

BOARD OF ZONING APPEAL FOR THE  
CITY OF CAMBRIDGE  
GENERAL HEARING  
THURSDAY, AUGUST 15, 2013 - 7:00 p.m.  
- held at -  
SENIOR CENTER  
860 MASSACHUSETTS AVENUE  
CAMBRIDGE, MASSACHUSETTS 02139

BOARD MEMBERS

CONSTANTINE ALEXANDER, CHAIR  
TIMOTHY HUGHES, VICE CHAIR  
BRENDAN SULLIVAN, MEMBER  
THOMAS SCOTT, MEMBER  
JANET GREEN, MEMBER  
SLATER ANDERSON, MEMBER

---- Jill Kourafas, CSR No. 149308 ----

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P R O C E E D I N G S

DATE: THURSDAY, AUGUST 15, 2013

TIME: 7:00 p.m.

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes, Janet Green.)

Case No. 10385: 16 Francis Avenue, YIHE Group, Special Permit to add an accessory apartment to an existing nonconforming single family detached dwelling originally construction prior to 1940.

- - -

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order, and as is our custom, we're going to start with our continued cases.

And the first case I'm going to call is Case No. 10385, 16 Francis Avenue.

Anybody wish to be heard in this matter?

ATTY SEAN HOPE: Good evening, Mr. Chair. For the record, Sean Hope, Hope Legal Law Offices in Cambridge.

I submitted a letter in the file to withdraw the application. We're not prepared to go forward.

CONSTANTINE ALEXANDER: Short and sweet.

The Chair moves that this case be withdrawn as proposed by the petitioner.

All in favor of approval say "aye?"

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

Case is gone. Easiest case I've heard.

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August 15, 2013

(7:10 p.m.)

(Sitting Members: Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes and Janet Green.)

Case No. 10438, 822 Somerville Avenue.

KS Partners, LLC - c/o Thomas Clark. Variance:  
To install a wall-mounted sign above the second floor sill  
height.

- - -

CONSTANTINE ALEXANDER: The Chair will next call  
10438, 822 Somerville Avenue.

Anyone here wish to be heard on this matter?

FREDERICK LEBOW: I'm going to be just as fast.  
Maybe. Frederick Lebow, L-E-B-O-W.

So if you remember, I was here before. This is  
One Porter Square. It's the mall. After the discussion  
with you people, the landlord decided not to rent to  
Sleepy's because he didn't like the sign either.

So he has now rented and signed a lease with Red Dragon sign and Red Dragon -- it's a beautiful sign, and it's going to be a Chinese restaurant. It doesn't seem to be a language barrier, but everybody who's involved is Chinese.

And for some reason, I have not been able to communicate what I want on the sign that has to meet the bylaw. But I am bound by two issues: One is put the sign on tile, which meant the sign itself would have been 89 square feet over the 60 square feet limit. I said, "Take off the sign. Take off the sign." That hadn't been done.

And then he lit it, and I said, "We're not going for a lit sign because we want to be on the second floor and there will be nobody else on the second floor that requires a sign."

So I'm asking to continue the case. I'll get those squared away. We'll get you some nice things.

CONSTANTINE ALEXANDER: When would you like the

case continued to? We've got five people. The five people who heard the case which is everybody else but me the first time.

FREDERICK LEBOW: Whatever is good for everybody is fine.

CONSTANTINE ALEXANDER: I think you said the last session in August.

MARIA PACHECO: That's right.

FREDERICK LEBOW: You tell me when we can do it and...

CONSTANTINE ALEXANDER: Let me point out, by the way, this will be the third continuance in this case?

FREDERICK LEBOW: I understand.

CONSTANTINE ALEXANDER: So, we're going to set a new date. You better be ready this time or we're not going to keep continuing this case. Understood?

FREDERICK LEBOW: Very clear.

BRENDAN SULLIVAN: Make sure you run this through Community Development first.

FREDERICK LEBOW: What's that?

CONSTANTINE ALEXANDER: Make sure you run this through Community Development first.

FREDERICK LEBOW: Right, absolutely.

TIMOTHY HUGHES: The 12th is okay with me.

SLATER ANDERSON: September 12th is my wedding anniversary.

FREDERICK LEBOW: Congratulations.

TIMOTHY HUGHES: Are you still married?

SLATER ANDERSON: I may not be after this.

CONSTANTINE ALEXANDER: How about the next one, the 29th?

MARIA PACHECO: The 26th.

SLATER ANDERSON: What is after that?

MARIA PACHECO: The 10th.

SLATER ANDERSON: That's my birthday.

(Laughter.)

BRENDAN SULLIVAN: The only thing is, is this is somewhat of a unique situation because this is not a

continuation of the previous application, to be honest with you.

It's really a different and new application because it's a new sign. It's a new tenant.

And I'm just wondering whether or not we really have to impanel that same five people because it's really de novo.

TIMOTHY HUGHES: That's a good question.

CONSTANTINE ALEXANDER: Interesting question. If I was the petitioner, I would want the same five people. Why have a risk that legally could be a problem? But it's not my call.

TIMOTHY HUGHES: It's still the same case.

CONSTANTINE ALEXANDER: That's the point.

TIMOTHY HUGHES: You would have --

BRENDAN SULLIVAN: Well, my statement is that it probably should be refiled. It's a totally separate case from the original one.

TIMOTHY HUGHES: I think you're right about

that.

BRENDAN SULLIVAN: Because I don't see how we can continue.

Now the question is repetitive. And I think that what is going to be before us is demonstrably different than what was originally before us.

TIMOTHY HUGHES: Unless your issue coming forward before us the next time is that the wall sign can be mounted above 20 feet.

FREDERICK LEBOW: It is. That's the only issue.

TIMOTHY HUGHES: The advertisement won't be adequate.

FREDERICK LEBOW: It will be 20 feet.

TIMOTHY HUGHES: So you won't have to refile.

And if that's the only issue --

FREDERICK LEBOW: Yeah, that's the -- this is the only issue.

TIMOTHY HUGHES: -- I can see that, but if it's anything else, it has to be refiled.

FREDERICK LEBOW: That's exactly what I've told the sign company. We don't want to go for anything else. Lets make it simple.

CONSTANTINE ALEXANDER: If the case is continued until early October, would that in any way interfere with the ability to rent to the tenant? Will the tenant be unhappy? Do they want the sign up?

FREDERICK LEBOW: Obviously, the sooner the better, but, you know, he hasn't done any construction. We don't have the permit. I'm just working on the permit.

CONSTANTINE ALEXANDER: You haven't shown the plans to Community Development yet, right?

FREDERICK LEBOW: No. I just got the plans today.

CONSTANTINE ALEXANDER: I think the safest way, if I were the petitioner was to continue it until October.

SLATER ANDERSON: Well, I can do September 12, but I'm only hearing the continued case.

FREDERICK LEBOW: Right.

SLATER ANDERSON: That's fine.

FREDERICK LEBOW: September 12 is okay.

CONSTANTINE ALEXANDER: Are you going to be ready by September 12th?

FREDERICK LEBOW: If I'm not, I won't be here.

(Laughter.)

BRENDAN SULLIVAN: Well, I think if you're not ready --

FREDERICK LEBOW: I will be here.

BRENDAN SULLIVAN: -- I would entertain a withdrawal.

CONSTANTINE ALEXANDER: Yeah. Remember, it will not be a repetitive petition with the new sign. They still have to go through the hoops, the hearing before us.

BRENDAN SULLIVAN: I think there's somewhat of an incentive to be ready for the 12th, or it's going to delay it that much further out.

CONSTANTINE ALEXANDER: Make sure you understand the colloquy we're having, sir. If we don't

get the case ready to be heard on September 12, we're going to turn it down or force you to withdraw it.

If that's the case, then you cannot come back with a new sign within two years -- seeking relief for two years, the sign, unless it's a different sign, and unless we make a determination after a hearing that it's a different sign, and then the Planning Board makes the same determination. So you're going to get pushed back if you don't -- if you're not ready to go on September 12th, chances of you getting a sign approval before, it's going to be a couple months after that.

FREDERICK LEBOW: I understand that and I appreciate it, you know. Trust me. I don't want to keep coming back here as much as love you people.

TIMOTHY HUGHES: Because we're really sweet.

FREDERICK LEBOW: I understand. This is all I've got to with my life.

CONSTANTINE ALEXANDER: September 12, going

once, going twice.

I make a motion. The Chair moves that this case be continued until 7:00 p.m. on September 12. This being a case heard and a waiver of time for decision having been signed. On the condition -- on the condition that the sign that you post and announcing the hearing, the one that's up there right now be changed to reflect a new date and a new time. Get your magic marker out and put September 12th at 7:00 p.m.

FREDERICK LEBOW: I'll make that note. Thank you so much, I appreciate it.

CONSTANTINE ALEXANDER: All those in favor, say "aye."

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

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(7:20 p.m.)

(Sitting Members: Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes, Janet Green.)

Case No. 10435: 155 Webster Avenue, Albert and Leontine Pacheco c/o James J. Rafferty, Esq.

Variance: To convert single story commercial structure on a lot containing three-family dwelling units into a residential unit.

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TIMOTHY HUGHES: The Chair will call Case No. 10435: 155 Webster Street.

Take it away.

ATTY. JAMES RAFFERTY: Thank you. Good evening, Mr. Chair and Members the Board.

For the record, James Rafferty. Offices at 130 Bishop Allen Drive, appearing on behalf of the applicant, Albert Pacheco, P-A-C-H-E-C-O.

Mr. Pacheco is seated to my right and to Mr. Pacheco's right is the project architect, Campbell

Ellsworth, E-L-L-S-W-O-R-T-H.

Mr. Chair, the Board might recall this case. This is an unusual wooden structure that's kind've of an accessory building on a lot containing a three-family house on Webster Avenue.

We were before the Board a few months ago, and the proposal, as you may recall, was to create a single dwelling unit out of this structure, formerly some form of retail use.

Mr. Pacheco grew up in the neighborhood. There was testimony from others in the neighborhood it always served as a commercial building.

Mr. Pacheco has used it for storage, for retail storage for some time now to support his business which is out on Cambridge Street. But has long had an interest in trying to make it a more functional use, and frankly, contribute to the streetscape.

A few issues that arose in the last hearing. One was the proposal included a second floor element, which

was going to accommodate get access to a roof deck and the like. And there were some reservations expressed both by the Board and some abutters concerning that, and the revised plan, that is no longer present.

And then a Board Member -- his name escapes me -- raised some questions about the adequacy of the egress and the basement and whether or not there was adequate sunlight because the proposal caused for a bedroom in the basement.

Well, that allows us an opportunity for our architect to go back, and sure enough wasn't that Board Member correct. There were deficiencies in the design of the basement. That has been corrected now.

We added window wells, windows that will allow egress, adequate air and light.

So the opportunity to reexamine those issues was most helpful, and the project is, I think, much improved.

So, as a result, the overall structure itself is being -- is less of an increase. The building itself is

about 440 square feet. The area in the basement is below the 7-foot volume so there's not additional GFA. There was going to be GFA on the roof, but now since there's no roof structure, there is no GFA, so we actually, essentially do not have a change in GFA.

The last issue that the relief was focused on was parking. There's a driveway at the property. It has a three-family home, but the driveway has been used to support this structure, the American House (phonetic) structure Mr. Pacheco uses it to load and unload. He says his predecessor used it for the same purpose.

The three-family house does not use the driveway. We have asked for a Special Permit to reduce the required amount of parking.

But it's Mr. Pacheco's intention to have this use use the parking space because it has historically been associated with the use of the building. We do have the request for the parking before us.

Part of me thinks that it may be prudent if the

Board were inclined to approve the requested relief, that the applicant also seek the relief on the parking because I'm not sure if down the line an ultimate analysis by Mr. O'Grady might conclude that the parking maybe wasn't really just tied to the house. It might've been for the three-family. I wouldn't want to find ourselves in a situation where he couldn't get a building permit. So I leave that to the wisdom of the Board, but perhaps as a subsequent issue after the fundamental issue about the adaptive reuse of this structure and the zoning relief needed to make it happen.

Once we reduce or have no net impact, the only real change from a zoning perspective is lot area per dwelling unit. So we're increasing our a lot area here. Currently it's 860 square feet and it would get reduced to 672 square feet.

But if you've had an opportunity to review the site plan and as well as the floor plans, you'll see that Mr. Ellsworth has managed to create a rather aesthetic

pleasing -- we're calling it an urban cottage. It's kind of a hip dwelling unit. It has a generous first floor with a spiral staircase into a full-size bedroom in the lower level. We think given the emerging demographic of the work force and the nearby Kendall Square area that this actually will prove to be an appealing residential unit for a number of people.

So for those reasons, we would respectfully request the relief sought in the application.

TIMOTHY HUGHES: Questions from the Board?

BRENDAN SULLIVAN: When was the last time that it was commercially used by a tenant?

ATTY JAMES RAFFERTY: It's currently commercially used as storage for retail.

BRENDAN SULLIVAN: When was the last time that you had a tenant in there? Not yourself but...

ALBERT PACHECO: Maybe 20 years ago, 25 years ago.

BRENDAN SULLIVAN: So for the last 20, 25 years,

you have been using it?

ALBERT PACHECO: Yes.

BRENDAN SULLIVAN: Because the structure is actually an accessory building to the three family, is that correct? That would be its legal status?

ATTY JAMES RAFFERTY: It's an accessory to the lot. Whether it's an accessory to the three family, I mean, it's use -- it's not as though it's a garage that provides accessory parking. It had a use designed a standard that was always independent.

BRENDAN SULLIVAN: Does it have a separate address from the house?

ALBERT PACHECO: Yes.

BRENDAN SULLIVAN: And what is the --

ALBERT PACHECO: 147 Webster Street.

BRENDAN SULLIVAN: Okay.

ATTY JAMES RAFFERTY: It was, as you may recall -- test me -- it was for many years a retail business, a candy store or some type of small neighborhood

market.

So, I mean, it clearly is a secondary accessory style structure, but it's not as though it's --

BRENDAN SULLIVAN: I just want to know why it's being listed as 155 Webster Street if the address of the subject property is 147.

ATTY JAMES RAFFERTY: Because we went with the ownership certificate in the assessor's database and they carried the 155. It's a single lot with a single address. It's not unusual to have different emailing addresses, but for tax purposes, it's a single lot and the mailing address on the lot is --

BRENDAN SULLIVAN: Is it being taxed separately from the three family?

ATTY JAMES RAFFERTY: No. It's a single tax bill. It's a single lot. You don't get separate tax bills for a structure.

But there's a value attributed to the structures and a value is attributed to the land.

BRENDAN SULLIVAN: Because I think on the database, it's listed as a shed.

ATTY JAMES RAFFERTY: It may be. I mean, it certainly --

BRENDAN SULLIVAN: It doesn't really have its own stand-alone entity separate from the three family?

ATTY JAMES RAFFERTY: I'm not sure I understand the term "entity."

BRENDAN SULLIVAN: Well, in other words, it has two different uses, one is residential and the other being commercial, and you're saying that the commercial aspect of it is no longer viable and needs to be converted to have some use of the building.

Maybe one of my contentions would be that it's a use and a structure which has sort've outlived its time. I would say something from the past. And it's not viable for what it was possibly intended for as a commercial structure. I'm trying to figure out if it was separate from the three family, and what I'm hearing is yes, it's

separate because it has a separate use, but, yet, it's being -- it's not being taxed as a separate building, it's being grouped with the three family.

ATTY JAMES RAFFERTY: I'm sure what the folks were taxing. This property would not be unique in this neighborhood or other neighborhoods in that it contains a commercial storefront in a -- on a lot containing residential uses. You can go up and down Cambridge Street in a variety of neighborhoods where you have a store in the front and house in the back.

So they don't generate separate tax bills based on the uses or multiple structures on a single lot.

BRENDAN SULLIVAN: But they would not be classified as a shed.

ATTY JAMES RAFFERTY: Well, we can't speak to the classification. I mean, it's --those records are not dispositive, as the Board knows, as to the use of the property. The property if it has a foundation, is it a shed? Would the building code call it a shed? I don't

know. It's been there a long time, but maybe.

I'm not sure of the relevance of what the Assessor's Office is treating it as.

I don't imagine anyone from the Assessor's Office has been inside it in awhile. But it has a doorway, it has an entry, it has windows.

SLATER ANDERSON: Plumbing and electrical.

ALBERT PACHECO: Yes. 147, 153, 155 Webster Avenue. The first floor is 153. Second and third is 155. The store is 147.

TIMOTHY HUGHES: Any other questions from the Board?

I'll open it up to public testimony. If anybody wants to be heard on this matter? Yes. Come forward and identify yourself for the record. I need a name and an address.

CLAIRE KOEN: Claire Koen, K-O-E-N.

At 155 Webster Avenue.

I was here last time, but you folks weren't, but

I was and some of you were. And the time before the original time. My concerns are just two concerns I had. The majority of concerns were there was a parking space and then it should be used instead of taxing our already overtaxed street parking.

And that the roof deck be eliminated and so I'm pleased to see that. I went to special services this morning and I looked at the plans.

The two concerns along with that is, I noticed seeing the plan for the first time, the full complete plan, is I had mentioned the last time, is that in the winter, the frontage of the store is always used for snow. And I saw that they have a beautiful little garden area with a gated area. But they're taking away that city property? Is that city property? I'm not sure how much or how far out it goes.

But the point is that it's used and it gets so congested with snow and they have to keep the property and the park accessible for the children going to school. The

pathways there they're always plowing around. That's an area that's used for snow. And am I going to lose the tree in front of my house, on the left side of the building?

Those are my two concerns.

TIMOTHY HUGHES: Thank you.

Do you have a response to that?

ATTY JAMES RAFFERTY: Is the reference to a street tree? It would be the City's tree and there's nothing in our construction that would --

JANET GREEN: You're not planning to take it down?

ATTY JAMES RAFFERTY: No, no.

ALBERT PACHECO: We're not taking anything down.

ATTY JAMES RAFFERTY: It's a city street. And to the other comment, if the site plan indicates that it's -- I mean, as you look at the property today in the photograph, there isn't a delineation between the private property and the public way. As part of the development here that we will is define that edge as you see in the

site plan with a bit of a courtyard or entryway.

SLATER ANDERSON: It's the burden of the property owner to keep the sidewalk clear as well.

ATTY JAMES RAFFERTY: Yes.

ALBERT PACHECO: Yes.

JANET GREEN: I think she was referring to maybe that they plowed snow up on that.

ALBERT PACHECO: Well, I think that causes a danger because you can't see when you come to the fork. I suppose they pile it there 'cuz there's nothing there now. I'm going to do the snow plowing around it. On my property there's a snowplow.

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

Seeing no one, I'll close public testimony.

Further comments from the Board members?

THOMAS SCOTT: Since the parking space is associated with this, the relief is for the three family?

ATTY JAMES RAFFERTY: Well, no, the relief, when

we filed it, we were aware of the driveway and the three family, we assumed that there were three dwelling units in a commercial building with a single parking space, and now the commercial unit would become a dwelling unit, and it would appear that when you add a dwelling unit, you have a requirement for parking, so we sought the relief for the parking.

We have come to understand that the practice over the use of the parking is that it has been associated with the use of this structure. It would be the proponent's intention to continue to do that.

I just had a concern that there may be some benefit to having the relief, if there's a determination that the parking space is appropriately with the three family and not for one. I'm not sure how one could reach that determination, but maybe it's a...

THOMAS SCOTT: The parking space is shown on the plan and the parking space is intended for this unit?

ATTY JAMES RAFFERTY: That's what I'm saying.

And today, the occupants of the three family do not have access. There's a little gate.

ALBERT PACHECO: There's a locked gate. I use it when I go to the storage.

ATTY JAMES RAFFERTY: So maybe we don't need the Special Permit for the parking.

THOMAS SCOTT: Yeah, I don't know how we weave that into it.

ATTY JAMES RAFFERTY: To the extent it was deemed necessary, but the applicant indicates that the parking, the existing parking, has historically been associated with this structure and would continue to do so. So I guess we'd feel comfortable --

BRENDAN SULLIVAN: There's a curb cut on Willow Street.

ATTY JAMES RAFFERTY: It's a very active driveway. It's a curb cut. It exists and it's used, it's just at the time we filed the application, we weren't aware of how it was being used. I was just mindful of the fact

that we were adding a unit, and I made an assumption that the parking went with the three family.

JANET GREEN: I remember when it became clear that it was associated with the building rather than with the three family.

TIMOTHY HUGHES: I think I will make a motion for the Special Permit that no additional parking will be required if we pass -- if we turn this into a residential unit that would accommodate -- it doesn't say that this parking space is not going to be used for this building. In fact, the parking space is going to go with the building, but no additional parking space is required by adding the extra residential unit to a lot that has four residential units on it.

I think any way you phrase it -- I understand it's a little confusing.

ATTY JAMES RAFFERTY: I actually think there's a good deal of wisdom in that. The relief for parking, as requested, has been withdrawn because the structure

does utilize the one existing parking space on the lot and will continue to do so.

THOMAS SCOTT: I would be more inclined to do that to approve --

TIMOTHY HUGHES: Yeah. But I'm not sure that Sean O'Grady would be comfortable with that. Because I asked him today about why this Special Permit was still in place, if parking was going to go with unit. He said, "Because there's no parking for the other units, the other three units."

I think the Special Permit motion will be that no additional parking will be required than what already exists and this one already exists.

SLATER ANDERSON: I would want the language that is specific that -- if we're adding a unit, which is additional parking that this space go with that unit, because I would want somewhere in the record that whoever the tenant is has some recourse that says "Hey, listen, it's says that's my parking."

ATTY JAMES RAFFERTY: So -- condition the variance upon the use of the parking.

SLATER ANDERSON: What I would not want to see, is if we're granting you another unit, that you decide that you're just gonna keep that for yourself when you want to go visit the property.

ATTY JAMES RAFFERTY: I see.

SLATER ANDERSON: That's my point.

That there's evidence in the record that that space is intended for this unit.

ALBERT PACHECO: Understood.

TIMOTHY HUGHES: When I get to framing a motion, you can help with me that language, Slater, okay?

SLATER ANDERSON: Okay.

TIMOTHY HUGHES: Anymore comments from the Board or questions?

Are ready for a motion? I make a motion on the variance first. So you think there should be something in the variance motion about that parking, huh?

The Chair would move that a variance be granted to add an additional residential unit in this small building on the property deemed at 155 Webster Street. A little enforcement in the provisions of the ordinance would involve a substantial hardship to the petitioner because of the existing structure that's been there for so long and has various commercial and retail uses and none of which have been in effect for at least two years unless it's considered abandoned.

In order for the structure to be used for anything, it would require a variance. If it would be used for a residential unit, it will require a variance.

The hardship is going to the circumstances relating to the shape and topography of the land. It's an end of two streets that come together with a very small situation, very small building on a small situation, and the hardship is directly related to the size of the lot and the shape and location of the existing structure on the lot.

The desirable relief may be granted without either a substantial detriment to the public good. The public good will benefit from the conversion of the structure to a residential use as opposed to a quasi-storage dormant use, and substantial desirable relief may be granted without nullifying or derogating from the intent and purpose of ordinance. One of the stated purposes of the ordinance is to encourage the most rational use the land throughout the city allowing the structure to be used as an efficiently designed dwelling and is consistent with the city's goal to providing sufficient housing approximate to commercial uses in the neighborhood Kendall Square.

The variance will be granted on the condition that the parking space out back would be deemed as the primary used parking space for that residential unit.

ATTY JAMES RAFFERTY: You mean the existing parking space on the lot?

TIMOTHY HUGHES: The existing parking space on

the lot, exactly.

Any other conditions that you can think of?

All those in favor of granting the variance under those conditions say "aye."

Four in favor.

(Favor: Tom Scott, Slater Anderson, Tim Hughes, Janet Green.)

All those opposed?

(Opposed: Brendan Sullivan.)

TIMOTHY HUGHES: That's one opposed.

Variance carries.

ALBERT PACHECO: Thank you.

ATTY JAMES RAFFERTY: And the Special Permit?

TIMOTHY HUGHES: I'm going to get to that.

ATTY JAMES RAFFERTY: Okay. No problem.

TIMOTHY HUGHES: The Chair moves that a Special Permit be granted for relief from the requirement to add an additional parking space to the property called 155 Webster Avenue with the addition of the residential unit.

The requirements of the ordinance can be met for the following reasons: Article 6.35.1 allows for the reduction in parking by Special Permit where excessive congestion will not occur.

Traffic generated or patterns of access and egress will not cause congestion, hazard, or substantial change in established neighborhood character for the following reasons: The established neighborhood character contains numerous residential and commercial uses which do not contain off-street parking.

The continued operation of the development of adjacent uses, as permitted in the zoning ordinance, would be not adversely effected by the nature of the proposed use for the following reasons: Adjacent uses will be not effected since many adjacent residential properties have similar parking conditions.

A hazard will not be created to the detriment of the health, safety, or welfare of the occupants of the proposed use of the citizens of the city for the following

reasons: The reduction in motor vehicle parking will not adversely affect the health, safety and welfare of the people working or living in the structure nor the citizens of Cambridge.

And the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent of the purpose of the ordinance for the following reasons: The use of the structure as residential is consistent with the character and context of the neighborhood and uses allowed in the zoning district.

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

THOMAS SCOTT: Can I say one thing? I think the relief should be for the existing three family which had no parking.

TIMOTHY HUGHES: Yeah. I have trouble working that language in because the three family doesn't really enter into the petition.

ATTY JAMES RAFFERTY: I think --

TIMOTHY HUGHES: I think it --

ATTY JAMES RAFFERTY: I think it could be for the lot.

TIMOTHY HUGHES: For the --

ATTY JAMES RAFFERTY: For the lot, so we're adding one dwelling unit to the lot.

And the Special Permit says that additional parking is not required for the additional dwelling unit on the lot.

You've already conditioned the variance as the parking space has to go to the dwelling unit.

But to the extent, as the Chairman said, to an extent an examination of this might suggest, well, wait a minute, you have three and now you have four and where is the new parking space needed?

This Special Permit, I think, is a very helpful way to address that. The lot -- the lot -- the requirement to go from three dwelling units to four

dwelling units, the Special Permit would say an additional parking space is needed. What's there is adequate.

THOMAS SCOTT: I got that. Okay.

TIMOTHY HUGHES: All those in favor of granting the Special Permit?

That's five in favor.

(Tom Scott, Slater Anderson, Tim Hughes  
Janet Green and Brendan Sullivan.)

TIMOTHY HUGHES: The Special Permit is granted.

ATTY JAMES RAFFERTY: Thank you very much.

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(7:30 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes, Janet Green.)

Case No. 10478: 17 Royal Avenue. Luke and Megan Johnson. Variance: To raise roof, install two dormers and install bay window. Art. 5.000, Sec 5.31 (Table of Dimensional Requirements). Art. 8.000, Sec 8.23 (non-conforming structure).

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CONSTANTINE ALEXANDER: The Chair will call Case No. 10478: 17 Royal Avenue.

Anyone here wish to be heard on this matter?

Please come forward.

MEGAN JOHNSON: Megan Johnson, M-E-G-A-N, J-O-H-N-S-O-N. My husband is Luke Johnson.

And this is Krikor, K-R-I-K-O-R, first name. Last name Baytarian, B-A-Y-T-A-R-I-A-N and he's our architect.

MEGAN JOHNSON: I have a three-week-old. My apologies for bringing him. Didn't feel right to leave him home with the babysitter.

CONSTANTINE ALEXANDER: Before we start, is there going to be a new -- not a new plan, but plans with dimensions on them? Do you have them here.

LUKE JOHNSON: Yes.

CONSTANTINE ALEXANDER: Do you have them here?

LUKE JOHNSON: Right here. These are just showing --

CONSTANTINE ALEXANDER: You can just put the numbers on them.

(Board reviewing plans.)

MEGAN JOHNSON: We're expanding family. Our current house has two bedrooms and we love the area, we don't want to move out. And so what we're proposing to do is to expand the house to accommodate our growing family. So we're proposing to add one and a half bedrooms and a bath. And what that means in terms of the plans is

to raise -- is to increase the pitch of the roof, put a dormer on each side and then in the front put a bay window.

We've tried to -- with our architect we tried to be in keeping as much as possible with the local architecture. The gambrel roof is very common. And we have -- we're requesting a number of variances. We tried to do as much as we could to be within the guidelines. Our house is one of the --

CONSTANTINE ALEXANDER: Let's stick with the variance first and then we'll get to the dormer guidelines which are guidelines on one hand and the other hand it's something we take very seriously and we'll get to that.

But the variances, because you have -- you're increasing it by virtue of the additional space, your FAR, and right now you're a -- your structure is conforming at .48 and a .5 district and you've got to .55. You're going to be slightly over. That requires a variance.

And then you have a side yard setback issue as well. You're not moving further into the side yard,

you're creating the massing in an already non-conforming to the side yard. That's a variance.

MEGAN JOHNSON: That's the variance, right.

CONSTANTINE ALEXANDER: I'm sorry to take this away from you, but I want to frame it right.

Then with regard to the additional space, you're putting dormers as you pointed out.

The issue then becomes the dormer that you're proposing is 16 foot in length and our dormer guidelines say no more than 15 feet.

And in your submission you say your architect has advised you -- has told you that it's advisable that you have 16-foot dormers. But advisable is sort of a soft word and our dormer guidelines says it's advisable that it goes no more than 15 feet.

So the question I have to ask you is: 15 feet reduced by one foot, six inches on each side, why can't that be done?

MEGAN JOHNSON: The tricky part is we've got a

pretty small house, it's 28-foot long. And what we're trying to do is squeeze in a full bedroom and a nursery sort've half bedroom. That bedroom at the moment is eight by ten. So it's already pretty small as we can go for a bedroom, and we thought if we shrunk it to seven foot, it really almost wouldn't be usable.

So at the moment the interior plans, the 16 foot you got part of the master bedroom and then you've got the nursery/ -- I can share around the floor plan as well if that helps.

BRENDAN SULLIVAN: If I can get a copy of that.

MEGAN JOHNSON: Would it be help to see if I can show you this? So this is the third floor, and if you come up the stairs, the two dormers are here and here. This is the master bed. These are the eaves. And the dormer starts there, and that gives us the -- we didn't feel like we could push it further because of head room getting around the bed. Here, there's this bedroom, we felt like what we wanted to ask for approval on is already a very

small bedroom, and we felt like if we shrunk it by a foot here -- as you can see we got a chimney here -- it would be very tricky to get in.

It was trying to squeeze in that extra half a bedroom. When we initially started the plans, we felt like maybe we could only do one, but we really trying to enable that nursery.

CONSTANTINE ALEXANDER: Tom or Brendan, do you have a reaction to that, to their need to have a 16-foot dormer?

BRENDAN SULLIVAN: Well, I'm not convinced. I think -- I mean, there's a number of tests for the -- on the dormer guidelines and the length exceeds it. Also it calls for the dormer to not line up with the outside wall rather to be stepped up that roof line.

I'm not sure about the distance in from the edge. That may work.

And also coming down from the ridge, exactly raising the whole roof line up, so it may not be so much

of an issue.

But the length of the dormer, I feel with the repositioning of some it, the third floor really becomes a master suite, which I think is generous as designed.

THOMAS SCOTT: I think that the gambrel design changes things a little bit in the dormer, and the dormer guideline doesn't really address that.

BRENDAN SULLIVAN: It softens it.

THOMAS SCOTT: So, it definitely -- the design of the building softens the way that the dormers are applied to the building and they don't look as kind've added on. They look as though they're more integral with the building. The roofs, they're on the same plane and it makes sense. So I have no trouble with the dormers either side. I think the symmetry of the building is very nice.

And I think the length of the dormer, because of the shape of the gambrel and the symmetry of the addition, I would be inclined to say it was okay.

Because it's really a variation on the dormer guidelines. The guideline is just that, a guideline. I think this is tastefully done and it's not offensive in any way architecturally. So I would be inclined to approve it as is.

CONSTANTINE ALEXANDER: What do you feel about their statement as to why they need to have a dormer this big?

THOMAS SCOTT: Well, I think given the placement of the chimney and access to that bedroom, it can be very, very tight to be able to get a doorway into that bedroom if you took a foot off the end of that building or that end of the dormer.

I suppose the dormer could be shifted a little bit to help ease that problem, but then you're going to have a head room problem, I think, in the other bedroom down the other end. So it's kind've -- you're in a tough spot. I think the chimney and just the configuration of the house and the dimensions kind've say it needs to be

a little bit bigger to make it work properly, so I'm okay with it.

CONSTANTINE ALEXANDER: Any other questions from members the Board? We'll have a chance to discuss the merits later on.

JANET GREEN: No questions.

CONSTANTINE ALEXANDER: Any further questions? Tom or Brendan at this point?

BRENDAN SULLIVAN: No.

SUSAN ROBERTS: Anything further you want to say at this juncture? I'm going to open it up to public testimony to see if anybody wants --

LUKE JOHNSON: Just to address some of the points that Mr. Sullivan said, I mean, we would keep the eaves where they are, which, I think is -- which is a good thing and also -- I know the dormer walls are in line. We felt from a structural standpoint, it made much better sense as long as we don't have an overhang of the eaves.

THOMAS SCOTT: You kept the eaves line

continuous across that so it help break up that plane a little bit.

LUKE JOHNSON: And then in the interest of symmetry, we have kept the other side the same.

MEGAN JOHNSON: The other side also has issues because of the way the stairs come up and you enter the bedroom. The head height issue. We really did try. We looked at could we move -- could we shorten the dormer. We didn't feel like we could do it on the nursery side. We looked at doing it on the other side and on both, you have the chimney, and there's where the bed could start. You know, we're both six foot or above. And on both sides, we drew it out, and we really felt if we went to the same, we would be smacking our heads. We got symmetry on both sides, but we got constraints on both sides.

LUKE JOHNSON: I don't know if this holds any weight. But this was sort've designed in tandem with our neighbors. We actually went out to them at quite an early stage to seek any issues they may have with both the

overhang on the right-hand side as you look at the house 'cuz that's falling into a setback.

And also, you know, the window placement and dormer length where it was obviously, you know, questionable. And for what it's worth, there was no protest or issue from anyone.

CONSTANTINE ALEXANDER: I know that there's no letters in the file even one way or another. But your testimony is that you have talked to your neighbors and they seem to be in support.

LUKE JOHNSON: Absolutely.

MEGAN JOHNSON: They have seen -- we have taken the plans around to all of them, so...

BRENDAN SULLIVAN: Is there a fireplace on the first floor?

MEGAN JOHNSON: Yes.

BRENDAN SULLIVAN: Can I see the drawings there?

MEGAN JOHNSON: I got the entire drawings, if that helps.

BRENDAN SULLIVAN: Go ahead.

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

Does anyone wish to be heard on this matter?

The Chair notes there was no one wishing to be heard. We'll close public testimony.

As I already indicated, there appears to be no letters in the file either in support or in opposition.

So any final comments you would like to make at this stage and then we'll deliberate amongst ourselves.

MEGAN JOHNSON: We really want to stay in the area and we hope you guys like our plans.

LUKE JOHNSON: The final comment for me is we have made our best efforts, you know, to be compliant with dormer length. We are fully aware of the 15-foot limit and the ratio against the roof length. We've looked at every possible variation to make practical living space for us.

CONSTANTINE ALEXANDER: Thank you.

Members of the Board, any comments? Final comments at this point?

BRENDAN SULLIVAN: I can see there's some internal things, like the staircase and stuff, that are driving some of this design, you know, specifically on one side going to the outside wall.

But the Board's already well acquainted with how I feel about that particular part of the dormer guidelines. I think structurally it makes as much sense to go to the outside wall and, you know, it doesn't. As long as you maintain the eave, you know what I mean, and that kind of visual break as it goes around.

I think Tom made some good points about the gambrel kind've swallowing some of this stuff. It doesn't look as top heavy or as awkward as it might if it was a peaked roof and it had a couple of these oversized dormers on it.

You're working with some real problems in terms of how to lay out this third floor in a useable way with

a chimney in the middle and the staircase where it is and stuff.

And I did some measurements while we were sitting here. I'm inclined to go with the extra foot. I would be in favor of the project.

JANET GREEN: I'm comfortable with it. I actually went to your neighborhood and looked around and felt like it was consistent with the rest of the neighborhood. It didn't seem like it was beginning something that wasn't -- that would be awkward with the other houses.

CONSTANTINE ALEXANDER: Thank you.

BRENDAN SULLIVAN: The only other item that sort've jumped out at me was the bay window on the front of the building, which to me, looks rather prominent and rather large. And is that really, I guess, necessary? It wouldn't be there if you didn't think it was. Can be it sort've toned down a bit?

MEGAN JOHNSON: That was something we did for

design. We have a bay window on one side. As you look around the neighborhood, there's bay windows. It was something we felt would be a nice feature.

BRENDAN SULLIVAN: On bigger houses, not so prominent. That feature then becomes -- sort've shouts at you, that's all.

MEGAN JOHNSON: We looked at a half bay, but because of the chimney and getting that half bedroom, it allows for just a little bit more floor space in the bedroom. It's -- the 16-foot dormer was something we felt we really couldn't go against. I think this was something that we think adds to the property.

CONSTANTINE ALEXANDER: Any questions or comments?

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: Ready for a vote?

The Chair moves that the Board make the following findings with regard to the petition: That a little enforcement of the provisions of the ordinance would

involve a substantial hardship to the petitioner, such hardship being that the petitioner needs additional living space in a structure, in a relatively small structure for the neighborhood.

And that the hardship is owing to circumstances relating to the shape of the lot and the structures -- the structure right now is just -- is conforming, but just barely. And any addition to greater living space puts the structure in noncompliance of our ordinance and the relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purposes of this ordinance.

In this regard, the petitioner is seeking to upgrade the livability and habitability of the structure, that the relief being sought to the extent there's a noncompliance with the zoning ordinance is modest in nature, that there appears to be no neighborhood opposition to the project. And in fact, there's testimony that there's neighborhood support for the project.

On the basis of these findings, the Chair moves that a variance be granted to the petitioners to proceed with the work as proposed on the condition that the work proceed in accordance with plans submitted by the petitioner and initialed by the Chair.

I just want to make it clear. If you change these plans after tonight because whatever, you're gonna have to come back before us. These are the final plans.

So, all those in favor of granting the variance in this space say "aye."

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

Variance granted.

MEGAN JOHNSON: Thank you very much.

LUKE JOHNSON: Thank you very much.

CONSTANTINE ALEXANDER: Don't go away. Do you have your other petition you filed before that you continued? I assume now you've got relief that you're going to ask to withdraw?

LUKE JOHNSON: Please.

CONSTANTINE ALEXANDER: Let me open the case. I have to do it formally.

The Chair will call Case 10463, 17 Royal Avenue.

Anyone here wish to be heard on this matter?

MEGAN JOHNSON: Megan Johnson, M-E-G-A-N, J-O-H-N-S-O-N and Luke Johnson. And Krikor, K-R-I-K-O-R, B-A-Y-T-A-R-I-A-N, architect.

CONSTANTINE ALEXANDER: The proposal is withdraw the previously-filed petition on the grounds it has been superseded by the relief we just granted with regard to the variance.

Anyone wish to be heard on this matter?

Ma'am?

VALERIE LIVINGSTON: V-A-L-E-R-I-E, L-I-V-I-N-G-S-T-O-N.

Is it appropriate to ask a question of the Board?

CONSTANTINE ALEXANDER: Of course.

VALERIE LIVINGSTON: I was curious. At the beginning the meeting you were hearing continued cases,

and this seems to be a continuance, did you put these together because it was the same petition?

CONSTANTINE ALEXANDER: Let me try and explain. The case was originally filed, the one we're hearing right now, there were problems with the submission and the plans. So that case -- they didn't want to go forward with that case and they continued it and they came back with a new set of plans and re-advertised the case. We have the old case sort've lingering out there and we have the new case. The new case we granted relief. The old case there's no need to grant relief. It has been superseded by the relief we've granted. This is a formality to get rid of the old case.

VALERIE LIVINGSTON: Thank you for the clarification.

CONSTANTINE ALEXANDER: All those in favor? I assume you're requesting us to withdraw your earlier petition?

MEGAN JOHNSON: Yes.

CONSTANTINE ALEXANDER: All those in favor of  
accepting the request to withdrawal say "aye."

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

The case is withdrawn.

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7:55 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes Janet Green.)

20 Alpine Street, Ed Buck c/o Sean D. Hope, Esq.

Variance: To construct a two-story addition to the front of the house including expanding the footprint of the front portion of existing foundation. Art. 5,000, Sec 5.31 (Table of Dimensional Requirements). Art. 10.000, Sec 10.30 (Variance).

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CONSTANTINE ALEXANDER: The Chair calls Case No. 10479: 20 Alpine Street.

Does anyone wish to be heard on this matter?

ATTY SEAN HOPE: Good evening, Mr. Chair and Members of the Board. For the record Attorney Sean Hope, Hope Legal Law Offices in Cambridge.

I'm here tonight with the owners of 20 Alpine Street.

EDWARD BUCK: My name is Edward Buck,  
E-D-W-A-R-D, B-U-C-K.

MIHAELA BUJOREANU: My name is Mihaela  
Bujoreanu, M-I-H-A-E-L-A, B-U-J-O-R-E-A-N-U.

ATTY SEAN HOPE: Also we have the project  
architect, David Harmon, H-A-R-M-O-N.

CONSTANTINE ALEXANDER: Yes.

ATTY SEAN HOPE: So this is an application  
requesting variance relief from the dimensional  
requirements of the ordinance to add 236 square feet of  
gross floor area to the existing home at 20 Alpine Street  
located in the Residence B District.

This is a 5600 square foot lot containing a single  
structure that's divided into two condominiums that share  
a part wall. And although the lot is essentially divided  
in half between the two condominium units, the overall GFA  
of the adjacent parcel is counted. So the existing FAR  
is .483. With our proposed addition it will be at .526,  
and the ordinance allows .50.

We're really just over the allowed FAR on the site.

The property is also probably about a seven-minute walk to Fresh Pond. This is significant because this home and some of the homes on Alpine Street in the area have an issue with high water table. And so that the soil becomes saturated and basements and subsurface areas at worse become flooded, but they deal with dampness and wetness which actually limits the usability of the space. This is specifically tied to the requested relief.

The petitioner as the proposed plans that show would like to use the basement area minimally as a play area, but they're not going to be able to fully use this basement space, so the petitioner is calling for adding to the front of the structure a two-story addition spreading that 236 square feet over two floors to allow for more living area on both floors.

Granting the proposed relief would do three

things: One, it would mitigate the restricted use of the basement; two, it would increase the livability and habitability of this space on the second and third floor. And also it would allow the petitioner's growing family to grow in place.

I just would like to highlight to the Board that this is not the first time that this type of case on Alpine Street has been brought before the Board. There was a case in 2003 at 42-44 Alpine Street -- it was another board at the time -- but very similarly the hardship that was presented and granted was due to the high water table and the issue of flooding.

A distinction in that case was the petitioner was asking to add additional square footage to create an art studio as well as a bedroom space, where ours is specifically for just living space. There's no other use there.

And if the Board wants I can have the architect walk through, but part of the idea was to -- in adding the

additional square footage to the front was in keeping in some of context of the neighborhood and that was kept in mind in terms of looking at the adjacent parcels and looking at what was there.

This property is somewhat unique because it's set back, you have one unit that's facing the front.

I would also like to point out to the Board that even with the proposed additions, still we're going to respect the front setback. And in this area the front setback is 15 feet and so we would be at 18 feet.

CONSTANTINE ALEXANDER: The front of the structure will be a plane. In other words, your property would still recede from your neighbor back to the same spot?

ATTY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: One flat plane, it looks like one structure going across.

ATTY SEAN HOPE: Yes. The adjacent structure at 22, it has bay windows.

CONSTANTINE ALEXANDER: The window treatment is different, I appreciate that.

ATTY SEAN HOPE: Right. So it's not matching.

CONSTANTINE ALEXANDER: In terms of the bulk it matches. You're familiar with the case in 2007?

ATTY SEAN HOPE: Yes, I am.

CONSTANTINE ALEXANDER: Okay.

ATTY SEAN HOPE: I think the -- David, do you want to walk them a little bit through some of the thought process?

DAVID HARMON: Basically it's a 6-foot extension. This is 20 right here. 6 foot to bring you right to the same plane as 22 Alpine Street.

And that's actually the same setback. Pretty much all of all these houses along this side of the street.

So basically what that does for them is it gives them just enough square footage to really make the two bedrooms and living room really start to function the way you want to for the house, and basically, not be able

to -- not have to use some of the substandard basement space. Basically, they're trying to with the architecture, they're really not trying to upstage any neighbors. They're just trying to sort've carry the same geometry, the same architectural style, the same treatments and just continue the neighborhood look. There's really nothing anomalous or architecturally going on there.

CONSTANTINE ALEXANDER: The owners of 22 Alpine Street are in support of the petitioner? I want to make sure. I mean, sometimes people come before us -- okay, I will read it.

DAVID HARMON: That's basically all I have to say. They just want to make the house work a bit better. Just to manage a growing family for the long-term.

ATTY SEAN HOPE: And I would just like to add that the hardship is not due to the fact that the house is too small. It's specifically related to the high water table and the fact that several basements in this area have fully

built out usable basement spaces so that not every house deals with this water table.

CONSTANTINE ALEXANDER: The hardship is you need additional living space, you can't get it from the basement because of the water table, therefore, you've got to add to the structure. That's where the hardship is.

ATTY SEAN HOPE: That is.

DAVID HARMON: And the water table.

ATTY SEAN HOPE: Right. And because the basement is not finished living space. It's not that the existing living space, but they would like to utilize this as a play area, so it's different than living space per the code and because they can't then because of the --

CONSTANTINE ALEXANDER: Is the basement counted in the FAR?

ATTY SEAN HOPE: No. It's primarily because of the height.

CONSTANTINE ALEXANDER: And that's not gonna change if we grant relief tonight?

ATTY SEAN HOPE: No. And if it did, we would have to come for relief because it would be additional FAR gross floor area that would exceed what is allowed.

THOMAS SCOTT: Can you address how you are solving the water problem then?

CONSTANTINE ALEXANDER: They're not.

THOMAS SCOTT: How does this help you in a play area you may not be able to use when the water is high?

ATTY SEAN HOPE: Right. I think that speaks to --

CONSTANTINE ALEXANDER: If I could cut through it, you're overplaying the water table issue for -- that's not the issue. The water table prevents you from using another part of the structure for living space, therefore, you want to build out and you've got a zoning problem. They're really not apples -- there's a mismatch here. I hear you, but it's not something to hang your hat on, but you can't just simply say because of the water table, we, therefore, need a variance.

BRENDAN SULLIVAN: What you're requesting is totally different living space, far more grandiose living space than what is used in the basement?

ATTY SEAN HOPE: Yes.

BRENDAN SULLIVAN: Totally different animal.

ATTY SEAN HOPE: But to Mr. Scott's point, I think the additional living space mitigates what would be usable space in the basement by providing living space up above grade. And I would like to just --

BRENDAN SULLIVAN: But even if the basement were bone dry 365 days of the year, you would be still be coming down for this.

ATTY SEAN HOPE: Well, with all due respect --

BRENDAN SULLIVAN: I think we could set ourselves up by doing the other half.

ATTY SEAN HOPE: I would have counseled my clients that, you know, when you have some additional space, it's more challenging to say you're not going to use your basement at all, to say we need more living space

if it was bone dry. Not to say that they wouldn't have maybe wanted some additional space above grade, but there are a series of basements in the neighborhood that people have fully build out spaces that they're using, whether it's a TV room, a study or play area. It's common on this street to use dry basements for other uses, probably because people want more space. So I wouldn't say we wouldn't be here at all if it was bone dry. I think it would be a much more a taller task. We have usable living space in the basement as a play area, something besides a bedroom, and I think they would have tried to do that.

One of the things they said, is that they really wanted to finish off the basement space and put dry wall and other things in the basement, but they really can't now because of the wetness and dampness. That's not true throughout the street.

CONSTANTINE ALEXANDER: One more time.

Basically the hardship is because you need additional living space and the soil conditions limits your

alternatives to obtain that living space. That's what you're saying, and therefore, because you can't do it in the basement because of the water and soil conditions you need to build out?

ATTY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: It's an attenuated connection between the water table and the relief being sought, but I hear you.

ATTY SEAN HOPE: Okay.

THOMAS SCOTT: And you're saying the basement don't count towards the FAR, 6 11-1/2?

ATTY SEAN HOPE: Right.

THOMAS SCOTT: And you're not going to address the water problem?

ATTY SEAN HOPE: There's an existing sump pump.

MIHAELA BUJOREANU: We were trying to address the water problem somehow to be able to make a play area in there. We just cannot put a bedroom in there, for example. Right now the house is two bedrooms and a half,

a study or something. So we would try to -- if we put a play area there, we'll try, but we don't know how successful we will be. We saw some of the water coming from the ground up.

THOMAS SCOTT: You can't count on this space being truly liveable space.

DAVID HARMON: We wouldn't put a hardwood floor down here.

JANET GREEN: The other half of this house was build out?

MIHAELA BUJOREANU: Yes, it was built out in 2008.

JANET GREEN: Did you live there when it was built out?

MIHAELA BUJOREANU: No.

CONSTANTINE ALEXANDER: The Board granted a variance in 2007, 2008.

While Brendan is looking at that, I'll put it out to public testimony unless you have any other comments.

Anybody here wishing to be heard on this matter?

The Chair notes there's no one who wishes to be heard. The Chair would note that we're in receipt of numerous letters which I will read into the record or I'll summarize.

We have a letter from City Councilor, Leland Chung: "I'm writing to express my support for Mr. Edward Buck of 20 Alpine Street, Case 10479 before the Board of Zoning Board on August 15. Mr. Buck has applied for a variance from the requirements of article 5" -- I'll skip over that.

"I do not often write to the Board of Zoning Appeal because of your judicious and conscientious approach to evaluating cases."

I want to repeat that.

"I do not often write to the Board of Zoning Appeal because of your judicious and conscientious approach to evaluating cases.

But I wanted to be sure to call your attention

to unique circumstances of the petitioner. Mr. Buck is seeking a variance because Alpine Street's proximity to Fresh Pond leaves the property in a region with a high water table rendering the basement unusable as a finished living space.

Mr. Buck's current plans to build upwards to accommodate his growing family would exceed the 4 Area ratio by approximately 200 square feet over the limited 0.53. He has the expressed support of five abutting neighbors."

Then the rest is complimentary to us. I'll skip over that.

We have a -- do you want to hear it?

We have basically a form letter signed by various individuals. Let me -- I'll read the letter:

"We are proposing to add" -- it's a letter addressed -- this is a letter signed by the petitioner, Mr. Buck and Mihaela.

And then it's a statement from a neighbor: "The

persons at 22 Alpine Street, your fellow condo owners. We have reviewed the plans and variance application and we're in support of their proposal."

Similarly, we have a letter signed by Jody Siegal, S-I-E-G-A-L, 21 Alpine Street. We have a letter signed by the occupant of 11 Alpine Street. I'm just not able to read the name. The first name is John. Last name looks like Damian, D-A-M-I-A-N. A similar letter signed by Meredith C. Moore, M-O-O-R-E, 16 Alpine Street.

There's a letter from a William M. Simmers, S-I-M-M-E-R-S, 8 Alpine Street. "As both a neighbor and the architect of the proposed transformation of the house, I would like to encourage the approval of the addition proposed at 20 Alpine Street.

I have viewed the proposed elevations and I feel that the addition will not substantially increase any detrimental factor to the street, such as light and green space.

I'm not without ambiguous feelings about the presence of the building on this street. The street is small scale and neighborly in feeling, and the previously addition" -- that's 22" -- I tried to vary the front facade so that it alleviated any sense of massiveness. I would like to see enough articulation, variety and differentiation on the facade to lower the inevitable increase in scale. I would hope these architectural factors might aide the zoning considerations."

Of course, we have the plans right here.

That's all the public testimony or the letters we have in our file. They all obviously are in support with Mr. Simmers seemingly danced a little bit, but otherwise, he's in support.

I'm going to close public testimony.

Any additional comments, Mr. Hope?

ATTY SEAN HOPE: No.

CONSTANTINE ALEXANDER: Before deliberation, any comments from Members of Board or do you want to go

to a vote?

JANET GREEN: Vote.

CONSTANTINE ALEXANDER: Everybody ready for a vote?

The Chair moves that this Board make the following findings: With respect to the application for a variance (inaudible) in the provisions of the ordinance involve a substantial hardship to the petitioner. The charge being that the petitioner needs additional living space to their structure, that the hardship is owing to circumstances relating to the soil conditions of the property. Not so much the hardship of the soil conditions that result in the ability to obtain additional living space by building upward or actually more forward to the street because the basement -- the ability to find additional living space in the basement area is severely jeopardized or compromised by the water table in the area. The relief may be granted without substantial detriment to the public good or nullifying or substantially

derogating from the intent or purposes of this ordinance.

In this regard, the Chair would note that the relief being sought is modest in nature, it's the result of a slight FAR being slightly over the required maximum FAR, that the addition will bring the structure, at least in many respects, more architecturally consistent by bringing the structure forward and having a single plane across the front of the structure; that the matter obviously has the support of the neighborhood. There appears to be no opposition.

And that ultimately granting relief would allow a young family to continue to live in Cambridge, something that is very desirable and an express goal of our city and of this Board.

So on the basis of these findings, the Chair moves that a variance be granted to the petitioner on the condition that the work proceed in accordance with plans that are attached to a site plan that I initialed.

Before I take the vote, these are the final plans.

If you modify them you're going to get to be back before us. Even your baby will have to come before us.

You understand that?

ED BUCK: Yes, I do.

CONSTANTINE ALEXANDER: All those in favor of granting the variance based on this condition say "aye"?

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

MIHAELA BUJOREANU: Thank you.

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(8:15 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes, Janet Green.)

Case No. 10480, 330 (a/k/a 300) Mount Auburn Street. New Cingular Wireless PSC, LLC (AT&T) c/o David Ford, Centerline Communications. Special Permit: To install 12 antennas which will be facade mounted to the existing hospital building painted to match the building color. 15 remote radio-head units will be mounted inside of the existing penthouse on the rooftop. An equipment shelter will be installed on the rooftop of house ancillary equipment associated with the antenna facility. Cabling and associated trays and conduits also will be placed on the rooftop, along with GPS antennas which will be mounted on the shelter. Art. 4,000, Sec 4.32G.1 (Footnote 49) (Telecommunication Facility) Art. 10.000, Sec 10.40 (Special Permit).

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CONSTANTINE ALEXANDER: The Chair calls Case No. 10480: 330, also known as 300 Mount Auburn Street.

Anyone here wish to be heard on this matter?

SUSAN ROBERTS: Thank you and good evening. My name is Susan Roberts. I'm an attorney with Anderson & Kreiger. And I represent AT&T.

With me is David Ford from Centerline Communications. He's here on behalf of AT&T, as is Dee Pak Rathore, who is our radio frequency engineer, D-E-E, P-A-K, R-A-T-H-O-R-E.

CONSTANTINE ALEXANDER: Before we start, as you know, there seems to be a problem -- may be a problem, with regard to the sign posting. I went out and inspected the property yesterday. I did not see any sign other than the sign in the front window of the hospital, which does not comply. I understand you have evidence that the sign was posted properly. So, in other words, you're telling me I'm a bad looker.

DAVID FORD: There's three signs. That's from

the sidewalk. It's right smack dab --

CONSTANTINE ALEXANDER: When was this picture taken?

DAVID FORD: That picture was taken two weeks ago, and I drove by today and it was there. It has been there over two plus weeks. And actually the landlord specifically the reason you saw it in the front glass is every other petitioner that they've had T-Mobile, et cetera, they have three places they want signs put: One where you saw it, one on -- if you keep looking through there, you'll see the three locations.

And the third being on a stake in front.

CONSTANTINE ALEXANDER: You need three locations because of --

DAVID FORD: I would say the three signs.

CONSTANTINE ALEXANDER: I guess the question, though, is, you know, the sign that's on the window of the hospital is not complaint.

DAVID FORD: I understand that. The reason why

it was put there because per the landlord wanted them there. That's why the stake out front was clearly visible.

CONSTANTINE ALEXANDER: I'm not going make a big deal of it. You have should have had three stakes outside. The one on the building really doesn't count. We're lenient on this.

It's your testimony there was a sign there. Two weeks ago you put it up.

DAVID FORD: Correct.

CONSTANTINE ALEXANDER: For these pictures?

DAVID FORD: Correct.

CONSTANTINE ALEXANDER: And the last time you checked, the sign was there today and I just blew it when I was there. I'm an inadequate looker.

DAVID FORD: I guess so, yeah.

CONSTANTINE ALEXANDER: Did anybody else on the Board go by and look at the property?

BRENDAN SULLIVAN: Yeah, I did. And I did not

see a sign, but...

CONSTANTINE ALEXANDER: Oh, good, two inadequate lookers.

BRENDAN SULLIVAN: But then, again, I was more interested in the buses and the people crossing and the ambulances coming in and out. At that point the sign became a little bit minor.

CONSTANTINE ALEXANDER: Well, I would propose to this Board, although it's up to the Board that based on the testimony of the petitioner, that we allow this case to go forward, that there was compliant posting with our ordinance. Anyone see otherwise?

BRENDAN SULLIVAN: That's fine.

CONSTANTINE ALEXANDER: Now you can proceed on the merits.

SUSAN ROBERTS: Thank you. So we're seeking a Special Permit for this wireless facility. We were in front of the Planning Board last Tuesday night and the Planning Board looked at our design.

They had several comments, and, as you know, they sent a recommendation over to you that you have, and asked us to improve the design, which we have done.

So what you're seeing tonight is a different design from what we submitted to the Planning Board on Monday, August 12th.

CONSTANTINE ALEXANDER: It has been in our files since Monday?

DAVID FORD: Correct, yes.

SUSAN ROBERTS: Yes. We complied with the timing submissions. So now, what the design consists of is as follows: We have 12 antennas and the antennas are divided into three groups of four.

From Mount Auburn Street you can see that one set of four is located on the facade of a penthouse, the color of which in the front is basically silver.

We have two other sets of antennas, one set is located on that same penthouse, the white -- if you're looking at the entrance to the hospital, it's located on

the right. And the color there is a brick color of the penthouse and the antennas are mounted at the top.

CONSTANTINE ALEXANDER: Can I interrupt you a second? I'm sorry.

SUSAN ROBERTS: No problem.

CONSTANTINE ALEXANDER: Looking at this, is this true of your photograph stimulations for your other petition we're going to hear later in the evening. You show us the actual view. I'm looking at Photograph 1A.

Then the next page, Photograph 1B, Option 1, and then there's an Option 2 -- Photo 1C, Option 2, which are the options are you proposing?

SUSAN ROBERTS: We're proposing the third. Now, basically, what we've done is to provide you with our originally submitted design, which was on June 21st and then we're providing you with the design that we submitted on Monday, August 12.

DAVID FORD: So A is the original of what it looks like now; B was what we submitted at the Planning Board;

and then C is per their comments, what we were advised.

CONSTANTINE ALEXANDER: You're saying C  
complies with the comments?

DAVID FORD: Per the Planning Board, correct.

SUSAN ROBERTS: Correct.

CONSTANTINE ALEXANDER: You haven't had the  
opportunity to get before the Planning Board?

SUSAN ROBERTS: We have not, no, 'cuz we felt  
that we could address what the Planning Board had suggested  
for us. And what, in fact, we did was to write a letter  
to the Planning Board and provided them with the revised  
design, and we also submitted a copy of the letter to the  
Planning Board to you as well.

CONSTANTINE ALEXANDER: On Photo 2B, which is  
the -- which is your proposal on the other side, is it?

DAVID FORD: It's always C. C is always the  
final. There may be a typo on this one right here.

SUSAN ROBERTS: I think there's a typo.

DAVID FORD: So the designers have all three at

the same height per the Planning Board's comments.

SUSAN ROBERTS: It really should say 2C, but it says Option 2.

CONSTANTINE ALEXANDER: You're gonna have to bear with me because I didn't think we would hear this case, speaking for myself tonight. Because of the posting issue, I haven't had a chance to review the file.

SUSAN ROBERTS: Okay.

CONSTANTINE ALEXANDER: Keep going.

SUSAN ROBERTS: We have these three sets of antennas. In addition to the antennas, we have other equipment that is on the roof, including an equipment shelter that we modified. So, as you know from the recommendation from the Planning Board, they had an objection to the equipment shelter and wanted the equipment shelter to be better blended with the silver penthouse.

And so, we -- what we did there was to reduce the visibility of the shelter by making it smaller.

So we reduced the size with the result that its visibility is reduced as well so you can just see the top of the shelter. Not, you know, a good chunk of the top of the shelter the way you could before.

The Planning Board also objected to the way that the shelter looked, and felt it was not in keeping with the front facade of the penthouse, the silver color of the penthouse. And so, what we did was we painted it the silver color. Before it was painted a brick color and it was more visible, more prevalent. Now we've painted it a silver color, and we think it blends well with the silver color of the penthouse and you can barely see the top.

CONSTANTINE ALEXANDER: I'm looking at the first comment that the Planning Board made, the comment on your Photo 1B that you've now modified to 1C. And 1B says "The applicant might consider attaching the new shelter so that it appears to be a component of the existing penthouse."

You're saying Photo 1C does that. I don't know whether the Planning Board would agree with you, though.

SUSAN ROBERTS: So here's what's going on there. There's actually two different levels here. So there's the penthouse. And then there's the actual building. So we did not put the equipment shelter on the penthouse, which would have been on top of where -- you know, on that structure where the antennas are.

In fact, it's a lower level on the building itself, okay? And so, we can't necessarily make it seem like it's seamless because one is up here and one is down here. That's basically what's going on.

So when we spoke with the Planning Board last week, they suggested some sort of a screen wall there. Unfortunately, that is not possible based on our discussion with our architects and with the --

DAVID FORD: Hospital itself, actually.

CONSTANTINE ALEXANDER: I hear you. My point is still the same. I would like to hear the Planning Board's reaction to what you're showing us here tonight.

SUSAN ROBERTS: We don't have that obviously

because we didn't go back.

CONSTANTINE ALEXANDER: I wanted  
verification --

BRENDAN SULLIVAN: If you look at Photo C3, you  
can see its relationship.

THOMAS SCOTT: Why couldn't it have been pushed  
over so it looks like an appendage of this?

DAVID FORD: That's what they wanted to do.

SUSAN ROBERTS: So I basically spent all day on  
this talking with our construction people, our architects  
and so forth.

There's a limited amount of space on the lower  
roof and it didn't make sense to put it on the upper roof.  
So there's a limited space on the lower roof. But there  
is enough to accommodate the smaller shelter so that you  
can barely see it from Mount Auburn Street. Now, there  
are existing vents which are shown on the drawing -- on  
the Zoning drawings that we provided. You can see what's  
there already. But there are existing vents that are

there.

As a result, the hospital needs access to those. If you look at the zoning drawings -- I'm looking at the roof plan, which is Page Z2. So you can see Z2 very nicely shows how tight it is on that roof. And so if you look at Z2 you see those -- they look like at L shapes in the rear of the building there -- those are existing vent structures that belong to the hospital. The hospital needs to have access to those. And they need this walkway area that is behind the shelter.

BRENDAN SULLIVAN: The shelter is -- it serves two purposes. It's a shelter obviously for equipment, but it also has an antenna on it.

DAVID FORD: No, it does not.

BRENDAN SULLIVAN: It does not?

DAVID FORD: No.

SUSAN ROBERTS: It has a GPS.

DAVID FORD: Well, a GPS -- I don't want to confuse you. GPS antenna is just a 911 responder.

BRENDAN SULLIVAN: Right. I guess what I'm saying is now, do you need some distance from that in order for it to work rather than going right up to their existing structure?

SUSAN ROBERTS: That wasn't the issue. What was the issue for moving the shelter closer to the existing penthouse was the need to have access to both the roof itself, to make sure there are no issues with access to the roof. The other factor that's important that I was told about today is structurally to bear the weight of the shelter, it needs to be positioned in this area because of the infrastructure of the roof. That's where the shelter is best supported.

BRENDAN SULLIVAN: So there's some structural members directly underneath it which will support it.

DAVID FORD: Yes.

SUSAN ROBERTS: Those combined, you know, sort've give us some limitation with the shelter.

CONSTANTINE ALEXANDER: Okay. I'm going to be

difficult. You were before us on Brookline Avenue.

DAVID FORD: Correct.

CONSTANTINE ALEXANDER: You came in with these faux chimneys and we expressed problems. And you had to have it this way. You went back and all of a sudden, you came up with a good solution that satisfied us.

DAVID FORD: Right.

CONSTANTINE ALEXANDER: Now you go above this case, go before the Planning Board and they say you've got these kinds of problems. And you come back with a solution which we haven't heard the Planning Board's answer, and if they said, "No, even the solution doesn't work," whether you might come up with a different answer, I still think the case to me is premature. We just don't have the final input from the Planning Board before we can make our own evaluation.

We have the Planning Board's serious comments, we have your attempt to deal with them but we don't know whether the two match or not.

DAVID FORD: Understood.

I mean, if I may add just to what Susan was saying. I mean, the Planning Board's major revision for us was to simply, you know, continue the penthouse and just keep it going around and fully enclose our shelter. That's what their main issue was and that's what they wanted to do.

Unfortunately, it's not as simple as doing that. So we tried looking into that option, and for the reasons what Susan said, they needed options, they needed access to the existing vents up there and we're not able to do that.

So this is -- I understand what you're saying, we don't have input from the Planning Board. But this really is the best option that we can do.

Even if we were ready to go back there and they didn't bless this design, we couldn't then go back and extend the penthouse like the way they wanted. I mean, this is basically the best option.

THOMAS SCOTT: Could you do this? Could it be

moved over so it's against this structure?

DAVID FORD: We tried that again. Where the columns are existing that's where the shelter has to go.

THOMAS SCOTT: You're showing a beam that extends across here that supports a platform and that penthouse is on the platform?

DAVID FORD: Right.

THOMAS SCOTT: That platform can be anywhere along those two lines.

SUSAN ROBERTS: My understanding from speaking with the architects today is that the infrastructure of the roof best supports the shelter where it is. That's my -- that's what I was told today.

Quite honestly, when we were before the Planning Board last week, it did not seem to either David or myself that they were interested in revisiting this again.

I'm happy to go back there, AT&T would be happy to go back and get the Planning Board's recommendation, if you would like. I do believe they feel this Board has

a mind of its own. And you're gonna deal with the recommendation as you see fit. But, again, I'm perfectly happy to go back and try and get them to agree with our recommendation at some point.

We may not be able to get a recommendation from them, which would be something that you would consider. And I guess what I would submit is, that, you know, maybe you can evaluate our design as the Board based on how we responded to their issues.

CONSTANTINE ALEXANDER: The other thing troubling me is there are several times both you and this gentleman have said, "This is the best solution." I want to hear it's the only solution.

Maybe the best solution from your point of view, but it may not be the best solution from the City's point of view.

DAVID FORD: Correct.

CONSTANTINE ALEXANDER: And that's the other thing that's troubling me here. I'm not convinced yet you

have to do it this way or you can't put your equipment.

DAVID FORD: Just to add, again, well, this shelter design revised since the Planning board, is no longer visible from Memorial Drive. So you will no longer see this. And it's definitely less visible from Mount Auburn Street than it was prior.

And then just to go along with it, there's other rooftop structures more or less. There's a very large generator shown on 2A. There's other equipment already on the roof that's not -- that's not out of the same characteristic as this shelter.

So, I mean, from just the schematics of this plan, there really is not any option to for us to say, you know, just move it to this other side of the roof.

I know you said there's always a better option, but this really is the better option and the best we can do and the final option, unless we want go back a larger shelter.

The original shelter proposed to the Planning

Board was 12 by 20. This is down to 11 by 12. This is significantly shorter.

BRENDAN SULLIVAN: That's what you said that was doable to begin with.

You may be guilty by association, but over the years, we have learned that telecoms -- and, again, everybody has a job to do, but we always find that they want to do the cheapest fastest installation, get in and get out and let the minutes fly.

And whenever we see these on the agenda, again, I'm sort've diverting a little bit, oh, no, here we go again because it's pounding away and pounding away and pounding away until we get it down to something we're comfortable with.

And unfortunately, on some of the earlier telecoms we were a little bit lax and probably a little bit naivety set in, and we walked around -- and I ride around the city and I say, "Oh my God how did I ever approve that or why did we approve that?"

We have been a little bit harder. And we look at it in a lot more detail. And, again, the fact that you came in with this rather large structure shelter and then reduced it. Well, we would've preferred that you came in with the smaller one to begin with rather than us keep banging you against the wall.

SUSAN ROBERTS: Honestly, I have to say that we really liked --

BRENDAN SULLIVAN: And all you are is just the messenger in the sense because you have the aspect of the engineers and all these other people telling you "No, this is what we need."

SUSAN ROBERTS: No, it's more than that. I mean, I hear you. I translate for them saying "No, we need something better." We do have that dynamic going on as well.

But what I was going to say was to give you a little background on the thinking in general of how these things work. And so you're right, the first option may

well be something that is easiest and so forth, but I believe that carriers and particularly AT&T is definitely becoming more sensitive in trying to get wireless facility in a better scale owing to boards like yours, but in a better scale.

And, in fact, this particular shelter we're using is something new. They don't often use it. They had to get special permission to use the smaller shelter.

You know, that said, we can do what you would like to here in terms of --

BRENDAN SULLIVAN: We just know that there's a better world out there and we're trying to push you to it.

SUSAN ROBERTS: It's possible that there's an option that we haven't mentioned here and that is definitely possible.

From my perspective, I would appreciate if you want us to not -- if you do not want to rule tonight, then I would appreciate another date with this Board rather than having us go back to the Planning Board because I feel like

that would be starting at ground zero, and here, we have already done two designs. You are the ones who are the arbiters. You know what you like.

The Planning Board sort've gave its opinions and it seems like we can respond to that.

But I would really appreciate it, if tonight's not the night, to come back to you.

JANET GREEN: So basically based on your meeting with the Planning Board, you shortened the length by 8 feet?

SUSAN ROBERTS: The idea --

JANET GREEN: By 8 feet, you painted it silver and you put pieces on the side level instead of the front?

DAVID FORD: Correct.

SUSAN ROBERTS: Yes.

JANET GREEN: Those are the three changes that they recommended that you did.

SUSAN ROBERTS: Those were the changes to respond to their concerns. Clearly, their concern was

what does this look like from Mount Auburn Street? It seems pretty clear to me that we can't do the screen wall idea that they want for whatever reason, we can't do that.

So what we were trying to do was to reduce the visibility. So, great, let's just eliminate visibility from Mount Auburn. That's what we tried to do.

And so, to the extent there might be more something else we can do, maybe we can. If we can't, we can't and you'll have to do that. But if you feel like you can't vote today, I understand. We do not want to have a situation where you deny us tonight.

If you're not going grant us the Special Permit tonight and want to continue it, we would prefer to come back to you at your next meeting with something else for your consideration.

CONSTANTINE ALEXANDER: Members of the Board, what's your view?

TIMOTHY HUGHES: I have another issue that I wanted to raise that doesn't have do with the shelter. It

has to do with the bar clamps, the mounting brackets of the antennas. I thought we had moved to a different generation of clamps that were more low profile, didn't require that bar.

CONSTANTINE ALEXANDER: Low profile mounts, they're called.

TIMOTHY HUGHES: This looks like we have taken a step back.

SUSAN ROBERTS: Are you referring to all of them?

TIMOTHY HUGHES: I'm looking at Z5.

DAVID FORD: Pipe mounts are what you're talking about.

TIMOTHY HUGHES: Pipe mounts, right, and specifically, I think I remember that we pressed other carries to use a different kind of mount, a low profile mount, and baring that, even if that wasn't a possibility, because we wanted to get it as close to the building as possible and still make it functional. Baring that, I'm looking at this picture and I see that this pipe is longer

than the antenna itself. At least it sticks out on the bottom.

SUSAN ROBERTS: I see what you're saying.

TIMOTHY HUGHES: I don't see any reason for that to happen either. But if we're going to revisit this, I would like to see some -- either why you have to use this clamp rather than a low profile or a design that has the low profile. Get away from this pipe clamp and this pipe mounting system.

DAVID FORD: Right. Just to add to as well, I know on Brookline Street you're saying you didn't like the cable trains directly over and above. So the reason why these were proposed as is they're being directly mounted from inside the penthouse to reduce the cable trays going down. And I know you guys really don't like that, so just to add to the design.

I understand --

TIMOTHY HUGHES: The other thing this doesn't show me is how does the cable actually connect to the

antenna? I wouldn't mind seeing that.

DAVID FORD: It's on the Z2.

TIMOTHY HUGHES: It is?

DAVID FORD: Yes. If you look Z2, there's -- all the cabling is within the actual antenna.

TIMOTHY HUGHES: I mean, where it actually leaves the building or comes over the building and goes to the antenna. See this? I see a mounting bracket and I see an antenna. I don't see any -- I don't see the cable as to how it connects in and I would like to see that.

DAVID FORD: Sure.

CONSTANTINE ALEXANDER: What you're suggesting, Tim, is that you want to continue to this case for more?

TIMOTHY HUGHES: Well, it looks like we were going in that direction and this is -- since we're going to continue it, I want them to visit this, too.

SUSAN ROBERTS: Can I just clarify then? You want us to see if we can use the low profile clamps, and you also want to see the cabling from the antenna mounting

detail and where it's going?

TIMOTHY HUGHES: Yes.

THOMAS SCOTT: What Tim is saying --

TIMOTHY HUGHES: I want to know where it ends up attaching itself to the antenna after it leaves that tray or whatever, you know, the whole cable, but --

THOMAS SCOTT: What we don't want to see is the cable draping over the top of the parapet. I still am onboard with what the Planning Board suggests which is to try to get the structure closer to that penthouse element up there and not make it look like a separate entity on the roof.

SUSAN ROBERTS: This assumes that we can see it at all. I'm in favor of trying to get rid of seeing it at all.

CONSTANTINE ALEXANDER: Why don't you go back and take another hard look and see whether you can come up with?

SUSAN ROBERTS: All right.

CONSTANTINE ALEXANDER: Anything else at this point?

BRENDAN SULLIVAN: No. I said what I said. The fact that the antenna on the facade of the building has been aligned with each other, that the equipment room has been diminished, I don't really have any problems with it as proposed only because there's so much stuff up there anyhow. It's stuff on top of a hospital roof, it's expected vents and all that other stuff. I don't think this is totally bad.

You've addressed it, you've reduced it and that's fine by me. But I think Tim raises a very, very good point as far as mounting and where the cable -- I assume it's not wireless.

TIMOTHY HUGHES: For them. For us, it's wireless.

CONSTANTINE ALEXANDER: This is a case heard, obviously, if we continue this case, when would you be ready to come back before us? When would you like to come

back and we'll see if you can accommodate your request.

SUSAN ROBERTS: Your next meeting is on the 29th and then after that it's when?

CONSTANTINE ALEXANDER: 12th.

SUSAN ROBERTS: Can we just have a minute to confer?

TIMOTHY HUGHES: I'm not here on the 29th anyway, so.

SUSAN ROBERTS: You're not.

CONSTANTINE ALEXANDER: I'm on the 12th but I'm not here on the 26th. So either the 12th if you're going to go to September or the first one in October which is --

SUSAN ROBERTS: I see, but all of you will be here on the 12th?

CONSTANTINE ALEXANDER: I will be.

BRENDAN SULLIVAN: Correct.

TIMOTHY HUGHES: Yes.

SUSAN ROBERTS: Okay.

DAVID FORD: That's fine.

CONSTANTINE ALEXANDER: Okay. The Chair moves that this case be continued until 7:00 p.m. on September 12th on the condition that the petitioner sign a waiver of time for decision and on the further condition that the signs that are allegedly up -- make sure you have three signs on the lawn.

TIMOTHY HUGHES: Make sure they stay allegedly up there.

CONSTANTINE ALEXANDER: And signs have to reflect the new date and time, September 12 at 7:00 p.m. otherwise we won't hear the case then.

SUSAN ROBERTS: Thank you very much.

We CONSTANTINE ALEXANDER: Just wait a minute. We have not taken a vote yet. I think that's all there.

All those in favor to continue the case say "aye."

Five in favor.

Case continued.

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

CONSTANTINE ALEXANDER: I know what I should've

mentioned, but it's in our rules anyway. To the extent, and you will be coming back with revised plans, as you know, they have to be in our file no later than 5:00 p.m. the Monday before.

SUSAN ROBERTS: Thank you.

DAVID FORD: Thank you.

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(8:45 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes, Janet Green.)

Case No. 10481: 346 Putnam Avenue, LLC, c/o Mahmood Firouzbakht, Special Permit: To increase the size of windows within the setback as per plans submitted on a preexisting nonconforming structure. Art. 5,000, Sec 5.31 (Table of Dimensional Requirements). Art.8,000, Sec 8.22.2.C (Non-Conforming Structure).

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CONSTANTINE ALEXANDER: The Chair calls Putnam Avenue.

Anyone wish to be heard in this matter?

MAHMOOD FIROUZBAKHT: Good evening, Mr. Chair and Members of the Board, my name is Mahmood Firouzbakht, M-A-H-M-O-O-D. Last name F-I-R-O-U-Z-B-A-K-H-T. And to my right is Jai Singh Khalsa. I'll let you spell it.

JAI SINGH KHALSA: J-A-I. Next word S-I-N-G-H.

Next word K-H-A-L-S-A.

MAHMOOD FIROUZBAKT: Okay. Well, good to see the Board tonight. We're here tonight to present a Special Permit application in case for property at 346 Putnam Avenue.

I purchased this property earlier this year. And it's a two family. It's a preexisting non-conforming structure on a very unusually shaped lot. I think to the extent I was looking for a variance, this actually may meet some of the standards for a variance, but luckily we're here for a Special Permit application. I worked with Jai and his team to come up with a design, and basically, what we're proposing to do is to renovate this two family into two very nice condos. And that's the basic project. As part of doing that, we would like to finish out some of the living space in the basement to make it a little bit nicer and more liveable and bring a little bit more light down into the lower level. In so doing, we would like to

increase the size of a couple of the windows. I think five maybe in total that require a Special Permit relief.

And we think that will make the project attractive and liveable and ideally the kind of buyer that I would like to see move into this kind of unit because actually the lower level will have a good amount of square footage. So I'm hoping that it will attract families or younger families with children.

And this, in my mind, it will be an ideal kind of property for that kind of end user which I think would be nice in the community.

This will be a very high end project. High end materials. It will be beautiful and well built and done with care.

I believe with respect to the windows, we meet the Special Permit requirements and we would be happy to answer any questions about that.

CONSTANTINE ALEXANDER: I got a question actually unrelated to the windows. The roof, the roof

deck. As you know, I think, before you bought the property, the prior owner built an illegal roof deck. And there was an order, it was determined it was improperly constructed and ordered to be removed. That roof deck has not been removed.

What are your plans with respect to the roof deck? Because if we're going to give relief with respect to this property, I want the whole picture and I want to make sure that the neighborhood problems can be solved all at one time.

MAHMOOD FIROUZBAKHT: Sure I appreciate the question. I was made aware of the issue with the roof deck and I spoke with staff at the Special Services Department, and essentially, I was told given that we had a pending zoning application and I relayed that to the commissioner that we'll have a larger scheme that we'll propose for this project, and so, as part of that, essentially, I was told to board up the door to the roof deck, prohibit any further use of it by the existing tenants, and then once, we had

the plans in place, then propose to either take out the roof deck or rebuild it so it's a conforming roof deck.

And so, our plans here that you have in the file reflect basically the removal of the existing roof deck that was built, I believe, by tenants actually, previous tenants, and the removal of the head house which is now non-conforming, it's in the setback, and build a conforming roof deck with a new head house which is conforming with respect to setbacks.

CONSTANTINE ALEXANDER: My concern, though, is suppose when you do go ahead and you find out you can't build a conforming roof deck and head house, you're going to come back for us for relief for that.

JAI SINGH KHALSA: We have actually done a layout that indicates a conforming head house and roof deck. We have done all the setbacks.

CONSTANTINE ALEXANDER: I'm going to be upfront. If you come back before us for -- if we grant relief tonight for the windows, I'm not going tell you right now if you

have to come back before us for further relief on the structure, you're not going to get it. You're not going to get my vote anyway. Because I don't like seeing piecemeal zoning relief. I'm not sure yet you're not going to need further zoning relief with regard to the roof deck. You're going to say you're going to remove it and it's gone forever. We condition our Special Permit on that and we're all done. But if I'm hearing that you're planning to do something with the roof deck, your hope is you're going to be able to do something conforming. I don't know that.

JAI SINGH KHALSA: I'll put it this way: We're not going to come before you again to ask for relief for the roof deck, and if we do do a roof deck on it, it will be a conforming roof deck that can be permitted by right. It's not our intention to come back piecemeal to have another conversation about roof decks.

We did do a zoning study to see where all the setbacks are. What is an actual buildable area that is

allowable there, and where a head house could be put and we've studied it and down a layout that we know conforms.

MAHMOOD FIROUZBAKHT: I think we went through that analysis -- I didn't personally -- with the commissioner as well, so we had some interaction with the staff at ISD in determining that what we're proposing is conforming.

But if there's some question around that --

CONSTANTINE ALEXANDER: I'm under the impression that the ISD had not signed on off on your redesign of the roof deck.

JAI SINGH KHALSA: My staff visited with ISD, she talked directly with (inaudible) and she was going to be her tonight, but she's not well. And so I'm going to represent as best I can the conversation.

He gave us several corrections to our assumptions on the setbacks and the calculations on the setbacks because the lot is so irregular. And we did make those recollections and we did do a layout that we can put a head

house coming up and a small roof deck that does conform.

CONSTANTINE ALEXANDER: Any reason you're not doing it all at one time, in other words or are you planning to do it all at once?

JAI SINGH KHALSA: The plan is to do it all at once.

CONSTANTINE ALEXANDER: You're going to -- if we grant your relief, you're going to relocate the windows, per the Special Permit, and you're going to do other work to the structure all in accordance to the zoning law which includes the roof -- smaller roof deck and the head house?

MAHMOOD FIROUZBAKHT: Yes. I mean, to the extent -- I don't think I would seek a variance relief for a roof deck. I think I would know better than doing that. I think that's the work we did to come up with a conforming structure. I know the concerns, I'm sure the neighbors have concerns around roof decks. But this is going to be a high end user. This is not going to be students who are going to be partying up on the roof deck. There may

be -- the condos, once completed, are going to serve a clientele that's going to probably be much more respectful of the neighborhood and the community than prior users have been.

I think that's -- I want certainly want to be mindful of folks around this property and to the extent that we come up with a scheme and I think the scheme is going to work. I don't think it's going to be a nuisance for folks in the neighborhood.

BRENDAN SULLIVAN: You would be sensitive to whomever you sell it to, but then as it gets further away from your ownership to the succeeding people, it will become less of an issue and less sensitive than what we're hearing tonight.

JAI SINGH KHALSA: If you want to look at an example of a project that we have done together recently -- what's the number on Kennard?

MAHMOOD FIROUZBAKHT: 17 Kennard

JAI SINGH KHALSA: We did a fully conforming

conversion of a two family to a one family at 17 Kennard. You should take a look at it on Google Earth 'cuz I said to Mahmood that "You pick the ugliest buildings in Cambridge to work on." It was really just a terribly rundown building. If you look at it now, it's a really beautiful single family home, which is just about completed. And the attention to detail is very high and it's been a pleasure to work with him because he's willing to put the effort and the expense and quality into the renovation.

CONSTANTINE ALEXANDER: Other comments?

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: Anything further, Mahmood?

MAHMOOD FIROUZBAKHT: That's it.

CONSTANTINE ALEXANDER: I'll open this matter up to public testimony. Anyone wishing to be heard and obviously someone does. Please come forward.

JEAN BRACKEN: My name is Jean Bracken, J-E-A-N,

B-R-A-C-K-E-N. And I live directly behind --

CONSTANTINE ALEXANDER: You wrote a letter to us.

JEAN BRACKEN: I did. I have major, major issues with the roof deck. First of all, my property and his property, 39 inches. So all the years I had to deal with the roof deck, lit cigarettes, everything. It's just too close. My privacy, I don't have privacy when they're up there. It's like -- I have major issues and it's not just the windows and the roof deck. It's a lot of other things. I don't know if you can deal with that or not.

CONSTANTINE ALEXANDER: On the roof deck, let me just explain what Mahmood is saying to us. The roof deck that's there now is illegal, was illegally built. We all understand that. That roof deck will no longer be used. But what he was proposing is they're going to pursue is building another kind've of roof deck or a smaller roof deck that would be compliant with the zoning bylaws, so the city has no basis for saying they can't billed this

new improved reduced size roof deck.

There may be other issues, noise and that and there may be other regress in the city, but from a zoning point of view, that's what I was trying to get at originally, they're not going to come back and say we still want to build a big roof deck and need a variance for it.

JEAN BRACKEN: There's just a little roof deck up there now.

JANET GREEN: Mahmood, can you describe the roof deck and why it's different.

MAHMOOD FIROUZBAKHT: I think the roof deck that's there now.

CONSTANTINE ALEXANDER: Show her as well.

MAHMOOD FIROUZBAKHT: This is the footprint of the roof deck now. It's right on your property line. We're proposing to essentially shift the location.

CONSTANTINE ALEXANDER: Mahmood, why don't you start all over again and let everybody see.

MAHMOOD FIROUZBAKHT: This is the existing roof

deck and it's not compliant because it's in the setback.

So it's right on the property line. So you're interacting with it more so. We're proposing to basically push the roof back -- roof deck towards the front of the house, so it's further away from our lot lines and to provide a good buffer area. So it would be more towards the center of the house and the head house will be located there (*indicating*).

JAI SINGH KHALSA: And to take the existing head house off the back of the house as well and move it towards the front of the house.

MARCUS STERN. Marcus Stern, S-T-E-R-N. I don't know if this is an appropriate question. Is there a way -- we're worried about the cigarettes that we found landing on dry leaves. Is there a way for us to prevent something like that happening? I don't know if that's an appropriate question or not.

MAHMOOD FIROUZBAKHT: I mean --

BRENDAN SULLIVAN: We can't regulate bad

behavior.

CONSTANTINE ALEXANDER: There may be other city agencies you can go to complain about cigarettes butts being thrown on your property by the occupants of the structure, but that's not a zoning issue.

TIMOTHY HUGHES: It no a litter issue either.

JANET GREEN: How far back is it from where are it is now? What is the actual --

JEAN BRACKEN: It's a small drawing.

MAHMOOD FIROUZBAKHT: I think what we're proposing is to basically meet the setback requirements of 20 feet. The lot lines are kinda funky because everything is sort've at a angle. And so I think it changes, but there's at one point it's 20 feet and then it sort've shifts, moves around from there. Some parts it's more than and some parts it's less.

JAI SINGH KHALSA: The back corner of the proposed deck is -- takes up about 60, 70 feet of the closest part of it that's currently to the street. The

deck that's up there, the part that's closest to the street, it will be a little back corner on the proposed deck. That's as close as it will be.

MAHMOOD FIROUZBAKHT: So I guess in terms of people littering or throwing cigarettes -- first off, I would hope the kind of people that buy this place, because it's not going to be cheap, would not do that, would not, you know, exhibit that kind of behavior.

JEAN BRACKEN: I hope so. Because the properties are so close. It's not just that. It's the noise and everything else.

MAHMOOD FIROUZBAKHT: Sure. I mean, this is stuff that I'd love to meet and talk with you, and I actually did go around the neighborhood and I sent, you know --

JEAN BRACKEN: I would like to sit and talk with you about other issues. Because I know this place is coming down. I know it's coming down. So we just want to know and make sure that you're going to take the proper

steps to make it safe for all of us as far as everything goes. We're so close, it's not even funny.

MAHMOOD FIROUZBAKHT: There's a bunch of things probably that's not under necessarily under the purview of the Zoning Board that we can talk about in terms of construction, related issues. I'm happy to do that. I probably sent you letters introducing myself and I introduced myself to Marcus actually. I'm totally open to having that conversation.

Because, as Jai said, go look at 17 Kennard Street and you will get a sense of the kind of project that we're involved with.

JAI SINGH KHALSA: Check out Google Earth for the before and then see what it looks like now.

SUMMER TURNER: Summer Turner, Summer, like the season, T-U-R-N-E-R.

So we love that you're going to upgrade the property. We think that's fabulous. We would love to have something more attractive behind our house. So we're

all for it.

Our main concern is safety. Jeanie already shared some concerns over the deck and how it has been affecting our property and how people have treated it in the past. It's an old building. You know, you make jokes about how it's not so beautiful right now, and we're just concerned about the safety of it and how you handle it. It would be great to talk with you more about that.

There's also some wires attached to the building that go through our yard and through the neighborhood. If you're going to do some demolition of the building, we're concerned how that will happen.

MAHMOOD FIROUZBAKHT: Sure.

MARCUS STERN: This may be not the appropriate place either, but can I ask a question? Will you check for lead and asbestos? Do we need -- do we talk about that somewhere else?

CONSTANTINE ALEXANDER: That's not for us tonight. As Mahmood said, he will sit down and talk about

a lot of these issues.

MARCUS STERN: I didn't know what was appropriate.

MAHMOOD FIROUZBAKHT: I think you have my number and my email. So we could -- we certainly prior to tonight we could have these conversations or after tonight. I'm happy to have these conversations.

JEAN BRACKEN: One more question. Where are you putting the big windows?

MAHMOOD FIROUZBAKHT: They're going on --

JEAN BRACKEN: At my driveway or the side of the building?

MAHMOOD FIROUZBAKHT: They will be here. The front on Putnam Ave side of the property.

JEAN BRACKEN: You're planning on keeping windows like where they are?

MAHMOOD FIROUZBAKHT: Where they are, but just enlarging them to let in more light and air.

JEAN BRACKEN: I mean, in back, facing my

property.

JAI SINGH KHALSA: We're making them taller is what we're doing.

JEAN BRACKEN: Those are what you're making bigger? I don't understand why you would want to do that.

What are they going to have to look at?

MAHMOOD FIROUZBAKHT: It's also for egress purposes so that these windows are big enough that they serve an egress function as well.

JEAN BRACKEN: That makes no sense to me.

MAHMOOD FIROUZBAKHT: You have a fence on your property.

JEAN BRACKEN: Right, a small fence. Will I have to put a bigger fence up to protect my privacy?

MAHMOOD FIROUZBAKHT: I thought we had a six-foot fence.

JEAN BRACKEN: No, I have a small -- my property is -- my property is all behind you. They have a little taller one.

CONSTANTINE ALEXANDER: I'm waiting for a break in the conversation. I'm going to move along because we have other cases to hear tonight. If you want to continue this conversation after we finish this case --

MAHMOOD FIROUZBAKHT: If you have time, we can go in the back and talk about this.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard?

We have two letters in the file, but the persons who wrote the letters have already spoken to tonight. I'm going to assume what you wanted to -- what you covered in the letter, you covered orally and I don't have to read the letters into the record?

JEAN BRACKEN: It hasn't really been covered. You don't have to read it.

CONSTANTINE ALEXANDER: Thank you.

I'm going to close public testimony.

Any further final comments?

BRENDAN SULLIVAN: Did we get everybody?

CONSTANTINE ALEXANDER: I asked and no one seemed to want to talk.

BRENDAN SULLIVAN: I'm all set.

CONSTANTINE ALEXANDER: I'm going to close public testimony.

Discussion from members of the Board?

I'll start by saying I think we're going to make it quite clear -- I'm going to make it clear on the motion to grant the Special Permit, that the currently illegal roof deck be not used any longer, but be removed as promptly as possible and that to the extent there's any replacement roof deck or head house there can only be such in accordance with the zoning ordinance and that there will be no further relief to be sought by the petitioner.

And all that will be a condition to granting this Special Permit being sought tonight.

Anything else?

TIMOTHY HUGHES: I'm not sure that all the concerns that were raised were just about the deck or

safety and construction. There were some concerns raised about the windows and I don't know -- and that's what we're voting on, so I'm not sure -- did you have some concerns about the actual windows?

JEAN BRACKEN: I did. I don't understand why he has to make bigger windows. They're not going to see nothing but my property. They're going to see my bedrooms, my bathrooms.

BRENDAN SULLIVAN: Once again, she's raised the issue of privacy. That's why I was saying maybe -- I guess I think there's some hesitation as to her fully understanding and there's an uncomfortable feeling that she has and maybe if they want and sat down for half an hour, 45 minutes, so that Mahmood could run through what you're proposing and then -- so she has a better understanding of it.

MAHMOOD FIROUZBAKHT: I'm not following, I guess, how the windows on the basement level --

CONSTANTINE ALEXANDER: Let me make a suggestion

or what Mr. Sullivan suggested -- we're going to recess this case. There's a room back there. You can sit down and get a better understanding of what their concerns are and you can hear their explanation. They come back before the evening is over and we'll then take a vote.

TIMOTHY HUGHES: And specifically with regards to the windows that's what I need to know what -- you fully explained to her and that her concerns are addressed. I don't -- I don't want you to come back and talk about the other stuff because we're only voting on windows.

JEAN BRACKEN: We'll discuss the other things but, you know.

TIMOTHY HUGHES: I want you to discuss the windows.

JEAN BRACKEN: The windows are my concerns because I don't want to come before you to put in a higher fence.

CONSTANTINE ALEXANDER: I'm simply saying, have your discussion, come back and say you'll say yes, I

understand what they want to do with the windows and I have no objection, or I still objections and here is what they are. With the benefit of that, we can make an informed vote. That's what we need to have.

Right now, you have concerns about the windows. I'm not sure you heard all the answers you need to hear, and it could be you will be convinced or it could not be. Just give it an opportunity to happen.

JEAN BRACKEN: Okay.

CONSTANTINE ALEXANDER: So this case will be recessed until later this evening until you're ready to come back, and I suggest that everybody move to a back room and have a nice conversation.

JAI SINGH KHALSA: Thank you.

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(9:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes, Janet Green.)

Case No. 10483: 4 Central Square, Nitin Patel, Swami Pramukh, c/o Bernard Goldberg, Esq. Special Permit: To combine adjacent store front with existing premises to expand fast order food establishment. Art. 4,000, Sec 4.35.0 and Art. 11.000, Sec 11.30 (Fast Order Food Establishment).

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CONSTANTINE ALEXANDER: The Chair is going to call the next case a little bit out of order for personal reasons.

Case No. 10483, 4 Central Square.

Anyone wish to be heard on this matter?

Mr. Goldberg, if you're not feeling well at any point in time, just let us know and we'll --

ATTY BERNARD GOLDBERG: Thank you very much.

CONSTANTINE ALEXANDER: If I had known earlier I would have called your case earlier.

ATTY BERNARD GOLDBERG: In appreciation for the Board allowing me to come before you at this moment in time due to, as I describe, fibrillation, I've had it before, and it happened again today as I was walking up to the hearing here.

Bernard Goldberg, 620 Massachusetts Avenue, Cambridge, and my appreciation for taking me out of order. I can make light of it because I had it before. And sometimes what happens is that I don't like to describe, but that elderly people sometimes have a problem and have defibrillation and it happens and this is the way it happened today.

But I'm here on behalf of the corporation of LLC Swami Pramukh doing business as Star Variety Convenience Store with a Subway fast food operation, and we're here in order to petition the Board for a Special Permit because of the violation of the fast food establishments and also

the change of use.

CONSTANTINE ALEXANDER: Not violation.

Because you're required.

ATTY BERNARD GOLDBERG: Yes.

CONSTANTINE ALEXANDER: Because the permitted use in the district is you need to get a Special Permit and we have to make certain findings and that's why you're here tonight.

ATTY BERNARD GOLDBERG: Thank you. I have Mr. Patel here who is the president and owner of the fast food operation, and I would like for him to explain to you what the change is so far as the operation is concerned.

I have here for your review, each one of you, the existing store layout and a present sought-after store layout. He's here to answer any and all questions you have.

As you can see, the existing store, which is the convenience store in the description, the various counters and storage cabinets and sinks and coolers and the like.

He has a new store layout which he will explain to you more fully than I can at the present time, if there's any questions with regard to it.

NITIN PATEL: There's a barbershop here and they have included that, so one part we're talking from the landlord and one part they're taking as the emergency exits.

CONSTANTINE ALEXANDER: The store frontage -- right now the barber shop has frontage on the streetscape. What will happen to that streetscape, will that be blocked off?

NITIN PATEL: No.

CONSTANTINE ALEXANDER: That will stay and there's going to be a window there?

NITIN PATEL: Yeah, window there.

CONSTANTINE ALEXANDER: What will be behind that window? Not your operation, you're going to be farther back in the structure. I'm trying to understand the impact. That's one of the issues we have on the

streetscape from what you want to do.

NITIN PATEL: Nothing. Just only we expanding for storage. Nothing else. Nothing happening outside. No like street topping, nothing.

BRENDAN SULLIVAN: This is on Green Street, right?

NITIN PATEL: Yes.

BRENDAN SULLIVAN: This is on Green Street.

NITIN PATEL: Yes.

CONSTANTINE ALEXANDER: If I'm looking through the barber shop window right now, if we grant you relief, what do I see?

NITIN PATEL: You can see that storage area, like walk-in cooler and walk-in freezer.

ATTY BERNARD GOLDBERG: This here is --

BRENDAN SULLIVAN: This is something we don't want to see basically is what you're telling us.

TIMOTHY HUGHES: That's what I'm trying to get it.

BRENDAN SULLIVAN: You're not closing off the window?

ATTY BERNARD GOLDBERG: No, the window is still there.

NITIN PATEL: The window is still there, but they're going to close it, the landlord.

TIMOTHY HUGHES: So you can't see through it.

NITIN PATEL: Yeah, from outside, like if you want to --

JANET GREEN: What is the street outside?

NITIN PATEL: Green Street. Basically, like, this is the front part and this is like right now convenience store. So what happened right now this convenience store and Subway is here. For Subway, we don't have enough storage. We have to put in reach-in cooler all prepared and everything and it makes it little harder for employee to put all way. It's heavy.

Now I got the opportunity from landlord to expand the space. So basically like we want to knock down this

wall from here to here.

CONSTANTINE ALEXANDER: I understand you  
want --

JANET GREEN: I was going to say what is here  
*(indicating)*?

NITIN PATEL: That's the main building.  
Nothing here. That's main building. And down here  
that's the dock for main building.

JANET GREEN: This is a dock right here  
*(indicating)*?

NITIN PATEL: Yes.

JANET GREEN: So there's nothing here.

NITIN PATEL: No.

JANET GREEN: And then you can go in here to the  
main building.

NITIN PATEL: The main building's there.

JANET GREEN: Then you come to the barbershop.

NITIN PATEL: Then the barbershop, yes.

JANET GREEN: Next to that is --

NITIN PATEL: Next to them, they have a dock for loading area.

JANET GREEN: The loading dock.

NITIN PATEL: And they have resident parking.

BRENDAN SULLIVAN: Janet, if you looked at this, and if you see B2 -- well, B, B1 and B2, that's along Green Street. That basically is a bus stop.

JANET GREEN: Right.

BRENDAN SULLIVAN: So then they're coming further down Green Street.

JANET GREEN: Right. I was wondering if there were other commercial buildings on Green Street.

BRENDAN SULLIVAN: Then you come down and there's two big overhead rolling doors which are the entry to the garage.

CONSTANTINE ALEXANDER: That's the problem. You're basically -- you're not furthering the streetscape for this area. You're taking a step backwards.

ATTY BERNARD GOLDBERG: In what respect, Mr.

Chairman, when you say "step backwards"?

CONSTANTINE ALEXANDER: The fact of the matter is the idea, especially in this area, as you want one storefront on the street level to increase the vibrancy of the area.

All you're is seeing now on the storefront before and it could be some other storefronts, and now it's going to be blocked off windows or windows where all you see are back of freezer cases. That's not the most attractive thing from the City's point of view.

ATTY BERNARD GOLDBERG: But the traffic on so far as the existing store will not change.

CONSTANTINE ALEXANDER: No. That's true.

ATTY BERNARD GOLDBERG: And the storage space will alleviate some of the tightness of the convenience store.

CONSTANTINE ALEXANDER: I understand that.

ATTY BERNARD GOLDBERG: What would you suggest as to improve that particular outside on Green Street.

All it will be will be a bathroom, of course, and storage space. Other than that it won't have anything else, no packaging, no food supplies or anything like that at all.

So to -- for your characterization of demeaning Green Street, there will be no signs there at all.

BRENDAN SULLIVAN: I guess, Bernie, is the question that I ask myself is what is it going look like when you walk down that street? The windows, you know, I mean, what I wouldn't want to see is brown paper sort've tacked to the inside of the window so nobody can see in.

We need to get off of -- we have to go from brown paper to something that is somewhat attractive or something that will add to that short facade of the building.

Some kind of wall treatment -- window treatment to make it a little more amenable, a little bit more pleasing.

ATTY BERNARD GOLDBERG: Would it be --

BRENDAN SULLIVAN: You know, like the store now

is just a barrage of signs, milk prices and cigarettes. All this other type of stuff. So I think there are ways of treating this particular property so that to the casual observer it's not ugly, for lack of a better word.

CONSTANTINE ALEXANDER: That's the issue.

BRENDAN SULLIVAN: And as part of the fast food ordinance, we do get into facade and what it's going to look like from the street. It's not so much as an expansion and what you're going to do inside there and so forth. It's -- I don't want to see anything going on inside there because it's going to be storage obviously. So how is this going to look from the sidewalk?

ATTY BERNARD GOLDBERG: May I suggest this: Would it be attractiveness if the description of the product inside the store were to face the window?

In other words, if they're selling sandwiches or selling any of the product within the main store, would that satisfy your feeling that it does not -- is not attractive enough and whether or not that would be --

BRENDAN SULLIVAN: That may jump it up. I want something simple and elegant.

ATTY BERNARD GOLDBERG: If you can make a suggestion relative to that, we'll certainly be able to handle that.

CONSTANTINE ALEXANDER: It's not up to us to make the suggestions.

JANET GREEN: You said you were planning frosted glass.

NITIN PATEL: No. That's like the landlord say, but if you suggest something different or something, then we can do it. But like landlord say 'cuz I ask landlord, then he said like we frosted this window so that's where you have...

BRENDAN SULLIVAN: I guess I would like to see something, a simulation, a photo simulation, this is what this storefront is going to look like, folks. As we do with a Dunkin' Donuts or anything in Harvard Square. This is what the front of our store is going to look like so

we can hang our hat on something.

CONSTANTINE ALEXANDER: One of the findings we have to make, just so you understand, for the relief you're seeking, the physical design, including color and use of materials of the establishment shall be compatible with an sensitive to the visual and physical characteristics of other buildings, public spaces and used in the particular location. That's what we don't have. We don't have that. We need photo stimulation. But something more than just how you're going to lay out the inside of the space. We need to know what the outside will look like.

As Brendan said, if I'm walking down Green Street, what am I going to see if we grant you relief tonight. We have to decide what we see is something we can live with.

ATTY BERNARD GOLDBERG: Well, with respects of my discussion with the Planning Board relevant to the outside of the existing premises, it will be his

responsibility to take down all of the signs advertising.

CONSTANTINE ALEXANDER: That's the other issue.

ATTY BERNARD GOLDBERG: I understand that. Now we're dealing with the Green Street, and looking at it from an aesthetic point of view, as you suggest.

And then we can either have someone come down and design what it may look so far as the outside Green Street is concerned and we can make that presentation to the Board --

CONSTANTINE ALEXANDER: That's what we're looking for.

ATTY BERNARD GOLDBERG: -- conditioned upon the aestheticism relative to the Green Street, so that it complies with what you suggest as far as physical nature of the interior and the exterior.

CONSTANTINE ALEXANDER: Okay.

JANET GREEN: Are we looking for this side as well the Green Street side?

CONSTANTINE ALEXANDER: The Green Street side

primarily I am.

BRENDAN SULLIVAN: As someone commented too many signs in the windows --

ATTY BERNARD GOLDBERG: We understand that.

BRENDAN SULLIVAN: And part of this, again, something that's nice-looking in the windows, I don't know what it is, we're going to go from brown paper to artwork and somewhere in between. But also at night, it should not be dark. I mean, because all of a sudden if whatever we put on this window, it's sort of a dark area. You know, you've got this dark area, and then you've got the garage doors and so on and so forth. I mean, I would almost like to see it have some kind of life to it. I'm throwing an awful lot out there. How we going to achieve all this stuff, but I think what we want it to look like is not a storage area. We have to get off that and make it as if some casual person thinks maybe is a storefront. I don't know how you get there. It's not for us to adjust it other than for us to come and look at something and say this is

what we propose and either we sort've say yeah or nah.

TIMOTHY HUGHES: You've got a barbershop there. It resonates retail life and street life, you know, it's lively. If you're going to replace that with something, you can't take away all the benefits of having that kind of life on the street. You have to replace it with something that approximates that same thing. That's what the ordinance is calling for.

CONSTANTINE ALEXANDER: That's what the Board wants.

BRENDAN SULLIVAN: Even at night, the barbershop probably had a light on.

CONSTANTINE ALEXANDER: Barber pole.

ATTY BERNARD GOLDBERG: Background light or a --

BRENDAN SULLIVAN: Something.

ATTY BERNARD GOLDBERG: Yeah, all right.

CONSTANTINE ALEXANDER: It's not for us to design it for you.

ATTY BERNARD GOLDBERG: No, no, no, I

understand.

CONSTANTINE ALEXANDER: But you hear where we're coming from.

ATTY BERNARD GOLDBERG: I understand. That will be his responsibility to hire someone who will take a look at the entire premises and put something up there that would be agreeable to the Board.

CONSTANTINE ALEXANDER: Right. And what will be agreeable to the Board is something that makes the streetscape for the Boston, now the barbershop, attractive and retailish and contributes to the street life.

BRENDAN SULLIVAN: The S&S did something with their building out on Hampshire Street.

CONSTANTINE ALEXANDER: We're going to continue this case. Case heard. So we got to pick a time when all five of us can be present. How much time do you think you'll need to put together a presentation?

TIMOTHY HUGHES: How much time you need? I'm missing the next meeting. The 12th is probably closed by

now. You're missing one after that. We're looking at October.

CONSTANTINE ALEXANDER: We're looking at hearing this case again in October. The first meeting in October.

ATTY BERNARD GOLDBERG: Okay.

CONSTANTINE ALEXANDER: October 10 and we all can make it, so the Chair moves that this case be continued as a case heard until 7:00 p.m.

BRENDAN SULLIVAN: Does anybody want to be heard at all?

CONSTANTINE ALEXANDER: They probably want to be heard on the new plans that they bring back to us.

Is there anyone here that wishes to be heard on this matter?

GARY MELLO: My name is Gary Mello, M-E-L-L-O. I live on Franklin Street. I have had two Central Square addresses my whole life. Mr. Goldberg, I sold papers for Louis Weinberg 50 years ago. I came here to support Mr.

Patel's petition.

I don't see any good reason to disprove his proposal.

My only regret is that the owners are unable to move their storefront in the direction of Mass Ave. The building has been problematic since day one and I don't want go there, but these guys have done a lot. They have something going on there in a zone that's pretty much been set up as the designated drunk zone for the City of Cambridge. I think he's really going out on a limb already with his business there. I think he's doing a good job of giving the people something they need.

Much of the times this Board deals with Central Square owners, which business is alcohol based; happily that's not the case tonight. Star Variety is one of the few Central Square establishments that offers a modestly-priced lunch and as well as the usual convenience store items. You heard about affordable housing? I'm talking about affordable food.

Don't underestimate the benefit of Charlie Card Sales at Cambridge busiest bus stop. Here's an opportunity to support a small local business that warrants the Board's approval. As an instant comment what you have been discussing trying to dress the place up, I recent what a number of city agencies have done in turning the plaza, Central Square intersection of Magazine and Green into, as I said before, the City's designated drunk zone. I think that trying to dress it up -- you mentioned the S&S arrangement which I'm familiar with -- in Central Square this is like trying to put caviar on a hotdog.

Do you really think it matters that the Green Street frontage on this property is gonna make that much difference to the neighborhood?

BRENDAN SULLIVAN: I just didn't want to see it dark, that's all.

CONSTANTINE ALEXANDER: We're not saying we're going to turn this down. We think we need more -- to make the best decision we can, we need more information. We

need a better design or an appreciation of what the design's going to be like on the Green Street facade. That's all we're talking about. Until we see that, we can't make a decision.

Okay. I'll renew my motion that this case be continued until 7:00 p.m. on October 10th on the condition that the sign that you posted, change the date to October 10th, change the time to 7:00 p.m., that you sign a waiver of time for decision -- and Mr. Goldberg can explain that to you as we have it right here -- and with respect to the designs requested of you, it must be in our files no later than 5:00 p.m. on the Monday before October 10th. If you don't do that, then we're not going to be able to hear the case.

All in favor say "aye."

Case continued.

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

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(9:20 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes Janet Green.)

Case No. 10481: 346 Putnam Avenue, LLC, c/o Mahmood Firouzbakht, Special Permit: To increase the size of windows within the setback as per plans submitted on a preexisting nonconforming structure. Art. 5,000, Sec 5.31 (Table of Dimensional Requirements). Art. 8,000, Sec 8.22.2.C (Non-Conforming Structure).

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CONSTANTINE ALEXANDER: The Chair will call -- will reconvene Case No. 10481, 346 Putnam Avenue.

MAHMOOD FIROUZBAKHT: Hello again.

CONSTANTINE ALEXANDER: Can you describe your version of what happened in the backroom?

MAHMOOD FIROUZBAKHT: Good things happened. We had a nice discussion. And we went through and clarified some of the plans and our proposal, I think I'll just let

the neighbors sort've talk.

CONSTANTINE ALEXANDER: We're talking about the windows now.

MARCUS STERN: We thought it was a -- we thought it was a very good discussion. We now understand that we're talking about windows going lower not over fence and he was kind to offer us help with fence stuff and we feel very comfortable and appreciated the conversation.

CONSTANTINE ALEXANDER: You have no opposition at this point or at any point to the window treatment issue?

MARCUS STERN: No.

CONSTANTINE ALEXANDER: The window relocation which is a subject of the Special Permit.

MARCUS STERN: No, we're good.

JEAN BRACKEN: He's gonna get it anyways. So it doesn't matter.

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

The Chair moves that a Special Permit be granted

to the petitioner to relocate certain windows on the basis of the following findings: That the proposed relocation will not cause congestion, hazard or substantial change in established neighborhood character; that the operation of adjacent uses will not be adversely affected by the nature of the proposed use. On this basis we have testimony that will be based on these plans that that will not be the case. There will be no impact; that no nuisance or hazard will be created to the detriment of the health, safety and welfare of the occupant or the citizens of the city; and that the proposed use will not impair the integrity of the district or adjoining districts or other derogate the intention and purpose of this ordinance.

In this regard the Chair notes the window treatment has been thoroughly vetted with neighbors and reviewed by our Board and we feel will improve the aesthetics of the community and the habitability of the structure itself.

The Special Permit will be granted subject to the

following conditions: That the work proceed in accordance with the plans -- these are the ones you saw -- submitted by the petitioner and initialed by the Chair, and that with respect to the current roof deck, which is illegal, that this roof deck not to be used and that it's promptly as possible the roof deck be removed or renovated such that any roof deck and head house on the roof will be fully compliant with our the zoning bylaw; that there will be no need to get further zoning relief with respect to this roof deck. To be blunt, if you can't re-jigger roof deck that is going to comply with the zoning ordinance, there will be no roof deck at all, but if you can, God bless.

All those in favor of granting the Special Permit on this basis, say "aye."

Five in favor.

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

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(9:30 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes, Janet Green.)

Case No. 10482: 678 Mass Ave, New Cingular Wireless PSC, LLC (AT&T) c/o David Ford Centerline Communications. Special Permit: To install 12 antennas which will be installed on three new ballast mounts on the existing buildings rooftop, 15 remote radio head units and three surge arrestors will be mounted behind the proposed antennas on the ballast mounts. AT&T will install radio cabinets on the existing street platform located on the rooftop along with associated cables, conduits and trays to connect the antennas to the radio cabinets. Art. 4,000, Sec. 4.32.G.1 (Footnote 49) (Telecommunication Facility). Art. 10,000, Sec 10.40 (Special Permit).

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CONSTANTINE ALEXANDER: The moment we have all been waiting for Case No. 10482, 678 Massachusetts Avenue.

Anyone wishing to be heard on this matter?

SUSAN ROBERTS: Good evening. Once again, Susan Roberts from Anderson & Kreiger, attorney for AT&T, and with me is David Ford from Centerline Communications representing AT&T and Dee Pak Rathore, D-E-E, P-A-K, R-A-T-H-O-R-E. He's from AT&T.

We're very pleased to present to you tonight our proposed facility at 678 Mass Ave, two doors down from the building I'm sure you're all very familiar with.

But I'm even more pleased because I have to tell you that when we were at the Planning Board last week, although it's not actually stated in the recommendation, the Planning Board said to us pretty good job, far superior to our original design and so --

CONSTANTINE ALEXANDER: You will be happy to know they put that in writing as well.

SUSAN ROBERTS: Right. Yeah, we're looking forward to getting this one on-line as soon as possible if the Board is pleased as well.

CONSTANTINE ALEXANDER: Again, with regard to the proposed -- and I'll look at the photo simulation -- it's the C1 that you're going to go forward with?

SUSAN ROBERTS: The third. Once again, what we got for you in the photo stims are the actual building, how it looks without our facility, the proposed facility that we actually submitted with the application to the BZA which is on the 26th of June, and our new proposed design that we actually submitted to the Planning Board before we even got any comments on the Planning Board.

Honestly, we felt that the design that we submitted on the 26th of June could have been improved, and so, we took it upon ourselves to do that and went to the Planning Board with the improved design which is why they said it was far superior to the original.

This is a rooftop where AT&T previously had been permitted a site back in 1996. And when the merger with Cingular occurred, it was decided to decommission this

site, which was done and go on the rooftop across the street, on a higher building, which is where AT&T is now.

However, that facility is not serving AT&T well, and they wish to go back at a lower elevation, to 678 Mass Ave. And what we have done is to arrange with the landlord for AT&T to occupy the same space that it occupied back in 1996 when this Board issued a Special Permit for what was then Cingular.

What the design consists of, again, is 12 antennas, four for each of three sectors, and what we have done is we've enclosed each of the three sets in enclosures, self-enclosures, so that you don't see the antennas at all.

Two of the stealth enclosures are boxes that are at the corners of the building, one is at the corner of Western Ave and Green one is -- one is at the corner of Mass Ave and the alleyway and then one is in the rear of the building along Green Street in the alleyway.

Two of the stealth enclosures are box, and we

suggested that they be painted to match the facade color where they're closest.

So our view is that the building looks best where it is sort've the off-white gray color. So those views to us were the most important. And so that is why two of our installations are painted the color to match the building there. So that's the Western Ave corner of Green and then the Mass Ave view.

In the back, we have an enclosure that looks as if it's a kind've a double chimney, if you will, also a self-enclosure where the antennas are inside.

This is a facility where we have no equipment shelter, in fact, where we got our equipment canisters on the roof as well and they're located in the central part of the roof. You can see those on the roof plans that are in the zoning drawings that we provided. That would be at Z2.

You can see in the middle of the roof there are four shapes, kind've little C shapes. Those are the

equipment cabinets that will hold AT&T's equipment, and there are cable trays that are leading from the antennas to the equipment cabinets.

CONSTANTINE ALEXANDER: This is a shame, to me anyway, if you look at your Photo Stimulation 1C, which is how you proposed to be your self-enclosure as you're looking down Massachusetts Avenue in the direction of Harvard, the building has got a lovely design, the facade of the building, with the arches and the long -- you couldn't have made that self-enclosure somewhat more consistent with the architecture of what is blow? I know it's not a simple thing. It's a boxy structure, it sort've sticks out.

Have you considered doing anything like that?

SUSAN ROBERTS: You mean like have it not be a box, but have it be curved on the top?

CONSTANTINE ALEXANDER: Like semi-circular at the top of the windows below it.

SUSAN ROBERTS: My guess is that is this probably

a standard enclosure that's used. I don't know whether there's something we can do with the facade. I don't know whether we can accommodate, so...

CONSTANTINE ALEXANDER: I'm sure your answer is right. It's the standard box. It's the cheapest way of doing it and that's what you want to do.

SUSAN ROBERTS: Personally, I think it looks pretty good, but that's my opinion.

But I see what you're saying. And I actually agree. The building's architecturally really so nice there with all the designs. I agree.

But I do think the design also is very nice and very unobtrusive.

DAVID FORD: Compared to T-Mobile's in the corner right there they just have kind've a shrewd, you know, just panel antennas out in the open there. They're very visible. So instead of doing that, we decided at least to give it a shot to conceal them in some way.

If you look at Photo 2A, the building behind it,

kind've the silver looking building on top of there, again, just plain pipe-mounted antennas. That's AT&T's current site. That would be decommissioned and taken down if this new site is approved. That's also a plus as well.

And then, as you can see in that same photo T-Mobile decided to go to the side of the building and to the penthouse as well and painted to match. They didn't really take into consideration the kind of camouflage we have.

BRENDAN SULLIVAN: Why do they have to be mounted or constructed so close to the edge of the roof?

SUSAN ROBERTS: We were given these locations because this is where AT&T's former facility was.

This roof actually is intensely crowded. There's no room on this roof with all the carriers who are up there and the other apparatus that's there in addition to the carriers' equipment.

And this is what we're told. The landlord is allowing us to go on where we used to be and that's it.

BRENDAN SULLIVAN: There's a lot of cable tray up there, is that what it is?

DAVID FORD: Right. And the cable trays and the equipment cabinets are not visible from the streets unlike the last one we showed you when you could also see the shelter. None of the equipment is going to be actually visible from Mass Ave or Green Street or the surrounding area.

To add: The cable trays will be routed down an existing shaft in the building. You won't see an ugly looking cable tray going down the back side. Everything is going to be contained within the building itself utilizing everything that was used ten years ago when AT&T was on this rooftop and that the plans to utilize what's there.

BRENDAN SULLIVAN: That's a good reason.

CONSTANTINE ALEXANDER: What are you gonna do.

Any further on your presentation?

SUSAN ROBERTS: We also brought with us Dee Pak

Rathore who can talk to you about the radiofrequency coverage needs that we have and why we're decommissioning the facility that we have on the taller building, why this one works for us, why we need to have the antennas in the corners where they are.

CONSTANTINE ALEXANDER: Even if he did, you don't have any other place on the roof to put them.

SUSAN ROBERTS: That's right. But that's also where it works because it worked in 1996.

CONSTANTINE ALEXANDER: As to the need, I'm gonna assume you need it or you wouldn't do it. We're not gonna be able to question that.

DEE PAK RATHORE: Basically, what we're doing is, we are providing more building corridors with the cell phones being used everywhere. On this site we're planning so many other site to provide much better. We have it at a certain height (inaudible).

CONSTANTINE ALEXANDER: And, of course, this property is not in a residential district for all the

issues we had at Brookline Avenue don't apply here.

SUSAN ROBERTS: Based on our presentation, we would ask the Board find our application complete, make requisite findings and issue us a Special Permit.

CONSTANTINE ALEXANDER: Questions of members of the Board?

I'll open it up to public testimony.

Anyone wishing to be heard with regard to this matter?

The Chair notes nobody wishes to be heard.

The Chair notes we're in receipt of a memo from the Planning Board with regard to this property.

"The Planning Board reviewed the Special Permit application to modify the design of cellar communications equipment previously approved by the BZA. It's the Planning Board view that the proposed change is an improvement over the previously approved design. One aspect that the BZA may ask the applicant to consider is the choice of color for the southern and western facing

sides of the proposed ballast mounted self-enclosure as shown in Photo 2C."

I think you addressed that, the color.

DAVID FORD: Right.

CONSTANTINE ALEXANDER: Just refresh my memory at least.

DAVID FORD: The color changes due to the facade color. It's kind've beige and lighter in the two sections. And then when it turns back into brick, the color changes, so it matches that as well.

CONSTANTINE ALEXANDER: Anyone on the Board have a problem with the color selection?

BRENDAN SULLIVAN: No. Did you say it's going to be a solid color?

DAVID FORD: Yes.

SUSAN ROBERTS: If you look at 2C, the Board was just questioning whether the light badge one should be painted a different color.

CONSTANTINE ALEXANDER: Your testimony was that

you think this would be the best color.

SUSAN ROBERTS: I do. Because I think what's most important as looking at the enclosure from the front, I mean, conceivably we could paint the back and side the brick color, which would be fine, and leave the front that's in line with the whiter facade. We can do that.

BRENDAN SULLIVAN: Whatever it be, that it would be a solid color and not the simulated brick. We're getting totally away from that.

DAVID FORD: Right. As is shown here.

CONSTANTINE ALEXANDER: As is shown here, right. If we grant relief, we're tie it to compliance with the photo stimulation, the CIs, and that picks up the color. That's what you will have to use for the color.

SUSAN ROBERTS: All right. So, if you do decide to modify, then please just let us know in terms of painting or we'll --

CONSTANTINE ALEXANDER: My motion is not going to propose to modify. We're going to say as you have

presented to us in your 2C, Photo Stimulation 2C.

SUSAN ROBERTS: Thank you.

CONSTANTINE ALEXANDER: Anyway, I close public testimony.

Any final comments on your part?

SUSAN ROBERTS: No. Thank you.

CONSTANTINE ALEXANDER: Discussion by Members of the Board or are you ready for a vote?

THOMAS SCOTT: There's no way that this one can't be moved back further way from Mass Ave? It seems like there's room -- did you investigate mounting them on this penthouse?

DAVID FORD: The penthouse is completely taken out by other carriers, completely taken out, yes.

THOMAS SCOTT: There's no room.

DAVID FORD: No room.

SUSAN ROBERTS: We also tried to see whether we could move it back as well. But for our radiofrequency reasons and because the landlord insists we go in the same

footprint where we were before, we're limited there.

CONSTANTINE ALEXANDER: Okay. The Chair is ready for a motion. The Chair moves that this Board make the following findings: That the petitioner has satisfied us that they are a licensed FCC carrier pursuant to written materials submitted; that there are no limitations imposed on this license that are relevant to our matters tonight; that the petitioner has taken steps to minimize the visual impact of the proposed relief being sought; and the steps that have been sustain, namely, the choice of color are reflected on the photo simulations which will be a part of our decision.

And that's all we need for Footnote 49.

Then we have the further findings we've got to make that: The traffic generated or patterns of access or egress per this request will not cause congestion, hazard or substantial change in established neighborhood character.

In fact, frequently they are visited for repair

and maintenance, I think, once a month usually is what you do?

SUSAN ROBERTS: That's correct.

CONSTANTINE ALEXANDER: And that they're otherwise -- they're just one more piece of equipment on a rooftop full of equipment, so it will not change the establishment of the neighborhood character; that the operation and development of adjacent uses will not be adversely effected by the nature of the proposed use; and testimony to that is the fact there have been telecommunications facilities on this roof for a long, long time and we still have development in Central Square by the fast food enterprise we heard a few minutes ago.

No nuisance or hazard will be created to the detriment the health, safety and welfare of the occupant or the citizens of the city; and that what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate for the intent and purpose of this ordinance.

With regard to that, the Chair would note and as a matter of record that this relief being sought has been vetted and essentially approved or recommended by the Planning Board. And that that petitioner has taken steps to address the concerns of the city to the extent that they can with regard to relief they need to happen.

On the basis of all this, the Chair moves that a Special Permit to be granted to the petitioner on the conditions that the work proceed in accordance with the plans submitted by the petitioner and initialed by the Chair. They're Pages T-1, Z-1, Z-2 and Z-3 and Z-4. And further that the work proceed in accordance with the photo stimulations as submitted by the petitioner that have been numbered 1C, 2C, 3C and 4C.

All of these initialed by the Chair as well. All those in favor of granting --

BRENDAN SULLIVAN: Removal of obsolete equipment?

CONSTANTINE ALEXANDER: Thank you very much.

A further condition that to the extent that the equipment ceases to be used for a period of six consecutive or six months, that the equipment that is being approved tonight be removed from the premises, and that the premises be restored to their prior condition to the extent reasonably possible.

Thank you.

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

Five in favor of the Special Permit.

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

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(9:45 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes, Janet Green.)

Case No. 10484: 133 Erie Street, Fan Wu, c/o Campbell Ellsworth, Architect. Variance: To add a new, code-compliant egress stair at the rear of the existing

structure.

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CONSTANTINE ALEXANDER: The Chair calls Case No. 10486, 133 Erie Street.

Anyone wishing to be heard, come before the Board.

CAMPBELL ELLSWORTH: Good evening. My name is Campbell Ellsworth. I live at 267 Norfolk Street in Cambridge. I'm joined by Lisa Hoang, project architect, H-O-A-N-G.

And I'm also joined to Lisa's right by the father of the applicant, Yao Tang Wu, spelled Y-A-O, T-A-N-G, W-U. The applicant is Fan Wu, who -- actually, a little background. Yao Tang is a medical researcher at Children's Hospital who studied at MIT. His son, Fan, who is making the proposal, and who has bought this structure, grew up in Cambridge, went to public and private school here. Also went to Harvard. So is very well --

CONSTANTINE ALEXANDER: We won't hold them

against him.

CAMPBELL ELLSWORTH: Good.

But has decided -- Fan lives in New York right now, but has decided to purchase this property and renovate it considerably.

CONSTANTINE ALEXANDER: Will he be occupying it or will be an absentee landlord?

CAMPBELL ELLSWORTH: No. But his father who lives in Belmont will be managing it.

CONSTANTINE ALEXANDER: The owner of the property will not be residing in the property?

CAMPBELL ELLSWORTH: That's correct. That's my understanding, yes, sir.

But the intent is to hold the property just also to be clear, not to be renovating and selling it as condominiums.

CONSTANTINE ALEXANDER: At some point he'll sell it?

CAMPBELL ELLSWORTH: Right, right. And just a

little background. So this is 1902 building, it's on an unusually narrow lot, 21 feet wide, I believe.

Do all of you have a site plan? I can pass that around.

CONSTANTINE ALEXANDER: I think we do.

CAMPBELL ELLSWORTH: I'm sure it's in the file. The lot itself is 21 feet wide, it's 100 feet long. Essentially anything that could be possibly proposed beyond the existing footprint would require some sort of relief.

The plan for this house, you have existing plans and you have proposed.

The configuration of this house is such that it does have two means of egress, a front stair and back stair, both of which are completely out of code. The front stair has extremely tight winders which are no longer legal and dangerous, and it's also narrower than the required three feet.

The back stairs also are as narrow as two feet

one inch at one level at the egress on the first floor, and are also out of code both with respect to tread size, riser height and head height.

It's the intent to renovate this structure, to bring the egress up to code and the request before you is to be able to put the rear egress on the exterior of the building.

CONSTANTINE ALEXANDER: In all fairness what is involved here is you want to create additional living space within the structure. To do that, you have take away the stairs that are there now, put the stairs on the outside of the rear deck?

LISA HOANG: The stairs that are currently -- well, the current stairs there right there are very small and out of code, and in order to make it up to code, we have to increase the size.

BRENDAN SULLIVAN: But you're not required to bring it up to code.

LISA HOANG: We're making a whole renovation.

CONSTANTINE ALEXANDER: That's my point.

You're looking to create additional living space in the structure and you're getting that by taking away the stairs and putting them on the outside. Because if you didn't want to create additional living space, the fact that the stairs are not compliant with code today is meaningless, you're okay, you're grandfathered.

Unless you're going to tell me -- I haven't heard it yet -- unless there's a serious safety risk unless you put these stairs outside. I don't think I'm going to hear that.

CAMPBELL ELLSWORTH: Any stairs out of code are somewhat of a safety risk. They're uncomfortable. But let me also point out that the proposed modification to the front set of stairs is such it actually -- the modification consumes considerably more common square footage within the building, so that there is what appears to be sort've a shift of a stair from the inside to the outside to grab square footage is actually a good amount

of whatever is gained is lost by bringing the front stair up to code. I just want to point that out to your point.

Now, another thing to point out, as many people have done, by putting stairs on the outside, and there's precedent for that in the very near area. We're not trying to create decks on the outside. This is simply a code minimum with stairs. So it's egress. We're not putting six by six foot decks.

CONSTANTINE ALEXANDER: And I commend you for that.

CAMPBELL ELLSWORTH: Right. I wanted to make that clear.

The -- just also to point out there's a lot -- it's an old building, very old building. 110 years old. Plus the lally columns or what are sort've brick piers in the basement have deteriorated. There's a lot of settling in the building. The work in this building being a three family will require a sprinkler. The whole thing will be sprinklered and everything will be upgraded,

new electrical, new plumbing, et cetera, new windows replaced in the existing openings because we would not be able to -- given proximity to the side setbacks, we wouldn't be able to create new openings or move the openings.

That's all sort've background on the scope of the work.

That's the bulk -- do you have anything to add?

CONSTANTINE ALEXANDER: Talk to us about the hardship, why there's a substantial hardship.

CAMPBELL ELLSWORTH: As I tried to articulate in the arguments is that nothing can be done to this building because the narrowness of the lot. We wouldn't be able to --

CONSTANTINE ALEXANDER: Yeah, the exterior, but you can change the interior.

CAMPBELL ELLSWORTH: We can pull apart the interior, exactly. We're looking to be able to put that back stair on the exterior. We feel by upgrading the front

door, it's a reasonable exchange, we're not gaining much at all.

As you can see putting it out there, a piece of that, what we create has to be granted to circulation anyway. So that back bedroom, if you were to compare it with the existing is really not significantly bigger. It's maybe a few square feet bigger.

BRENDAN SULLIVAN: You gain a bathroom too.

CAMPBELL ELLSWORTH: We gain a bathroom because we have a large -- there's sort've a larger bathroom, but, yes.

BRENDAN SULLIVAN: But then you lose that closet that means that you have to create a closet that pushes into where the existing rear stairway is. It's a whole chain reaction. What is driving this is that you just want a good size bedroom, bathroom for it and closet. That's what is driving this whole thing.

CONSTANTINE ALEXANDER: What is the hardship?

If you were occupying the property and other people

tonight, a young family needed more space and you're going to get that space taking away the stairways and moving them outside, I hear that argument. Here is the hardship. I got investment property. I want to make it worth more. Unless you give me relief, my hardship is I can't increase the value of my investment.

I'm not sure that satisfies the zoning requirement.

CAMPBELL ELLSWORTH: What we're trying to do is given the fact that we're trying to put -- redo the bathrooms and kitchen, it makes sense, yes, we could keep the front stairs and the rear stairs as they are.

I think personally as a designer, architect that would be irresponsible. They're very, very uncomfortable. It's one of these ones that really, especially the front one, corkscrews up. And I think it makes a lot of sense to try to rectify that situation.

CONSTANTINE ALEXANDER: We should get on the record the reason you're here is because of a FAR issue

and side setbacks. The FAR will go from -- right now at 1.21 and in a .6 district. You're twice as much as what is permitted.

You want to increase more to 1.29. You're adding 175 or so feet to the structure.

CAMPBELL ELLSWORTH: Through the addition of the stairs.

CONSTANTINE ALEXANDER: So you're gonna have even more noncompliant building if we grant you the relief you're seeking. Just it has to be for the record.

CAMPBELL ELLSWORTH: I would like to point out that in your package -- I'm sorry if these are not -- there's a page of photographs. Probably your last page in there, that is looking at -- these are direct abutters. Let me point out the really bad picture is the property itself.

That to the center picture is a set of -- actually, these are decks and rear egress stairs built onto this house (*indicating*) directly across from

where we're talking.

So it's interesting the surveyor sort've grabbed the deck, but he didn't actually draw the egress stairs, but you can see that in the drawing. And then on the other side you can see that this house, this structure also has a whole set of decks protruding off the back. Also, which you can see spiral staircases in there also provide -- seem to provide egress for that stair as well.

BRENDAN SULLIVAN: One of our charges in the preamble, shall be the purpose of the ordinance to lessen congestion, to provide adequate light and air and to prevent over-crowding of the land.

When someone comes down and says, well, these guys all have these decks and these guys have all these decks, now we want to add the decks because they have them.

CAMPBELL ELLSWORTH: We're not proposing decks.

BRENDAN SULLIVAN: Right, it's stairs and landings. Because we're over-crowding the land. And again, what's driving this is to have a bedroom with a

bathroom and closet and to make it more rental, saleable.

BRENDAN SULLIVAN: And since 1902 people have come up and down those stairs. I have a three family, it's the exact same thing. The front stairs are code compliant and the back stairs are not code compliant. Anyhow.

This situation here in this particular house is not atypical. It's very common. And for someone to down and say we want to expand the interior square footage and let's push everything to the outside, all we're doing is impacted, adversely I think, the surrounding the area.

CAMPBELL ELLSWORTH: If we had -- if we tried to create a code compliant stair on the inside, you know, that would be another option as we're doing with the front stairs, we're going to create within the envelope of the building a code compliant stair at the front of the building. If we were try to do that at the back of the building, it would --

BRENDAN SULLIVAN: You're under no directive to create a code compliant stairway.

CONSTANTINE ALEXANDER: You're assuming you have to do it and you don't have to do it. As Brendan pointed out, there are many houses in city that have noncode compliant stairs. I have it in my house.

THOMAS SCOTT: You could make the front stair compliant and leave this rear stair as is. The sacrifice is you lose the extra bathroom and you would have essentially the same layout.

JANET GREEN: How far is it back -- the back of your house from the next house?

CONSTANTINE ALEXANDER: Quite a bit.

They're gonna -- I was going look for the dimensional plan. But either side, however, you're too close. Anything that goes back that extends the building is too close.

CAMPBELL ELLSWORTH: I don't know -- obviously, if the lot were big enough in all dimensions and square footage, we could create the stair as of right, but we can't. So that's why we're here, obviously. I mean, you

know, if the lot were big enough that might be the choice to do it as of right. They could also do it as enclosed. We wanted to make it absolutely clear, it's common open stair that satisfies the need to -- that I think reflects the investment that's gonna go into this.

YAO TANG WU: I come here 28 years ago. All my life in this country is in Cambridge. So we really love this area. And my son grew up here, all the high school and college.

When he has the money he want to -- (inaudible). He went to New York, San Francisco, Chicago, Boston and to New York now living and working in New York, but he his money in Cambridge. And he, you know, young person, he tried to make the house nice and improve the neighborhood. We will do -- (inaudible). We will do up to conditions to have Cambridge a nice city.

I heard from the City's mayor saying that they will improve Central Square area after whatchamacallit? After Kendall Square. After Kendall Square people begin

to develop Central Square. So we will contribute a little what we have now. And we try to ask to make -- (inaudible). Actually, we did -- you can go to see.

CONSTANTINE ALEXANDER: We appreciate that.

And we understand the good faith going forward. And you point out that Cambridge is an attractive place to live and that's why your son is coming back here.

Our job is to make sure Cambridge, from a real estate development point of view, continues to be attractive.

And there are certain rules and we have the authority to modify, vary those rules, but we have legal standards to be satisfied and that's the issue before us.

We don't, in any way, suggest bad faith on behalf of your son, but you have to understand our responsibilities. I know Mr. Ellsworth does, just so you understand.

Further questions from members of the Board?

Anyone here wish to be heard on this matter?

CYRUS MEHTA: Good evening. Cyrus Mehta,  
C-Y-R-U-S, M-E-H-T-A.

And this is my wife Satu, S-A-T-U, M-E-H-T-A.

CYRUS MEHTA: My situation is like  
Mr. Wu's. I studied at MIT and I lived in Cambridge. Now  
my wife and I have lived in this house for 33 years, which  
is directly neighboring to the house Mr. Wu has purchased.  
We're directly affected by this situation.

I do have a software and consulting business in  
Central Square at 675 Mass Ave, which I co-founded 25 years  
ago. I lived in Cambridge. My son also grew up in  
Cambridge and also studied at MIT. It's a similar  
situation.

Now I have to point out that we, the first time  
that we heard that there was going to be a major renovation  
of the property was when we got this notice (*indicating*)  
in the mail from the city.

We would have preferred that we had been

consulted ahead of time. We appreciate the renovation that Mr. Wu has proposed. But since it does directly impact us, we would like to have a say.

CONSTANTINE ALEXANDER: That's why you're here tonight. Are you in favor of the relief?

CYRUS MEHTA: We oppose this. To cut the matter short, we oppose this proposal.

So I will give the reasons for it.

CONSTANTINE ALEXANDER: Can you elaborate why?

CYRUS MEHTA: I want to set the record straight on the plot plan. I have copies so I can hand it out to you.

So this plan --

CONSTANTINE ALEXANDER: I have a copy. Give it to the other members.

CYRUS MEHTA: You can see on this plan our property on Erie Street and you see the rear of the property. So the one thing I want to point out is this plan is incorrectly drawn. The stockade fence appears to

be in the lot belonging to 133, but, in fact, it's directly on our line, property line. And I can give three ways of demonstrating that.

CONSTANTINE ALEXANDER: That's okay. We'll take it. That's fine.

We accept what you say.

CAMPBELL ELLSWORTH: I agree with that, I was out there looking at that. I agree with the fact of the observation.

CONSTANTINE ALEXANDER: You can move on.

CYRUS MEHTA: So concerning why this is unacceptable, we appreciate the stairs, their building. The issue we have is with the proposed stairway goes to the basement. Because those stairs are going to have an impact on us in a serious way because they will require retaining wall and they come out by seven feet from the back of the house.

And they will require a railing and retaining wall in order to protect from people falling in.

And those stairs -- it's already a very, very narrow corridor through which we can have egress and now it will be even less. The situation, which is bad enough to begin with, will become worse, and we will have difficulty getting in and out of our own back property and moving furniture in and out of our own back property.

CONSTANTINE ALEXANDER: Sir, I may be wrong and if I am, Members of the Board will correct me. I think they can build or construct this basement access without any relief from us. So even if we were to turn them down, this is not what they're seeking relief for. I understand your objection to it. But I'm pointing out to you, you may not have any reason to stop that.

CYRUS MEHTA: We understood that the railing that they would have to put will come up at least 36 inches above the ground from a retaining wall and it's that which will obstruct our egress and cause a hazard for us.

BRENDAN SULLIVAN: That back entrance is being relocated from one side to the other because of the

proposed staircase, so if the staircase doesn't go in, chances are it may possibly stay where it is.

CONSTANTINE ALEXANDER: That's the only point I want to point out. If we were to turn down the staircase, they would still have the right -- they may not want to do it -- to move the basement access to where it is on the plan and they can do this without any need for zoning relief. Just so you understand that.

To finish the thought, if we allowed them to build the stairs, it will happen. If we don't allow them to build the stairs, it may not happen. But we can't assure you that it won't happen.

CYRUS MEHTA: We have an alternative suggestion and maybe you might've others. We did consult an architect on -- because we were mainly concerned about those rear stairs, and we feel it's possible to come up with a solution that will be good for them and will be good for us as well.

CONSTANTINE ALEXANDER: If we don't allow them,

I'm just hypothesizing, build the rear stairs, because they're not likely to relocate the basement access, you don't have to get into your solution.

SATU MEHTA: Could I say one thing?

CONSTANTINE ALEXANDER: Say your name.

SATU MEHTA: Satu, S-A-T-U. Last name M-E-H-T-A.

So if that matter of the basement staircase is not something that the Zoning Board will hear, who would? Who could we go to because the impact on us is such that what is now three feet in width for us to get out if the staircase and the railing will be built, it will shrink to two and a quarter feet.

CONSTANTINE ALEXANDER: The answer to your question if we were -- "if" underscored -- turn down the proposed rear stair, it will solve your problem, but it's not going to happen.

SATU MEHTA: I understand. However, if it's approved, then I would be interested in nothing.

CYRUS MEHTA: We don't want to derail the project. We like the project. Our concern is only with the stairs.

YAO TANG WU: The email early on --

BRENDAN SULLIVAN: To answer your question, the Building Department --

SATU MEHTA: Okay. That's helpful. We at least have a proposal which I would like you to hear, if you would.

CONSTANTINE ALEXANDER: I don't mean to be difficult. I don't think it's necessarily relevant to our decision tonight and the hour is late. I don't want to get -- from our perspective, a side issue. I want to tackle the stairs head on. And see whether we have their support to build the stairs. Because if there's not, I don't think you will have to worry about the basement access changing. And maybe I'm being rash, but I don't think they're going to get the support to get the relief they're seeking for the rear stairs.

I don't want to waste time, in my mind, on this right now.

Does anybody feel different on the Board? We can move on this, but that's how I feel.

BRENDAN SULLIVAN: An alternative solution to the basement entry is not going to make any difference with me whether I vote for the stairs or not, to be honest with you.

CYRUS MEHTA: Okay. I know it's late. I don't want to waste our time.

CONSTANTINE ALEXANDER: You're not wasting your time. I appreciate your being here at this late hour.

CYRUS MEHTA: I appreciate that he's trying to improve the property which is good for us. If he improves the property, it's good for us and good for the neighborhood.

What I think is possible that he can integrate the rear stairs with his stairs that go to the first, second and third floor by simply moving those stairs blow the

second floor landing. And if he does that, we don't have a problem because there won't be that tight space, if he can adjust the second floor landing.

CAMPBELL ELLSWORTH: We've sort've simultaneously but apart came up with the same solution and we can do that.

CYRUS MEHTA: In that case --

CAMPBELL ELLSWORTH: So looking at the back elevation of the house, you can see the drawing, the stairs are already tucked all the way to the right, but the neighbors are legitimately concerned on the tightness that will cause on a tight situation.

So we could with very little modification to that one landing open up enough space to come out of the basement in another location.

CYRUS MEHTA: I'm glad you and thought the same thing.

LISA HOANG: I really wanted to point out in the rear by creating the depth on the outside of -- I believe

it enhances the full visual aspect from the background. Not increase the square footage but it's the visual, it helps the aesthetic part of it.

CYRUS MEHTA: So we withdraw our objection on that basis.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down and share your views with us.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard? Mr. Hope.

ATTY SEAN HOPE: For the record, Sean Hope. I'm a direct abutter at 131 Erie Street. My family's owned the property since the 1950s.

I want to say the to Wu family, I'm extremely happy they purchased the property. The property has just kind've been a rental. Hasn't been much care for it over -- since I've been living there the last ten years.

On Tuesday, I reached out to Mr. Wu because I recognized he didn't reach out to the abutters. Me, my wife, and my son went into the house, and I can attest to

the rear front stairs. I've been to a lot of old Cambridge houses. The incline is extremely steep. The width is narrow. And the turn from the second to the third floor really is something I would say is a detriment and it speaks to a hardship on the inside.

Also the layout of the first floor and second floor units, if they're going to put in new kitchens and floors, I would have an objection, but wouldn't be zoning, they really need to fix the front stairs.

My only opposition was I felt that there was an issue with my neighbor that wasn't resolved. I actually was trying to coordinate, even as early as today, a conversation between the two because I recognize the Board likes to resolve things like this.

But it seems like they have taken care of this. In terms of the rear stairs as -- there's a generous backyard, there's a deck there. I don't necessarily have a deck. It is somewhat round, but it is kind of a culture of that backyard area, and I do think what they proposed

is less than a deck.

If they're asking for more I may have an issue or envy because I wish I had a deck and I don't. I live on the second floor. It was a side yard setback issue and if they can resolve that I would support what they're trying to do. Really, because the layouts of the units even with the extra bathrooms, they're poor. And I think there's an opportunity to remedy that. And by putting just a minimal enough rear egress stairs that would be a large improvement to the property.

My care is for the outside as well because that is what I see. I happened over the years knowing my neighbors to go inside. I don't know how you get furniture on the second and third floor. It's steep. So I support what they're trying to do as long as my neighbors are satisfied with it.

CONSTANTINE ALEXANDER: Thank you,  
Mr. Hope.

Anyone else wishing to be heard?

The Chair notes there was nobody else wishing to be heard. I don't think there's any letters one way or another. I'm going to close public testimony.

Mr. Ellsworth, any final comments you would like to make?

CAMPBELL ELLSWORTH: No.

LISA HOANG: Nothing.

CONSTANTINE ALEXANDER: Discussion time or voting time?

Anyone wish to have further discussion?

TIMOTHY HUGHES: I would like to say I'm in favor of the project. I think there's enough backyard to accommodate the stairs. They're not designed as a gathering place, they're minimal for egress and the back of the house the way it looks now. I would say aesthetically that blank back wall looks terrible. And any improvement to the house is a benefit to the city. So I can vote for this.

JANET GREEN: I take very seriously the question

about density, but I actually think in this case it's adding a bathroom, but it's not adding another bedroom. It's not necessarily contributing to any increased number of people living in the house. So I don't feel in this case -- I do think the code issue about the staircase can be quite serious, and so I would vote for this project.

CONSTANTINE ALEXANDER: Okay. By the way, the proposal before us would be for the stairs, the back stairs would be modified.

CAMPBELL ELLSWORTH: Absolutely, yes.

CONSTANTINE ALEXANDER: Tom, anything you want to comment on or not? It's up to you.

THOMAS SCOTT: I think given Mr. Hope's statements about the stairway -- and I haven't been in the house, I have to trust his opinion -- if the stairs are that difficult to maneuver, you know, I think I would be in favor of the improvement just for the safety and the ability to move furniture in and out of the apartment which I'm sure everybody who lives in Cambridge has experienced

that problem in these older houses. I would be in favor of it.

CONSTANTINE ALEXANDER: Brendan, want to add anything?

BRENDAN SULLIVAN: I'm quite clear on it.

CONSTANTINE ALEXANDER: I'm quite clear on my feel also. We'll put it to a vote.

The Chair moves that this Board make the following findings: That a little enforcement of the provisions of the ordinance involve substantial hardship to the petitioner, the charge of being is that they -- this is the only way of dealing with creating code compliant stairs, this way being the new rear stairs as proposed; that the hardship is owing to the circumstance related to the shape of the lot, the lot is a very narrow lot. So any modification to the exterior of the structure will require zoning relief and the relief may be granted out substantial detriment to the public good or nullifying the substantial derogated intent and purpose of the ordinance.

The Chair would note there's neighborhood support for the proposal as modified tonight and that the proposal would bring the structure itself in more compliance with state law. Namely by creating code compliant stairs that do not exist right now.

The variance will be granted on the condition that the work proceed in accordance with plans submitted by the petitioner and initialed by the Chair, they're No. A1.0, A1.1 and 2.0. A2.5 having been modified at the hearing tonight and the modifications are indicated in red on the plan.

All those in favor of granting the variance on the basis? So proposed say "aye."

Three in favor. Two opposed.

The statute requires you need four votes. Relief has been denied.

(Opposed: Constantine Alexander

Brendan Sullivan.)

(In favor: Janet Green, Timothy Hughes,

Thomas Scott.)

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(10:05 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes, Janet Green.)

Case No. 10485: 196 Appleton Street, Anastacia and Jorge Salcedo. Variance: To expand 1st floor and basement level. Art. 5,000, Sec 5.31 (Able of Dimensional Requirements.)

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CONSTANTINE ALEXANDER: The chair calls Case No. 10485, 196 Appleton Street.

Anyone wish to be heard in this matter?

ANASTACIA SALCEDO: Hi. I'm Anastacia. A-N-A-S-T-A-C-I-A, S-A-L-C-E-D-O. And this is my husband Jorge, J-O-R-G-E, S-A-L-C-E-D-O.

CONSTANTINE ALEXANDER: Before we -- I don't want to get into the merits of the case right away. As you know from a phone call from Mr. O'Grady I found there's a problem with regard to posting of your sign on the

property. And the sign is -- the purpose of our zoning requiring posting of signs is to allow the citizens of the city to pass by the structure to know that relieve is being sought, and if they have views, pro or con, they can express them or at least go to the zoning office and learn more about it.

The sign you posted, you tied it to a telephone pole facing one way down the street.

It's not visible as you drive by to read it, and if you're coming from the other side of the street going down Appleton towards Brattle, you can't see a sign at all and you have plenty of opportunities to post a sign in your front yard, on your front door, in your front window. So I personally, I'm only one of five, I don't personally think we should hear this case tonight because I don't think there's been a proper compliance with the sign posting.

ANASTACIA SALCEDO: You know, I apologize for that. I did read carefully the instructions that was sent

and then I questioned both my husband and the architect, and I said, "Well, it says it should be visible to the street, I believe," and this is how I ended interpreting it. I said, "Does that mean it should be towards the cars? Both them said, "No, it should be visible to passersby." We're sort've taking the street in the bigger sense, not only the car part of the street, but the pedestrian part.

CONSTANTINE ALEXANDER: Good faith was assumed. I know you were not trying to be cute or being wise guys.

ANASTACIA SALCEDO: I can say and you can make your own decision obviously. I'm sure that all of the neighbors know because we not only went to the abutters with the letters, we distributed packets to all the neighbors of what we were going to do. And, in fact, we have different letters of support and verbal commitments of support, so it depends on your comfort level.

I think we have -- we're unopposed in the neighborhood as far as we know.

CONSTANTINE ALEXANDER: I'll defer to the wisdom

of my fellow board members. I, for one, would not hear the case. We had this situation in East Cambridge that did exactly what you did and we won't hear the case until the sign was reposted, but that was then and now it's now.

And so, what is the pleasure the Members of the Board, do you want to hear the case or not?

BRENDAN SULLIVAN: I think given some extenuating circumstances, I would probably hear it.

I think that they made a good faith effort to comply.

I think that they have brought some people who would be in a great imposition to have to come back.

CONSTANTINE ALEXANDER: They brought the people notwithstanding they knew there would be an issue here. They get some credit for that, but not a lot.

Other Members of the Board, do you want to hear the case tonight or not?

TIMOTHY HUGHES: I don't have a problem hearing the case tonight.

JANET GREEN: I'm okay.

THOMAS SCOTT: I'll hear it, too.

CONSTANTINE ALEXANDER: Let's proceed then.

ANASTACIA SALCEDO: That said. I will say coming here as a regular citizen I don't have too much knowledge of the zoning laws and architecture.

I know what we prepared in the petition. I will tell you a little about that.

I will start with who we are as a family because that's germane to the case.

We're a three-generation family that consists of my mother over here, who is 76, and my husband and myself and three children and we all live together in one house.

And my mother who has a couple different conditions lives on the third floor.

The reason that we're here is that our first floor consists of a small vestibule, dining room, living room and kitchen and a little office with a half bath. My mother has Parkinson's and rheumatoid arthritis, which are

both, as you probably know, degenerative conditions, has at some points after hospitalizations and operations and illnesses been unable to go to her bedroom on the third floor. And if possible, we hope not, that at some point, she may not be able to do that at all, and so we would like to have a first floor bedroom and bath that are wheelchair accessible and have wheelchair access to the first floor from the street.

So we got together with a local architect, Peter Wright, and he did different designs with us and ended up choosing one that is pretty much a minimal space that meets all those requirements. It's a first-floor structure, and it has -- underneath it will have a full basement which we don't have at the present time.

So I'm going to go through and read some stuff from that we had in our petition and just, again, emphasize there's no bedroom on the first floor for my mother and we would like to build one.

There's currently no full bath on the first floor

and it's not wheelchair accessible. We would like to have that. There's no entrance for a wheelchair and no place to add a ramp or a lift. So we would like to add that.

Right now, my husband and I both work from home. I'm a writer and my husband's a photographer and we work in a windowless basement room that has a low ceiling. So if we're allowed to build this addition, we would like to have full height so we could have a little bit more comfort in our home office.

CONSTANTINE ALEXANDER: We're listening.

We're multi-tasking.

ANASTACIA SALCEDO: I didn't know how much you looked at beforehand.

CONSTANTINE ALEXANDER: In my case, I didn't because I didn't think we would hear the case.

ANASTACIA SALCEDO: Our idea here is -- I guess the question would be why don't we buy a new home? Well, obviously, we'd have to move. We're all part of the community. My mother has friends and the kids have

friends. It would be a burden for us.

We also think that economically it's a better solution for us to build a room than to have my mother go to an assisted living, which runs around \$52,000 a year on average in Massachusetts.

BRENDAN SULLIVAN: There's no substitute for being home.

ANASTACIA SALCEDO: Yes. It's probably an ideal situation for an older person to stay at home.

BRENDAN SULLIVAN: You can't put a price tag on that.

ANASTACIA SALCEDO: So that's why we're here. I guess the hardship, and this is where I'm not technical, but we have a non-conforming lot, it's 46,000 square feet. And on the northern side, the setback is a little bit too small. Our house was built in 1870. And I think there was a field to the north at that time. So those have triggered the need for a variance.

Again, we have chosen -- tried to make something

that is really modest and conforms in keeping with the style of the architectural style of house and the neighborhood and so forth.

Roof height no issues. Pretty much the only --

CONSTANTINE ALEXANDER: The FAR.

And you're going from slightly conforming -- you're .46 in a .5 district and you're going to go to slightly non-conforming .59.

ANASTACIA SALCEDO: I would like to make a little point about that nonconformance. Actually half of the additional FAR would be this basement room. It would have no impact on the neighborhood. It's hidden from sight. We would like to have additional space in the height.

CONSTANTINE ALEXANDER: You would have made the (inaudible), you wouldn't have counted your FAR, but you have been honest about that and I appreciate it. The addition will not impact any setbacks, as far as I can tell.

ANASTACIA SALCEDO: No. I should have mentioned that. It's cited, so it doesn't trigger any

additional issues, and what I mentioned in the beginning, we distributed the plans showing the modification against the existing. We distributed that to all of our neighbors. We have the support of all our abutters, enthusiastic support and in addition, we've six letters of support from other neighbors and --

CONSTANTINE ALEXANDER: I'll get them into the record at an appropriate time.

ANASTACIA SALCEDO: That's pretty much what I have to say unless there's something I missed.

CONSTANTINE ALEXANDER: Any questions from Members of the Board?

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: I open it up to public testimony. Anybody wish to be heard on this matter?

No one wishes to be heard.

As the petitioner has said, there are numerous letters of support of the project. I will identify the persons who wrote the letters and their addresses. I'm

not going to read the letters. They all will be incorporated into the record as if I read them.

The letters of support come from Randy Blume, B-L-U-M-E, who resides 202 Appleton Street; from Mary and Charles D'Amico D-'-A-M-I-C-O, who resides at 185 Appleton Street; and a letter from Angela Pendelton P-E-N-D-L-E-T-O-N, who resides at 10 Savel Street, S-A-V-E-L; a letter from Stephanie Boye, B-O-Y-E, who resides at 204 Appleton Street; a letter from Sarah Levine, L-E-V-I-N-E, who resides at 203 Appleton Street; a letter from Catherine, with a C, Miemoe, M-I-E-M-O-E -- I'm not sure I'm getting it right -- and Margaret same last that resides at --

ANASTACIA SALCEDO: Milmoe.

CONSTANTINE ALEXANDER: M-I-L-M-O-E?

ANASTACIA SALCEDO: Yes.

CONSTANTINE ALEXANDER: A letter from Omar and Margaret Khudari, K-H-U-D-A-R-I, who are next door neighbors, as they say in the letter, 190 Appleton Street.

Email from Oddett Binder, B-I-N-D-E-R, and  
Raymond Traietti, T-R-A-I-E-T-T-I, who resides at 194  
Appleton Street; a letter from Nicholas P. Alexander.  
Good last name. Ilisa Hurowitz, I-L-I-S-A,  
H-U-R-O-W-I-T-Z, who resides at 196 Appleton Street.

ANASTACIA SALCEDO: That's our property. I  
don't remember their address.

CONSTANTINE ALEXANDER: They live on Appleton  
Street Terrace.

TIMOTHY HUGHES: I thought you were moving  
people in the house for support.

CONSTANTINE ALEXANDER: A letter from Jane and  
Tom Martin that resides -- they don't say where they  
reside, but they're in favor. John and Tom Davenport who  
resides at 200 Appleton Street.

Those are all very enthusiastic, I will  
characterize them as letters of support for the project.

That's it for public testimony.

Any further discussion by Members of the Board

or go to a vote?

JANET GREEN: Ready for a vote.

CONSTANTINE ALEXANDER: Okay. The Chair moves that this Board make the following findings: That a limited enforcement of the provisions of the ordinance involve a substantial hardship to the petitioner; the hardship being the petitioner needs living space particularly to an aging mother who has physical infirmities; that the hardship is owing to the shape of the lot, the lot is a nonconforming lot and therefore any relief would require zoning -- any relief would require a variance from the Board; and the relief may be granted without substantial detriment to the public good or nullifying the substantial derogated intent and purpose of the ordinance.

The Chair would note there are many letters of support from neighbors allowing elderly citizens to continue to reside in residences in the city, particularly a residence of their children is a desirable goal for the

city.

Based on all these findings, the Chair moves we grant a variance for the petitioner on the condition that the work proceed in accordance with plans submitted by the petitioner. Only the first page has been initialed by the Chair. The first page being the existing plot plan dated March 21, 2013.

All in favor of granting the variance, please say "aye."

Five in favor.

Variance granted.

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

ANASTACIA SALCEDO: Thank you.

(10:45 p.m.)

(Sitting Members: Constantine Alexander,  
Brendan Sullivan, Tom Scott, Slater Anderson, Tim Hughes,  
Janet Green.)

Case No. 10486: 31 Bay Street, Fulton Harley.  
Variance: To enclose the existing, partially covered  
entry porch to create a small mudroom and coat closet by  
extending the roof, Art. 5,000, Sec 5.31 (Table of  
Dimensional Requirements).

- - -

CONSTANTINE ALEXANDER: The Chair calls Case No.  
10486, 31 Bay Street.

Anyone wishing to be heard in this matter?

FULTON HARLEY: My name is Fultin Harley,  
F-U-L-T-O-N, H-A-R-L-E-Y. And I live at 149 Washington  
Street in Winchester, Massachusetts.

DANIEL WILSON: Daniel Wilson, 31 Bay Street,  
Cambridge.

TERRI TURNER: Terri Turner, T-E-R-R-I,  
T-U-R-N-E-R, 31 Bay Street.

FULTON HARLEY: Terri and Dan are the owners of  
31 Bay Street. I'll let them start and introduce their  
family and desires.

DANIEL WILSON: So Terri and I have been married  
for 11 years. We used to live in Cambridge for a couple  
years. And we had the crazy idea we're going to move to  
Winchester to get a driveway and we did that. Been there  
12 years, and I have been working in Harvard for 20 years,  
and we figured we have two kids and wanted to get back in  
Cambridge, and we found a single-family house on Bay  
Street. And things worked out as we sold the house in  
Winchester and we're so psyched and we bought the house  
on Bay Street and we're slowly renovating it since.  
That's us.

TERRI TURNER: We're thrilled to be back in  
Cambridge. So this is the house we plan in retiring in  
and living in forever. We don't want to move and renovate

again.

We have a two and four-year-old and that's a huge reason we wanted to move back for the schools in Cambridge and live in Cambridge.

FULTON HARLEY: Currently there's an existing deck and set of stairs between 31 and 33 and 35 Bay Street. And to access the house, you go down an alley, nearly the backyard and turn and come back up a long set of stairs to a partially covered entry deck. And we would like to fully cover that and enclose it and turn it into a four by eight mud room to give you a place to hang your coats and kick off your shoes.

The lot is 29.9 feet wide. And it's a very tiny house. We're here today because there's two issues at play, one is the FAR and one is the side yard setback. The setback is 2.6 feet, which we'll be maintaining and then there will be a minimal increase in the FAR from .86 to .88.

CONSTANTINE ALEXANDER: I may be dead wrong, but

if we grant you the relief tonight, do you still have issues with the State Building Code?

BRENDAN SULLIVAN: Yes.

FULTON HARLEY: They have not mentioned this.

BRENDAN SULLIVAN: One of my questions was: Did you run this by the building inspector? Anything less from 3 feet from the property line is a violation of a building code.

TIMOTHY HUGHES: If it has a window in it.

CONSTANTINE ALEXANDER: We could grant you relief tonight although we're pointing out that you may still have hurdles to surmount.

FULTON HARLEY: I did go in and meet -- okay. Could we proceed with the removal of that window and just the glass, the door in the front?

CONSTANTINE ALEXANDER: Either way you can leave the window in for our purposes --

BRENDAN SULLIVAN: Well --

CONSTANTINE ALEXANDER: -- or you can take it

out tonight.

FULTON HARLEY:  Onces we lock into these elevations if you were to prove them right --

CONSTANTINE ALEXANDER:  We're locked into the external dimension of the covered entry.

FULTON HARLEY:  That would be a nonconforming wall.

CONSTANTINE ALEXANDER:  We'll see.  I don't think you will have a problem with this Board, but you may have a problem.

BRENDAN SULLIVAN:  We could approve this, if there has to be a modification of eliminating the window, that would probably be accessible to us.  If you go to the building inspector and he says eliminate the window and you can build it, yeah, then I don't think you would have to come back to us.

CONSTANTINE ALEXANDER:  Usually when we grant relief, we tie it to a plan.

What we can do tonight is we'll tie it to the plan,

but provide further that to the extent you otherwise comply with legal requirements, you need to change the plan to eliminate the window, you can do that. You can't change the dimensions. The window will give you the flexibility to keep it or not depending on what your issues are, if any, with regard to the State Building Code and that you have to deal with the building inspector on.

BRENDAN SULLIVAN: It will be a very narrow space. Right now between the buildings is eight. You're putting a four-foot addition on this thing. Basically you want to go up. That is going leave four foot six between it and the next door.

FULTON HARLEY: That's true.

That's pretty narrow.

CONSTANTINE ALEXANDER: I'll get to that in a second. And that neighbor seems not to have a problem.

FULTON HARLEY: We met with the surrounding neighbors and abutters and I have letters of support.

CONSTANTINE ALEXANDER: I have two in the file

right now.

I'll open it up to public testimony since there's no one here besides us chickens. We do have letters of support. We have letters and they're all in support. There's a letter from Ted J. Kapthuk, K-A-P-T-H-U-K:

I live at 27 Bay Street, Cambridge and I'm a direct abutter on 31 Bay Street. It has come to my attention that the owners of the houses" -- houses -- at 31 Bay have petitioned to be allowed to fix their front porch, including turning the entrance around and make other minor improvements. As an abutter, I would like to say this will make my living environment more pleasant and a better place to live. It's about time it gets fixed. I support their petition."

An email from Joyce Singer, who apparently resides at 524 Franklin Street, as an abutting neighbor. "I'm writing in favor of this petition. I'm unable to attend the meeting. I feel this is a needed improvement and it can only improve the neighborhood. We all

benefit."

And you submitted to us tonight basically a letter that's been signed and says "I have reviewed the plans for the proposed mudroom addition at 31 Bay Street, Cambridge, and support the owners, Daniel Wilson and Terri Turner, to carry out the proposed project." It's signed by Alexandra Shox, S-H-O-X.

And Ted Cohen who resides at 514 Franklin Street. Someone else signed and didn't give an address and signature is eligible.

A letter signed by Lydia Beal, B-E-A-L, who resides at 35 Bay Street; a letter from Antonio Ochoa, O-C-H-O-A, who resides at 33A Bay Street. Oh, this is same one. Different name. Hernan Olano, O-L-A-N-O, who resides at 33 Bay Street.

And that's it. That's all the letters we have are communications from the neighborhood are in support of what is being sought.

Anything further you want to add?

FULTON HARLEY: No, I think that's it.

TERRI TURNER: If I can add one more thing. For me, the motivation for me, I'll feel safer coming in. Right now to enter you have to walk down a narrow place and basically go into the backyard. So basically I just feel vulnerable with the little kids going in there.

CONSTANTINE ALEXANDER: Understood.

Discussions or going for a vote?

TIMOTHY HUGHES: For a vote.

JANET GREEN: Vote.

CONSTANTINE ALEXANDER: Vote. The Chair moves this Board make the following findings with regard to the proposal to enclose a partially -- an existing partially covered entry porch to create a small mud room and coat closet by extending the existing the roof, the findings being made with the regard to the relief being sought is a little enforcement of the provisions of the ordinance would solve a substantial hardship to the petitioner, the charge being that the petitioner has to walk down the main

entrance to the property that's a long and narrow alleyway that raises among other things safety issues, that the hardship is owing to the shape of the lot. This is the only way we can satisfy the needs of the proposed occupants is grant the relief being sought. And that relief may be granted without substantial detriment to the public good or nullifying the substantial derogated intent and purpose of the ordinance.

The Chair notes there are numerous letters of support to the petition, the relief being sought, is modest in nature, the property now has noncomplying FAR of .86 in a .75 district. And any increase would bring it up to .88. Still the property will be substantially compliant with our FAR requirements.

So on the basis of these requirements, the Chair moves that a variance be granted to the petitioner on the condition that the work proceed in accordance with plans initialed by the Chair BZA 1 and EX 1. However, with regard to the window that is in the proposed addition, that

the petitioner has the leeway to eliminate that window if they choose to for legal or other reasons.

But in all other respects the project must comply with these plans.

All those in favor to grant the variance say "aye."

Five in favor.

Variance granted.

(ALL BOARD MEMBERS VOTED AFFIRMATIVELY.)

JANET GREEN: Welcome back.

(Whereupon, the ZBA proceedings were adjourned.)

ATTACH TO ZBA HEARING AUGUST 15, 2014

ERRATA SHEET

INSTRUCTIONS: After reading the transcript of your deposition, note any change or correction to your testimony and the reason therefor on this sheet. DO NOT make any marks or notations on the transcript volume itself. Sign and date this errata sheet (before a Notary Public, if required).

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I have read the foregoing transcript of my testimony, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statements made by me.

\_\_\_\_\_

CERTIFICATE

Commonwealth of Massachusetts

Norfolk, ss.

I, Jill Kourafas, a Notary Public in and for the  
Commonwealth of Massachusetts, do hereby 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 11th day of September 2013.

---

Jill Kourafas  
Certified Shorthand Reporter  
License No. 14903  
Notary Public  
My Commission expires:  
February 2, 2017

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