 18 feet in change.

JANET GREEN: 18 feet 10 inches.

FRED LEBOW: The problem, you know this is one Porter Square Mall.

JANET GREEN: I know exactly where it is.

FRED LEBOW: Yes. And they're putting in a Walgreens. They're putting

in a Pot Belly's on the first floor. There's a Sprint. When you add up the signs on the first floor, first of all, you run out of room for anybody on the second floor because the signs on the first floor. I mean there's just no room anymore. The people, the retail stores as you can see from the MBTA station, you almost can't see what's going on in that mall until you actually walk around and see what's going on. It's kind of an unusual set up to see two malls in one kind of right behind the other. So the mall itself needs relief. The only relief that the owners are seeking is to be able to put the signs where the retailers are going to be because it would be almost impossible for retailers to operate. In fact, Sleepy's had said we're not going

to move in unless we can have a sign on the second floor because people won't know where we are and it just, it's just the wrong deal. We've got some pictures here just to refresh your memory. I did the permitting for Walgreens and they decided to go, you know, they're on the first -- they started off on the first floor. And they were happy with the first floor. And then after I got all the permits, the building permits and everything, they said well, maybe we're going to make it into a Super Walgreens, and they went up to the second floor which created all kinds of ADA issues and all kinds of other issues which we got around. We did everything. So....

BRENDAN SULLIVAN: Well, the original Walgreens was at the same height

than what you're proposing and we moved it down.

RON TIBERI: Yes.

BRENDAN SULLIVAN: And so as a test run, I would think that would give you some indication of where the Board was, what our comfort zone was is to not have a sign at that height, and to I mean, to me this is very high, very prominent, very much in your face. Obviously it's, you know, advertising but I think that -- have you read the Planning Board report?

RON TIBERI: Yes.

FRED LEBOW: Yeah. I mean, like I said, they had concerns, but the -- here again the problem is once you -- when you fill up the first floor, there's no more room to put signs on the first floor

anymore. You run out of space. I mean, it's a real space problem. So, it becomes down to something that I mean if you want these businesses to survive, they'll have to have signage. And the only place you can actually start putting signage now -- and I'm glad Walgreens decided -- I think I had that discussion with Walgreens, decided to put it on the first floor, because their main, the main operation is on the first floor. I mean that's, the second floor was a smaller area and it wasn't that, it wasn't their main thing.

The Sleepy's people, Sleepy's or one of the other stores where people are coming in, they need exposure and that's, it's a tough mall. I mean, as far as the exposure to Mass. Ave., you really don't

see the mall. And so we're just looking for a general Variance. We're not asking for any relief on any other Ordinance on the sign ordinance.

JANET GREEN: You know I walked around the other mall where the CVS and Healthworks is. I was looking for signs that were at the same height and --

FRED LEBOW: Healthworks.

JANET GREEN: And Cambridge Healthworks has one.

FRED LEBOW: Right.

JANET GREEN: But it's quite different than this sign. It's, it's first of all, the letters aren't red. It is a white -- it is a white background, and it's -- the letters seemed smaller in their proportion.

RON TIBERI: It's a different

font as well.

JANET GREEN: It is a different font.

RON TIBERI: Right.

JANET GREEN: And it wasn't so much -- I mean I think there's a difference between kind of letting people know that you're there, which I really appreciate. And people that, you know, who are coming, and it's different from Healthworks where somebody's coming back every week and doesn't need to see a sign to know. And Sleepy's, you're getting, you need a whole different volume of people coming in your (inaudible).

FRED LEBOW: Planet Fitness is downstairs in the basement as you probably know, and they have a small sign.

JANET GREEN: They have a small

sign.

FRED LEBOW: And they have a small sign.

JANET GREEN: It is a small sign.

FRED LEBOW: How often do you buy a mattress? Maybe every 15 years. Ted would like it to be every 10.

BRENDAN SULLIVAN: But our charge is aesthetics.

JANET GREEN: Yes.

BRENDAN SULLIVAN: You know, yes, we want (inaudible), survive, prosper, and provide a service to the neighborhood. But in all the years that I've sat here and I've gone around after the fact and I drive and I sit there at red lights, and I look and I shake my head and say why did I ever vote for that thing. And, again, not singling you out, but

whether it be a residential addition or something else, and so we're a little bit more cautious of the aesthetic value --

FRED LEBOW: Oh, sure.

BRENDAN SULLIVAN: -- that we're allowing, or lack thereof. And if something looks out of place and, you know, yeah, it serves our purpose but it doesn't necessarily serve our charge or our purpose.

FRED LEBOW: Well, again, we're not asking to waive any other Ordinance. In fact when --

BRENDAN SULLIVAN: But you're asking a big one. Whether you're -- and they've asked for -- the Ordinance says not over 20 feet. And so I guess the Planning Board is saying what is an as-of-right solution? Have you, do you

have a presentation of what an as-of-right solution would be? In other words, a sign that's not over 20 feet from the sidewalk.

RON TIBERI: We don't have a place to put one.

FRED LEBOW: We don't have a place to put it on the first floor. That's the problem. There's just no room left.

RON TIBERI: Based on the Zoning formula for the lot frontage per square feet -- there's plenty, because of the way the building is laid out on the property.

JANET GREEN: That's right, I see that.

RON TIBERI: There's a lot of available square footage. The problem

is that it's -- the tenants that are on the first floor with the ground level entrances, they have their window space, their door, and their sign above it.

JANET GREEN: Right.

RON TIBERI: So.....

JANET GREEN: It's just that your sign isn't consistent with the other signage in the area as far as the way --

RON TIBERI: So it's not so much the height, it's the look of the sign?

JANET GREEN: No. Well, you see the look of the sign so much more because you're asking for the extra height is what I would say.

TIMOTHY HUGHES: Yeah, I think so, too. But I have another question. Which sign are we talking about?

FRED LEBOW; are we talking about

the red letters?

RON TIBERI: We show. Let's put it this way. We came in showing two signs, one that faces the front of the mall, one that faces Somerville Ave.; all right? And frankly if they've got one of them, they would be thrilled. Like I said, there's enough square footage. There's enough length of the wall on both sides that they are conforming. The only non-conformance is the height.

TIMOTHY HUGHES: And the Sleepy's is on the second floor?

RON TIBERI: Yes.

SLATER ANDERSON: You can't go below the window?

RON TIBERI: No.

SLATER ANDERSON: Why? In both cases there's something below the window?

RON TIBERI: That's where
Potbelly's is going to be. Sprint.
Anna Taqueria is down there.

SLATER ANDERSON: I don't see any
signs.

BRENDAN SULLIVAN: Directly
below where you're proposing.

RON TIBERI: Right under that is
Potbelly's restaurant is going to put
their sign above their door.

FRED LEBOW: They just got their
Special Permit so they're waiting to --

THOMAS SCOTT: Is your space on
the second level?

FRED LEBOW: Yes. They're all
on the -- every tenant will be on the
second level, that's why we were looking
for a Variance that's why. That would be
the side entrance to Potbelly's.

SLATER ANDERSON: And you know they're going to have signs that occupy all that space?

RON TIBERI: I have them right here.

SLATER ANDERSON: Oh, yeah? It would be helpful for us to see that there is no other place to put the sign. I'm still not convinced that the maximum size sign is right.

JANET GREEN: How big was the Potbelly's sign that's going in? This is the building on the other signage. Here's a picture. That's the building with the other signs. But this one had -- but the Potbelly sign is going on this part right here.

FRED LEBOW: Hang on.

TIMOTHY HUGHES: You've got more

paperwork for us?

RON TIBERI: As much as you like.

TIMOTHY HUGHES: See, I -- my personal feeling, and I'm not speaking for the Board, my personal feeling is that if you're asking for, you know, relief in one area, then you should give something back in another area.

RON TIBERI: Potbelly.

I was forwarding some photos and some renderings of the proposed signage that both Potbelly and Sprint have at this level. Sprint is actually moved down now. And Sleepy's wasn't an awning originally, but because the awning square footage becomes part of their, they couldn't meet their 60 feet if they started putting awnings in their own colors. And like I said, the Sprint one

also takes up their whole frontage.

SLATER ANDERSON: And Potbelly is going to have one over here as well?

RON TIBERI: Yeah, Potbelly will have one over here and here because the Sprint store moved down this way.

FRED LEBOW: That's the dilemma that the mall faces.

TIMOTHY HUGHES: Yes, that is.

FRED LEBOW: What if we got relief for the second floor? Sleepy's come back with their own people.

SLATER ANDERSON: I mean, it seems like the landlord should have worked out -- obviously there needed to be signs for tenants. And they've leased out without really addressing equitably conforming sign space for all the tenants. That's not our problem to fix.

FRED LEBOW: I understand.
However, if you think about it,
regardless how the landlord did it, you
can't have second story retail spaces
with signs on the first floor. Nobody
will ever figure it out. It's just too
confusing. I mean, it's just -- think
about all the signs that would be on the
first floor if they have the whole second
floor and the first floor. It just
doesn't, it just doesn't make sense. And
we're just trying to deal with the issue.

BRENDAN SULLIVAN: I would
prefer not to support the same sign. I
understand it's a dilemma, but I would not
support it.

FRED LEBOW: I mean here's
Healthworks.

BRENDAN SULLIVAN: I understand

it is a dilemma.

TIMOTHY HUGHES: Yes,
Healthworks.

FRED LEBOW: I mean, you know,
they make the same --

JANET GREEN: So you're the
landlord not Sleepy's?

FRED LEBOW: We represent the
landlord, yes, that's correct.

JANET GREEN: You don't
represent Sleepy's so that you really
can't think about the sign being any
different?

BRENDAN SULLIVAN: You're
representing the landlord or are you the
sign people?

FRED LEBOW: No --

RON TIBERI: No, no.

FRED LEBOW: -- we represent the

landlord.

RON TIBERI: -- influence on Sleepy's.

FRED LEBOW: We're not representing Sleepy's. This was the only -- they won't move in unless they get -- if we tell them -- they can have the sign on the second floor. They can come back and you guys can beat them up on what kind of sign that you want. I mean, you could do that. But they need, they need relief on the second floor basically. Any retailer is gonna need relief on the second floor. Any retailer that comes in. It doesn't make any difference who comes in, anybody is going to need relief.

BRENDAN SULLIVAN: But, again, I guess to go back to my question. You're

representing the landlord in what capacity, as building managers or a sign?

FRED LEBOW: Just to get relief for the --

BRENDAN SULLIVAN: But that doesn't answer my question. As building managers or a sign?

FRED LEBOW: Well, we're not -- the building manager is here.

CHRIS WOROB: I'm acting agent for the owner.

BRENDAN SULLIVAN: Right. You're representing in what capacity? Are you the sign people?

FRED LEBOW: No.

BRENDAN SULLIVAN: So you have nothing to do with the sign?

FRED LEBOW: We're just engineers.

BRENDAN SULLIVAN: Okay. All right, that sort of answers my question.

FRED LEBOW: Yeah. Yeah, we're not sign people. We're not -- all we're trying to do is get relief so that retailers and other retailers that will be coming in representing what signs they want and you can, you can tell them what signs you'd like. All we're -- Sleepy's wants to come in, they gave us some signage. So we said okay, we'll bring it in. We're not -- I've never talked with the people at Sleepy's.

RON TIBERI: Furthermore, we met with Liza, we went over all the numbers. They were having trouble trying to rent the space on the second floor. Sleepy's had originally tried -- was interested in the space, but when they found out that

they couldn't get a sign on the second floor, they were ready to walk. So I asked Liza since -- in the Ordinance you can't apply for a sign variance or a sign permit unless there's a Building Permit. Liza said go ahead and apply to see if you can get the Variance in this case. So we're here under her guidance if you will, her recommendation, to see if we can get this in order to get a tenant into that space.

FRED LEBOW: It could end up being another tenant at one point and maybe, you know, we're not involved with the negotiations of Sleepy's. All we're doing is just trying to see if we can get whoever moves into the second floor has got some visibility on that second floor.

JANET GREEN: My problem is that

it's, it's not with having a sign like that. It's having that sign. And the -- because there's more to it than just, you know, the --

FRED LEBOW: Dimensions.

JANET GREEN: -- the dimensions.

FRED LEBOW: Sure.

JANET GREEN: I mean, you know, like the education building, you know, we really talked with them about what that sign was going to look like and how -- the visual impact. And this Sleepy's sign doesn't look like any other sign that's in the neighborhood. And I recognize their need to have a sign on the second floor. They really -- I think they really would need that if they were going to be on the second floor.

FRED LEBOW: Well, here's what I would suggest, if people -- if you grant the Variance for people -- to allow retailers to put their signs on the second floor as was shown, then I can, then I can tell Sleepy's you want to come back, you can deal with the Zoning Board on your particular sign because they have some comments, they don't like the color, this, that, and they can decide what they want. I'm really here -- we're really here just to see -- to basically get Healthworks has the same thing, get some space so they have visible space for the upstairs tenants. Or else it's going to be very difficult to rent it.

TIMOTHY HUGHES: We won't grant a Variance, just a blanket Variance that you can put a sign on the second floor if

we don't know what the sign's going to look like. We can't do this in a two-step process.

FRED LEBOW: Oh, okay.

TIMOTHY HUGHES: We have to have a design in front of us that we're voting, you know, up or down on.

BRENDAN SULLIVAN: And what it's troublesome is we're doing this piecemeal, a sign here and sign there --

TIMOTHY HUGHES: And my biggest problem is --

BRENDAN SULLIVAN: -- and then three years from now I'm going to be stopped at the red light and look at that building and say that looks awful. And next month we have the Porter Square Shopping Center coming down asking for some more sign variances.

TIMOTHY HUGHES: See, I'm looking at all these things and I see a sign here and a sign there, and you say this sign moved down here and this sign's going down here, a second one -- if I had some sense of what was already granted by the landlord in terms of space and how it was being used, I could make an informed decision about whether or not, you know, a Sleepy's sign could go in on a second floor. But I don't know that now. I don't know that that's the only place it can go. I know one place it's not going to go, you know, as far as I'm concerned, because I would never vote for that. That's the big red sign over the windows. I'm not saying that I'm opposed to any sign, you know, above the second floor --

JANET GREEN: Right.

TIMOTHY HUGHES: -- but it's going to have to be a lot more subtle than the stuff that's being presented. And it has to be presented in context with all the other signage on the building. And if you are representing the landlord, that's the information you need to take back to him and give us some more concrete plan. That's my point, my opinion.

THOMAS SCOTT: Are you proposing internally illuminated letters?

RON TIBERI: That's what they were.

THOMAS SCOTT: U-channel letters with a face with illuminated face?

RON TIBERI: Yeah.

THOMAS SCOTT: That's not allowed by our Zoning.

TIMOTHY HUGHES: I'm still a

little confused about the -- what's considered internal illumination and the LED's are considered because of the low emission. I'm not sure.

BRENDAN SULLIVAN: It's any lighting that is not exterior of the sign.

THOMAS SCOTT: That's right.

BRENDAN SULLIVAN: Internally illuminated.

TIMOTHY HUGHES: I've seen past signs without that issue ever coming up.

THOMAS SCOTT: My two issues are the internal illumination and the size of the sign. It just seems like it's, it's just totally overwhelming. I think if it was lighted properly and if it was smaller in scale, I think I could, I could support it, but I'm -- I'm just -- it's just like overwhelming to me.

FRED LEBOW: Am I getting a sense you people would support signs being on the -- what we were trying to do, because we're engineers, saying get a Variance but whoever comes in here on the second floor, they could put their sign on the second floor and you guys decide on the sign. Because if I keep coming back here for each tenant, I'll make a lot of money, but the purpose was to kind of --

SLATER ANDERSON: Well, first of all, you know, the tenants on the first floor --

FRED LEBOW: They're all set.

SLATER ANDERSON: -- you know, assuming you don't need to do that. This would be helpful since you're representing the landlord here, that you come with some here's what is going to

happen here, here's the context of this proposed sign. But I want -- we need to see, we need to see the tenant I think.

BRENDAN SULLIVAN: I would also like to see the math on how much signage has been used up because there is a formula for that, too.

FRED LEBOW: That's right.

BRENDAN SULLIVAN: There is only so much signage that could go on the face.

FRED LEBOW: That's right.

We've done that.

BRENDAN SULLIVAN: So, you know, Walgreens gets their sign. Portbelly gets their sign and all of a sudden someone says whoops, you know, and then we look back and there's a hodge-podge of signs.

SLATER ANDERSON: Those

pictures, there's a lot of signs.

BRENDAN SULLIVAN: And what really irks me is the one at Fresh Pond Circle where we granted, I voted against it, TD Bank and then also the liquor store and now you've got all these hodge-podge of signs. And the place looks awful. You know? And everybody, you know, shouting, I mean this is us, come. But it's my neighborhood. It's my community, and I'm going to be darn protective of how it looks.

TIMOTHY HUGHES: I agree with you. All we really needed there was the sign on the liquor store.

FRED LEBOW: Now there's a man who knows signs.

THOMAS SCOTT: I think the message to the owner is, you know, it

would be nice to have a sign program for the building so that we can have a sense of --

TIMOTHY HUGHES: Exactly.

THOMAS SCOTT: -- you know, you can only fit so many tenants in the building.

FRED LEBOW: That's correct.

THOMAS SCOTT: If somehow if we were to assign areas for those particular tenants, it would be nice to have an overall picture of what it all is going to look like. Like, Brendan said, we approve you tonight and then somebody else, it just ends up being a hodge-podge of signs and --

FRED LEBOW: Well the sense that I get is you would not oppose signs going on the second floor but you need an

overall format for the building? Is that sort of what I'm getting out of this?

TIMOTHY HUGHES: I can't speak for everybody. There might be somebody on the Board that would oppose any sign up that high on that building. I can't say for sure.

THOMAS SCOTT: Yes. I don't mind the height. I do mind the size of the sign and the illumination of the sign.

FRED LEBOW: Sure.

THOMAS SCOTT: And I'd like to see all the signage, if it all were going to be at that height, is illuminated the same way, you know, and there's some consistency to the signage on the building. And, you know, each tenant isn't allowed to come in and blast out whatever they want.

BRENDAN SULLIVAN: If the building owner has a problem which the testimony here is that he has a severe problem in renting without the tenant being allowed signage, then he's going have to do some due diligence and a little bit more homework to give us a more concise signage program.

TIMOTHY HUGHES: Yes.

JANET GREEN: And I would say I don't have trouble with the height, but I would suggest that they take a look at the Cambridge Healthworks sign and see something that was more --

FRED LEBOW: We got it.

JANET GREEN: Yes.

FRED LEBOW: Yeah, I know, we don't control somebody's logo obviously.

SLATER ANDERSON: I know, but

they're a community.

THOMAS SCOTT: But the way that's illuminated, it's nice. I mean, it's nicely done.

JANET GREEN: The style of it is what I'm talking about. You know, I'm not saying, you know, I know you have your font and whatever, but I mean that's just a sign that really feels consistent with the neighborhood.

FRED LEBOW: Sure.

TIMOTHY HUGHES: I'm going to make a motion that we continue this case and you can confer with the people you need to confer with --

FRED LEBOW: Great.

TIMOTHY HUGHES: -- and come back with a more context actual plan.

FRED LEBOW: And we appreciate

that you're willingness to, you know, it's an unusual situation. But that's what we're trying to resolve it. I think we can give you a layout of where all the signs go. We can probably put in a box where -- because we don't know what retailers are going to go in, so we're going to have to just put a box saying this is where the boxes are going to be. Where their sign's going to be, and I think that's as far as we can go because we don't know what retailers are going to be --

SLATER ANDERSON: And all the tenants understand the type of illumination will be consistent. How the signs --

FRED LEBOW: I think Potbelly was coming in with their own --

TIMOTHY HUGHES: They've already

been here.

FRED LEBOW: And you
already -- and Walgreens --

SLATER ANDERSON: Then you
should show us that sign and where it is
and what it's going to be.

RON TIBERI: And they're --

FRED LEBOW: It takes a long time
for the --

TIMOTHY HUGHES: What are we
looking for for a date?

MARIA PACHECO: 7/11 since
everybody is coming back.

FRED LEBOW: 7/11?

SLATER ANDERSON: 7/11.

FRED LEBOW: No, we're not going
to have a 7/11 in there.

TIMOTHY HUGHES: No 7/11?

JANET GREEN: No 7/11.

TIMOTHY HUGHES: Is that going to work?

FRED LEBOW: I thought somebody was going to ask me what this hieroglyphic was going to stand for.

TIMOTHY HUGHES: I was going to ask it.

FRED LEBOW: You were tempted. It says: Please grant this Variance.

TIMOTHY HUGHES: I'm not sure that's it.

FRED LEBOW: It says Fred, F-r-e-d. I got out a month before the whole thing fell apart.

TIMOTHY HUGHES: The Chair would move that we grant a continuance on case No. 10438 until July 11th on the conditions that you sign a waiver of a

time for decision and that you change the posting sign to reflect a new time and date. Seven p.m. on July 11th. And that if you, any new plans would be in the file by five o'clock the Monday prior to the meeting, which would be July 8th.

SLATER ANDERSON: My suggestion -- I'm sorry.

TIMOTHY HUGHES: Go ahead.

SLATER ANDERSON: That if Sleepy's is going to be the tenant up there, that maybe someone from Sleepy's, if that's the controversial sign --

FRED LEBOW: Yeah, do we know -- do we know if there's any other retailers that are going to be up there right now.

CHRIS WOROB: Not right now.

FRED LEBOW: Not right now. So

the only one we can bring to you would be Sleepy's because that's the only retailer that -- if there wasn't any retailer up there right now, we wouldn't even be here.

TIMOTHY HUGHES: All those in favor of granting the continuance.

(Show of hands.)

TIMOTHY HUGHES: That's five in favor.

FRED LEBOW: Thank you very much.

TIMOTHY HUGHES: We'll see you in July.

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

* * * * *

(8:55 p.m.)

(Sitting Members: Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green, Slater Anderson.)

TIMOTHY HUGHES: The Board will
hear case No. 10439, 20 Russell Street.

ATTORNEY JAMES RAFFERTY: Good
evening, Mr. Chairman members of the
Board. For the record James Rafferty

appearing on behalf of the Petitioners. Seated to my right is MaryAnn Thompson, T-h-o-m-p-s-o-n. And to Ms. Thompson's right is her husband Mort Rosenthal, R-o-s-e-n-t-h-a-l. And to Mr. Rosenthal's right is Ryan Lemmo, L-e-m-m-o. And he's an architect. And if he appears nervous, it's because Mrs. Thompson is his employer and he has the task of being the architect for his employer.

So this property has a few unique characteristics, but perhaps the most prominent feature is, you might notice, the municipal boundary goes right through the house. So the proposal is to fortunately put a dormer and some modifications on the Cambridge side of the structure.

TIMOTHY HUGHES: You couldn't put it on the Somerville side, huh?

ATTORNEY JAMES RAFFERTY: Well, we thought about that --

TIMOTHY HUGHES: I'm teasing.

ATTORNEY JAMES RAFFERTY: -- and we would rather come to the Cambridge Zoning Board. I advised Ms. Thompson that it was a far more erudite enlightened body than we'd likely encounter if she were to appear --

TIMOTHY HUGHES: So much smoke.

ATTORNEY JAMES RAFFERTY: So it is a single-family house, and I think Ms. Thompson and Mr. Lemmo can explain what's happening there. They're making certain modifications to the house. Ms. Thompson is an architect. Her and Mr. Rosenthal live in Cambridge with

their one son?

MORT ROSENTHAL: Five.

ATTORNEY JAMES RAFFERTY: Five?

I missed a few.

And they're going to move to this home, and it is Ms. Thompson's and Mr. Rosenthal's desire to modernize it a bit. And the alterations, some of which are being accomplished as of right by removing GFA and some of which, particularly the dormer represents an increase, but if you note on the dimensional form there is not a net increase in GFA as a result of the modifications being proposed.

There has been a slight change to the dormers and the revised elevations were filed with the Board on Monday. And the change was made in response to concern

expressed by an abutter. And I believe there's an earlier letter in the file from the abutter who was expressing an objection based on the dormer as proposed originally, and there's a subsequent correspondence, I believe, as recent as today. It's an e-mail from Jan Corash (phonetic) and Michael Burden (phonetic). I don't know if people had a chance to see it. It says (Reading) To the DZB -- that's you people -- we have seen the amended plans to the north side dormer and we have no objections of this new and smaller design for that dormer.

So I could have Mr. Lemmo walk you through briefly the dormer to understand this change or Ms. Thompson, whoever would prefer to just quickly --

MARYANN THOMPSON: You can do it.

ATTORNEY JAMES

RAFFERTY: -- point out what's happening to the house.

RYAN LEMMO: You all have the elevations? Yes.

MARYANN THOMPSON: So this is existing. And we have proposed. We have proposed this dormer. And then we heard from some neighbors after we made the proposal that they felt it was too tall and it would block sunshine. So I actually met with the neighbor who is here and we made it --

BRENDAN SULLIVAN: You're going to have to speak up a little bit or talk into the mic or something.

MARYANN THOMPSON: We heard from neighbors after we made the submission that they felt that the dormer was too

tall, and so we met with Evan. And together we created a smaller dormer and we made it kind of a sunlight study and sketch up to make sure that it wasn't creating a shadow in their yard, and in Evan's yard. And I think he's happy with it. Jan, who sent the letter, that we received yesterday and didn't know we reduced the size the dormer. And so Ryan sent her the drawings and she said she was happy with it as well. So it's a tiny little dormer letting in a little bit of light into the upstairs room.

RYAN LEMMO: And on the south side.

MARYANN THOMPSON: And then there's a dormer also on the south side that nobody has objected to.

ATTORNEY JAMES RAFFERTY: And do

you have the elevation?

MARYANN THOMPSON: Which is right here. And what we've done to make it -- is to not increase the square footage, is we've taken off a kind of mudroom that was in the -- off the kitchen. And I can show you that plan. We took off a mudroom. And then using that square footage we put up the two dormers, so they're kind of equal. It equalizes. I think it's a little bit under now what it was before.

ATTORNEY JAMES RAFFERTY:

There's also been a removal. There's a two-story volume that's included on the first floor. Ms. Thompson, I don't -- I think it's fair to say your architectural expertise involves the introduction of new elements into the established

structures.

MARYANN THOMPSON: Uh-huh, yeah.

ATTORNEY JAMES RAFFERTY: And we brought some examples of that here. Her office currently is in a structure on her property up on Avon Hill, and Ms. Thompson has done a lot of work. She actually serves as a member of the Avon Hill Neighborhood Conservation District Commission so she has an appreciation for significant structures in Cambridge. And what Mr. Lemmo has -- there are structures where you see a traditional facade in the front with additions in the rear that are more contemporary. And that's --

MARYANN THOMPSON: Which is what we're planning on doing.

ATTORNEY JAMES RAFFERTY: That's

the objective here as well.

MARYANN THOMPSON: You can see on the site plan, this is the piece of the house that we've -- we're taking off on the plans that we showed you. So that's what's decreasing the square footage. It's kind of a little mudroom and attached to the basement.

TIMOTHY HUGHES: Any questions from the Board?

SLATER ANDERSON: So you've taken the mudroom off. I see that. There's still a covered porch there?

MARYANN THOMPSON: Uh-huh.

SLATER ANDERSON: That's still included? But it looks like the mudroom is extended beyond that --

MARYANN THOMPSON: Uh-huh.

SLATER ANDERSON: So you're not

taking out all of that space? It's intact there. It's included in your calculations?

RYAN LEMMO: That's correct.

ATTORNEY JAMES RAFFERTY: B11 is existing and B13 is the existing proposed changes.

RYAN LEMMO: There's both a mudroom and a small deck. That mudroom is partially being replaced by a covered deck, and the existing deck is being removed completely.

JANET GREEN: Being removed?

RYAN LEMMO: Removed completely.

SLATER ANDERSON: So really what it looks like what's coming off is roughly this distance, just this small area there. This enclosed space there.

MARYANN THOMPSON: I think

geometrically there's, that's coming off, right?

RYAN LEMMO: That's right.

SLATER ANDERSON: The deck, that's a covered deck?

MARYANN THOMPSON: It's a weird deck I think maybe for a wheelchair to come out. It's just a tiny little deck that comes out and it's above the --

RYAN LEMMO: Yeah.

ATTORNEY JAMES RAFFERTY: This is on the side of the house.

SLATER ANDERSON: Yes.

RYAN LEMMO: Jim, do you have the existing elevations?

ATTORNEY JAMES RAFFERTY: Yes.

RYAN LEMMO: You can see from the existing elevations there's a small extension of the roof. It comes over

from the deck that's only partially covered, and it's that small and what we counted as existing square footage.

SLATER ANDERSON: Okay.

ATTORNEY JAMES RAFFERTY: So this will be the family home. It really doesn't change the use of the home. A number of bedrooms is actually I think reduced by one. But one of the attractions of the house is the south facing facade, and that's where much of this -- the work and changes are occurring.

TIMOTHY HUGHES: Any other questions?

(No Response.)

TIMOTHY HUGHES: I'll open it up to public testimony.

Is there anyone here who wants to be

heard on this matter?

(No Response.)

TIMOTHY HUGHES: Seeing no one, I'll close public testimony. I will note that --

ATTORNEY JAMES RAFFERTY: Do you want to -- as long as you're here. Come forward.

TIMOTHY HUGHES: You're here.

EVEN OLSON: I'm here. I'm here. Evan Olson, 24 Russell Street, Cambridge. And yes, I was opposed to the full-size dormer on the north slope of the house, and but we have come to an agreement on the reduced sides and what is it, four-foot headroom?

RYAN LEMMO: That's correct.

EVAN OLSON: Yeah, on the north side. So that's acceptable.

ATTORNEY JAMES RAFFERTY: Thank you.

EVAN OLSON: All right, see you.

TIMOTHY HUGHES: And I will note that as was mentioned earlier by the Petitioner that that same kind of accommodation has been made with a previous letter in the opposition by Jan Corash and Michael Burden and have since -- because of the amended plan have since withdrawn their opposition.

Close public testimony.

Any further comments from the Board?

THOMAS SCOTT: Are these windows? Are those windows?

MARYANN THOMPSON: Yes.

ATTORNEY JAMES RAFFERTY: Not the traditional fenestration pattern acknowledged, but it's a reflection of

the reduction of the height.

THOMAS SCOTT: Right. Is that a bedroom? I didn't look at the plan.

MARYANN THOMPSON: No, it's not a bedroom. It's a hallway.

THOMAS SCOTT: A hallway, okay.

MARYANN THOMPSON: So that it's not dark. And they're a foot. So I think they're going to be light transit.

ATTORNEY JAMES RAFFERTY: Like a --

MARYANN THOMPSON: Like a (inaudible).

TIMOTHY HUGHES: Are we ready for a vote? I'm asking you.

SLATER ANDERSON: I'm not -- I'm -- still seems like we're adding dormers, we've subtracted a little bit of space, and somehow the GFA's gone

down. It seems like it should -- without any dimensions there, it's hard for me to measure anything.

ATTORNEY JAMES RAFFERTY: Well, I can have Mr. Lemmo confirm, but there are two areas where the GFA's being reduced. The area we've been talking about on the porch.

SLATER ANDERSON: Yes.

ATTORNEY JAMES RAFFERTY: But on the first floor, excuse me, on the second floor, the second floor plan, floor area has been taken out of the second floor.

SLATER ANDERSON: Okay.

ATTORNEY JAMES RAFFERTY: So it creates a two-story volume.

SLATER ANDERSON: That's where it is.

ATTORNEY JAMES RAFFERTY: That's

where --

MARYANN THOMPSON: That's where it is. I think it even went down further when we reduced the dormer, but we didn't redo that calculation.

SLATER ANDERSON: I'm good.

TIMOTHY HUGHES: This is on the Variance. There is another part of this petition where there's a Special Permit, but make a motion that a Variance be granted, the addition of two dormers at the property --

MARYANN THOMPSON: 20 Russell.

TIMOTHY HUGHES: -- 20 Russell. On the condition that the work being done in accordance with this plan, an amended page that I've dated and initialed. And initialed the front page of the total set of plans starting with P1.

The literal enforcement of the provisions in the Ordinance would involve a substantial hardship, the GFA limitations would prevent the creation of much needed light and air to the third floor bedrooms of this single-family home.

The hardship is owing to circumstances related to the size and shape of the lot and the age and the condition of the structure on the lot.

Desired relief may be granted without either substantial detriment to the public good. There will be no detriment to the public good since the nature and character of the single-family home will be unchanged, and the third floor is already being used as bedrooms.

It would not nullify or

substantially derogate from the intent and purpose of the Ordinance. The proposed dormers are consistent with dormer guidelines adopted by the Board.

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

(Show of hands.)

TIMOTHY HUGHES: That's five in favor. Variance is granted.

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

TIMOTHY HUGHES: Do we need to speak to the windows that are involved a Special Permit just briefly?

ATTORNEY JAMES RAFFERTY: Yes. One of the elevations is non-conforming.

Ryan, maybe you can just point that out.

RYAN LEMMO: So on P2.1 on the

east elevation it's, additional windows on a non-conforming wall. It backs up against the parking lot of what's --

ATTORNEY JAMES RAFFERTY: The abutting.

MARYANN THOMPSON: -- of the Henderson.

RYAN LEMMO: -- of the Henderson parking lot. And then on the south side there is one additional window on the non-conforming wall as well. And, again, the purpose is to, you know, open the building up to the south to, you know, right now it's a very dark structure and so, you know, any addition of the new windows makes it much more modern and much more liveable for the occupants.

SLATER ANDERSON: Your abutter to the south has seen the plans?

MARYANN THOMPSON: All our abutters I think got them, yeah. The abutter on the south is the Henderson Building.

ATTORNEY JAMES RAFFERTY: It's the old Southey Fort Building on Mass. Ave. So the south abutter overlooks a parking lot.

SLATER ANDERSON: I guess I'm not -- it's because it's like this. I mean, I guess I'm seeing this side here.

MARYANN THOMPSON: Yes, those abutters. And we left --

SLATER ANDERSON: That's one of the windows as right there.

MARYANN THOMPSON: Yeah.

ATTORNEY JAMES RAFFERTY: Yes.

MARYANN THOMPSON: And we actually left notes in all of the

abutters -- and we had two garden parties, and shared the plans to the neighbors, which is how we found out that people were upset.

JANET GREEN: Good to find out before coming in.

MARYANN THOMPSON: But those neighbors are fine.

TIMOTHY HUGHES: Are we ready for a vote on the Special Permit?

The Chair would move that a Special Permit be granted to install windows and skylights on non-conforming walls. The requirements of the Ordinance can and will be met for the following reasons:

Article 8.22.2c commits the creation of windows on non-conforming walls when as in this case there are no further violations of the dimensional

requirements.

Traffic generated or patterns of access and egress would not cause, congestion, hazard or substantial change in the established neighborhood character for the following reasons:

There won't be any change in traffic patterns as a result of adding windows unless people are going to crawl in and out of them.

The continued operation of the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected. Again, adjacent uses would not be affected since the use of the property of a single-family dwelling would not be changed by the addition of the windows.

No nuisance or hazard would be

created to the detriment of the health, safety, and welfare of occupants of the proposed use or citizens of the city for the following reasons: Adding windows will benefit the health, safety, and welfare of the occupants of this dwelling.

And the proposed windows will not change the use of the property and are consistent with residential uses in this district.

All those in favor of granting the Special Permit.

(Show of hands.)

TIMOTHY HUGHES: That's five in favor.

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

ATTORNEY JAMES RAFFERTY: Thank

you. Mr. Chairman, can I ask the Board's indulgence on one point of clarification that the decision might reflect?

The decision is -- references a set of plans and it goes to Mr. Anderson's point. When we do the dimensional calculations, the change in GFA, part of it is the result of a portion of the second floor being removed and that volume that it becomes a two-story volume. There has been on occasion an interpretation that frankly, has always puzzled me, and I just wanted to read the definition of gross floor area to the Board that sometimes causes a problem with this. It says: In a building with more than two floors, the area of each floor level of any interior courtyard, whether or not covered by a roof, which has a minimum dimension of

less than 40 feet in any direction, shall be included unless 20 percent or more of the perimeter of such courtyard, at each floor level measured consecutively, is not enclosed.

I've had experiences where the -- what would, I would presume to be the plain meaning of courtyard was applied in residential structures of this nature. So I'm only noting that if there was a determination by the Building Department that what is a kitchen in that home or is somehow found to be an interior courtyard, the thinking being that if you don't have a minimum separation of 40 feet if you have an atrium or something, then the, the GFA is imputed in that floor area, but that is for atriums and courtyards. I have found some

interpretation that has said -- that the Building Department well, that's a courtyard. And I just can't understand how that can be seen as a courtyard. And I'm not criticizing it, but to the extent that was seen as a courtyard, then the dimensional information that we've -- the gross floor area that we've removed from our calculation, although reflected in the plan, would suggest that it's slightly higher. And I would hope that the Variance would cover either of those interpretations and that's why I bring it to the Board's attention. That if there is an interpretation that the removed GFA in the first floor is -- actually affects this courtyard, that the Variance notwithstanding the fact that we could asterisk the dimensional form, if that

number grows because of that, that it would still be consistent with the vote of the Board and we could proceed to get a Building Permit.

TIMOTHY HUGHES: Did you get all of that? Do you want us to vote on that as amendment to my --

ATTORNEY JAMES RAFFERTY: Well, no, I just think it would be helpful -- it's really an unusual thing. I don't know if you've seen it.

TIMOTHY HUGHES: I've seen it. And I just heard you explain it. But....

SLATER ANDERSON: My feeling is we approved plans that show that space removed for the second floor.

ATTORNEY JAMES RAFFERTY:
Correct.

SLATER ANDERSON: And that's the

way it's going to be.

ATTORNEY JAMES RAFFERTY: That's correct.

TIMOTHY HUGHES: Okay.

Anybody differ with that interpretation? I like Slater's succinct concise --

BRENDAN SULLIVAN: No sense in getting wordy about it.

ATTORNEY JAMES RAFFERTY: Would it be the Board's view that the plans --

BRENDAN SULLIVAN: If the Building Department would feel more comfortable that the dimensional form be changed to reflect the true result, I have no problem with the Petitioner changing the dimensional form to reflect the true, but that would not change my approving of this application.

ATTORNEY JAMES RAFFERTY: Thank you, that was the only issue.

And so I think the conclusion is that the plans control, and to the extent there's a determination that the GFA here should not have deducted the first floor space, that we could modify it and still be within the authority contained within the Variance.

SLATER ANDERSON: The intent of the Applicant was to scribe in their understanding of the guidelines and the Zoning By-Law to as best they could meet the requirements by subtracting the space and we appreciate that.

ATTORNEY JAMES RAFFERTY: Thank you. Thank you for allowing me to place that in the transcript. It may prove of some assistance when we go to get the

Building Permit.

MARYANN THOMPSON: Thank you so much.

* * * * *

(9:20 p.m.)

(Sitting Members: Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green, Slater Anderson.)

TIMOTHY HUGHES: The Board will call case No. 10440, 8-10 Brewer Street.

Anyone that's going to speak should please identify yourself for the record and spell your last name for the

stenographer; name and address and spell your last name.

CRAIG WHITAKER: My name is Craig Whitaker. I'm an architect with Mills, Whitaker Architects. I live at 36 Ash Street, Cambridge, Mass. 02138.

LAURIE HOFFMANN: My name is Laurie Hoffmann. You want that spelled? L-a-u-r-i-e H-o-f-f-m-a-n-n. And I live at -- used to live at 8-10 Brewer Street so I'm an owner, two units.

PHILIP McLAUGHLIN: Philip McLaughlin. I'm a builder. I live at 24 Theresa Circle, Arlington, Mass.

TIMOTHY HUGHES: Go ahead.

CRAIG WHITAKER: All right. We are the owner's representatives for 8-10 Brewer Street which is a building that about a year and a half suffered a fairly

major fire. And all of the units, the six-unit building, three stories high, two units per floor, all of the units had to be -- are in the process of being renovated. Everyone had to move out as part of those renovations. At the back of each unit there's a small four-foot, nine by four-foot long porch and those porches are covered and they're considered existing GFA under the Zoning By-Laws. And we're here tonight because we need -- we understand that we need a Special Permit to enclose those porches. The proposal is to enclose porches at each units -- each of two units on the first and second floors, not enclosing the porches on the third floor. Those unit owners don't want to take -- they want to remain -- their porches remain as they

are.

This has been before -- our proposal has been before the Half Crown Marsh NCD recently on the 13th, I believe it's the 13th of March, and received the unanimous support and Certificate of Appropriateness from the Board. So I don't know how much has been passed out to everyone in terms of paperwork. I brought additional copies of our proposal to the NCD which has extensive plans in it if you'd like to see those.

And there's one other, that application at NCD, which is the application that was approved, we've provided a supplemental site plan at the hearing which I think is a better site plan, more accurate site plan, than is in your package that I just gave you.

If the Board would like I could take you through the various plans. How would you like to proceed?

TIMOTHY HUGHES: What's your pleasure? Do you have any questions about the plans?

SLATER ANDERSON: No.

TIMOTHY HUGHES: Go ahead, yes.

CRAIG WHITAKER: Okay, if we turn to -- the easiest way for me to explain this is reference the page number at the bottom, right-hand corner of each page. If we start at EX-1.1 it's the existing first floor plan, and we have removed the notes except those notes pertaining to these enclosed covered, not enclosed, but these existing covered porches and shows the four-foot, 9 by 12 foot dimension. The street is at the top of the page. So

these little porches are at the back of the building, at the rear of the building.

On the left-hand side of the page there's a site plan that will be forthcoming, is a large parking lot. On the right-hand side as shown on the site plan that I've handed out, is (inaudible) Street which is on the right-hand side of the page that we're looking at right now, and that's a three-unit building.

So EX1.2 is simply on the back of the page that we were just looking at, that's the second set of porches and their existing conditions that we propose to enclose.

And then 1.3 shows the third floor, those porches are noted to remain.

SK2.0 shows the -- kind of an aside to this is that this building is built on

a peat largely.

JANET GREEN: Built on what?

CRAIG WHITAKER: Peat. A layer of peat and had suffered severe differential settlement. So if you faced the building and looked at it, it was like the Leaning Tower of Pisa. It was really, really dropped on the right-hand side.

We have taken the step of dividing helical piers and we've leveled the building now. So this is just the plan showing these new helical piers.

THOMAS SCOTT: So it can be done.

CRAIG WHITAKER: SKA -- the next page, SKA2.1 shows the result of being able to enclose the porches. These are small units. They're about 800 square feet per unit. Being able to add this

approximately 52, 53 square feet per unit will increase their bedroom. A lot of them will increase their master bedroom otherwise there are no other changes proposed that require your review.

BRENDAN SULLIVAN: Why does it make sense to do it on the first and second floor and not on the third? And the next question is because the third floor looks quite nice, why should we allow it on the first and second floor? Sort of a two-part question --

CRAIG WHITAKER: Right.

BRENDAN SULLIVAN: -- why not the third floor, and then the next question would be why on the first and second floor?

CRAIG WHITAKER: Well, there are a couple answers to the question.

One of the reasons not to do it for two of the -- the fire was fairly costly to all of the unit owners. They've been out a long time. There are a lot of expenses for them to -- for each unit owner to enclose these porches is an additional cost. The two unit owners on the top --

BRENDAN SULLIVAN: The same owners coming back?

CRAIG WHITAKER: Yes, the same owners come being back. Laurie Hoffmann who is here, owns the first two floor units. There are separate owners for the second floor units and separate owners for the third floor units. The third floor unit owners decided that because of the cost and also just because they like the outdoor space, they don't have

the -- they're not affected by the parking lot as much as the first floor is. And the second floor is affected to a lesser degree, but still affected by the lights. I mean, it's a major parking lot next-door. It's probably got, how many cars?

LAURIE HOFFMANN: 30.

CRAIG WHITAKER: 30 cars.

BRENDAN SULLIVAN: I'm familiar with it.

CRAIG WHITAKER: So, it was both a question of they just like their outdoor space. Laurie's got some at grade exclusive use areas that she can go out use. The people at the third floor said they don't have access to that ready access to that. They have to go down, you know, three flights of stairs to go

outside. So they just decided that they prefer to keep the porches.

BRENDAN SULLIVAN: And their bedrooms are currently there?

CRAIG WHITAKER: Their bedrooms are there, right.

So I think our, our view of it is that the third floor on the parking lot side is absolutely a benefit to the unit owner just in terms of privacy and headlights and things like that. So it makes sense to enclose it on that side.

On the opposite side, by the way, we have the full support of all the direct abutters. We have received no negative support from anyone, and have a package of support letters to hand out at the appropriate time.

BRENDAN SULLIVAN: It's just

that's a nice feature to have those porches, and now basically what you're doing is you're in-filling those and you're adding mass and bulk. And how long -- when was the building built?

CRAIG WHITAKER: About 1914.

BRENDAN SULLIVAN: So since 1914 it has existed --

CRAIG WHITAKER: Right.

BRENDAN SULLIVAN: -- with, I don't know when the parking lot became a parking lot, but it's not a newfound annoyance.

CRAIG WHITAKER: Right.

BRENDAN SULLIVAN: I hate when people start filling in porches, because again, it's adding mass and bulk. But that's my view of it. It becomes a singular benefit to the occupant of that

particular unit.

CRAIG WHITAKER: Right.

BRENDAN SULLIVAN: And yet aesthetically I think it impacts the overall streetscape.

CRAIG WHITAKER: I can understand that point of view. I would point out that it's not -- you know, as you know, it's not -- there's a corner with a post in it, right? The Marsh -- the Half Crown March NCD did not feel --

JANET GREEN: I'm sorry, I can't hear you.

CRAIG WHITAKER: The Marsh Half Crown -- the Half Crown Marsh NCD, the commission members, were pleased that the upper floor remained open. They liked that ability to see through the building.

BRENDAN SULLIVAN: At what point do they come down and say hey, you did it on the first two floors and you know?

CRAIG WHITAKER: Well, it's a separate application I guess, you know?

BRENDAN SULLIVAN: Right.

CRAIG WHITAKER: But, we're not increasing the FAR. We're not --

BRENDAN SULLIVAN: See, it's not the square footage. It's not that number. It's not the math. It's the mass, the bulk, and the aesthetics.

CRAIG WHITAKER: I would say when you base -- in fact, Elise Tuffi (phonetic) who is the administrator for the NCD was not concerned about the one on the left-hand side as you face the building because it's barely visible from the public way, right? So she had -- the

Board in general had no problem with the ones on the left-hand side.

On the right-hand side I think they felt that the parking lot really was a special circumstance that could, the nuisance of that parking lot could be alleviated by in-filling these and giving these people more privacy from the headlights and from the noise and the traffic.

TIMOTHY HUGHES: Further questions from the Board?

SLATER ANDERSON: So this is the -- I'm just looking at the Special Permit. The -- we're enclosing the space. What about the windows?

CRAIG WHITAKER: If you continue on to SK2.4, we're putting -- at the top of the page, you'll see that each, there's

a single double hung window on the parking lot side at each -- at the first floor and second floor. And we're trying to keep the character of those windows to be the same as the character of the window, the kitchen windows, so they're the same height.

SLATER ANDERSON: Are they in the side yard?

CRAIG WHITAKER: They face the side yard.

SLATER ANDERSON: Are they in the setback in the side yard?

CRAIG WHITAKER: Yes.

SLATER ANDERSON: I mean, is that just covered by the Special Permit? I mean, I don't, personally I don't have a problem with this proposal. I think it's reasonable. We've seen these efforts

where people enclose porches, and I feel like the neighborhood group has looked at it, it is to the rear of the building, it's less visible from the street. The parking lot nuisance next-door is a factor. It's 12-by-5. It's not 16-by-8, you know, it's not -- it's two sides. It's not a full porch, three-sided open porch. There are several factors on the spectrum of this massing issue. And two of them are remaining open. I'm just, I don't know if the windows in the side yard, does that have additional Special Permit or not?

BRENDAN SULLIVAN: If they're within the side yard setback.

CRAIG WHITAKER: Listening to the previous Petitioner where they specifically called out the windows in

the side yard setback, I wasn't aware that we needed to do that. I thought the presentation of the plan showing the windows was a way of stating that that was part of the proposal.

SLATER ANDERSON: I mean, the neighbors -- we have support from your direct abutters who are the ones affected by this?

CRAIG WHITAKER: Yes.

The first plan, that's pretty instructional in the sense that it clouded border is the limit of the abutters who were notified by I assume Maria and by the Half Crown Marsh NCD. We've made an effort to contact every abutter, both by going out, placing phone calls, sending e-mails, etcetera. We received no negative responses. And we

have received as you can see in the kind of the yellow-green areas those are abutters who support the petition. They've reviewed the drawings with them, and they're in support. In addition to these letters, we have two abutters who live across the street who are here in support of the petition, and I think that's important. Maybe you'd like to voice their support.

SLATER ANDERSON: The only one I see that seems relevant that's not highlighted is one of the owners is 166-25.

CRAIG WHITAKER: Behind the building?

SLATER ANDERSON: Yes, Daniel Sulminali Hersh (phonetic). Did you --

CRAIG WHITAKER: We tried.

SLATER ANDERSON: And so they don't live there? Is it a landlord? I mean, they have a different address.

CRAIG WHITAKER: We kind of divided the duties. Some people went out on a Sunday afternoon. They didn't find them at home. We tried to call them.

SLATER ANDERSON: Well, you clearly made the effort so I don't doubt that.

TIMOTHY HUGHES: Any questions?

(No Response.)

TIMOTHY HUGHES: I'll open it up to public testimony. Does anyone want to be heard on this matter? Just come forward and identify yourself for the record.

BARBARA YEOMAN: Yes, I'm Barbara Yoman. I was born on Brewer

Street 75 years ago. And I have lived there in No. 8 for eight years, and my family has lived there since 1918. Well, I'm also one of the founding members of the Half Crown Neighborhood and very active in history. I've taught history for 51 years. So, and I also have a Master's degree in art. So my opinion, I think, should count. I am in favor of the design of 8 Brewer Street, and I think it will add, not subtract, from the neighborhood. And it will not be a nuisance and it will not be the cause of any congestion or harm the character of the neighborhood. I think it will only add to the neighborhood. And I want my neighbors back. They've been gone for 15 months and I love them all and I want them back. And they'll be back as soon as we

can rebuild the place. It's like a resurrection. So thank you very much.

CRAIG WHITAKER: Should we submit your letter?

BARBARA YEOMAN: That's -- my letter is over here.

LAURIE HOFFMANN: I have the letter, Barbara, I got them.

CRAIG WHITAKER: We already have this in the packet.

SLATER ANDERSON: Thank you.

TIMOTHY HUGHES: Anyone else that wants to be heard on this matter?

(No Response.)

TIMOTHY HUGHES: I do have some correspondence in the file from Barbara Yeoman who just spoke. It would be redundant to read this letter aloud.

Supporting package of materials.

(Reading) We write in support of the owners of the units at 8 Brewer Street for Special Permit for the enclosure of porches on the first and second floors. And this one is signed by Thomas Horax (phonetic) and Elizabeth Carol Horax.

(Reading) Thanks for sharing the information on the 8-10 Brewer Street condo trust applications to the Half Crown Marsh Neighborhood Conservation District Commission. I have reviewed all the information and I'm in full support of the proposed alterations. And this is signed by Barbara Yeoman.

Elizabeth Horax again.

Patricia -- name I can't read.

LAURIE HOFFMANN: Quinlan.

TIMOTHY HUGHES: That sounds right. Patricia Quinlan. Tom Hart or

Hand. I'm not sure which that is. At
11A Brewer Street. C.H. Apell
(phonetic). And Liz Ireland? Ireland.

CRAIG WHITAKER: Freedman.

TIMOTHY HUGHES: Freedman.

An additional letter. (Reading)
Thank you for providing us with the
information we received and we're in full
support. Christopher Rich and Natalie
Ardell (phonetic)?

LAURIE HOFFMANN: Right.

TIMOTHY HUGHES: Again, same
sentiment from somebody named Hoffmann.
First name is?

LAURIE HOFFMANN: Oh, Paul
Hoffmann. He owns the parking lot. No
relation.

TIMOTHY HUGHES: Signature, same
sentiment from a letter from Allen

Devine.

CRAIG WHITAKER: Dewing
(phonetic).

TIMOTHY HUGHES: Katherine
Hayden, Anna Gordon, Marcus Frank,
Natasha Frank, Nancy G. Porter, and
Richard A. Plumb. These are all
residents of -- the last one is Gerry
Street. They're all residents of Brewer
Street and Gerry street. David Rich,
Ellen Rich, and that's it.

In addition, I have the Certificate
of Appropriateness from the Half Crown
Marsh Neighborhood Conservation District
Commission and the Cambridge Historical
Commission who referred it to the Half
Crown Marsh NCD. And they say: That the
full building rehabilitation following
the property fire per plans entitled,

"Repairs to 8-10 Brewer Street," dated 24 April of 2013. Work to include enclosing the rear porches on the first and second floors, replacing windows, stabilize the foundation to match the pre-fire appearance and installing exterior air conditioning units not to exceed the decibel limits of the noise ordinance, and grade level air conditioners are to be screened using natural plantings, preferably not deciduous to offer year-round sound dampening. That's the only provision. And the Historical Commission echoes that, too.

The Certificate of Appropriateness is attached upon the condition that the AC units will be screened with plantings. I assume the AC units are going somewhere in the vicinity of the filled-in porches?

CRAIG WHITAKER: No. They're going on the left-hand side of the building between 6 Brewer Street and -- four of them are going on the left-hand side of the building.

TIMOTHY HUGHES: Okay.

CRAIG WHITAKER: Two of them are going on the roof. And these are very small units.

TIMOTHY HUGHES: Well, I will cite that that condition be adhered to because it's in this -- it's not strictly a part of your Special Permit, but it is a part of the Certificate of Appropriateness from these two esteemed bodies, so it would be attached to the Special Permit motion.

Any further comments from Board members?

(No Response.)

TIMOTHY HUGHES: We ready for a vote?

The Chair would move that a Special Permit be granted to enclose the existing covered porches at units 1 and 2 at 8-10 Brewer Street. And that unit -- well, units 1 and 2 on the first floor and units 3 and 4 on the second floor. And it will not further violate the dimensional requirements of Article 5.

There will be no additional traffic generated or patterns of access and egress will not cause congestion because there's no change in the actual use of the building.

The continued operation and development of adjacent uses as permitted in the Zoning Ordinance would not be

adversely affected by the nature of the proposed use, because, again, there's no change to the use in the building.

No nuisance or hazard would be created to the detriment of the health, safety, and welfare of the occupants. If anything, closing in the porches on the side where the parking lot is would substantiate a more healthful environment for the interior of that building. And because of the there being no change there is, there is no further problem with the Ordinance.

Special Permit would be granted on the condition that the plans as submitted will be followed, and they start with -- initialed by the Chair, and they start with existing EX-1.1 and dated today's date.

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

(Show of hands.)

TIMOTHY HUGHES: That's four in
favor.

(Hughes, Scott, Green,
Anderson.)

TIMOTHY HUGHES: One opposed.

(Sullivan.)

TIMOTHY HUGHES: Permit's
granted.

CRAIG WHITAKER: Thank you very
much.

LAURIE HOFFMANN: Thank you.

* * * * *

(9:45 p.m.)

(Sitting Members: Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green, Slater Anderson.)

TIMOTHY HUGHES: The Board will hear case No. 10441, 9 Oakland Street.

There's a letter in the file requesting a continuance of this case. And we're going to continue this as a case not heard until the date?

MARIA PACHECO: 7/25.

TIMOTHY HUGHES: 7/25. All those in favor of continuing this case --

BRENDAN SULLIVAN: On the conditions that they change the posting sign and --

TIMOTHY HUGHES: On the condition that a waiver to the time of decision be signed, and that the posting be changed to reflect the new date and time of seven p.m. on July 25th.

Am I missing anything?

BRENDAN SULLIVAN: And any new

submissions --

TIMOTHY HUGHES: And any new submissions be in the file by five p.m. on the Monday prior to the meeting date.

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

TIMOTHY HUGHES: Continuance is granted.

* * * * *

(9:45 p.m.)

(Sitting Members: Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet

Green, Slater Anderson.)

TIMOTHY HUGHES: The Board will hear case No. 10442, 97 Lakeview Ave.

How you doing? Please identify yourself for the record.

THOMAS DOWNER: I'm Thomas Downer, D-o-w-n-e-r. I'm an architect for the project. And this is Melissa McGaughey, she's one of the homeowners at 97 Lakeview.

TIMOTHY HUGHES: Okay. Can you take us through what you want to do?

THOMAS DOWNER: Um, the existing house is a non-conforming structure. It's approximately, I think, four-foot, four at the closest point to a side yard, built that way originally or at least whenever the property was subdivided. The -- there's currently a deck on the

back of the house. The homeowners would like to make an enclosed screened porch on the back of the house. They're stepping that in somewhat from the side of the yard, but it would still be within the side yard setback. So we're looking for a Variance to allow the house closer than the 15 feet required on the side yard.

TIMOTHY HUGHES: Yes, sir.

BRENDAN SULLIVAN: Your proposal is for screening material and not glass?

THOMAS DOWNER: Proposal for a screen porch, one-story screen porch.

TIMOTHY HUGHES: Other questions?

SLATER ANDERSON: Have you talked to your abutters?

THOMAS DOWNER: Yes.

MELISSA MCGAUGHEY: I have.

Obviously they got your letter, and then by e-mail I contacted each one of the four north, two on the east, and one on the south. And by e-mail they've all said this is fine with us. Even myself, neighbor volunteered a letter in support of the project.

TIMOTHY HUGHES: Thanks.

Questions?

JANET GREEN: No questions.

TIMOTHY HUGHES: I'll open it public testimony. There's nobody in the audience so I'll close verbal public testimony. I will read into the record a letter in support of proposal.

(Reading) Bob and Melissa McGaughey?

MELISSA MCGAUGHEY: McGaughey.

TIMOTHY HUGHES: Are our

abutting neighbors of 97 Lakeview Avenue to constructing a stone enclosed porch which is currently their back deck.

Signed Ann Sweeny. There's more, but it's an endorsement. Ann Sweeny and Martin Cassidy, 87 Lakeview Avenue. Owners at 87 Lakeview Avenue.

That's the sum total of public discourse.

Any other comments from the Board? Ready for a vote? I like when it's fast. It's not going to be that fast because the supporting statement here is about book length so I'll have to pick through the stuff that I need.

The Chair would move that a Variance be granted for construction of a one-story wood frame screen porch addition to the rear of the existing

house.

A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the Petitioner for the following reasons:

The homeowners would like to add a one-story screen porch at the rear existing home to provide some private outdoor space, protect it from mosquitoes.

The location requires a Zoning Variance.

A literal enforcement of the provision of the Ordinance would be a substantial hardship by denying the occupants the kind of outdoor area many other Cambridge residents enjoy. Enforcing the side yard setback would be

a substantial hardship because it would be impossible to go directly from the kitchen to the eating area on the porch without going outside or going to the living room.

The hardship is owing to the following circumstances:

As the building and lot were created well prior to the current Zoning limitations, the structure has been non-conforming since the current dimensional requirements of the Resident A1 district were imposed.

The hardship's due to the location of the structure on the lot which did not meet side yard setback requirements from inception.

Desirable relief may be granted without substantial detriment to the

public good for the following reasons:

The porch addition, while still in the side yard setback, is further from the lot line than the existing house, and at one-story high has less visual impact and shadow casting than the two- to three-story existing house.

The neighboring house on the effected side is not immediately adjacent and also screened by mature shrubs and trees. Because the proposed porch is less wide than the existing house and is located at the rear, it would not be easily visible from Lakeview Avenue.

The relief may be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance.

The porch additionally will promote

health, safety, and welfare of the occupants and is less non-conforming as to the side yard setback than the existing structure. It would be minimally visible from the public areas and compatible with surrounding homes.

The variance would be granted on the condition that the work be done in substantial accordance with the plans as submitted.

That's correct, right, these are your plans?

THOMAS DOWNER: Yes.

TIMOTHY HUGHES: The plans, I'm just going to go with the page two here.

McGaughey residential renovations. Charlie Allen Restoration, Incorporated. Starting on page A1 and initialed by the Chair and dated today's date.

All those in favor --

THOMAS SCOTT: Can I ask a question before we --

TIMOTHY HUGHES: Sure.

THOMAS SCOTT: Why did you choose a rubber roof as opposed to an asphalt shingled roof?

THOMAS DOWNER: The pitch was low enough that we would need asphalt shingles.

THOMAS SCOTT: Was it less than 3 and 12 or 4 and 12?

THOMAS DOWNER: It was at one time. I'm trying to remember now what I ended up with there. I think it is at still at 3 and 12 at this point. Yeah. It's not visible from anywhere on the back side other than from a second floor.

THOMAS SCOTT: From above? And

from the neighbor's yards or anything like that it's not visible?

THOMAS DOWNER: Not from the ground, from the ground level, no.

THOMAS SCOTT: Okay. I would just prefer to see an asphalt shingled roof. But I won't oppose it.

TIMOTHY HUGHES: Okay.

THOMAS SCOTT: That's it.

TIMOTHY HUGHES: Okay.

All those in favor of granting the Variance.

(Show of hands.)

TIMOTHY HUGHES: That's five in favor. Variance is granted.

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

THOMAS DOWNER: Thank you.

(Whereupon, at 9:55 p.m., the

Board of Zoning Appeals

Adjourned.)

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

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

INSTRUCTIONS

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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 28th day of May 2013.

Catherine L. Zelinski
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