

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JULY 13, 2017

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Andrea A. Hickey, Member

George S. Best, Associate Member

Laura Wernick, Associate Member

Maria Pacheco, Zoning Secretary

Sisia Daglian, Assistant Commissioner

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P R O C E E D I N G S

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(7:20 p.m.)

(Sitting Members Case BZA-013396-2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, George S. Best, Laura Wernick.)

CONSTANTINE ALEXANDER: Okay, the Chair will call this meeting of the Board of zoning Appeals to order. Since we have no continued cases this session, we'll start right in with our regular agenda. And I'm going to call the first case, case 2510 Massachusetts Avenue. Case No. 013396.

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

JOHN HAWKINSON: Mr. Chair, I'm recording your meeting.

CONSTANTINE ALEXANDER: Is there anyone here for the 2510 Mass. Avenue?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Yes.

CONSTANTINE ALEXANDER: I've called the case. Have a seat. Before you start I'm going to read a statement to the audience.

After notifying the Chair, any person may make a video or audio recording of our open sessions or may transmit the meeting through any medium subject to reasonable requirements that the Chair may impose as to the number, placement, and operation of equipment used so as to not to interfere with the conduct of the meeting. At the beginning of the meeting the Chair will inform other attendees at that meeting that a recording is being made.

And I wish to inform everyone here that a recording is being made. Actually two recordings: A citizen of the city has left a tape recorder here and he is recording the meeting. And our stenographer records the meeting to help her when she does the minutes of the meeting. So be aware that this -- you're on tape.

Okay, with that, we're going to start with 2510 Mass. Ave. Please introduce yourselves.

ATTORNEY MICHELLE BARATTA: Good evening. My name is Michelle Baratta. I represent the owner, Big Corner

Realty Trust, and my address is 138 Harvard Avenue in Allston, Mass.

BRENDAN SULLIVAN: Michelle, could you just pull the microphone towards you so you can speak into it.

ANDREA HICKEY: Very close.

CONSTANTINE ALEXANDER: So people in the back can hear.

And, sir, you.

KENT LEUNG: My name is Kent Leung. I'm representing the dog daycare.

THE STENOGRAPHER: Okay, and can I have spellings of these names, please?

KENT LEUNG: Sure. K-E-N-T. And last name is Leung, L-E-U-N-G.

ATTORNEY MICHELLE BARATTA: Michelle M-I-C-H-E-L-L-E and last name Baratta B-A-R-A-T-T-A.

THE STENOGRAPHER: Thank you.

ATTORNEY MICHELLE BARATTA: We are here today

for -- asking for a continuation of a Special Permit that was granted in 2015 for the operation of a pet care and pet store under Section 4.35.L as well as parking relief under 6.36.5.L.2. I have Kent here who will speak a bit more about the business and then we can answer any questions that you have.

KENT LEUNG: So we operate primarily a dog daycare, as well as we sell some pet retail items, such as dog collars, leashes, and dog food. We also have another location in Cambridge located at 555 Cambridge Street which we've previously received a Special Permit for. And when they originally awarded the permit for 2510 Massachusetts Avenue, it was a permit for I think two years, for a period of time as which we had to come back to this Board for continued approval.

CONSTANTINE ALEXANDER: The reason we put a two year limit, as I recall, was there was some neighborhood opposition or concern is actually maybe a better word, about

the operation. Because this is -- you are I guess zoned business you're surrounded by a residential area. So the \$64 question for me is we wanted two years to see how things worked out. Were you compatible with the neighborhood? Any issues? Have you had any complaints from your neighbors?

KENT LEUNG: No, we have not yet.

CONSTANTINE ALEXANDER: I checked with the Inspectional Services Department and it has received no complaints either. That should be part of the record.

Is there anyone here by the way -- I'm going to stop right now, interested in this case who wants to speak to it? Particularly whether we should continue a Special Permit.

ROSEMARY KENNEDY: My dog goes to the daycare and I wanted to let you know about how great I think they are.

CONSTANTINE ALEXANDER: Okay, we need your name, please.

ROSEMARY KENNEDY: My name is Rosemary,

R-O-S-E-M-A-R-Y Kennedy, K-E-N-N-E-D-Y. I live at 127 Garden Street and it's a ten minute drive.

CONSTANTINE ALEXANDER: And you are again in support of us renewing the Special Permit?

ROSEMARY KENNEDY: Absolutely. They have made -- as an older person, I'm 76, it makes -- and I help with my grandchildren. So I drop my dog off and I continue on. I take kids to hockey, pick them up from school, do whatever, and they're very flexible. I sometimes drop him off at ten, sometimes at one o'clock, and occasionally at seven, not as often anymore, but all the dogs and I have been there are happy. My dog bounces up the steps in and greets me excitedly when I come back. And I feel like his quality of life is -- he's not at home while I'm trying to help with my grandchildren and not torn. And he's so loved and taken care of. All of their staff are really wonderful. So from aging in place, I -- it's important to me and it will be important even more as I get older. I'm not able to

walk him as much and know that they, if I -- I had foot surgery, for example, and he was able to go and I didn't have to worry about him getting good walks and things. So it served me as a senior trying to stay as active as I can, as long as I can, and live in my house in Cambridge and keep my dog happy.

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

ROSEMARY KENNEDY: My pleasure.

CONSTANTINE ALEXANDER: Anyone else wish to speak on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Okay. I'll go back to the testimony, a little out of order.

Anything else you want to add at this point.

ATTORNEY MICHELLE BARATTA: No, we would just ask that the Board consider making the Special Permit permanent because of the goodness that they've done in the community.

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

(No Response.)

CONSTANTINE ALEXANDER: I'm going to suggest to my fellow Board members that I'm going to make a motion to continue the -- to renew, I'm sorry, the Special Permit, but I don't see any need to have any time frame this time around unless others feel otherwise.

So I would make it as we do with most Special Permit cases, a permanent Special Permit so long as you're the owner. If you change the ownership of the property, that new owner will have to get a Special Permit. That's the way our Ordinance works.

KENT LEUNG: Well, I'm currently a tenant but I have an option to purchase.

CONSTANTINE ALEXANDER: Okay.

KENT LEUNG: So would it apply to -- is it with --

CONSTANTINE ALEXANDER: No, if you're going to exercise your option to purchase, you're going to continue on the premises.

KENT LEUNG: Okay.

CONSTANTINE ALEXANDER: So that wouldn't have an impact.

KENT LEUNG: Okay.

CONSTANTINE ALEXANDER: So I think we should also, however, renew some of the conditions that we imposed the last time for the Special Permit to keep everything in place. And there were two, and I'll generally describe it, I'll make a motion in a second.

That there be no overnight boarding of animals.

And that you use reasonable efforts to minimize odor impact or health issues coming from the fact that you have animals.

KENT LEUNG: Of course.

CONSTANTINE ALEXANDER: So should I add those

conditions?

ANDREA HICKEY: Yes.

CONSTANTINE ALEXANDER: Okay.

Actually, I didn't give anybody else a chance to testify.

Does anybody else have anything they wish to say on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No.

And there appear to be no letters in our file.

So the Chair moves that we make the following findings with regard to the Special Permit being requested, and I think just to speed things along, I suggest we incorporate the findings we made the last time since the facts have not changed with regard to the necessary findings.

And based upon these findings, we grant the Special Permit requested with no time limit, unlike the

prior time, subject to the following conditions:

That there will be no overnight boarding of animals at the facility.

KENT LEUNG: Of course.

CONSTANTINE ALEXANDER: And second, that you make reasonable efforts at all times to minimize the odor impact or health issues that might arise of having animals in this basically residential neighborhood.

KENT LEUNG: Okay.

CONSTANTINE ALEXANDER: All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

ATTORNEY MICHELLE BARATTA: Thank you.

KENT LEUNG: Okay, thank you.

(Alexander, Sullivan, Hickey, Best, Wernick.)

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(7:30 p.m.)

(Sitting Members Case BZA-013356-2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, George S. Best, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 013356, 11-13 Plymouth Street.

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

ATTORNEY SEAN HOPE: Good evening, Mr. Chairman, Members of the Board. For the record, attorney Sean Hope, Hope Legal Law Offices in Cambridge. I'm here tonight on behalf of the petitioner. We have Mr. Mario Ricciardelli and you can spell that for the stenographer.

MARIO RICCIARDELLI: It's R-I-C-C-I-A-R-D-E-L-L-I.

ATTORNEY SEAN HOPE: Mr. Ricciardelli is the owner of the property and also the manager of the LLC. This is an application requesting Special Permit relief both to add

windows -- add or alter windows which are in the setback.

As well as to add living area to the basement, to the lower level of an existing six-family property.

Pursuant to the Barrett Petition in 2016 the existing basement height is less than seven feet. And previously before the Barrett Petition if you were going to, not just add living space, but if you were going to dig out to make ceiling height, that would be adding gross floor area. And on this lot it would have triggered a Variance. Several other places in Cambridge, because the lots are usually non-conforming, that adding this additional basement height in the basements would have required Variance relief. Under the Barrett Petition a one and two-family are allowed to increase the basement height or to have a living space as of right, but anything in addition to a one to two-family requires a Special Permit.

This is a renovation of the entire building. And as you can see from the plans, part of the renovations is to

add living space in the first half of the basement, so in the form of a living kitchen area. And then there will be bedrooms on the first floor.

CONSTANTINE ALEXANDER: Excuse me. I don't mean to interrupt you, but what's the reference in the Ordinance that requires a Special Permit?

ATTORNEY SEAN HOPE: So it's actually in the Article 2.

CONSTANTINE ALEXANDER: Is it Article 2 of the definition?

ATTORNEY SEAN HOPE: Yeah. Exactly on the definition. It's footnote 16 which is kind of an odd place for Special Permit criteria.

CONSTANTINE ALEXANDER: I couldn't find it before, the reason I'm asking.

ATTORNEY SEAN HOPE: Yeah. So it's in Article 2 under the definition of what's not gross floor area. It's what shall be included and what shall be excluded. And this

reference is footnote 16.

CONSTANTINE ALEXANDER: Yes, here it is.

ATTORNEY SEAN HOPE: Where it allows for cellar/basement area to be essentially -- it doesn't say converted into living space, but in effect it allows for basement space to be able to do that.

Additionally there is rear porches which are going to be enclosed. Those are also within the setback. And there will be some windows that will be added in the setback as well.

So overall, this is an area in East Cambridge that has several multi-family structures such as this. This is a six-family on a street and in an area that has several of these type of structures.

One of the purposes of the Barrett Petition was to be able to create additional housing within the built form by allowing for accessory apartments as one piece, but this is a separate piece. This is just to be able to add living

space to the basement. And prior to the Barrett Petition what you had a lot of basement areas being converted at 611. So you would have bedrooms and living space in the basement, but they didn't have adequate ceiling height. And the proposal is to add close to eight feet of basement height to be able to dig those spaces out and to add living space.

One of the layout considerations was oftentimes when basements are in the basement, you have window wells and things, but in this case the basement -- the bedrooms are going to be at grade or above. And so it's just a little different than what you see, but I think part of it is safety. And I think as Mr. Ricciardelli had said, it's not quite clear that they would be able to have safe egress without -- if you put the bedrooms in the basement. So this was really just impacting the lower level in the basement. But all the upper floors are going to be a full gut renovation, and there will be certain windows that we're moving that are in the setback.

The setback is very tight on both sides, which is seen throughout East Cambridge and so that requires the additional Special Permit.

CONSTANTINE ALEXANDER: I'm just looking at footnote 16, and it seems that we have to make a finding that --

ATTORNEY SEAN HOPE: The use is --

CONSTANTINE ALEXANDER: The use is, yeah, occupying such exempted GFA, support the character of the neighborhood or district in which the applicable lot is located.

ATTORNEY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: Could you just speak a little bit more to that?

ATTORNEY SEAN HOPE: Yeah. In terms of the uses, I see the use as residential use. So this is a residential district that allows multi-family uses. I think the uses are consistent with what the residential uses -- I view that

as -- because it doesn't say that you have to use residential. So I would say if we were trying to use an office or something that was allowed in the district that was very different or even a wood shop, that might be something that's not typical within the district.

I would also say, too, that although the basement height is going to be increased, this is an area that was occupiable. They had storage there. So this is not a crawl space that now we're creating totally new living space.

I would also say that support -- there is significant letters of support from the neighbors and the abutters. Also looking at this is a large six-family in certain parts of the city that might not be appropriate, but as I said because of the density that's already within East Cambridge and also because of the uniqueness of this lot, referenced by the size of it and also the ability to do this without necessarily negatively impacting any of the adjacent structures, we think it's appropriate and the use is

consistent with the residential uses and the multi-family uses in East Cambridge.

CONSTANTINE ALEXANDER: So you're going to go from six apartments to seven in the building?

MARIO RICCIARDELLI: No, we're going to keep it as six apartments.

CONSTANTINE ALEXANDER: Six.

So the basement area is going to be part of another apartment that already exists?

ATTORNEY SEAN HOPE: They will be duplexing it.

CONSTANTINE ALEXANDER: Duplex?

ATTORNEY SEAN HOPE: That's right. So the unit count remains unchanged.

CONSTANTINE ALEXANDER: What's the story on parking?

ATTORNEY SEAN HOPE: There's no parking.

CONSTANTINE ALEXANDER: There's no parking. There never has been and there won't be now. Not in the basement

anyway.

Questions from members of the Board?

BRENDAN SULLIVAN: Well, comment. I would disagree that the Barrett Petition was for intended for this strenuously.

The Barrett Petition was really designed to address one or two families who wanted to put an additional unit there. However, the language in it doesn't necessarily exclude it. But I would disagree vehemently that it -- I think that this is an opening that you're sort of coming in under.

Can I see the plan there for a minute? When I first looked at the plan, and we're starting to get more and more of this becoming oh, too prevalent. It's a typical six-family. And my first thought was it's a rooming house because what you're doing, is you're doing bedroom 1, bedroom 2, bedroom 3, bedroom 4, and locating the kitchen downstairs and the living space down floor. It's either a

rooming house or an Airbnb. One or the other. And you can say no, it's not our intentions because Airbnb is not allowed yet, but that's what it reads to me without question. And lately we've been getting a lot of this lately where people are -- Walden Street, classic example, they showed four units -- four bedrooms in a three-family house. And in checking with the neighbors, that's exactly what's going on, even though the people said no, it was not.

LAURA WERNICK: So can I just ask, for those first floor units, how many bedrooms do they have now?

MARIO RICCIARDELLI: Three.

LAURA WERNICK: And you're going to four bedrooms? So in each case you're adding one bedroom as well as making it a more presumably a larger living --

MARIO RICCIARDELLI: Living, open kitchen area.

LAURA WERNICK: Open living, dining, kitchen area. So you're adding -- basically you're adding two bedrooms to the entire -- is that correct, for the entire renovation or

you're adding -- would that be the cumulative?

MARIO RICCIARDELLI: Two bedrooms.

LAURA WERNICK: Two bedrooms?

MARIO RICCIARDELLI: Right. First two units.

LAURA WERNICK: So that --

ATTORNEY SEAN HOPE: And so, you know, part of this, it's not just moving the living space to the basement. It's also incorporating what is rear porches into the living space which is allowed because it's already gross floor area.

I would say to Mr. Sullivan's point, the Barrett Petition, I feel like there were two parts of it. There was one part which was the accessory apartment, which specifically did address what you're talking about. But I do think that the relaxing of the GFA for basement space did create an opportunity to take what you really couldn't do in basements, whether it was bedrooms, living areas, but living space and allow for more functional living space. So I

think it was happening already, people were taking living space and they were using it in the basements, it just was at lower heights. And so to me what the Barrett Petition did was took out this trick of having 611 space in basements which really wasn't as functional, it didn't have as much light and air.

BRENDAN SULLIVAN: Because people were taking their apartment, they had a -- the children were growing. So they had a teenager or two, and then they were putting a basement bedroom down there and probably a little bit of a half bath for the, you know, for the teenager or something like that. That's what was going on. It just that when I first saw that, that's -- and again, I'm not calling into question your motives here, but that's just what resonated with me.

MARIO RICCIARDELLI: Well, I mean I can say unequivocally we are absolutely not doing any kind of Airbnb. I own several properties --

BRENDAN SULLIVAN: I mean, why would you just go bedroom, bedroom, bedroom, bedroom, two bathrooms and then decide to put the living room and the kitchen downstairs?

MARIO RICCIARDELLI: We're just trying to add more living space to try to make economic sense to buy the property. We thought we'd need more gross living area on a square foot basis.

BRENDAN SULLIVAN: I mean, if somebody came in here and said we want to put an extra bedroom in the basement for, again, children or something and I can see that.

LAURA WERNICK: They're going through a lot of expense --

BRENDAN SULLIVAN: What?

LAURA WERNICK: They're going through a lot of expense to add -- following up on your theory, which I'm also concerned about, you know, the motive, but they're going through a lot of expense to renovate --

BRENDAN SULLIVAN: But the main living area is on the first floor.

LAURA WERNICK: All I'm saying is that they're making a very large and extensive living, dining, kitchen area. They're putting a lot of money into that first floor if -- just to follow up on your hypothetical, if the intent is not to use it. So, I would like to pursue, you know, are you intending to make these into condos? Are you intending to lease them? What's your long term --

MARIO RICCIARDELLI: Yeah, right now my long-term intention is to hold these for an indefinite period. We're -- I have no intention right now to condo them.

CONSTANTINE ALEXANDER: What are the nature of the other buildings in the neighborhood? I mean, two families, three families?

MARIO RICCIARDELLI: So the building right next door is a six-family building that was completely renovated and I believe they incorporated the basement then as living

space.

There was another building that I believe was impacted by the fire --

JAMES WILLIAMSON: I'm sorry, could we ask that you speak up because the AC is --

CONSTANTINE ALEXANDER: Speak into the microphone.

ANDREA HICKEY: Bring it very close.

MARIO RICCIARDELLI: Our building was impacted by the fire in East Cambridge and is partially gutted right now. The building next door is a six-family, almost identical, where they did basically the same thing, they incorporated the back porches as living area and I believe incorporated the basement as living area.

So in terms of the character of the neighborhood, there are several multi-families very tight throughout the neighborhood.

ATTORNEY SEAN HOPE: And I would just say even prior to the Barrett Petition, if the basement height was

already seven feet, and this is something that someone could have done without zoning relief, because the seven foot was the trigger, so they could have went --

CONSTANTINE ALEXANDER: But it's not.

ATTORNEY SEAN HOPE: No. I'm just saying that I don't think this is -- isn't adding something that wasn't possible before. I do think that you're probably seeing more of these applications, and I'm not gonna doubt, I think the transient accommodations, you know, whether they're allowed or not or whether they will be allowed in the future, probably has promoted more of these applications. But I think specifically just in terms of using them -- digging out basement spaces is something that was allowed if the existing basement height was already seven feet. Because then by digging and adding living space, you wouldn't be triggering any zoning violation. So this new exclusion of basement space is not so different than what was pre-2016 before the Barrett Petition. And -- but,

again, prior to this application we talked -- the petitioner's well aware of the occupancy rules, you know, the three unrelated individuals, we made that expressly clear. So that if they, if you have a four or five bedroom which you have in larger homes, the same rules apply. And if the State Legislature or the City Council wants to change Airbnb, then that may be something we all have to deal with in the City of Cambridge. But this application is really straightforward. It's looking to utilize really half of the basement. The other half is from mechanical space so it's not the whole area, but they are spending time and money digging the basement out, but it's also they're renovating the whole structure. So I think in the overall project, I don't think this is -- it is cost. But it's not like they're just doing this and leaving the rest. They're doing a full gut renovation. His intention is to keep it as part of his real estate portfolio. And I think, as well as part of the criteria, it is consistent with the uses,

specifically the basement uses, in some of these as residential use in the basement area. So -- and then the general Special Permit criteria that talks about has a nuisance or congestion, I think really the additional bedrooms that they're adding is not going to exacerbate what is already a dense area. And I would say that the letters of support speak to the idea that this additional renovation, which will actually enhance the property and the neighborhood, is not going to exacerbate any other existing conditions, and I think it will add an opportunity --

BRENDAN SULLIVAN: Yeah, sure, if two do it. But then if everybody does it. And then at what point is the breaking point? And then at what point do we say now we have overcrowding here? We just have maxed them out everything.

ANDREA HICKEY: But then at that point perhaps the Barrett Amendment needs to be clarified if the intent is to prohibit something like this. I mean, I don't read the

Barrett Amendment to prohibit something like this. And you can call it a loophole, but if that's what it is, then it's not up to us to sort of plug that.

BRENDAN SULLIVAN: Fair point.

CONSTANTINE ALEXANDER: Well, I think the issue is how well -- I mean, the Barrett Amendment, I think you overstate your case, Mr. Hope. You are exacerbating the situation, by what you're doing. The question is whether you're unduly exacerbating it, and that's what Section 16 -- the footnote 16 of the definition says. It's other changes for the basement area, you don't need to make this finding. We have to make this finding only for all other types of structures. So one or two families, this finding we've got to make, it's not applicable. But it is. And that gives me pause because obviously the City Council wanted us to take a hard look at what you want to do in your kind of structure. Not across the board, but in this situation. And I'm sort of on the fence. I don't, I don't

know how to get there. We don't want to open up a big loophole, and I'm not sure we have to given the way this, the Ordinance is drafted. So I'm still on the fence.

ATTORNEY SEAN HOPE: Fair point. I do think that, you know, as the Board had said oftentimes when there are situations, the Board is not looking to cure what the City Council would cure. I would say that this is new zoning and I think that if this leads to a situation where the citizens of the City feel like this is being exacerbated or taken advantage of in a negative way, then I think that the City Council could quickly come and make a corrected amendment on this. But I would say that it's one or two families and all other uses. Which means you could use this basement exclusion for commercial properties, for any of the properties. It doesn't just lend it to residential.

I would say also that if in this particular situation, and I'm talking about citywide, if on this particular parcel there was an issue there was already

overcrowding, then I think that, you know, usually you would look to the neighbors to say on this particular parcel, because we're not -- our application is not citywide. We're asking about this particular parcel in this particular neighborhood, and I think the numerous letters of support speak to the fact that it's not going to exacerbate. I don't think it's going to be a negative. And it can also be looked at as a positive.

If you believe that there is a housing crisis and this is adding more housing, but in the built form, not taking up open space, not taking up permeable area, those are issues that when people are adding additions, the Board is often faced with. So to me one of the intentions and the goals of the Barrett Petition was to allow for additional living space within the built form. And oftentimes that could mean the basement, in this case, but it also could also be in other parts of the structure. So I do think that there is a density consideration and I think that's what you

expressed, but I also think this is in line with the intent and purpose of the Barrett Petition. And I do think if it gets to a point where it's happening too much or there are negative undue consequences, I do think that it would be up to the City Council to be able to go and make whatever corrective actions it would decide to make.

CONSTANTINE ALEXANDER: You're very optimistic when it comes to City Council taking corrective action with regard to deficiencies in our Zoning Ordinance. That's all I can say on that. We've had many, many instances before our Board where the Ordinance should be changed, it makes no sense, and we've said that and nothing happens at the City Council level.

ATTORNEY SEAN HOPE: They do move slowly. But I do think that when there's political will and more like residents I should say -- when the residents are -- but also, too, I think the Board knows that they often will come out in droves and speak to the Board and want the Board to

take action. And I would say in this particular instance is not a case with your you have neighbors -- and this is also an area that doesn't have lots of new people. I mean, East Cambridge is an area that has people who historically have been there a while. And I would say if this was a particular property that it wasn't appropriate, I do think the Board would hear from the residents and abutters.

CONSTANTINE ALEXANDER: Any comments, questions at this point?

LAURA WERNICK: This may be way off point here. But how come you didn't draw in the kitchens in the -- the drawings say that there are kitchens in the basement.

MARIO RICCIARDELLI: We were still trying the best way to configure the cabinets in the kitchens within that space. We were waiting for feedback from the structural engineer in terms of any posts that need to be there, so that's why they're not in the basement yet.

LAURA WERNICK: Okay.

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

Is there anyone here wishing to be heard on this matter? Sir, give us your name and address, please.

JIM VOUTIRITSA: Jim Voutiritsa,  
V-O-U-T-I-R-I-T-S-A, 22 Plymouth Street.

I am opposed to this expansion of this building. More living space means more people. It means more cars. The other building next-door that was expanded, more vehicles, less parking spaces. We already have impacted by a project on Cardinal Medeiros. They got two blocks of parking spaces blocked off for two years because of that construction site, and it's getting worse and worse every year.

CONSTANTINE ALEXANDER: By any chance have you spoken to some of your neighbors? Do you speak just for yourself or are you speaking on behalf of yourself and others?

JIM VOUTIRITSA: I don't see any of my other neighbors here except for her.

CONSTANTINE ALEXANDER: No, I mean I just meant maybe in the street or whatever. I mean before the hearing. I want to know who you represent.

JIM VOUTIRITSA: I represent myself.

CONSTANTINE ALEXANDER: Just yourself, okay. Okay. Nothing wrong with that. I just wanted to make sure I understand who is in favor and who is not.

JIM VOUTIRITSA: Right.

CONSTANTINE ALEXANDER: Okay, thank you for taking the time to come down. Appreciate it.

Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. Yes or no? I guess not.

LAURA WERNICK: Can you just tell us -- I know it has been impacted by the fire, but who were your tenants

before the fire? Was it families or was it college kids?

Who were typical tenants for you?

MARIO RICCIARDELLI: So I didn't own the building before the fire. I don't remember the name of the gentleman. I think his name was Jose Pinera (phonetic).

JOHN HAWKINSON: Mr. Chair, the petitioner is still really hard to hear.

MARIO RICCIARDELLI: I'm sorry. I believe the gentleman was named Jose Pinera that owned the building. I'm not sure of the tenant mix. When we bought the building, it was empty. Because of the fire, it was boarded up.

CONSTANTINE ALEXANDER: Let me get this straight, after the fire you bought in, bought the building, and the first thing you want to do is you want to expand the building so you can increase the rental income. Am I right?

MARIO RICCIARDELLI: That's part of the reason for buying the building.

CONSTANTINE ALEXANDER: Okay.

No, the economics of buying the building is you pay a price -- we've gone through this many times. Mr. Hope has heard it. You pay for a price of a building based upon the market value at that time, and then you ask us to increase the market value by giving you some relief that allows to charge more rent in this case.

MARIO RICCIARDELLI: Well, I mean the building was in pretty rundown shape when we acquired it. So we're upgrading all of the units not just adding space to the basement.

BRENDAN SULLIVAN: So the purchase price should have reflected that.

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY SEAN HOPE: Well, one, I think this might be different than a situation where there was no fire, there was no one -- someone came in, moved people out, and then came to the Board looking to increase the value.

CONSTANTINE ALEXANDER: That's not usually our

case, Sean. Often the case is someone comes in, doesn't move people out, they buy a property, paying the price that the Zoning reflects, and then they come to us and say let us make a -- convert a one familiarly to a two family. And if we do that, now the building is worth a lot more money than the person paid and we've been the instrument for creating that additional value.

ATTORNEY SEAN HOPE: I understand. And I think that if we were here for a Variance and we were saying we had a hardship and that we were asking the Board for a Variance relief because of finances, I think that would be an appropriate consideration. In this case the Ordinance allows by Special Permit, which the Board knows is normally granted unless you have certain conditions; congestion, hazard, and nuisance. None of --

CONSTANTINE ALEXANDER: Come back. Congestion, right? I mean, that's what you've been hearing tonight. Concerns about congestion.

ATTORNEY SEAN HOPE: Well, I've heard, and I think it's fair, we've heard one comment about congestion. And I think that -- you hear that throughout the City. But I think we have letters of support from also direct abutters that also are consistent with that. But I also think it's appropriate that the City Council recently passed by Special Permit to allow for these basement uses to be, to be converted. To be able to create more living space. In effect this Special Permit does allow for increased value across the citywide. And so I think what he is asking for is really no different than anybody would be asking for. I would also say even before this, and I think this analogy should hold, that if this was seven feet already -- if the basement was four inches higher, then we wouldn't necessarily be going through the Special Permit exercise, but we are. I would say specifically it's this particular lot based on the letters of the file. I don't believe all unduly or accessibly create nuisance or hazard or

congestion. I would think that if you had a rear addition, even if it was conforming, or you were making more changes to the physical structure, I think that would be, it would be more, more of a change and would exacerbate what may be a congestion -- condition.

You have rear yards. Oftentimes you're doing conforming additions in rear yards and you're blocking light and air. You're impacting privacy on neighboring abutters. This is not doing any of those things. And those are also examples of people come to the Board because they want more space and they're having to build outside. So this is a case that is all within the building. I think that's why you do see the letters of support because from the exterior, you're not gonna see any change, any negative impact.

CONSTANTINE ALEXANDER: You've been dying to have me read the letters of support so I think this is an appropriate time to do it. I'm just kidding you.

ATTORNEY SEAN HOPE: No, no.

CONSTANTINE ALEXANDER: We do have a number of letters in the file.

We have a letter from Timothy Toomey, our City Councillor. (Reading) I am writing in favor of case number, blah, blah, blah, in their request to convert basement space on Plymouth Street into living area and to add/alter windows within the setbacks. I have not heard any neighborhood concerns and feel this will not impact any neighbors in a negative manner. I support this effort.

Then we have a -- there's a letter, it's a form letter. There's nothing wrong with that. But it's been signed. I'll read the letter and then I'll try to identify the people who have signed this letter. They're all in support. The letter is in support.

(Reading) I am writing to lend my support for the Special Permit application to allow for the renovation of the multi-family property at 11 Plymouth Street. I'm a direct abutter at 8 Plymouth Street, Cambridge, and lived in

the East Cambridge neighborhood for many years. I've met with the owner and have reviewed the plans to enclose the rear porches, as well as converting basement space into living area. After review of proposed plans, I believe the relief requested is appropriate in size and scale for the neighborhood and will enhance the property. For all of these reasons I strongly urge you to grant the Special Permit and allow full renovations of this property.

And this is a letter -- it's an identical letter signed by the owner or the resident at 9 Plymouth Street. I can't read the handwriting of the signatures so that's why I'm not giving their names.

A resident at 9A Plymouth Street.

A person who resides at 16 Plymouth Street.

14 Plymouth Street.

19 Plymouth Street.

Another 19 Plymouth Street.

And I guess that's it. So all the letters we have

in our files are in support as you have indicated.

I think I'll -- any final comments?

ATTORNEY SEAN HOPE: No.

CONSTANTINE ALEXANDER: Then I'll close public testimony.

Discussion?

ANDREA HICKEY: I just had one final question. Do you own any properties on Plymouth Street?

MARIO RICCIARDELLI: No, I don't.

CONSTANTINE ALEXANDER: Good question.

Anybody want to speak? I can just make a motion and take the vote. I'll do what people want.

BRENDAN SULLIVAN: Well, I'm opposed to it.

CONSTANTINE ALEXANDER: I'm sorry.

BRENDAN SULLIVAN: And, again, I think that the preamble, 1.30, the purpose, it shall be the purpose of the Ordinance to lessen congestion in the streets, conserve health -- and it goes on and on and on, to provide adequate

light and air, to prevent overcrowding of land, to avoid  
undo concentration of population. And I think that the  
adding of a bedroom, and I think the gentleman's testimony  
is exactly correct, is that more bedrooms, more people, more  
congestion. This could not be a more tightly packed area of  
the city. And I don't think that the requirements for the  
Special Permit are met because I do think that the traffic  
generated would cause congestion and would be a substantial  
change in the established neighborhood character. And I  
read this as, you know, bedroom, bedroom, bedroom, bedroom  
on one side and four bedrooms on the other side and putting  
the living room, common room, if you will, and kitchen  
downstairs. And I think that's very typical of transient  
housing. That's just my view.

CONSTANTINE ALEXANDER: Thank you.

GEORGE BEST: The only question I have is are you  
looking to rent to families, are you looking to rent to  
individual students?

MARIO RICCIARDELLI: We're not gonna be choosy about who we rent to, and we thought that there was a market for larger units in Cambridge when we did a survey of what's available right now and whatever the market bears out, we'll rent to.

BRENDAN SULLIVAN: And following up on your point, if somebody were sitting there and you want to be Santa Claus and you said, I understand that the Housing Authority has a need for four-bedroom units and we would offer these, you know, come off their list. Then there was some public good. Then you could dip your toe into that public good. I don't see that. That's just the way I read it.

CONSTANTINE ALEXANDER: Fair enough.

LAURA WERNICK: You don't see that there's a need for four-bedroom units?

BRENDAN SULLIVAN: I do but affordable residential bedrooms.

CONSTANTINE ALEXANDER: Four bedrooms in

non-affordable and residential means eight students.

BRENDAN SULLIVAN: I shouldn't spend his money for him and his time and effort and what have you. It's just this is the way I read this application here.

ANDREA HICKEY: If they were keeping three bedrooms on the first floor, would your position be different?

BRENDAN SULLIVAN: Depending upon the configuration -- yes, I think I might look at it differently. But, again, we've had some cases where that's all we see is bedroom, bedroom, bedroom, bedroom, two bathrooms. And it just looks like a duck, walks like a duck, if you will. And somebody came and said we need an extra room down in the basement for a family member or something, then I read that differently.

ATTORNEY SEAN HOPE: I know you're doing deliberation, just to make one comment. I just --

CONSTANTINE ALEXANDER: Quick.

ATTORNEY SEAN HOPE: -- expressly transient accommodations are not allowed. The petitioner is going to abide by what the Ordinance currently allows. And I would only say that a one bedroom in East Cambridge to me doesn't seem like a substantial change in neighborhood character. It may be increasing the value, I'm not arguing that. It may be an additional, but I think in the City of Cambridge or even in East Cambridge specifically where you have a six family next-door, we're adding an additional bedroom, I just don't think that rises to the level of a substantial --

BRENDAN SULLIVAN: But, Sean, you know, you say it's not allowed. I agree with you. Transient accommodations is not allowed. Public testimony two weeks ago before the City Council, two or three speakers got up and said there were approximately 300 Airbnb rentals in the city which again are not allowed.

ATTORNEY SEAN HOPE: I believe that. And those are happening in single-family homes. They're happening all

over.

BRENDAN SULLIVAN: You know, you can say it's not allowed, so --

ATTORNEY SEAN HOPE: I just don't want my client to be --

BRENDAN SULLIVAN: No allowed --

ATTORNEY SEAN HOPE: -- prejudiced by what needs to be taken by the City Council and the state and that's --

BRENDAN SULLIVAN: But anyhow.

CONSTANTINE ALEXANDER: I don't want to cut this off. But we're beating this --

BRENDAN SULLIVAN: This is a discussion for another day.

CONSTANTINE ALEXANDER: Another day, right.

Is there anyone else who wishes to speak or ready for a vote?

Okay, I think we're ready for a vote. The Chair moves that we make the following findings with regard to the

Special Permit being requested:

That the requirements of the Ordinance cannot be met without a Special Permit.

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

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

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

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

So on the basis of these findings the Chair moves

that we grant the Special Permit requested on the condition that the work proceed in accordance with plans prepared by Jones Architecture, Inc. They're dated May 5th, and the relevant pages of which have been initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Three in favor?

(Hickey, Best, Wernick.)

CONSTANTINE ALEXANDER: Opposed?

(Show of hands.)

CONSTANTINE ALEXANDER: Two opposed.

(Alexander, Sullivan.)

CONSTANTINE ALEXANDER: Four being required, your petition is denied.

We need to take a further vote. I will frame it. Brendan, you can modify it as you like.

I would move that the -- propose that the reason

we denied or we voted against the Special Permit was that what is being proposed will cause congestion and potentially substantial change in established neighborhood character.

And that it does go against the -- some of the stated purposes of the Ordinance about increased congestion in the city. And that's it. Anything else to add to that, Brendan?

BRENDAN SULLIVAN: No, I just refer back to my comments, that's all.

CONSTANTINE ALEXANDER: All those in favor?

(Show of hands.)

CONSTANTINE ALEXANDER: Two in favor.

(Alexander, Sullivan.)

CONSTANTINE ALEXANDER: That's the reasons for our denial.

ATTORNEY SEAN HOPE: So there were two pieces. There were windows, adding altering windows and there was also the exempting the --

CONSTANTINE ALEXANDER: Do you want me to go forward with the windows? I didn't know you were interested in proceeding with that.

ATTORNEY SEAN HOPE: There are windows that are above the -- that have nothing to do with the basement.

CONSTANTINE ALEXANDER: Yeah, I understand. I understand in what you're saying. I thought you weren't interested in pursuing that. But if you are, we'll take a vote. We'll go to that next.

ATTORNEY SEAN HOPE: Yes, that would be helpful.

CONSTANTINE ALEXANDER: We've gone through the plans generally. Anybody have any questions with regard to the window placement and the like?

BRENDAN SULLIVAN: And what is the purpose of -- I'm sorry, the windows.

ATTORNEY SEAN HOPE: So the setbacks on both sides are extremely tight. So that any windows, adding or altering windows, as part of the renovation regardless of

what happens in the basement --

BRENDAN SULLIVAN: And these are windows wells?

CONSTANTINE ALEXANDER: No.

ANDREA HICKEY: These are the rear porch windows?

CONSTANTINE ALEXANDER: Yeah, I don't understand where these windows are.

MARIO RICCIARDELLI: Well, we're going to be enclosing in the back porches and adding windows to the back of the building.

CONSTANTINE ALEXANDER: That's it. You can enclose the back porches without any zoning relief?

ATTORNEY SEAN HOPE: That's right. But they would still be windows on the side that --

CONSTANTINE ALEXANDER: I understand that. I'm a little curious because we've had this issue before and it's unusual. You can enclose a rear porch and you don't trigger --

ATTORNEY SEAN HOPE: Yeah. The Law

Department -- there was a case where there was an issue with exactly that, enclosing porches, and the ISD had to changed their position on whether or not -- because previously that would have been building within the setback when you enclosed.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SEAN HOPE: And so they had changed their position, so that now you can do that even in the rear yard setback.

CONSTANTINE ALEXANDER: Okay. So you're not seeking relief.

I'm going to open the matter up to public testimony. Is there anyone here wishing to speak to the issue of the window changes in the rear, for the rear enclosed porches?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

Discussion or ready for a vote on that?

Okay. This vote is with regard to the adding and alteration of windows within setbacks.

The Chair moves that we make the following findings with regard to this matter:

That the requirements of the Ordinance cannot be met without the Special Permit being requested.

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

That the continued operation of or development of adjacent uses as permitted in the Ordinance would not be adversely affected by what is proposed.

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

And that generally what is proposed will not impair the integrity of the district or adjoining district

or otherwise derogate from the intent and purpose of this Ordinance.

In regard to all of these findings, the Chair would note that there has been no neighborhood opposition to what is -- this proposal as compared to the prior Special Permit, although there was also support obviously for the prior Special Permit request.

Anyway, on the basis of all of these findings, the Chair moves that we grant the relief requested with regard to windows on the condition that the work proceed again in accordance with the plans prepared by Jones Architecture, dated May 5th, the relevant pages of which have been initialled by the Chair.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five. Five in favor.

(Alexander, Sullivan, Hickey, Best, Wernick.)

\* \* \* \* \*

(8:10 p.m.)

(Sitting Members Case BZA-013467-2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, George S. Best, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013467, 71 Mount Auburn Street.

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

ATTORNEY KEVIN CRANE: Mr. Chairman, can you hear me?

CONSTANTINE ALEXANDER: Certainly can.

ATTORNEY KEVIN CRANE: Okay. My name is Ken Crane. K-E-V-I-N C-R-A-N-E. I'm an attorney. I represent the petitioners Zambrero NE Operations, LLC. My office is located at 104 Mount Auburn Street in Cambridge. I'm going to have Bianca as a party and Steven Anderson introduce themselves for the record.

BIANCA AZZOPARDI: Thank you, Kevin.

Good evening, Chairman and members of the Board. My name is Bianca Azzopardi, B-I-A-N-C-A A-Z-Z-O-P-A-R-D-I.

STEVEN ANDERSON: Good evening. I'm Steven Anderson, S-T-E-V-E-N A-N-D-E-R-S-O-N. And I'm the United States operation manager for Zambrero.

ATTORNEY KEVIN CRANE: Mr. Chair and members of the Board, after I make my initial presentation, Bianca will explain a little bit more about Zambrero the company, and then Mr. Anderson will expound on the operations at this particular location.

I do have a number of portfolios which they were

submitted earlier, but not in this particular form. I think I saw it in there.

CONSTANTINE ALEXANDER: If you want to give them to us, go ahead.

ATTORNEY KEVIN CRANE: If you want them, they're right here.

CONSTANTINE ALEXANDER: That's this, right?

ATTORNEY KEVIN CRANE: That's correct.

We are requesting a fast order food restaurant Special Permit at this particular location. The location is at 71 Mount Auburn Street in Cambridge. It's presently occupied by a Mexican restaurant called Boloco. My clients intend to go into the exact same space that Boloco presently occupies.

CONSTANTINE ALEXANDER: Do you have any -- the principals of Boloco, do they have any interest in your restaurant?

BIANCA AZZOPARDI: No, they do not.

CONSTANTINE ALEXANDER: No. It's a completely new operation?

ATTORNEY KEVIN CRANE: That's correct. And Bianca will expand upon Zambrero, but it's an Australian company. It has substantial presence in Australia, New Zealand, Thailand, and Ireland. This will be their first operation in the United States. And it's as I said the other night, everyone's been waiting for the punch line as far as Australian and being the Mexican restaurant.

CONSTANTINE ALEXANDER: I was waiting for my opportunity to give it.

ATTORNEY KEVIN CRANE: We have presented in front of the Harvard Square Advisory Committee last Monday night, and there was a seven-zero-one vote in favor of our petition. One of the members of the committee made the comment that there has always been a food establishment on this particular block and that goes back to the days of Elsie's.

CONSTANTINE ALEXANDER: Elsie's, right.

ATTORNEY KEVIN CRANE: So it's not like we're putting it in a totally new location. Boloco has been operating there since January of 1998.

The original petition was amended in two particular instances a couple of weeks ago. First of all, we reduced the number of seats on the inside from 26 to 16. And one of the main reasons for that reduction was that the bathroom we will now make ADA compliant which enhances the support for the Special Permit according to the Ordinance.

We've also eliminated the nine outside seats which presently exist. And, again, this will enhance the sidewalk as far as the public safety of the sidewalk is concerned. And, again, that's a factor to be considered on a Special Permit.

The second amendment involved the signage. Initially there was a sign showing on the face of the building. That has been eliminated, and the only sign which

is going to remain, is the present blade sign which it's gonna be simply a change of content from Boloco to Zambrero. It's going to be in the same location. Initially we thought we -- the blade sign could be lowered, but the landlord fortunately actually did not allow that because he wanted to maintain the signs at a consistent level. And, again, this would be enhancing the visual presentation of the operation. Again, a factor to be considered under the Special Permit Ordinance. Presently in the building there is another blade sign for Harvard student agencies and also a face sign for Bank of America.

With that, I'd like to turn it over to Bianca, she could explain more about Zambrero in particular and then Steve about the present operation. I will note, and I will go along with later citing various factors, but overall we expect that 100 percent of the patrons of this establishment will already be in Harvard Square, whether they came by T, by foot, bicycle, car sharing. So we do not see a

significant -- we don't see any impact quite frankly in traffic and parking. As far as the traffic is concerned, one point would be that the deliveries that this particular establishment are going to be reduced from eight deliveries per week to three deliveries per week. And I think that's a very important point particularly where it is a busy intersection. We have tour busses. We now have a lot of construction on the other corner, and this will only improve the traffic flow. As far as parking is concerned, there's presently no parking whatsoever, but, again, people will be coming to this establishment will already be in Harvard Square. Okay.

BIANCA AZZOPARDI: Thank you.

CONSTANTINE ALEXANDER: The floor is yours. Or the mic's yours.

BIANCA AZZOPARDI: Thank you, Kevin.

Put simply we're Mexican with a mission. We started in Australia in 2005 by a doctor and an entrepreneur

called Doctor Sam Prince. Today we have approximately 165 units globally across Australia, New Zealand, Thailand, and Ireland. And as Kevin said, this would be our first venture into the U.S.

Our brand really consists around two core pillars. Firstly we are, you know, we're a chain that provides healthy, fresh, modern Mexican food. Burritos, bowls, casaditas, nachos, but all mixed with fresh, healthy ingredients. Super foods such as pepita seeds, black rice, Amaranth, and Spirulina. So, again, fresh healthy, modern Mexican, quite unique in the market.

Secondly and most importantly, we're on a mission to make a difference. For every burrito or bowl you buy within one of our locations, a meal is donated to someone in need. It's called our plate for plate initiative. To date we've donated 15 million meals to those in need.

CONSTANTINE ALEXANDER: Where -- these 15 million where are they located? Around the world or areas?

BIANCA AZZOPARDI: That's a great question. So we partner with a humanitarian organization called Rise Against Hunger based in North Carolina. They are our meal distribution partner. So together with them, they package meals made of rice, lentils, and nutrients that are distributed across the globe to places where they need them most. Whether it be the Philippines or Vietnam, but places abroad that need the meals most. So that's how we deliver the meals and that's where they do go.

CONSTANTINE ALEXANDER: Okay.

BIANCA AZZOPARDI: As I said, we've donated 15 million meals to date, and our expansion into the U.S. is really driven by continuing that goal. So we now have a goal to donate one billion meals by the year 2025, and of course to do that, our expansion into the U.S. is critical for our growth and our development as an organization. And that's what drives us.

STEVEN ANDERSON: Thank you. Thank you very much

for your time. So I'd like to talk to you about a few operational components of Zambrero:

One being the cooking process.

Two being excess waste.

Three being trash removal.

Kevin briefly touched on our delivery schedule, hours of operation and paper and packing. So if you have any questions at the end feel free to obviously ask.

We use a sous-vide style method of cooking which basically means that all of our meats are cooked in a contract kitchen. They are then delivered to the restaurant. Proteins are re-thermalized using the sous-vide method. So in line with that all of our equipment in the restaurant has no grease laden vapor. So we have no need for hoods or no need for exhaust in the restaurant.

CONSTANTINE ALEXANDER: Given the fact that this is your first restaurant in the U.S., where's your central kitchen going to be located? Not in Australia I hope.

STEVEN ANDERSON: No, no. That's Cincinnati.

CONSTANTINE ALEXANDER: Cincinnati?

STEVEN ANDERSON: We've partnered with a group in Cincinnati --

CONSTANTINE ALEXANDER: So your product is fresh products are going to come --

STEVEN ANDERSON: Absolutely. So they cook sous-vide style in Cincinnati which is a cryovac style of cooking in a slow bath and then they're frozen sent to us and we just re-thermalize them using that same process.

ANDREA HICKEY: For the protein portion, right?

STEVEN ANDERSON: For the protein portion only, correct. So beef, chicken, and pork.

CONSTANTINE ALEXANDER: Okay.

STEVEN ANDERSON: We have a full equipment spec book for your viewing if you'd like. It goes through all of our equipment.

As far as excess waste, to touch on your point,

because, because all the meats are just re-thermalized in our restaurant, there's not waste there. None at all actually. All of our salsas are chopped and mixed in-house. So really the only thing we're disregarding on a daily basis are stalks, stems, cores of produce. Very minimal, very minimal waste.

As far as trash disposal, there will be no change to either the schedule or the company that's currently being used. We're gonna stick with their company. Three trash removals a week. One compost removal a week, and one recycle removal a week. So no change there.

Again, moving the deliveries from eight deliveries a week down to three. We have a one stop shop distribution in PFG. They do all of our food, all of our beverage and all of our paper and packing products. There's three night drop deliveries a week and that's it.

Currently Boloco is trading at -- open hours of operation, we call it trading hours, from eleven a.m. to ten

p.m. We're looking to expand those hours from eleven a.m. to midnight. So two extra hours a day. And I'll let it be noted that there's no beer, wine, or alcohol sold within Zambrero.

And just to touch a little bit on paper and packaging. In addition to the plate for plate program we're looking to better the world through our environmentally safe products. We have plant-based bioplastic cutlery. Recyclable carryout bags. They're fully recyclable. Sugar cane pulp trays, and actually in 2016 Zambrero was awarded the best sustainable initiative award in Australia, and there was an offset of 579 tons of CO2 emissions in 2015 and '16. And we're looking to reach a number around 300, 300 tons this current year. There's more information about that in the book as well.

CONSTANTINE ALEXANDER: Thank you.

STEVEN ANDERSON: Thank you.

CONSTANTINE ALEXANDER: There's one -- just all of

your presentation you've touched upon all of the items we have to make findings on. One you haven't just to -- will the establishment comply -- maybe you have -- comply with all state and local requirements applicable to the ingress, egress, and use of all facilities on the premises for handicap and disabled person? And that's the reason why you've changed the seating?

ATTORNEY KEVIN CRANE: That's correct, Mr. Chairman.

BIANCA AZZOPARDI: That's correct.

ATTORNEY KEVIN CRANE: Just to point it out just on the hours of operation. The other night at the Harvard Square Advisory Committee, it was interesting that there was an, I would say, a strong sentiment that we stay open longer which in some instances a little bit different from what I've experienced in the past. But we're committed to staying open until midnight, which Boloco now closes at ten o'clock. And as it relates to the Ordinance, there is a

need -- we have to fulfill a need, and part of that need seems to be later hours of operation. So by opening until midnight we would be fulfilling that need. Also we would be again enhancing the public street and sidewalk safety by having activity there at the later hours.

CONSTANTINE ALEXANDER: Okay.

I was going to point out, you had mentioned that Harvard Square Advisory Committee did vote 7-0-1, one abstention to approve or recommend that we approve the Special Permit you're seeking, and in that they make a very strong case in several instances. The later the better in terms of keeping your restaurant open.

ATTORNEY KEVIN CRANE: Yes.

CONSTANTINE ALEXANDER: So that is as you say, atypical in the sense. Often we're a little concerned about late hours. Other city agencies are -- this is not a city agency, but this committee strongly supports the notion of longer hours.

ATTORNEY KEVIN CRANE: Yes.

CONSTANTINE ALEXANDER: Anything further at this point?

ATTORNEY KEVIN CRANE: No.

CONSTANTINE ALEXANDER: Questions from members of the Board?

ANDREA HICKEY: I have one question. So you talked a little bit about the sous-vide process --

BIANCA AZZOPARDI: Sure.

ANDREA HICKEY: -- and it being a zero waste process. The pouchs in which this food is sous-vide. Is that reused, recycled?

STEVEN ANDERSON: Yes, yes, it is. Obviously the plastic will be recycled. We re-therm by cryovacking the smaller unit of meat again. Obviously we bring that to temperature through an ice bath the proper way, refrigerate it overnight, and then we sous-vide it again the next day. So the plastic will be recycled and the meat will be used.

ANDREA HICKEY: Great.

CONSTANTINE ALEXANDER: I'll close -- no, I'll ask is there anyone in the audience wishes to be heard on this matter?

Mr. Williamson.

JAMES WILLIAMSON: James Williamson, 1000 Jackson Place. Hi. I don't think the memorandum from the meeting at the Harvard Square Advisory Committee quite captures the extent of questions and concerns from the public, but I'll just go ahead and ask. I have some questions.

CONSTANTINE ALEXANDER: Go ahead, educate us.

JAMES WILLIAMSON: And I'll leave it to the judgment of the Board which of these you judge to be part of your purview or not. I'm not exactly clear what is and what isn't. What's in and what's not.

First on the loading issues, and that's something I brought up Monday night, there's a replacement of I guess smaller, smaller vehicular loading with -- if I remember

correctly, three deliveries a week using 18 wheelers, big trucks. We've already seen the impact of 18 wheelers doing delivery for CVS in Harvard Square, and I just think it's a fiasco and a disgraceful situation. How else that could be managed is a challenging question. In this location, I think there is -- by the way, I welcome the -- it's a narrow sidewalk and I welcome the reduction in seating, but there's a question of how are these 16 wheelers going to be getting in if they're coming in late at night, which is what was said, that's around midnight. This is a very busy area with Harvard students when Harvard is in session. So I think there's a question about the loading.

I also wanted to say just sort of as an amusing side note, ask the proponent did they get approval from the Harvard Lampoon? Because if they don't like it like they did with the tree, they'll just go out and cut it down. But, so that's one question.

The recycling. They have said they're doing the

same recycling the current Boloco are doing. And I asked about this and it wasn't clear to me. Boloco's recycling in store was kind of a mish-mash. You know, you could put anything anywhere. And if you go up and ask where am I supposed to put the compost? They said, oh, just put it anywhere, we throw it all together. And so if you're replicating their recycling operation, I'm not sure that's the best you can do or what you even want to do.

Later closing, there's a big problem, as we all know, with late closings with people being able to get home. The people who are going to be working here are going to need to get home. The last train from Alewife leaves Alewife at 12:22. How are people going to be getting home? I would like to see places open later. I worry about how people are going to be able to get home.

I also -- I don't know, there aren't any specific plans that I'm aware of that I have seen. Maybe you saw those plans, I guess in this --

CONSTANTINE ALEXANDER: All interior layout.

JAMES WILLIAMSON: I missed the boat. I'm particularly interested in the facade. I'm also interested in -- it's described in their brochure, which did I get a copy of, that's a franchise operation. It's not clear to me whether is this going to be a franchise operation or is there going to be a franchisee or what the -- who the operator's going to be in this first instance?

Now, on the philanthropy side of this -- oh, and I wondered, so I presume that the ADA compliant bathroom means there's gonna be an ADA compliant entrance. And I don't remember know whether that's currently the case. I've been to Boloco a number of times.

On the philanthropy side of this, I'm just curious, I know that these days everybody touts the fact that they give away a lot of good stuff. I think &pizza talked about some of the wonderful things they do. I think it's legitimate to ask what -- how does this work? You guys

make money selling stuff and then you take a portion of the profit and give it to Rising Against Hunger and that is a tax write off? That's a donation and you get a tax write off for that? And so there's a -- you know, I think it's fine, but basically then I'm paying extra for the food and there's a tax benefit to the entity. It may not be -- it's got a nice ring to it, but it may not be as quite as benevolent, beneficent as it might be portrayed. I'm not saying it's not -- doesn't have some interesting elements. But I would mention that the owner, Mr. Prince, is the tenth richest younger person in Australia according to Australian News reports and is worth \$294 million, something like that. So it's not all philanthropy evidently, but I don't know for sure. But it does raise the question if this is partly a mission about poverty and hunger eradication, there are two aspects that I'd like to ask you all to think about and ask the proponent to address. We have an enormous homeless crisis in Harvard Square. We have homeless people sleeping

on every park bench. We have an enormous hunger problem in Harvard Square. We have three shelters, some of which cannot get the financing to stay open. Some of them are seasonal based on Harvard students being involved. And the question is are we feeding people all over the world or are we addressing the poverty and hunger right here in our own city? Which I think is an important dimension which actually could be a shift in how you address that aspect of what you would like to try to be doing.

And it also, the question that I was not allowed to ask, I neglected to ask and then it was deemed too late to ask at the Harvard Square Advisory Committee which is okay, people work at this place and in Cambridge we have a living wage. The living wage has been determined to be \$15.26 an hour. Most people would say you can't live on that in Cambridge because of how expensive the rents are. What is your plan in terms of eradicating poverty for addressing, you know, the wage issue of the people who are

going to be working at this establishment? I think that's a legitimate question if you're going to be advancing the philanthropic dimension in the poverty alleviation aspect to address that piece of, you know, is this -- because a lot of these corporate operations don't always necessarily pay people all that well. And look, there's already a Mexican-oriented food place there. I don't think there's a lot of passion around -- this is not the most important location in Harvard Square. I think the location that's being proposed for pizza is much more important to many more people. This is already a Mexican operation, Mexican food operation. It's local. It's been local, but it's got similar characteristics. So I don't think you're gonna find a lot of passion about another fast food Mexican operation in this location, but I want to mention we got lots of Mexican food places already. I don't think there's a special need for another Mexican food operation. I don't, you know, there's already one there. And I do think going

forward we do have to begin thinking about reducing, not expanding, the number of fast food operations in Harvard Square. We're getting up to where it's really changing the feel. I mean it's moved in that direction for quite a while, and I think we're heading in that direction. It came up at the Harvard Square Advisory Committee. A number of members on the second case expressed their concerns. How we can manage that, is a challenge, but I think we're getting to the point where we need to think about rolling back the number of fast food, and especially corporate fast food operations, not expanding them.

Thank you.

CONSTANTINE ALEXANDER: Thank you, James. Let me make a few comments.

First of all, your thoughts about or your comments or questions regarding living wage and before that about the charitable activities, are very well taken but I have to say they're not relevant to what we're going to decide tonight.

And I don't think we feel -- you can certainly meet with James after the hearing and hear him.

BIANCA AZZOPARDI: We would be happy to.

CONSTANTINE ALEXANDER: But it's not relevant to the determination that we have to make. And so I don't want to go down those paths.

As to the other one you identified, is there a special need for another Mexican fast food establishment? That's an issue we know at least from one other case is an important issue, at least to me, in the Harvard Square area, but they've -- you've attempted to address that by your comments, your presentation about --

ATTORNEY KEVIN CRANE: The hours --

CONSTANTINE ALEXANDER: You mentioned the hours --

ATTORNEY KEVIN CRANE: Yes.

CONSTANTINE ALEXANDER: -- by being open two hours more you're meeting a special need in Harvard Square. You have anything else you want to address to the special need,

for fulfilling the special need or is that it?

ATTORNEY KEVIN CRANE: Well, also first of all, we're not E-pizza (sic).

CONSTANTINE ALEXANDER: What's that?

ATTORNEY KEVIN CRANE: We're not E-pizza. I'll repeat that. We're not E-pizza. Okay?

CONSTANTINE ALEXANDER: Yeah. But there are many other --

BRENDAN SULLIVAN: Advisory -- sorry.

ATTORNEY KEVIN CRANE: If we were here with a new operation, different story, Mr. Chairman, we're taking over an existing fast order food establishment, okay? And as far as the need goes, it very well could be that the need on the hours is beyond midnight, and we might be at some point in time asking the License Commission under our Common Victualler license to have the hours extended if there is -- if we find that there is that particular need. But, you know, as far as the fast order food goes, we're not

expanding anymore.

And I heard earlier in one of the cases about, you know, maybe changing -- tweaking the Zoning Ordinance in certain regards, and maybe the fast order food ordinance needs a lot of tweaking.

CONSTANTINE ALEXANDER: Thank you, I think that's -- I don't mean to interrupt you, I'm sorry. That's something I know someone in the audience should think about, especially in regard to the pizza operations. We have this thing about -- City Council has given us this requirement that we have to grant a Special Permit for fast order food establishments in Harvard Square. This Special Permit requirement was imposed, as I recall, by City Council, decades ago when Dunkin' Donuts wanted to move into Harvard Square. And they were the first fast food operation and people panicked, in my judgment. And said oh, my God, McDonald's and Kentucky Fried Chicken are going to be right behind them. And so we -- the City Council, concerned

about it then, created this notion of getting a Special Permit for a fast order food establishment. And one of the requirements is you got to demonstrate a special need.

ATTORNEY KEVIN CRANE: To fulfill a need.

CONSTANTINE ALEXANDER: That's still relevant.

But as long as it sits in our Ordinance, we have an obligation to enforce it.

ATTORNEY KEVIN CRANE: And I submit to you, Mr. Chairman, that we're meeting that.

CONSTANTINE ALEXANDER: I understand that. You made your point.

ATTORNEY KEVIN CRANE: We're meeting that need. And, you know, as far as tweaking the Ordinance, this is a little side bar but not too far side bar, I find that any change in the fast food ordinance, as with other aspects of the Zoning Ordinance, it really has to come from the Community Development Department. If I went and for example said that I filed a Zoning Amendment that said the fast food

ordinance doesn't apply to Harvard Overlay District -- and there might be some people that would be in support of that, who knows. But I think that it has to come to be, have a meaningful discussion, it has to come from the Community Development.

CONSTANTINE ALEXANDER: Well, that's a start. But at the end of the day it has to be at City Council.

ATTORNEY KEVIN CRANE: That's right, that's right, that's right. And I'm very familiar with this, with the Ordinance being passed back in the late seventies it was. And actually our office represented the first entity that was granted a Special Permit which was the Burger King up on Concord Avenue. So I'm quite familiar with that whole passage part of it. And it really -- it has been reviewed over the years. You know, at one time there was a so-called **ma** and **pa** exception, and there has been some little tweaking. But I think it really needs to be looked at on some of the points that you've raised.

CONSTANTINE ALEXANDER: Okay. We're on the same page.

All right, James, I know -- please.

JAMES WILLIAMSON: Just a point of information and relevant to what Kevin just said.

CONSTANTINE ALEXANDER: Yeah.

JAMES WILLIAMSON: Is that there actually is an entity that's being I think still assembled, appointed to look at -- and it's not just the CDD, Community Development Department, it's actually a citizen board that are going to look at the guidelines, the zoning for Harvard Square. There have already been informal meetings including City Councillors, so it's not -- personally I wouldn't leave it to CDD, but the fact is there is an actual working group that's being assembled and maybe I think they put out an invitation for applications. And I don't know exactly how far along they are choosing who the people are, but there is actually something happening.

CONSTANTINE ALEXANDER: Good, I'm glad to hear that. But until that we have to live with and enforce the Ordinance that we have.

One question he did ask -- one second, franchise or owner, company owned?

BIANCA AZZOPARDI: These are both company-owned operations.

CONSTANTINE ALEXANDER: These are company-owned --

BIANCA AZZOPARDI: Yes.

CONSTANTINE ALEXANDER: Okay.

JAMES WILLIAMSON: Sorry.

CONSTANTINE ALEXANDER: Company owned.

BIANCA AZZOPARDI: These are both company-owned operations, yes.

CONSTANTINE ALEXANDER: Ms. Jillson.

DENISE JILLSON: Thank you. Good evening. Denise Jillson, D-E-N-I-S-E J-I-L-L-S-O-N, Executive Director of the Harvard Square Business Association, and I'm here this

evening to lend our support. And just -- thank you. And just a point of information. So there are six Mexican restaurants in Harvard Square right now. That would be Chipotle, The Border Cafe, Felipe's, El Jefe's, Qdoba, and Boloco to be replaced by Zambrero.

CONSTANTINE ALEXANDER: And you patronize all six of them?

DENISE JILLSON: That's why I look like this under this coat. And they're all wonderful. And we're here, and, you know, looking forward to working with our new friends from Australia and hope that they'll, and know that they'll bring something special to the square. So we're in full support and we hope you do, too. Thank you very much.

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

Is there anyone else wishing to be heard? James? Twice.

JAMES WILLIAMSON: Yeah.

CONSTANTINE ALEXANDER: One more ask.

JAMES WILLIAMSON: One item on the food. The question about the sous-vide and it's described as fresh food. Can there be some clarification? The meats are prepared sous-vide in Cincinnati and shipped and what exactly is there that's fresh and where does the fresh get to be labelled fresh?

BIANCA AZZOPARDI: Sure, I can answer that question and maybe ask, Steven, if you can elaborate. So the sous-vide method of cooking, which many of you may be familiar with is often used in fine dining. So essentially the meats are cooked in our contract supply kitchen through the sous-vide method using a fresh meat product and mixed with our house-made marinades. They're then freeze blast frozen which seals in the freshness and the nutrients of the product. They're then shipped into our restaurant. So the freshness I can assure you from the many burritos that I've eaten is absolutely guaranteed.

All of our fresh produce is delivered in from our distribution partner performance food group, and they source where possible locally from the community. Fresh lettuce, fresh jalapenos, and a range of different products that's brought in. So really the main components of our food there, the sous-vide meats, again, brought in blast frozen and re-thermalized and our fresh produce is brought in also.

LAURA WERNICK: The 18 wheeler, the trucks, delivery trucks?

CONSTANTINE ALEXANDER: Yeah.

BIANCA AZZOPARDI: Thank you. So, again, I will note as Steven said, that current delivery schedule for Boloco is eight deliveries and they come at different times throughout the week, from a range of different suppliers, it's broken up at the moment. We will be replacing that with Performance Food Group, our consolidated distribution partner. Three deliveries that will come at a night drop. I think the statement was made that they will come at

midnight. That's not particularly correct. They would come in the early hours of the morning at a time when, you know, we would anticipate the square would be, you know, very minimally, you know, affected by any traffic or anyone else. So where possible we really try to get there and do that when the square is nice and quiet. So, again, three deliveries at a time very early in the morning through a night drop delivery.

CONSTANTINE ALEXANDER: I would think also that the Traffic Department would have something to say. If your delivery trucks are really causing problems in the square, then I think other businesses or other concerned persons can complain to the Traffic Department. And it's up to them to regulate it. I wouldn't -- I mean in the City of Cambridge if we started denying people permits or variances because of delivery, everything would come to an end. It's a tight city and there's a lot of traffic. It doesn't mean it's not a real problem. But I'm not sure it's something that we can

deal with as a Zoning Board.

BIANCA AZZOPARDI: Again, we're trying to minimize that where possible.

CONSTANTINE ALEXANDER: Okay. Any other comments? Ready for a vote? I did mention before and I will just --

BRENDAN SULLIVAN: We ended public comment with Denise?

CONSTANTINE ALEXANDER: Yes. I'll end public comment. I'm sorry, Brendan, thank you. I will end public comment unless there's anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Public comment is ended. Thank you.

BRENDAN SULLIVAN: Okay.

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

The Chair would move that we grant a Special Permit to the petitioner to operate a fast order food

establishment at the current Boloco location. And in connection with that I move that we make the following findings:

That requirements of the Ordinance are such that you cannot operate your business without a Special Permit you're seeking.

That traffic generated or patterns of access or egress resulting from your operations will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses as permitted in the Zoning Ordinance will not be adversely affected by what you're proposing.

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

And that generally what is being proposed will not impair the integrity of the district or adjoining district

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

So on the basis of these findings, the Chair moves that we grant the Special Permit requested subject to the following conditions -- and these conditions to a large extent are what have been recommended by the Harvard Square Advisory Committee:

The conditions being that the interior seating will not be more than 16. That there will be no outdoor seating.

That the only signage, external signage will be the existing blade sign.

And that you will make good faith attempts to coordinate trash and recycling pick-up with other building occupants.

So on the basis of this, my motion with these conditions, all those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Sullivan, Hickey, Best, Wernick.)

CONSTANTINE ALEXANDER: One opposed.

(Alexander.)

JAMES WILLIAMSON: Just a question, Gus.

CONSTANTINE ALEXANDER: Yeah.

JAMES WILLIAMSON: The signage, the Harvard Square Advisory memorandum mentioned the sign having to go back to the Historical Commission. Is that no longer the case?

CONSTANTINE ALEXANDER: It's not in here. I didn't see that in here.

JAMES WILLIAMSON: Kevin would know the answer I think. There's no issue of the signage having to go to the Historical Commission?

ATTORNEY KEVIN CRANE: If it needs to go to the Cambridge Historical Commission, it will go to the Cambridge Historical Commission.

BIANCA AZZOPARDI: And I can assure you it is

going to the Historical --

CONSTANTINE ALEXANDER: It's not in their --

JAMES WILLIAMSON: I'm sorry.

CONSTANTINE ALEXANDER: It's not in their  
memorandum that they go to Historical.

JAMES WILLIAMSON: Yeah, it is.

CONSTANTINE ALEXANDER: But they represented that  
they will go.

BIANCA AZZOPARDI: Absolutely.

ATTORNEY KEVIN CRANE: Thank you.

\* \* \* \* \*

(8:45 p.m.)

(Sitting Members Case BZA-013489-2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, George S. Best, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013489, 137 Mount Auburn Street.

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

(No Response.)

CONSTANTINE ALEXANDER: I see no one.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I had a question about it.

CONSTANTINE ALEXANDER: Okay, we're not going to hear the case tonight.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Okay.

CONSTANTINE ALEXANDER: I'll answer your question. Go ahead.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I was just curious about the hours, the length of construction.

CONSTANTINE ALEXANDER: Oh, with regard to 137? We're talking about 137.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Yes.

CONSTANTINE ALEXANDER: Okay. Well, first let me say we're not going to hear the case tonight.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Okay.

CONSTANTINE ALEXANDER: You can come back when we do hear it and ask that question. But I would point out that matters that you've touched on, which are always a matter of interest to neighbors and abutters, it's not regulated by our Zoning Board. There are other boards; the

Traffic Department, the Inspectional Services Department, and there are avenues of recourse if you have concerns or problems, but it's not going to be part of our Zoning. We don't grant or deny Variance requests based upon those issues.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Okay.

Were there any concerns that the Board had with the project? I'm just curious.

CONSTANTINE ALEXANDER: We can't do that. If we do that, then we get into the merits of the case.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: You're not hearing this tonight?

CONSTANTINE ALEXANDER: Sorry?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Not hearing it tonight?

CONSTANTINE ALEXANDER: No hearing tonight.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: When will it be?

CONSTANTINE ALEXANDER: We're going to get to it  
in a second.

Maria, you said July 27th?

MARIA PACHECO: July 27th.

CONSTANTINE ALEXANDER: Let me ask you a question.  
We're going to hear &pizza that night?

MARIA PACHECO: No. August 10th.

CONSTANTINE ALEXANDER: That's August 10th.

Sorry, I got it wrong.

Okay, we're going to continue this case and then  
I'll make the motion, to July 27th, two weeks from tonight.  
It will be at seven p.m. Okay?

The Chair moves that we continue this case as a  
case not heard until seven p.m. on July 27th subject to the  
following conditions:

One, that the petitioner sign a waiver of time for  
decision. Which he will do.

Second, that the posting sign that's there now

announcing the hearing, be modified to reflect the new date and the new time, and that sign has to be maintained for the 14 days required by our Ordinance. If that is not done, we won't hear the case on July 27th.

And lastly, to the extent that the petitioner has decided to amend or change the plans that have been submitted, construction plans or dimensional form, that those revised, if there are any, revised plans must be in our files by no later than five p.m. on the Monday before July 27th. That gives us and people like yourselves the opportunity to review these in advance of the hearing to have a more meaningful hearing.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued. July 27th, seven p.m.

(Alexander, Sullivan, Hickey, Best, Wernick.)

JAMES WILLIAMSON: Gus, just for information or if Hawkinson isn't here to correct me to tell me what it is or what it isn't.

But in the memorandum from the Advisory Committee on the first page under SAC comments and concerns, the very first sentence is the committee asked about the lighting, how low LED and the sign is proposed to be internally illuminated, parentheses, CDD staff note, this requires Historical Commission approval.

CONSTANTINE ALEXANDER: Okay, that's the lighting inside not for the signage, correct?

JAMES WILLIAMSON: The illumination of the sign.

CONSTANTINE ALEXANDER: All right. Thank you.

JAMES WILLIAMSON: And it wasn't clear from what Kevin presented because he made it sound like we're, you know, we're just going to keep it exactly the same. And I just was hoping to clarify, okay, are you going to go to, you know -- thanks.

CONSTANTINE ALEXANDER: Okay.

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(8:50 p.m.)

(Sitting Members Case BZA-013611-2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, George S. Best, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013611, 35-37 Berkshire Street.

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

(No Response.)

CONSTANTINE ALEXANDER: I see no one wishing to be heard.

The Chair would report that the petitioner in this

case as well has requested that this case be continued until July 27th at seven p.m.

Ready for a motion to continue the case?

ANDREA HICKEY: Yes.

CONSTANTINE ALEXANDER: The Chair moves that we continue this case until seven p.m. on July 27th subject to the following conditions:

That the petitioner sign a waiver of time for decision.

Two, that the posting sign be modified to reflect the new date, July 27th, new time, seven p.m., and this modified sign be maintained for the 14 days required by our Ordinance.

And lastly, that to the extent that the petitioner proposes to submit new or modified plans or dimensional forms, they must be in our file no later than seven -- five p.m. on the Monday before July 27th.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Sullivan, Hickey, Best, Wernick.)

(8:50 p.m.)

(Sitting Members Case BZA- 2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, George S. Best, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013562, 195 Binney Street.

Is there anyone here wishing to be heard on this matter? You should give your name and address to the stenographer.

ATTORNEY DANIEL GLISSMAN: Good evening. Daniel Glissman, attorney with Prince, Lobel, Tye here on behalf of our client T-Mobile Northeast. I have some photo simulations that I'd like to pass around to the Board.

CONSTANTINE ALEXANDER: Yes, please.

DANIEL GLISSMAN: Thank you.

So, again good evening, Daniel Glissman. T-Mobile is here seeking Special Permit for the construction of a new wireless facility on the roof of the Kendall Square lofts building, 195 Binney Street. We are proposing to install nine new antennas to assist in solving a capacity issue, a capacity gap that T-Mobile is experiencing in this area. All nine antennas will be completely concealed within faux chimneys consistent with the recommendations by this Board. The chimneys are approximately five and a half feet by six feet by ten feet in height and they will completely conceal all of the antennas. We're proposing to paint them white to match the white building. However, we did receive this evening comments from the Planning Board suggesting potentially a grey color. And we're happy to accommodate whichever this Board would prefer.

CONSTANTINE ALEXANDER: How high is the building?

ATTORNEY DANIEL GLISSMAN: The building is....

CONSTANTINE ALEXANDER: It's not a very high building for a telecom.

ATTORNEY DANIEL GLISSMAN: No. 75 feet. So the top of our antennas is 86 I believe. Let me just confirm that.

No, sorry. So the top of the building is 85 feet and the top of our faux chimneys is 95 feet.

CONSTANTINE ALEXANDER: So given the relative small size of the building, concealment is a much more important issue than it would typically be for a building twice as high.

ATTORNEY DANIEL GLISSMAN: Correct. Which is why we've proposed all of them being concealed within faux chimneys.

This is -- T-Mobile will be deploying its L700 and L1900 antennas in this installation. I believe the Board's very familiar with both of those installations as we've been modifying all of the T-Mobile sites in the last year to

accommodate that new and upgraded technology. Again, this will serve to fill a capacity gap that T-Mobile is seeking.

I'm joined this evening by our radio frequency engineer. Should the Board have any questions about the gap in service that needs to be filled here, we'd be happy to answer those questions as well. But I'm happy to, you know, take any comments or questions from the Board.

BRENDAN SULLIVAN: Why does it have to be so tall?

ATTORNEY DANIEL GLISSMAN: The antennas themselves are eight feet, so they're within a ten-foot chimney.

BRENDAN SULLIVAN: The antennas are -- each one is eight feet?

ATTORNEY DANIEL GLISSMAN: The largest antenna, yes. So the L700 antennas are --

BRENDAN SULLIVAN: I guess my thought was rather than having it high, it would be spread out rather than being so high.

ATTORNEY DANIEL GLISSMAN: The antennas aren't

stacked. They're three side by side. So it is --

BRENDAN SULLIVAN: And each one is eight feet high?

ATTORNEY DANIEL GLISSMAN: The largest one is eight feet high. And so that they have one eight-foot antenna per sector. The others I believe are six, six feet.

BRENDAN SULLIVAN: I don't ever remember any presentation where the antennas were eight feet.

CONSTANTINE ALEXANDER: Yeah, no, I don't remember either.

BRENDAN SULLIVAN: Tall, long, length.

ATTORNEY DANIEL GLISSMAN: Those are the L700 antennas.

CONSTANTINE ALEXANDER: Those are the current antennas of preference for your company, eight-foot high antennas?

ATTORNEY DANIEL GLISSMAN: For the L700 technology, correct.

CONSTANTINE ALEXANDER: Let's talk about -- what's the L700 technology? What's the relevance of that? Why do you need to have it?

ATTORNEY DANIEL GLISSMAN: Sure. It's my understanding that it's a -- so it's a different frequency that T-Mobile has control over that they've bid from the FCC. And it is a further distance. And so it can cover more area and more capacity than some of their higher frequency antennas. So the larger antenna just gives them more range and more power and more coverage and more capacity.

ANDREA HICKEY: This might be a --

BRENDAN SULLIVAN: Is this going to be a current trend that we're going to see these eight foot....

ATTORNEY DANIEL GLISSMAN: These are the antennas that T-Mobile's been installing in -- for the L700 technology. You may remember that many of these more recent installations have had one antenna that's significantly

longer than the other two. That's been this large L700 antenna.

BRENDAN SULLIVAN: But I don't recall them being eight feet long.

CONSTANTINE ALEXANDER: High. Eight feet high, not long.

BRENDAN SULLIVAN: Well, it depends on, it depends whether it's horizontal or vertical.

ANDREA HICKEY: Right.

CONSTANTINE ALEXANDER: I assume they mean vertical because that's why they need eight feet.

BRENDAN SULLIVAN: I mean, I'm somewhat alarmed by this application for eight foot and then now what's coming down the road if it's all going to be eight foot antennas. You know? In other words, this application being on the roof and can be enclosed. I'm sort of somewhat alarmed that if you have to mount them on the side of a building, that we're going down a different road here. So anyhow, I guess

the -- your side bar was that they're necessary at eight feet?

ATTORNEY DANIEL GLISSMAN: Yes, except I have to apologize to the Board. They're actually, they're 75 inches, so they're actually six and a half feet. So I -- that's my mistake.

LAURA WERNICK: But the chimneys are ten feet?

ATTORNEY DANIEL GLISSMAN: But the chimneys are ten feet, correct.

ANDREA HICKEY: Why are the chimneys ten feet?

ATTORNEY DANIEL GLISSMAN: I believe it has to do with the mounting of the antenna and the remote radio head underneath it and just behind it so they require a certain amount of --

BRENDAN SULLIVAN: Could I see the plans?

ATTORNEY DANIEL GLISSMAN: Yeah, I have plans here.

CONSTANTINE ALEXANDER: You want the photo sims or

the whole package?

BRENDAN SULLIVAN: Yeah.

LAURA WERNICK: So you'd have four chimneys?

ATTORNEY DANIEL GLISSMAN: Three chimneys. Three antennas in each chimney.

LAURA WERNICK: So it looks like two of the chimneys are close to the east end?

ATTORNEY DANIEL GLISSMAN: Correct.

LAURA WERNICK: Is there any way to orient them to that they're -- those two are closer to the center of the building, to redistribute the chimneys so that they're less visible from the east end of the --

ATTORNEY DANIEL GLISSMAN: There's a lot of equipment on the rooftop. So it's my understanding that the placement of the antennas is approved by the radio frequency engineers in terms of having being close enough to the edge that they can carry the distance of the roof and still be located in and around the HVAC units and other --

CONSTANTINE ALEXANDER: You have an expert here.  
Do you want to ask him to address that?

ATTORNEY DANIEL GLISSMAN: Absolutely. Ryan, do you have any comments on the placement of the antennas?

CONSTANTINE ALEXANDER: Your name?

RYAN MONTE DE RAMOS: My name is Ryan R-Y-A-N.  
Last name is Monte De Ramos, M-O-N-T-E D-E R-A-M-O-S.

JAMES WILLIAMSON: And if you could use the microphone?

CONSTANTINE ALEXANDER: Yes, speak into the microphone.

RYAN MONTE DE RAMOS: So with respect to the placement of the antenna, what -- the antenna that we have here is called what we call a directional antenna. So there are specific areas that we need to cover. It spans -- it has a 65 degree beam width from the antenna till it goes 65 towards the direction of where the signal is. Usually we try to be, as much as possible, closer to the edge of the

roof just to avoid shadowing, what we mean by shadowing is the signal being blocked by the surface of the roof. Aside from that, we have to look into the specific target area where we want to cover. In this case, we do have a capacity issue, so we've tried to point the antenna where there's congestion on the surrounding sites.

LAURA WERNICK: That's fine.

CONSTANTINE ALEXANDER: Okay?

BRENDAN SULLIVAN: If we were to say you have to lower the height of these, is that possible?

RYAN MONTE DE RAMOS: I have to go through the process that we've used when we've selected the site and we decided the direction of the antennas. So I have to run the simulation.

BRENDAN SULLIVAN: You've got a six-foot, three antenna. You've got a ten-foot high enclosure. So I'm just trying to figure out where that other three feet is coming from or what is --

CONSTANTINE ALEXANDER: Is there any need operationally to have a certain amount of space between the top of a faux chimney and the top of the antenna, is that the reason?

ANDREA HICKEY: I think counsel mentioned that there's a base.

BRENDAN SULLIVAN: So there's a super structure that this is sitting on?

ATTORNEY DANIEL GLISSMAN: Correct.

RYAN MONTE DE RAMOS: Like at the bottom of the antenna there is some -- we have to attach it to a radio unit. So there's like a cable and there's a bending range that we have --

CONSTANTINE ALEXANDER: That can't be three-foot cable?

RYAN MONTE DE RAMOS: This is how far from the edge of the roof?

ATTORNEY DANIEL GLISSMAN: The closest is eleven,

almost twelve feet. Furthest being -- well, depending on which angle. The furthest being about 19 feet.

RYAN MONTE DE RAMOS: 19 feet, okay. I would say based on experience, we would need to go into the computer simulation type of thing, I think we can lower it. If we have to have it at least 1.5 feet from the base of the antenna to the surface of the roof. As long as there is a space in between where we can attach the cable.

CONSTANTINE ALEXANDER: Right, of course.

RYAN MONTE DE RAMOS: And the space for the radio unit.

ATTORNEY DANIEL GLISSMAN: Right.

RYAN MONTE DE RAMOS: There's like a 90 degree bending radius for the cable.

ATTORNEY DANIEL GLISSMAN: And also as I mentioned earlier, this installation, the design currently has the remote radio heads directly beneath the antennas and those -- I don't know if I have a dimension.

RYAN MONTE DE RAMOS: I think this one.

ATTORNEY DANIEL GLISSMAN: Oh, yeah.

Here we go. So those are --

RYAN MONTE DE RAMOS: 20 inches?

ATTORNEY DANIEL GLISSMAN: -- almost two feet high. So you have two feet from the remote radio head, a foot and a half of bending radius required, plus a six and a half foot antenna puts us right at the ten-foot mark. Well, nine feet.

BRENDAN SULLIVAN: I mean, my experience has always been that they're going to design whichever is the easiest, simplest, least expensive way of doing this, and, you know, be damned the aesthetics of it all. And that if you didn't tell them it ain't gonna buy, guys, until we put an enclosure around this and I'm not going there, they wouldn't do it.

CONSTANTINE ALEXANDER: We've had the issue with the mounts I remember originally. What kind of mounts they

use.

Speaking for myself, I don't get as worked up -- legitimate comments have been made, as worked up as others by this. The building is 75 feet or so high. What's the difference another foot or two, the chimney height. If the chimney itself generally is well camouflaged as possible? And it seems to me this one is. It's a white surface, or off white surface which I think is much easier to camouflage than trying to match a red brick building which I always think is a problem. I personally don't have much of a problem with this issue as others do, but.... One second. Not yet ready for the public comment.

Any other comments, though? Questions?

Now we're ready for public comment. James.

JAMES WILLIAMSON: Thanks. I have a very keen interest in this for reasons that I'll explain in a second. Two things I'd like to understand better. You explained you have a target area. You have 65 percent range of coverage

if I understood you.

RYAN MONTE DE RAMOS: It's a beam width.

JAMES WILLIAMSON: A beam width?

RYAN MONTE DE RAMOS: Yeah.

JAMES WILLIAMSON: And it's targeted based on what you described as congestion. And I would have thought the issue isn't congestion but a lack of coverage is the way sort of the layperson typically thinks about this. So first of all, can you explain what you mean by the congestion problem and which way you've decided, you know -- in fact, where have you decided to target the beam width? It looks like if I -- looking over the shoulder of one of the members of the Board, that it's east/west or that it's -- if Binney Street, it's that way and that way, but I'm not sure I understand. And you'll understand why I'm asking in a second.

RYAN MONTE DE RAMOS: Yeah, I do have -- I brought a coverage map which basically show where the problem is.

JAMES WILLIAMSON: Oh, okay. Could we see that, please? Thank you.

And I'll just go ahead and say what my keen interest in this is, believe it or not, any time that I'm at the Massachusetts Institute of Technology -- I have a T-Mobile phone, just about anywhere, a lot of places at MIT, no coverage. And I hate to be on the side of more coverage and more antenna, but it is a problem. And I'm wondering if you -- if that is what -- if this is gonna address that problem or not? And maybe it isn't.

RYAN MONTE DE RAMOS: I mean --

JAMES WILLIAMSON: Or is it conceived -- partly conceived to address --

RYAN MONTE DE RAMOS: It's up to the way -- I mean, you cannot answer the coverage. It depends on where you are or where the coverage issue is, but at the same time it will address the capacity issue. So it's like both. It will address both concerns.

What I have here in front is what we call the best server block where each colors are represented by the signal coming from the panel and the direction. And so just to differentiate different signal coming from different south side as we -- we color coded it differently. So if you can see the pink here, I do apologize, that we were having an issue with our printer. This is a pink color here, which is coming, the signal coming from here. So this is what I explained before by 65 degree beam width, that coverage.

This blue here, the signal's coming from a site here. And this is where the issue or the concern we're getting from is this particular site here which this is the existing coverage here, this, is having the capacity itself after we did all the upgrades and everything, the site -- I mean, the cell site no longer can accommodate the capacity, so it starts blocking -- once it reach the capacity, it starts throwing away subscriber, this is why people cannot get in their phone to make a call. So it's like --

JAMES WILLIAMSON: Where is the Binney Street location?

RYAN MONTE DE RAMOS: Binney Street, it's somewhere in here. This portion here.

JAMES WILLIAMSON: And, and, and so it's enhancing coverage issues roughly where?

RYAN MONTE DE RAMOS: Around in this particular area.

JAMES WILLIAMSON: In that area.

RYAN MONTE DE RAMOS: Coverage and capacity issue.

JAMES WILLIAMSON: Right, gotcha. In other words, it doesn't really look like that there's much there that's specifically targeting the MIT problem.

RYAN MONTE DE RAMOS: Yeah. So if you can see, having -- the closer you are to the site, I mean the better coverage you have, so if you get further away on the south edge or what we call the south edge, you start getting, you know, poor service and poor signal. So in this particular

area you can see that all these sites here are like, kind of like fighting for signal from each other coming from different site. So that's another criteria that we selected in site and capacity where we looked specifically placed the site that could evenly distribute the signal and at the same time address the signal in this area.

CONSTANTINE ALEXANDER: James, in a word I think getting better cellphone coverage to the business in Kendall Square takes precedence over MIT.

JAMES WILLIAMSON: Yeah.

RYAN MONTE DE RAMOS: So with this proposed site here, this is the Binney here.

ATTORNEY DANIEL GLISSMAN: Yeah.

JAMES WILLIAMSON: Where's the river? Where's the Charles River? Is that the dark --

CONSTANTINE ALEXANDER: The black.

JAMES WILLIAMSON: Gotcha, okay.

RYAN MONTE DE RAMOS: So with this site here, as

you can see now, it's -- overlaps the surrounding site so that this orange color here and the light blue here represent the signal coming from the proposed structure as if the site is transmitting.

JAMES WILLIAMSON: The Chairman seems to be right.

Thank you.

CONSTANTINE ALEXANDER: The Chairman's always right, James.

Any further questions from members of the Board?

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I will close public testimony except that we do have a memo from the Planning Board or actually from CDD, Liza Paden.

(Reading) The Planning Board did not review the Special Permit application. The Community Development staff did review the materials and offered some standard divine

comments about this and all installations if the Board of Zoning Appeal grants the Special Permit. The color of the faux chimneys could be a darker color, perhaps grey, that would blend with the sky more than with the existing color of the building.

And I think you said you're going to accept that comment, that change?

ATTORNEY DANIEL GLISSMAN: If it's the desire of the Board, we would gladly go with the grey.

CONSTANTINE ALEXANDER: Board have a desire?

LAURA WERNICK: I would stick with the color of the building.

ANDREA HICKEY: I agree with that. I think if they're blue, they'll stick out more.

LAURA WERNICK: You never match the color of the sky. One day every ten years you match the color.

CONSTANTINE ALEXANDER: I agree.

Any other comments?

I think we're ready for a motion.

The Chair moves that we make the following findings with regard to the request for the Special Permits for antennas on Binney Street:

That the requirements of the -- that this work cannot be done without satisfying the requirements of the Ordinance. In other words, you need a Special Permit to satisfy the Ordinance and that's why you're here tonight.

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

That continued operation or development of adjacent uses as permitted in the Ordinance will not be adversely affected by the nature of the proposed use.

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

And that generally what is being proposed will not

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

Based on these findings the chair moves that the petitioner be granted the Special Permit it is seek seeking subject to the following conditions:

One, that the work proceed in accordance with the plans submitted by the petitioner and initialed by the Chair.

Two, upon completion of the work the physical appearance and visual impact of the proposed work will be consistent with the photo simulations submitted by the petitioner and initialled by the Chair.

Three, that the petitioner shall at all times maintain the proposed work so that its physical appearance and visual impact will remain consistent with the conditions previously referred to.

Four, that should the petitioner cease to utilize

the equipment approved tonight for a continuous period of six months or more, it shall promptly thereafter remove such equipment and restore the building on which it is located to its prior condition and appearance to the extent reasonably practicable.

And five, that the petitioner is in compliance with and will continue to comply with in all respects the conditions -- oh, this doesn't apply. Delete that. No more conditions.

But one further general condition:

Inasmuch as the health effects of the transmission of electromagnetic energy waves as a matter of ongoing societal concern and scientific study, a Special Permit is also subject to the following conditions:

A, that the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emitting from all of the petitioner's

equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

B, that in the event -- that in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but limited to, the Special Permit we granted tonight, may also comply with the requirements of law or governmental regulation whether with regard to the emissions of electromagnetic energy waves or otherwise, the petitioner within ten business days of receipt of such notification of such failure shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure. The Special Permit granted tonight shall ipso facto terminated if any of the

petitioner's federal licenses is, are suspended, revoked, or terminated.

C, that to the extent that a Special Permit is terminated pursuant to the foregoing paragraphs A and B, the petitioner may apply to this Board for a new Special Permit provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of a Special Permit pursuant to paragraphs A and B above, any such any application shall not be deemed a repetitive petition and therefore will not be subject to the two-year period during which repetitive petitions may not be filed.

And D, that within ten business days after receipt of a Building Permit for the installation of this equipment subject to this petition, the petitioner shall file with the Inspectional Services Department a sworn Affidavit of the person in charge of the installation of equipment by the petitioner with a geographical area that includes Cambridge

stating that A, he or she has such responsibility;

And B, that the equipment being installed pursuant to the Special Permit we are granting tonight will comply with all federal safety rules and will be situated and maintained in locations with appropriate barricades and other protections such that individuals, including nearby residents and occupants of nearby structures, will be sufficiently protected from excessive radio frequency radiation under federal law.

So on the basis of these findings that I've mentioned and the conditions that I've just outlined, the Chair moves that we grant the Special Permit requested.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special granted.

(Alexander, Sullivan, Hickey, Best, Wernick.)

ATTORNEY DANIEL GLISSMAN: Thank you.

\* \* \* \* \*

(9:20 p.m.)

(Sitting Members Case BZA-013619-2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, George S. Best, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013619, 30 Berkshire Street.

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

MICHAEL WORKMAN: Hello, good evening.

CONSTANTINE ALEXANDER: As you probably know by now, you have to give your name and address to the stenographer, please.

MICHAEL WORKMAN: Yes. My name is Michael Workman, M-I-C-H-A-E-L W-O-R-K-M-A-N. 92 Sciarappa Street.

JOE STROMER: Joe Stromer, S-T-R-O-M-E-R. Offices at 343 Medford Street in Somerville.

KRISSY ELLSWORTH: Krissy Ellsworth, K-R-I-S-S-Y

E-L-L-S-W-O-R-T-H and I'm at 155 Brooks Ave. in Arlington.

CONSTANTINE ALEXANDER: Floor is yours.

MICHAEL WORKMAN: Okay, thank you. As you all know, there was a fire on December 3, 2016, and our building was destroyed in that. I was -- I am one of the owners of the property as is Krissy. And our third owner wasn't able to be here tonight, Denise Witt is her name.

CONSTANTINE ALEXANDER: Sorry. I didn't catch that. You were owners prior to the fire?

MICHAEL WORKMAN: Correct, yes.

CONSTANTINE ALEXANDER: You haven't bought the property since the fire?

MICHAEL WORKMAN: That's correct. That's right. We were the owners. And I was in the building at the time of the fire, saw the fire break out across the street, called 9-1-1 and left my unit and that was the last time I was in my unit. So, you know, so we -- we obviously were shocked by this and, you know, didn't really know what to do

for a little while, but, but we've -- we came and worked together with Joe and came to a plan where, you know, to reconstruct our building and to try to, you know, really, what we're trying to do is just get back to what we had. We are planning to occupy our units ourselves. And we -- so the plan that we came up with was, you know, obviously if we're building a new structure, we have requirements in terms of stairways that we didn't have for the previous structure that was grandfathered in. And so -- and in recognition of that we wanted to try to expand our footprint slightly to make up some of that space. So that's, you know, obviously something we're asking for. And then, you know, for the parking, we're just basically trying to restore what we, what we had before which was, which was the three spots. But they were, you know, more towards the back of the lot. And we actually do, we have a letter of support from the owner of the building that we are, that we are close to. So which I believe is 16 Vandine I believe is

what it is.

So that's, so that's what we're, you know, that's what we're here to ask you all tonight. And, you know, I also have Joe here obviously to speak to any of the technical issues. So I'll pass along to him.

CONSTANTINE ALEXANDER: Sorry, go ahead. Do you want to speak?

JOE STROMER: Sure. Just to briefly run you through what we're proposing. Essentially, you know, they're to rebuild on the existing footprint. We would have to rebuild with new code compliant staircases that would essentially take living space from them in order to rebuild on the existing footprint. So what we're proposing is that the footprint gets expanded by the same amount of square footage that we will now need to build code compliant staircases. So that's what the additional footprint is. We have all the calculations in the diagrams shown here.

CONSTANTINE ALEXANDER: You're adding about, by my

calculation, about 150 feet to the building?

JOE STROMER: It's 336. It's 384 gross.

CONSTANTINE ALEXANDER: Oh, okay. Based on this dimensional form you had different forms in your dimensional form.

JOE STROMER: Okay. We can look at that. But it's essentially based on the diagrams, the living space lost due to increasing the stair size is 336 square feet. So with that, with the natural laws, it's 384 gross square feet that we would be adding in the building. So that -- what that translates to is basically a one-foot, six bump out of the entire rear of the building and then a small five-foot, six portion for the stairwell in the back. So overall there's -- that doesn't infringe. There's a large rear yard. So it's not, it's not getting close to any setbacks. But that's the proposal. Again, just trying to get them back to the living space that they had prior to the fire with now having code compliant circulation within the

building.

CONSTANTINE ALEXANDER: Well, speaking for myself, I mean, obviously there was a great tragedy with the fire there, and I have to commend you for not trying to use this as a lever as some others are doing, to increase the value of their investment or have a developer come in and buy the property and increase the value of their invest. You're just looking to restore your building and do a little bit of slight modifications and make it more habitable.

JOE STROMER: And to speak to that, I know some of the issues on one of the previous cases, we're actually reducing the number of the bedrooms in the units. So essentially we're trying to take away density. And so this is not, this is, you know, quite simply the proposal is just to get them back the living space that they had prior to the fire with building a new code compliant structure.

ANDREA HICKEY: Can you talk a little bit about the change in parking?

JOE STROMER: So, the parking -- the configuration of the existing parking is on the upper left. This is what we're proposing on the letter left. So essentially it's that we're still parking at that rear fence, but again because it's new construction, we have to ask for the Variance for it.

CONSTANTINE ALEXANDER: Right. And you have to be at least five feet from the property line --

JOE STROMER: Correct.

CONSTANTINE ALEXANDER: -- and you're not. That's the Special Permit you're requesting.

JOE STROMER: We're not changing any curb cut. We're not adding any parking spaces or taking away any parking spaces. So essentially again, again, the core of this is just getting them their three spaces back.

ANDREA HICKEY: So with the new parking configuration, how far is the car closest to your structure? How far is that distance? I see you have like a green space

in between.

JOE STROMER: Correct. I believe -- yeah, it's probably about 12, 15 feet. And the idea there, again, we're improving the, you can see it's just hardscaped as a parking lot now. We're proposing permeable surface so that it's an improvement on the --

LAURA WERNICK: Where is your neighbor that wrote the letter, which property?

JOE STROMER: That's the neighbor here that required support.

CONSTANTINE ALEXANDER: That's the one where they need the relief for.

JOE STROMER: Direct abutter.

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

BRENDAN SULLIVAN: Well, I just had -- I don't know what I'm missing here. In your dimensional form, the setback -- currently you're at 43-foot, ten from the rear

line to the house. The requested is 38-foot, nine. So that is a reduction of five-foot, one. Is that correct? Correct math? Originally right now you're at 43, 10 and you're requesting 38, 9 and that's five-foot, one inch reduction?

JOE STROMER: Correct. That number, that number may not be --

BRENDAN SULLIVAN: Because the reason I go because is that the length of the house is currently is at 35 foot, 1 and you're going to go to 40 foot -- 41 foot, 11 which is six-foot, ten difference and I don't -- I can't see the -- I can't connect the dots here.

JOE STROMER: Correct. That may be -- my apologies, that may just be -- that may be a mistake in the column.

BRENDAN SULLIVAN: Right. You may want to --

JOE STROMER: Correct.

BRENDAN SULLIVAN: -- correct it so the form is correct. I mean, it's a minor point. I'm in favor of what

you're doing. At some point somebody may pick up on it, an inspector and say, which is it? That type of thing. If you can figure that out before you leave even and just correct that. That's all.

JOE STROMER: Absolutely.

CONSTANTINE ALEXANDER: This is the last case of the night. We don't have time to give a recess.

BRENDAN SULLIVAN: No, maybe you can, while we're deliberating, while we're doing everything else.

CONSTANTINE ALEXANDER: I don't think it will be a long deliberation.

BRENDAN SULLIVAN: You can figure out what the problem is or something. Or I'll leave it up to you to correct it at a future date.

CONSTANTINE ALEXANDER: Let me try to put it in the motion rather than try to have him do it on the fly tonight only because of the hour. If this was the first case of the night, I think we would send them off to the

back room.

LAURA WERNICK: Public comment?

CONSTANTINE ALEXANDER: I'm going to do that in a second. I just wanted to respond to Brendan's comments.

Any other questions at this point from the members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony. Is there anyone here wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: I guess not. We are in receipt of some letters which I'll read into the record.

We have a letter from Timothy J. Toomey, City Councillor. (Reading) I am writing in favor of case number such and such, Michael Workman's request to construct a three-unit dwelling at 30 Berkshire Street where the previous dwelling was damaged by fire. I believe it is important to start rebuilding the neighborhood after the

fire which left many families and community members displaced. Thank you for your consideration and I do hope you find it favorable for Michael Workman to move forward with his plans.

We also have a g-mail from Linda Dell'olio, D-E-L-L-'-O-L-I-O. It's addressed to one of the petitioners. (Reading) I received your letter regarding your plans for rebuilding your three-unit condo and my family and I are in support of this. I have lived at my home -- I'm sorry I did not respond earlier but I was away. I have lived at my home for 60 years before the fire. I can understand why you want to rebuild. Good luck with everything.

And then we have a letter from the person who's most affected by the Special Permit relief being sought regarding parking too close to the lot line. The letter is from Jimmy Annacone, A-N-N-A-C-O-N-E. He owns the property at 16 Vandine Street, V-A-N-D-I-N-E, which is the white

house next-door to the driveway of your corner property.

I'm going to skip over things where they express their sentiments about your loss, not that I -- it's not worthy of it, but I think we want to move on.

(Reading) So I took a look at the letter I received about your design and its proposal, and I think it will be a great addition to the neighborhood with so many other buildings already having done cosmetic upgrades in recent years. I do have -- it was a question about the left side of the driveway on Vandine Street.

Question is are you installing a fence of your own in that location? If you are and if either of these fences belong to my property, I would gladly sign permission to take them down in the process in lieu of a new fence that's not suitable to you. If I had to guess, I would imagine that the property line -- I'm not going to get into this, this is a little bit too technical. The point being is this person is in support of what you want to do regarding the

parking. And that's it.

Ready for a vote or further discussion?

ANDREA HICKEY: I'm ready.

CONSTANTINE ALEXANDER: We have two votes to take; one is a Variance for the modification to the structure, and the second is the Special Permit to permit parking of cars within five feet from the property line. Starting with the first one with the Variance:

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that their structure was unfortunately damaged by a serious fire in the neighborhood and that modification of the structure -- rebuilding of the structure and repairing it requires some expansion of the structure but in a manner that will improve the, basically the safety aspects of the structure and the visual impact of

the structure.

The hardship is owing to the shape of the lot. It is a non-conforming lot. I mean, it is a lot that is fully occupied by a structure and therefore any relief requires zoning relief.

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

In fact, what is being done is -- will improve -- to the benefit of the public good, and that a structure that has been damaged by fire will not only be restored by improved by the work that's being proposed.

So on the basis of these findings the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans prepared by Joe the Architect dated June 20, 2017, and initialled by the Chair.

All those in favor, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The Variance is granted.

(Alexander, Sullivan, Hickey, Best, Wernick.)

CONSTANTINE ALEXANDER: Now to the Special Permit we have to make a different set of findings.

The Chair moves that with regard to the Special Permit being requested in relation to parking near the lot line that we make the following findings:

That the requirements of the Ordinance cannot be met without a Special Permit.

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

That the continued operation or development of adjacent uses as permitted in the Zoning Ordinance will not be adversely affected by what is proposed. And in this regard I would refer to the letter from Jimmy Annacone who

is most affected by what you're proposing regarding parking and who is in support of the relief you're seeking.

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

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

In this regard the Chair notes that the relief being sought regarding the Special Permit will allow on-site parking for three motor vehicles, and this is three-family structure, and so it will be positive to the parking situation of the neighborhood.

So on the basis of all of these findings the Chair moves that we grant the Special Permit requested again on the condition that the work proceed in accordance with the plans referred to with regard to the Variance that we grant.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special  
Permit granted. Good luck.

(Alexander, Sullivan, Hickey, Best, Wernick.)

(Whereupon, at 9:35 p.m., the

Board of Zoning Appeals Adjourned.)

\* \* \* \* \*

**ERRATA SHEET AND SIGNATURE INSTRUCTIONS**

The original transcript and Errata Sheet has been delivered to Inspectional Services Department.

**INSTRUCTIONS**

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, SS.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of July 2017.

---

Catherine L. Zelinski  
Notary Public  
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